

# TAMWORTH REGIONAL COUNCIL

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993 that a **Meeting of Tamworth Regional Council** will be held in the **Council Chambers, 4th Floor Ray Walsh House, 437 Peel Street, Tamworth**, commencing at **6:30pm**.

## ORDINARY COUNCIL AGENDA

**1 DECEMBER 2020**

**PAUL BENNETT  
GENERAL MANAGER**

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## Council

Meeting Date: 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of the month commencing at 6:30pm.

Matters determined by Ordinary meetings will include all those non-delegable functions identified in Section 377 of the Local Government Act as follows:

- *“the appointment of a general manager*
- *the making of a rate*
- *a determination under section 549 as to the levying of a rate*
- *the making of a charge*
- *the fixing of a fee*
- *the borrowing of money*
- *the voting of money for expenditure on its works, services or operations*
- *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)*
- *the acceptance of tenders which are required under this Act to be invited by the council*
- *the adoption of an operational plan under section 405*
- *the adoption of a financial statement included in an annual financial report*
- *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6*
- *the fixing of an amount or rate for the carrying out by the council of work on private land*
- *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work*
- *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the [Environmental Planning and Assessment Act 1979](#)*
- *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194*
- *a decision under section 356 to contribute money or otherwise grant financial assistance to persons*
- *the making of an application, or the giving of a notice, to the Governor or Minister*
- *this power of delegation*
- *any function under this or any other Act that is expressly required to be exercised by resolution of the council.”*

Other matters and functions determined by Ordinary Council Meetings will include:

- *Notices of Motion*
- *Notices of Motion of Rescission*
- *Council Elections, Polls, Constitutional Referendums and Public Hearings/Inquiries*
- *Ministerial Committees and Inquiries*
- *Mayor and Councillors Annual Fees*
- *Payment of Expenses and Provision of Facilities to Mayor and Councillors*
- *Local Government Remuneration Tribunal*
- *Local Government Boundaries*
- *NSW Ombudsman*
- *Administrative Decisions Tribunal*
- *Delegation of Functions by the Minister*
- *Delegation of Functions to General Manager and Principal Committees*
- *Organisation Structure*
- *Code of Conduct*
- *Code of Meeting Practice*
- *Honesty and Disclosure of Interests*
- *Access to Information*
- *Protection of Privacy*
- *Enforcement Functions (statutory breaches/prosecutions/recovery of rates)*
- *Dispute Resolution*
- *Council Land and Property Development*
- *Annual Financial Reports, Auditors Reports, Annual Reports and Statement of the Environment Reports*
- *Performance of the General Manager*
- *Equal Employment Opportunity*
- *Powers of Entry*
- *Liability and Insurance*
- *Membership of Organisations*

**Membership:** All Councillors  
**Quorum:** Five members  
**Chairperson:** The Mayor  
**Deputy Chairperson:** The Deputy Mayor

## Community Consultation Policy

The first 30 minutes of Open Council Meetings is available for members of the Public to address the Council Meeting or submit questions either verbally or in writing, on matters INCLUDED in the Business Paper for the Meeting.

Members of the public will be permitted a maximum of three minutes to address the Council Meeting. An extension of time may be granted if deemed necessary.

Members of the public seeking to represent or speak on behalf of a third party must satisfy the Council or Committee Meeting that he or she has the authority to represent or speak on behalf of the third party.

Members of the public wishing to address Council Meetings are requested to contact Council either by telephone, in person or online prior to 4:30pm the day prior to the Meeting to address the Council Meeting. Persons not registered to speak will not be able to address Council at the Meeting.

Council will only permit three speakers in support and three speakers in opposition to a recommendation contained in the Business Paper. If there are more than three speakers, Council's Governance division will contact all registered speakers to determine who will address Council. In relation to a Development Application, the applicant will be reserved a position to speak.

Members of the public will not be permitted to raise matters or provide information which involves:

- personnel matters concerning particular individuals (other than Councillors);
- personal hardship of any resident or ratepayer;
- information that would, if disclosed confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business;
- Commercial information of a confidential nature that would, if disclosed:
  - prejudice the commercial position of the person who supplied it, or
  - confer a commercial advantage on a competitor of the Council; or
  - reveal a trade secret;
- information that would, if disclosed prejudice the maintenance of law;
- matters affecting the security of the Council, Councillors, Council staff or Council property;
- advice concerning litigation or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege;
- information concerning the nature and location of a place or an item of Aboriginal significance on community land;
- alleged contraventions of any Code of Conduct requirements applicable under Section 440; or
- on balance, be contrary to the public interest.

Members of the public will not be permitted to use Community Consultation to abuse, vilify, insult, threaten, intimidate or harass Councillors, Council staff or other members of the public. Conduct of this nature will be deemed to be an act of disorder and the person engaging in such behaviour will be ruled out of the order and may be expelled.

### Disclosure of Political Donations or Gifts

If you have made a relevant planning application to Council which is listed for determination on the Council Business Paper you must disclose any political donation or gift made to any councillor or employee of the Council within the period commencing two years before the application is made and ending when the application is determined (Section 147(4) Environmental Planning and Assessment Act 1979).

If you have made a relevant public submission to Council in relation to a relevant planning application which is listed for determination on the Council Business Paper you must disclose any political donation or gifts made to any councillor or employee of the Council by you as the person making the submission or any associate within the period commencing two years before the submission is made and ending when the application is determined (Section 147(5) Environmental Planning and Assessment Act 1979).

## AGENDA

- 1 **APOLOGIES AND LEAVE OF ABSENCE**
- 2 **COMMUNITY CONSULTATION**
- 3 **MINUTES OF PREVIOUS MEETING SUBMITTED FOR APPROVAL**

### **RECOMMENDATION**

*That the Minutes of the Ordinary Meeting held on Tuesday, 17 November 2020, copies of which were circulated, be taken as read and confirmed as a correct record of the proceedings of the Meeting.*

- 4 **DISCLOSURE OF INTEREST**

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

- 5 **MAYORAL MINUTE**

Nil

- 6 **NOTICE OF MOTION**

Nil

### **OPEN COUNCIL REPORTS**

- 7 **ENVIRONMENT AND PLANNING**

- 7.1 **PROPOSED ROAD NAMES - STAGE 11 WINDMILL HILL - SUBDIVISION OF LOT 210 DP 251551 BROWNS LANE, NORTH TAMWORTH DA0238/2015 (RN2021-0003)**

**DIRECTORATE: PLANNING AND COMPLIANCE**

**AUTHOR: Carolyn Tickle, Development Hub Supervisor**

**2 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “Proposed Road Names - Stage 11 Windmill Hill – Subdivision of Lot 210 DP 1251551 Browns Lane, North Tamworth”, Council:*

- (i) *approve in principle the road names ‘Traminer’ Drive, ‘Alsace’ Place and ‘Sauvignon’ Close;*
  - (ii) *advertise the proposed names as required by the Roads Act 1993 Section 162, Roads (General) Regulation 2008, Part 2, Division 2 to enable interested parties the opportunity to make comments; and*
  - (iii) *provided no submissions are made which object to the proposed road names, proceed to publish adopted names in the Government Gazette and notify Australia Post, NSW Land and Property Information, Chief Executive of the Ambulance Services of NSW, NSW Fire Brigades, NSW Rural Fire Service, NSW Police Force, State Emergency Services and NSW Volunteer Rescue*

**Association Incorporated with sufficient particulars for identification of the roads.**

**SUMMARY**

The purpose of this report is to nominate additional names for Windmill Hill – Stage 11. The roads will be created as a continuation of existing Lambrusco Way, North Tamworth. Three road names proposed are: ‘Traminer’ Drive, ‘Alsace’ Place and ‘Sauvignon’ Close and a map is **ATTACHED**, refer to **ANNEXURE 1**.

**COMMENTARY**

Development Consent for the subdivision of the subject land, as outlined on map **ATTACHED**, refer to **ANNEXURE 2**, was granted on 18 August 2008. The new roads will be created off Lambrusco Way, North Tamworth. The proposed road names are in keeping with the original suggested and approved theme of grape varieties and grape regions being viticulture. This theme is to continue for all stages within this area using a bank of proposed names original submitted.

The proposed names have been reviewed under the Geographical Names Board (GNB) Guidelines for the Naming of Roads and there is no objection to the use.

Should Council support the proposed names it is then necessary to place on exhibition for public comment in accordance with the *Roads Act 1993*, Section 162 Roads (General) Regulation 2000, Part 2 Division 2. Following this exhibition, and assuming no objections are received, Council may proceed to have the names gazetted.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

The proposed names will be exhibited for public comment in accordance with the *Roads Act, 1993*, Section 12, *Roads (General) Regulation 2008*, Part 2, Division 2

**(e) Delivery Program Objective/Strategy**

A Region for the Future – F11 Sound asset management planning

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**7.2 INTRODUCTION OF POLICY - DEFERRAL OF SECTION 64 HEADWORKS PAYMENTS FOR SUBDIVISION DEVELOPMENTS**

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Steve Brake, Manager Development Engineering

**Reference:** Item 4.1 to Extraordinary Council 6 April 2020 - Minute No 90/20

**1 ANNEXURES ATTACHED**

**RECOMMENDATION**

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***That in relation to the report “Introduction of Policy - Deferral of Section 64 Headworks Payments for Subdivision Developments”, Council:***

- (i) endorse the public exhibition of the Draft Policy and a new headworks deferral administration fee, for a period of 28 days;***
- (ii) in the case that there are no further changes requested to the Draft Policy or no negative submissions received, authorise the adoption of the Draft Policy for inclusion in the General Policy Register and the 2020/2021 Annual Operational Plan Fees and Charges:***
- (iii) authorise the reimbursement of Section 64 Water and Sewer Headworks charges that have been paid, for any parcel of unsold land that has been subdivided with a linen release date after 31 March 2020, until the date of adoption of the Draft Policy, or when reported at a future Meeting of Council; and***
- (iv) authorise the affixing of the Seal of Council to the legal agreements associated with security of payment.***

**SUMMARY**

The purpose of this report is to facilitate the adoption of a new policy that will enable the deferred payment of Section 64 Water and Sewer Headworks fees associated with land subdivisions. Additionally, the report recommends that temporary reimbursements of Headworks be offered to subdividers who have paid these amounts in between the cessation of the COVID-19 relief package temporary reimbursements and the adoption of the Policy.

**COMMENTARY**

Section 64 of the Local Government Act 1993, enables Council to levy developer contributions in the form of water and sewer headworks charges which go towards the cost of upgrading and expanding trunk water supply and sewer infrastructure to accommodate the incremental increases in demand associated with land subdivision and development. Payment of these fees and charges has typically been required prior to issue of the associated subdivision certificate.

Council held an Extraordinary Meeting on 6 April 2020, where a Mayoral Minute was presented to Council. The purpose of the Mayoral Minute was to request approval for a series of measures to provide relief to residents and businesses in the Tamworth Regional Council area. The measures were designed to assist with those placed into a difficult situation as a result of the COVID-19 pandemic. At that Meeting, Council resolved among other things:

*That in relation to the report “COVID-19 Relief Package”, Council:*

*(xv) will reimburse the water and sewer headworks charges that have been paid for any parcel of land developed and with a linen release date of between 1 March 2018 and 31 March 2020 (dates inclusive) that currently remains unsold. The reimbursed amount will be subject to legal agreement and will become a charge due or payable pursuant to Section 603 of the Local Government Act 1993 as a charge against the land, payable upon settlement for the sale of the land with the General Manager to present a further detailed report in the future to consider making this a permanent measure.*

The offer was taken up by the land development industry with a measurable participation rate. Of 197 eligible lots, the offer was taken up by the developers of 54 lots spread across five different subdivisions.

The process was supported by the industry, and feedback has been that a continuation of the practice to defer Headworks payments would be of benefit to the industry.

The advantage to the industry that would be derived from a deferral of these payments, is a reduction in peak borrowings as a result of moving the payments closer to the income stream that is generated by the lot sales. Industry representatives have advocated for deferred payments both prior to, and following COVID-19 relief package.

The risks associated with implementing a deferred payment scheme, and the associated mitigation measures are tabulated below:

Risk	Mitigation
The existence of the outstanding payment owing to Council may be unknown to the parties.	The debt will be registered as a debt against the land pursuant to Section 603 of the <i>Local Government Act 1993</i> .
The payments will remain outstanding for extended periods of time.	Any outstanding debt will commute to payable invoice at the end of two calendar years from the date of the associated subdivision certificate, and debt recovery will be activated.
Land transfer (sale) may occur without the debt being recovered from the original subdivider, thus transferring the debt (inappropriately) to the new owner.	Caveats will be lodged against the subject lots, effectively barring sale of the land until the caveat is lifted. Payment of the outstanding fees will be a prerequisite for removal of the caveat.
The land is developed without being sold, in which case a burden would be placed on the trunk infrastructure ahead of contributions and headworks fees being collected.	Provision being made requiring payment of the outstanding fees triggered by development, whether such development is pursuant to a Development Approval or alternatively is pursuant to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
The additional burden placed on Council staff in administering the scheme could become burdensome.	A fee will be attached to the service, based around recovery of the associated costs. This will in turn contribute to Council's ability to properly resource the scheme.
Not recovering the outstanding payment should the developer go bankrupt.	A request may be made for personal guarantees from the Directors of the Company involved in the subdivision.

In order to enable the deferral of headworks payments in an equitable and transparent way, it will be appropriate to adopt a Policy defining the parameters around which such relief would be offered, and the protocols that should be adopted to secure the interest of the industry participants and the community. The Draft Policy – “Deferral of Section 64 Headworks Payments for Subdivision Developments” is **ATTACHED**, refer **ANNEXURE 1**.

If Council resolves to adopt the policy enabling deferral of Water Headworks payments and Sewer Headworks payments, it would likely take effect in early 2021. There would be a number of subdivisions released between the cessation of the COVID-19 relief package, and the implementation of the policy that would by default have missed the opportunity to defer the associated payments. For reasons of equity, it would be appropriate to offer subdividers captured in that period the opportunity to seek a temporary reimbursement of these fees. The conditions of such reimbursement would be similar to those put in place for the reimbursements associated with the COVID-19 relief package. The reimbursed amount will be subject to legal agreement and will become a charge due or payable pursuant to Section 603 of the Local

Government Act 1993 as a charge against the land, payable upon settlement for the sale of the land.

The processes associated with facilitating deferral of Headworks payments places extra burden on Council resources, and triggers statutory third-party fees. Recovery of these costs shall be facilitated via a per lot fee calculated as follows:

Headworks Deferral Administration Fee<sup>1</sup>: \$250.00 per lot

All other associated costs will be borne by the developer, including the registration fees to be levied based on actual NSW Land Registry Services fees associated with lodgement and removal of the caveats, as applicable at the time of lodgement and removal.

Notes:

1. *The Headworks Deferral Administration Fee will appear in the Tamworth Regional Council Fees and Charges schedule, and will be reviewed annually. This fee will cover Council's administrative processes such as creation of the deed, lodgement of the initial Caveat and administration associated with the removal of the caveat. It will also cover recovery management of any unpaid amounts at the expiry of the two year deferral.*

**(a) Policy Implications**

The recommendation is for the adoption of a new policy enabling the deferral of Water Headworks and Sewer Headworks for subdivision developments that would otherwise be payable, prior to release of the associated subdivision certificate.

**(b) Financial Implications**

Deferral of payments will add a hiatus in Council's collection of funds for works triggered by additional demands on civil infrastructure associated with land subdivision by pushing the collection of funds out by a maximum of two calendar years.

With the deferral of the related income, there will be an impact on Council interest revenue however, in the current climate this impact is minimal and will be reviewed as required.

The addition of a Caveat on the related lots reduces the potential impact of any losses against Council income.

**(c) Legal Implications**

Legal agreements associated with security of payment will require the Seal of Council be affixed.

The Local Government (General) Regulation 2005, section 400(4), requires that the Seal of Council must not be affixed to a document unless the document relates to the business of the Council and the Council has resolved (by resolution specifically referring to the document) that the Seal be so affixed.

**(d) Community Consultation**

Community consultation will occur through Public Exhibition of the Draft Policy and associated new fee fora period of 28 days. In addition to the advertisements in local newspapers, local consultants and developers will be notified in writing.

**(e) Delivery Program Objective/Strategy**

A Region for the Future – F11 Sound asset management planning.

**7.3 DEVELOPMENT APPLICATION FOR CONSTRUCTION AND USE OF 5MW SOLAR FARM AND ASSOCIATED INFRASTRUCTURE ON LOT A DP 442930 AND LOT 2214 DP 1177944, 4122 MANILLA ROAD, MANILLA**

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Mitchell Gillogly, Development Assessment Planner  
**2 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “Development Application for Construction and Use of a 5MW Solar Farm and Associated Infrastructure on Lot A DP 442930 and Lot 2214 DP 1177944, 4122 Manilla Road, Manilla”, Council:*

- (i) note that the application is scheduled for an electronic determination by the Northern Regional Planning Panel with a public meeting not required; and*
- (ii) determine not to make a submission to the Northern Regional Planning Panel in relation to the application.*

### **SUMMARY**

The Northern Regional Planning Panel (NRPP) is the consent authority for this Development Application pursuant to Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, based on the proposal being for private infrastructure exceeding \$5 million for the purpose of electricity generating works.

The proposal will be determined by the NRPP under the new Planning Acceleration Program criteria. The amendments negate the need to conduct public panel meetings for non-contentious matters by applying a ‘10-or-more’ objection trigger for public meetings therefore, the NRPP will determine the proposal via electronic methods. This is scheduled to occur in December 2020.

### **COMMENTARY**

The Development Application must be determined by the NRPP pursuant to Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011, based on it being a private infrastructure exceeding \$5 million for the purpose of electricity generating works.

**Applicant:** NSW Community Renewables (Manilla) Pty Ltd  
**Proposal:** Construction and use of a 5MW Solar Farm and Associated Infrastructure  
**Location:** Lot A DP 442930 and Lot 2214 DP 1177944, 4133 Manilla Road, Manilla  
**Zone:** RU1 Primary Production

NSW Community Renewables (Manilla) Pty Ltd in conjunction with Providence Asset Group, propose to construct and operate 5MW Solar Farm at 4133 Manilla Road, Manilla which is approximately 4km south of Manilla. The proposal will comprise of the following structures and works:

- 180 ground-mounted tracking photovoltaic (PV) arrays, with each array comprising of 84PV panels measuring approximately 86 metres wide. A total of 151,120PV panels are proposed. Each array has 104 degree motion and will be mounted on steel pile posts. At maximum tilt, the PV arrays will have a maximum height of 2.5 metres with a clearance of 600mm between the bottom edge of the panel to the ground;
- A medium voltage (MV) power conversion unit (PCU) with dimensions of 6m (L) x 2.4m (W) x 2.9m (H) to be set on a concrete slab or footings. The PCU will contain a central PV inverter, transformer and switchgear;
- a 24m<sup>2</sup> operations and maintenance building with a maximum height of 2.79 metres on a 48m<sup>2</sup> concrete pad. The primary purpose of the building is to store equipment and

documentation. No permanent power will be supplied to the building and no permanent staff will be stationed at the site;

- a 2.3 metre high chain wire fence with three rows of barbed wire fence around the perimeter of the solar arrays to secure the infrastructure. Pedestrian and vehicle access to the enclosed infrastructure site is through a double leaf swing gate with a leaf width of 4 metres and height of 2 metres;
- a 4 metre wide gravel vehicle access road from Manilla Road, at the north east corner of Lot A DP 442930 to the access gates of the enclosed infrastructure. The gravel access road will transverse a non-operational rail corridor identified as Lot 2115 DP 1177957; and
- a parking area.

The associated plans including Architectural Design, Landscaping and Stormwater Design is **ATTACHED**, refer to **ANNEXURE 1**.

The Manilla Community Renewable Energy Inc (MCRE), in conjunction with Providence Asset Group, is a group of socially and environmentally conscience Manilla residents, taking it upon themselves to provide low cost and climate friendly electricity directly to the Manilla community and broader New England Region.

Government has also provided support for the project, with the NSW State Government providing \$3.5 million for future upgrades to the project such as energy storage options. Energy storage options are currently being explored with options including solid batteries and hydrogen battery technology however, these will form part of a future DA.

The proposal is integrated development pursuant to the Road Act 1993, based on the new access to a State Classified Road (Manilla Road). In this regard, Transport for NSW have provided concurrence for the proposed development.

The application was publicly exhibited in accordance with the Tamworth Regional Community Participation Plan 2019, from 15 April 2019 to 6 May 2019. Council received nine submissions which were all supportive of the proposal.

The assessment report is **ATTACHED**, refer to **ANNEXURE 2**.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

The application was publicly exhibited in accordance with the Tamworth Regional Community Participation Plan 2019, from 15 April 2019 to 6 May 2019. The application was advertised in the local newspaper, the Northern Daily Leader on 13 April 2019, and notification letters were sent to all adjoining property owners. Nine submissions received and all are in support of the proposal.

**(e) Delivery Program Objective/Strategy**

A Region for the Future – F21 Protect our natural environment.

## **8 INFRASTRUCTURE AND SERVICES**

### **8.1 TAMWORTH TURF PRECINCT MASTERPLAN, STAGE 1**

**DIRECTORATE: REGIONAL SERVICES**

**AUTHOR: Paul Kelly, Manager Sports and Recreation**

**1 ANNEXURES ATTACHED**

#### **RECOMMENDATION**

*That in relation to the report “Tamworth Turf Precinct Masterplan, Stage 1”, Council adopt Stage 1 of the Tamworth Turf Precinct Masterplan.*

#### **SUMMARY**

Tamworth Regional Council acknowledges the significant contribution that sport and recreation bring to the community. Tamworth Regional Council is in a unique position of having available land to develop into future sporting fields. The Tamworth Turf Precinct Masterplan, provides a roadmap for three stages of development of sport fields aligned with the planned growth identified in the Blueprint strategy, and Tamworth Regional Council’s Sport and Recreation Strategic Plan.

Stage 1 of the Tamworth Turf Precinct Masterplan is to convert the old netball courts located on Carter Street into turf playing fields.

#### **COMMENTARY**

Tamworth Regional Council is in a unique position of having unused Council owned land available to develop into future sporting fields. The planning and design of such facilities needs to be carefully considered to ensure that the needs of the community are addressed now and into the future.

The current strategic direction of sport and recreation facility development across Council is heavily influenced by two recently adopted key strategies:

- 1) Council’s Blueprint strategy; and
- 2) Sport and Recreation Strategic Plan.

The Sport and Recreation Strategic Plan projects future sports facility requirements based on population trigger points as the population increases. This method ensures Council is prepared to service the future sporting needs of the community and visitors to the Council area.

The Tamworth Turf Precinct Masterplan (TTPMP) provides a roadmap for three proposed stages of development of sport fields as follows:

- 1) Stage 1 – Old Netball Courts Turf Fields Masterplan;
- 2) Stage 2 – Marius Street Turf Fields Masterplan; and
- 3) Stage 3 – Locks Lane Masterplan.

The population trigger point for infrastructure requirements detailed in Stage 1 of the TTPMP is 70,000, therefore requiring action now. A detailed outline of Stage 1 is **ATTACHED**, refer **ANNEXURE 1**.

The scope of Stage 1 of the TTPMP is to convert the old netball courts located on Carter Street at the Riverside Sporting Complex to turf sports fields. This will include an oval with a turf cricket wicket and two full sized multi use rectangle playing fields, refer Image 1 below.

**Image 1: TTPMP Stage 1 proposed field layout**



The layout design for Stage 1 has been carefully considered to optimise the use of the space and to meet the requirements of the users. The turf wicket and two rectangular fields are orientated optimally to ensure play is not impacted by the rising or setting sun. The two rectangular fields have been positioned to not overlap the turf wicket to minimise the damage to this asset. The irrigation infrastructure in Stage 1 will be connected to an existing bore located near this site. This will allow Council to continue to irrigate the playing fields during water restrictions and provide this valuable asset to the community.

Stage 1 of the TTPMP was presented to Council’s Sports Working Group (SWG) at the group’s regular bi-monthly meeting held on 7 October 2020. At this meeting, the SWG endorsed Stage 1 of the TTPMP and recommended it be presented to Council for adoption.

Stage 2 and Stage 3 of the TTPMP are continuing to be planned, designed and costed and will be put before Council once completed however, it is predicted that these additional stages and fields will not be required until our population nears 90,000 people.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

There are no costs associated with adopting this Masterplan – only costs associated with constructing it.

Currently there are no funds allocated to implement Stage 1 of the TTPMP.

Stage 1 construction has been costed as follows:

ITEM	COST
Old netball court removal and remediation	\$124,453
Turf wicket installation	\$85,000
Supply and install of irrigation	\$34,250
<b>TOTAL</b>	<b>\$243,703</b>

Upon adoption of the TTPMP, it is recommended Council pursue funding opportunities to complete Stage 1.

These additional fields are replacing the loss of a similar area of land as a result of the recent construction of the third synthetic hockey field. Therefore, all ongoing maintenance costs associated with the development of these new fields will be met by the existing Sports and Recreation Division operational budget.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

A key factor in ensuring the success of the design and development of Stage 1 of the TTPMP was community consultation. This has included discussing options and reviewing drafts with Sport Development officers, key user groups and stakeholders, as well as the executives at Sport Operational meetings.

**(e) Delivery Program Objective/Strategy**

A Spirit of Community – C11 Provide high-quality open spaces, parks and reserves suitable and accessible to all.

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**8.2 2021 COUNTRY CRICKET NSW JANUARY REPRESENTATIVE EVENTS FEE WAIVER REQUEST**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Paul Kelly, Manager Sports and Recreation

**RECOMMENDATION**

*That in relation to the report “2021 Country Cricket NSW January Representative Events Fee Waiver Request”, Council approve a complete fee waiver to the value of \$7,108.53.*

**SUMMARY**

Country Cricket NSW have selected Tamworth as the preferred location to host the following high performance representative events:

- Under 18’s McDonalds Country Colts and the Under 16’s Bradman Cup over 4 to 6 January 2021; and
- Under 19’s and Under 16’s McDonalds Female Country Championships over 11 to 14 January 2021.

Given the substantial benefit to the community and the opportunity to showcase Tamworth’s high quality sporting facilities, Council is asked to support this event through a fee waiver.

**COMMENTARY**

Country Cricket NSW (CCNSW) has selected Tamworth as the preferred location to host the following high performance representative events:

- Under 18’s McDonalds Country Colts and the Under 16’s Bradman Cup over 4 to 6 January 2021; and
- Under 19’s and under 16’s McDonalds Female Country Championships over 11 to 14 January 2021.

The estimated fees for the use of Council’s sports and recreation facilities for the carnivals total \$7,108.53 including GST. This is based on the 2019/2020 fees and charges for sports fields.

CCNSW has advised that the carnivals combined will attract 350 players from across the state for a total of 10 bed nights. Based on sport tourism industry standards, this event will bring an economic benefit to the city of \$528,500, as displayed in Figure 1 below.

**Figure 1 Economic Benefit**



Event name: Country Champs	Type of event: Sports and Recreation Activities	Significance of event: State	Start date:
Length of event (days): 10	Est. attendance per day: 350	Est. avg daily spend (\$): 151	Event total spend: \$528,500

**Event Impact Summary** export reset

Tamworth Regional Council - Country Champs - Modelling the effect of \$528,500 from a Sports and Recreation Activities event with State significance

	Output (\$)	Value-added (\$)	Local Jobs (annual jobs)	Resident Jobs (annual jobs)
Direct impact	422,800	191,181	3.9	--
Industrial impact	211,325	88,395	0.8	--
Consumption impact	196,379	86,457	0.9	--
<b>Total impact on Tamworth Regional Council economy</b>	<b>830,504</b>	<b>366,033</b>	<b>5.6</b>	<b>--</b>

Given this financial benefit to the Tamworth community, at a time when the Tamworth Country Music Festival is not occurring in 2021, it is recommended Council support this fee waiver request in alignment with its significant sports event subsidisation procedures.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Sports and Recreation has an annual budget allocation for events subsidised under the Sport Events Subsidisation Policy. The total fee for this event, \$7,108.53 including GST, will be deducted from this budget allocation.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

**(e) Delivery Program Objective/Strategy**

A Spirit of Community – C11 Provide high-quality open spaces, parks and reserves suitable and accessible to all.

**8.3 INVESTIGATION INTO THE FEASIBILITY OF A WEIR ACROSS THE PEEL RIVER IN TAMWORTH**

**DIRECTORATE:** WATER AND WASTE  
**AUTHOR:** Bruce Logan, Director Water and Waste

**RECOMMENDATION**

*That in relation to the report “Investigation into the Feasibility of a Weir Across the Peel River in Tamworth”, Council:*

- (i) agree to engage Hunter H2O and subconsultant SMEC to undertake a high-level investigation; and*
- (ii) agree to provide funding of \$50,000 from the Water Reserve to fund this work.*

## SUMMARY

The purpose of this report is to seek Council direction in relation to the possibility of engaging a consultant to undertake a feasibility study into a Weir across the Peel River in Tamworth.

## COMMENTARY

The announcement of the construction of the Dungowan Dam and Dungowan Pipeline is welcome news and will see an improvement in the water security and reliability of Tamworth and Moonbi/Kootingal however, Council has been very proactive in investigating and, where appropriate, implementing other means to further secure Tamworth/Moonbi/Kootingal's water, in both the short and long term.

Investigations/actions include the following:

- 2011 Stormwater Harvesting Investigation;
- 2015 Hunter H2O report which looked at the long-term options to augment Tamworth's water supply;
- 2015 Drought Management Plan and later revisions;
- construction of the 120ML storage at Calala Water Treatment Plant;
- the possibility of augmenting supply using alluvial groundwater undertaken by Jacobs in 2019;
- the substitution of groundwater for potable water at Tamworth's green spaces and sporting fields;
- work to allow the return of backwash water generated during the water treatment process at Calala Water Treatment Plant to the head of the treatment plant for retreatment rather than going to some other use;
- 2019 high level investigation into the possibility of using treated effluent generated at Council's Westdale Wastewater Treatment Plant as part of an indirect or direct potable reuse scheme;
- recent engagement of a consultant to undertake investigation into the possibility of fractured rock groundwater as a potential source of water; and
- the adoption of changes to Council's Development Control Plan encouraging the use of water saving urban design principles.

It is considered the new dam announcement should not mark the end of this proactive approach.

A report to Council in March 2002, about the removal of the Jewry Street causeway across the Peel River, saw Council adopt a position to lobby the NSW Government to fund the construction of a new or refurbished weir across the Peel River. At that time, the primary reason for this position appears to be to provide a body of water in the Peel River through the City of Tamworth, and in so doing, improve the aesthetics of the river through Tamworth and encourage wider enjoyment of the river.

Funding for the new weir was not forthcoming however, it is now apparent that apart from improving the aesthetics of the Peel River and providing improved amenity, a weir may also provide the following benefits for water security and reliability:

- a means of retaining stormwater runoff generated by the City;
- if the lake formed by the weir extended to Paradise Bridge, then this body of water could improve the recharge of the adjacent Scott Road Drift Wells; and

- the weir could intercept flows in the Peel River downstream of Council’s Peel River Pump Station, particularly flows from the Cockburn River.

Given these possible benefits, staff asked consultant Hunter H2O to prepare a brief to undertake a preliminary investigation of the possibility of a weir across the Peel River including the following:

- if a weir was constructed, what, if any, effect would that have on the security and reliability of Tamworth/Moonbi/Kootingal’s water supply;
- where would it be best to locate the weir to enhance the Scott Road drift wells, as well as aesthetics of the Peel River through the Tamworth CBD;
- how high would a weir be at the preferred location;
- how much would it cost;
- what approvals will be required, and the likelihood of gaining these approvals; and
- overview and estimated cost of changes to existing Scott Road Pump Station and delivery line to Calala Water Treatment Plant or other arrangement.

Hunter H2O has advised, given the nature of the investigation, they will subcontract this work to SMEC. The estimated cost of the investigation is \$50,000 excluding GST. Should Council agree to undertake this work then the target completion date would be late January 2021.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The estimated cost of this work, should Council agree to proceed, is \$50,000 excluding GST. Funding has not been made available in the current Annual Operational Plan and as a result, if Council agrees with the recommendation, \$50,000 would have to be made available from the Water Reserve.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

**(e) Delivery Program Objective/Strategy**

A Region for the Future – F22 Encourage efficient use of resources to improve environmental sustainability

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## **8.4 POSSIBLE FUNDING FOR COOPERATIVE RESEARCH CENTRES (CRC's)**

**DIRECTORATE: WATER AND WASTE**

**AUTHOR: Bruce Logan, Director Water and Waste**

**Reference: Item 8.3 to Ordinary Council 22 September 2020 - Minute No 285/20**

**2 ANNEXURES ATTACHED**

### **RECOMMENDATION**

***That in relation to the report “Possible Funding for Cooperative Research Centres (CRC's)”, Council not provide funding for the One Basin CRC.***

## SUMMARY

Council has been advised that the Water Security CRC Council previously agreed to part fund, has not been successful in the Stage 1 applications. As a result, this CRC will not be proceeding. The purpose of this report is to seek direction from Council in relation to Council financially supporting another CRC or waiting to see if a fresh application by the Water Security CRC, perhaps next financial year, is more successful.

## COMMENTARY

At its Meeting of 22 September 2020, Council considered a report on possible funding of Cooperative Research Centres (CRC's). The report detailed the Cooperative Research Centre (CRC) Program is the Commonwealth Government's largest single program for industry providing grants for up to 10 years. CRCs are independent entities, established and governed as incorporated companies limited by guarantee. They comprise of industry led collaborations between industry, researchers and the community. The focus is on research and development that will have commercial uses. The CRC program aims to improve the competitiveness, productivity and sustainability of Australian industries, especially in government priority areas, use high quality research to solve industry-identified problems, and encourage and help Small and Medium Enterprises (SMEs) to take part in collaborative research. 226 CRCs have been funded since the program's commencement.

Round 22 of the current program opened 30 April 2020, and Stage 1 closed 29 July 2020. Stage 1 applications were then assessed and, if successful, moved through to Stage 2 which opened in November 2020, and closes in January 2021. Outcomes are announced in March 2021, and funding commences for successful applicants, in October 2021.

Council was approached by two groups who each lodged Stage 1 applications as detailed below:

### **CRC – Water Security**

Includes the following parties: Griffith University, Monash University, Water Sensitive Cities Institute, and The University of Queensland.

The Water Security CRC will deliver innovative water security solutions for cities, towns and communities that optimise water-related benefits for people and economic activities, sustain healthy aquatic ecosystems and protect against growing environmental challenges.

A brochure in relation to this CRC is **ATTACHED**, refer **ANNEXURE 1**.

### **CRC – One Basin**

Includes the following parties: University of Melbourne, University of Southern Queensland, and the Australian National University.

The One Basin CRC will accelerate growth in the agricultural sector over the next 10 years by tackling critical agriculture-water challenges. It will bring together industry, government, research organisations and the community to deliver science-based solutions that contribute to growth, and benefit rural communities and the environment. The focus of the One Basin CRC will be defined by the needs of our partners to build shared understanding, co-design solutions and build capacity across the agriculture and water sectors.

The prospectus is **ATTACHED**, refer **ANNEXURE 2**.

Both projects suggested a life of 10 years if funding is approved. Council was asked to consider providing a financial contribution to each, or both, of the CRC's. In the event Council agreed to provide funding, then it is understood funding would need to be made available per year for 10 years.

In reviewing the goals of both CRC's, staff advice was that the Water Security CRC is more closely aligned with Council's present issues of additional water security for towns and villages compared to the One Basin CRC, which appears to be focusing on securing water for agricultural purposes. Whilst both goals are of benefit to Council, it is suggested the Water Security CRC is of the more immediate concern.

Following consideration of the report Council resolved as follows:

*That in relation to the report "Possible Funding Cooperative Research Centres (CRC's)", Council:*

- (i) *provide \$10,000 per year to the Water Security CRC:*
- *if the funding application for the CRC is approved;*
  - *funding to commence in the 2021/2022 financial year; and*
  - *\$10,000 be provided per year for a maximum of 10 years or until the program is complete, whichever occurs first; and*
- (ii) *fund the expenditure 50% from the Water Reserve and 50% from the Wastewater Reserve.*

Council has now been advised the Stage 1 application by the Water Security CRC has not been approved. No reasons or feedback for this decision is available at this time. As a result, Council will no longer have to commit funds to this CRC. The proponents of the Water Security CRC have indicated they are considering reapplying in a future round of the program.

Council has now been approached by the proponents of the One Basin CRC to say their application has successfully passed Stage 1 and will progress to Stage 2. Again, the proponents are requesting Council consider providing funding for the CRC.

It is considered Council has two options. The first is to wait until the proponents of the Water Security CRC have decided whether or not to reapply in the future, or alternatively, Council could decide to redirect the funding from the Water Security CRC to the One Basin CRC.

Staff comments made in the previous Council report suggesting that the aims of the One Basin CRC, whilst of benefit to the basin communities, are not as closely aligned to the issues facing Council in terms of water security for Tamworth/Moonbi/Kootingal and other centres, remain pertinent. As a result, the staff recommendation is that Council not redirect funding to the One Basin CRC. However, if Council decided it did want to redirect funding then the following alternate recommendation is provided:

*That in relation to the report "Possible Funding Cooperative Research Centres (CRC's)", Council:*

- (iii) *provide \$10,000 per year to the One Basin CRC:*
- *if the funding application for the CRC is approved;*
  - *funding to commence in the 2021/2022 financial year; and*
  - *\$10,000 be provided per year for a maximum of 10 years or until the program is complete, whichever occurs first; and*
- (iv) *fund the expenditure 50% from the Water Reserve and 50% from the Wastewater Reserve.*

**(a) Policy Implications**

Nil

**(b) Financial Implications**

If Council agreed with the recommendation then there are no financial implications for Council. If Council approved the alternate recommendation, any funding would have to be provided from existing reserves and it is suggested this funding could be sourced 50% from the Water Reserve and 50% from the Wastewater Reserve.

**(c) Legal Implications**

A funding agreement would be required depending on the approach taken by Council.

**(d) Community Consultation**

Nil

**(e) Delivery Program Objective/Strategy**

A Region for the Future – F22 Encourage efficient use of resources to improve environmental sustainability.

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**8.5 MIXED WASTE ORGANICS MATERIAL AGREEMENT RECEIVAL UPDATE**

**DIRECTORATE: WATER AND WASTE**  
**AUTHOR: Morne Hattingh, Manager - Waste and Resource Recovery**

***RECOMMENDATION***

***That in relation to the report “Mixed Waste Organics Material Agreement Receival Update”, Council note the Agreement between Biomass Solutions (Coffs Harbour) and Tamworth Regional Council for the acceptance and disposal of Mixed Waste Organic Output to Forest Road Landfill will end no later than 31 March 2021.***

**SUMMARY**

The purpose of this report is to provide an update on the Agreement between Biomass Solutions (Coffs Harbour) and Tamworth Regional Council regarding the acceptance of Mixed Waste Organic Output (MWOO) materials at Forest Road Landfill.

**COMMENTARY**

Mixed Waste Organic Output (MWOO) is a soil amendment made predominately from the organic material within household general kerbside collection bins (red lid bins). Prior to October 2018, the processed material was sold or provided for use on agricultural land, mine site rehabilitation and plantation forests.

MWOO has been utilised as a waste diversion process and organic soil improver for approximately the last 20 years, however, regulation of the manufacture, distribution of the product only began in 2010. At this time the NSW Environment Protection Authority (NSW EPA) imposed strict controls on how much material could be applied to agricultural land, stipulating the types of agriculture the product could be used for and withholding periods for agriculture products post application. The product was also prohibited to be used for domestic and urban purposes.

At the commencement of the NSW EPA regulation on the product, the CSIRO and NSW Department of Primary Industries conducted significant research into the use and benefits of MWOO. This research concluded that there were limited agricultural and soil benefits from applying MWOO at the regulated application rates, but, given the nature of the material, there were environmental risks posed from physical contaminants such as small pieces of plastic and glass.

In addition, during this time there was a shift within the waste industry to support and improve source separations of organic materials from general solid waste i.e. remove food and organic waste out of the red lidded bins. This separation significantly reduces the environmental risk of contamination and produces a higher-grade agricultural end product.

In October 2018, the NSW EPA made regulatory changes that banned further land-based application of MWOO and the material was classified as general solid waste, requiring disposal to landfill.

In December 2018, Council considered a report regarding the proposed Agreement between Biomass Solutions, located in Coffs Harbour and Council for the disposal of MWOO as general solid waste at Forest Road Landfill. At the time, Biomass Solutions confirmed that it was required to dispose of approximately 12,000 tonnes of MWOO product, in order to allow the continuation of waste services for numerous Councils, located within the Coffs Harbour area.

Following consideration of the report Council resolved as follows:

*That in relation to the report “Request for the Acceptance of Mixed Waste Organic Material from Biomass Solutions Coffs Harbour”, Council:*

- (i) accept the delivery and disposal of mixed Waste Organic Material at Council’s Forest Road Landfill from Biomass Solutions Coffs Harbour as per Council’s Policy for the ‘Acceptance of Waste Generated Outside the Tamworth Regional Council Local Government Area’ with the addition of a 20% surcharge – \$141.24 price per tonne; and*
- (ii) obtain a signed endorsement from the EPA before commencement.*

Since the date of the Council resolution, MWOO product has been accepted at the Forest Road Landfill on a regular basis.

However, Council has been advised by Coffs Harbour City Council (CHCC), that it is the CHCC’s intention to cease disposal of MWOO at Forest Road Landfill by 31 March 2021. The primary reason for this is that CHCC has taken ownership of the MWOO product from Biomass Solutions and has identified a closer disposal option with a suitable operator.

CHCC has advised that this suitable operator has consented to receiving the MWOO product, however requires the finalisation of a Development Application (DA) Modification with the Department of Primary Industry and Environment (DPIE) prior to executing. The DA Modification has been submitted and is currently under review with the DPIE.

To date, all MWOO product received has been landfilled. The MWOO material is a good product source used for stabilising the waste stream by adding some moisture into the waste mass during the dry seasons. This aids in landfill gas generation and overall stability of waste cells located in each waste lift. This may lead to future benefit from the generation of Australian Carbon Credit Units (ACCU’s) under the contract with the Clean Energy Regulator (CER) for the next 10-15 years.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Since the commencement of deliveries, Council has received approximately 19,900 tonnes of MWOO at Forest Road Landfill, generating revenue of \$2,715,890. The current gate fee for MWOO disposal for the 2019/2020 financial year is \$159.72 (including GST).

**(c) Legal Implications**

An Agreement drawn up between Council and Biomass solutions in regard to the acceptance of MWOO remains current.

**(d) Community Consultation**

Nil

**(e) Delivery Program Objective/Strategy**

A Region for the Future – F22 Encourage efficient use of resources to improve environmental sustainability.

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**8.6 ORGANIC RECYCLING FACILITY EXPRESSION OF INTEREST OUTCOMES AND REQUEST TO PREPARE AND RELEASE A SELECT TENDER**

**DIRECTORATE: WATER AND WASTE**

**AUTHOR: Morne Hattingh, Manager - Waste and Resource Recovery**

**Reference: Item 8.3 to Ordinary Council 24 November 2015 - Minute No 344/15  
Item 8.5 to Ordinary Council 24 May 2016 - Minute No 137/16  
Item 14.4 to Ordinary Council 9 August 2016 - Minute No 241/16  
Item 8.5 to Ordinary Council 8 November 2016 Minute No 329/16  
Item 8.5 to Ordinary Council 13 February 2018 - Minute No 17/18  
Item 8.2 to Ordinary Council 9 April 2019 - Minute No 103/19  
Item 7.2 to Ordinary Council 11 February 2020 - Minute No 3/20  
Item 8.5 to Ordinary Council 14 July 2020 - Minute No 190/20  
2 CONFIDENTIAL ENCLOSURES ENCLOSED**

**RECOMMENDATION**

*That in relation to the report “Organic Recycling Facility Expression of Interest Outcomes and Request to Prepare and Release a Select Tender”, Council:*

- (i) agree to hold the Environment Protection License for the facility regardless of the delivery and operating model;*
- (ii) not pursue a delivery model for the project that includes an alliance or partnership type approach;*
- (iii) prepare tender documents which allow a range of delivery models to be tendered as detailed in the body of the report; and*
- (iv) request tenders based on the documents in (iii) above from the following companies, selected as a result of the Expression of Interest E009/2021:*
  - Suez (ABN 18 002 658 255);*
  - JR Richards (ABN 86 000 389 793);*
  - Kingston (ABN 61 124 250 335);*
  - Re-Group (ABN 84 166 255 947); and*
  - Remondis (ABN 95 002 429 781).*

**SUMMARY**

The purpose of this report is to update Council in relation to the proposed Organics Recycling Facility Expression of Interest, to consider other issues and matters related to the Facility and to seek approval for the release of a select Tender to experienced companies to assist



Council with the detailed design, construction and operation of the project, based on each entities' specific operating model suggestions and recommendations.

## COMMENTARY

On 23 September 2020, the Organic Recycling Facility (ORF) project was considered at the Northern Regional Planning Panel's (the Panel) meeting. The Panel publicly released their findings as follows:

*"The Panel determined to **approve the development application** and provided the following reasons for the decision:*

- 1) *the proposal is permissible in the RU1 zone and is consistent with relevant zone objectives;*
- 2) *the proposal will be socially and environmentally beneficial because it will remove a significant volume of materials from the waste stream and process them into useful products. In this regard the proposal is consistent with the relevant waste strategies, particularly the NSW Waste Avoidance and Recovery Strategy 2014-2021, the Northern Inland Regional Waste Strategy 2017-2021 and the Tamworth Regional Council Integrated Waste Management and Resource Recovery Strategy;*
- 3) *the site of the proposed development is suitable for the intended use. It is sufficiently close to Tamworth to be reasonably accessible, has direct access to major roads, is large enough to enable the development to be well separated from neighbours and is free from environmental constraints;*
- 4) *the proposal has been rigorously assessed in a process that has included two independent peer reviews. A suite of conditions has been imposed to ensure that the new facility will operate in a satisfactory manner and that the Stage 2 component involving the receipt and processing of offal and dissolved air flotation sludge will only operate if a successful trial is completed beforehand;*
- 5) *the proposal is well designed and incorporates all safeguards needed to ensure that potential environmental impacts will be either avoided or effectively mitigated;*
- 6) *the Panel has carefully considered all issues raised by objectors and believes they have been resolved by the design and siting of the facility, proposed management measures and/or conditions to be imposed. There are no residual issues that would cause unacceptable impacts sufficient to warrant refusal of the application; and*
- 7) *for the reasons given above, approval of the application is in the public interest."*

This approval was granted with 98 conditions of consent. One condition that was imposed by the Panel relates to the acceptance of Dissolved Air Flotation (DAF) and offal products at the facility as follows:

- receipt and processing of waste streams to be undertaken in accordance with two stages:
  - Stage 1: Category 1, 2 and 3 waste streams excluding (DAF) and offal products; and
  - Stage 2: receipt and processing of DAF and offal products.

Stage 2 is subject to a 12 month trial and requires review and approval by the NSW Environment Protection Authority (EPA) and Council's Planning & Compliance prior to commencing and to be considered successful. Assuming Council ultimately agrees to construct the ORF, then it is anticipated that the successful ORF operator will run the trial and any operating contract between Council and the operator will include financial penalties and incentives to ensure the trial is in accordance with the conditions of consent.

The receipt of Development Consent for the facility means Council can now move towards making a final decision about actually constructing the facility. There are a number of decisions that need to be made now, which will influence Council's final decision in relation to proceeding with the ORF. These issues are detailed below;

## **1) ENVIRONMENTAL PROTECTION LICENCE**

Throughout the Development Application process, Council has indicated that it intends to be the licence holder of the ORF's Environmental Protection Licence (EPL). However, it is possible for the operator of the facility to hold the EPL rather than Council. Indeed, recent discussions with another Council, which holds the EPL and has a contractor operate their ORF, has provided some feedback into some issues that they have been experiencing. These issues / concerns include:

- overall management: difficult to manage environmental breaches with no control over operations;
- numerous environmental breaches of EPL conditions, including: fires, odour, leachate management and resource recovery orders / exemptions; and
- large amount of oversized product being stockpiled on maturation pad(s) for significant amounts of time.

In considering whether Council should maintain the EPL for the ORF, the following is provided:

As the license holder, Council:

- complies with earlier advice given during the Development Application process;
- will be liable for breaches of the license by the operator
- does not have physical operational control of any on-site processes should operations start to breach license conditions;
- will need to ensure the operating agreement has incentives and penalties to ensure the operator complies with license conditions; and
- will be required to fund license fees, regular and unscheduled monitoring and independent audits (as required).

With the Operator as the license holder:

- responsibility for license breaches etc. are the operators;
- costs associated with maintaining the license are the operators; and
- Council will need to ensure the operating agreement has incentives and penalties to ensure the operator complies with license conditions.

On balance, it is considered Council already has significant experience in operating facilities that are subject to an EPL and Council holds the license, where the operation is undertaken by Council staff and/or third-party operators. Based on this, and the fact that Council will not be able to escape criticism/liability for the operation of the facility even if the EPL is held by the operator, it is considered Council should hold onto the EPL license for the ORF and ensure the operating contract includes performance indicators and financial incentives to ensure the ORF operator successfully runs the facility.

## **2) CONTRACT DELIVERY MODEL OPTIONS**

There are a number of delivery models Council could consider for the construction and operation of the ORF. These options are discussed below.

### **Option 1: Council Build and Contractor Operates**

In this option, Council pays the capital cost to construct the facility and then enters into an operating agreement with a third party to operate the facility. Key points to note include:

- One company can be engaged to design and construct the facility and another company operates the facility; and
- the same company can design and construct and then operate.

Advantages and disadvantages of this delivery option are listed in the table below:

Advantages	Disadvantages
Expected lower fees and costs for Council given capital investment from Council.	Full upfront capital investment from Council.
Contractor assumes operational and environmental control of all systems supporting ORF operation.	Council controls the construction phase of project and responsible for delivering all key components and services – higher risk.
Ownership of permanent infrastructure sits with Council.	Operator may claim financial variations, should infrastructure not ‘fit’ with their operations. Council may also be required to pay maintenance costs.
Output and Sales of processed product remain the responsibility of Contractor.	No control on movement of outbound product or standards.

### Option 2: Contractor Build and Operate

In this option, a contractor is engaged by Council to design, construct and operate the facility on Council owned land.

Advantages and disadvantages of this delivery option are listed in the table below:

Advantages	Disadvantages
No upfront capital investment from Council (or minimal contribution)	Generally higher fees and costs for Council given that risks and responsibilities rest with the Contractor and Contractor’s investment
Contractor controls the project and responsible for delivering all key components and services.	
Generally, risks for Council are minimised through allocating responsibilities to Contractor.	If Council hold EPL, this removes ‘ownership of risk’ from Contractor and puts back onto Council.
Contractor assumes control of all systems supporting ORF operation.	Generally, ownership of infrastructure sits with the Contractor.
Outputs and Sales remain the responsibility of Contractor.	No control on movement of outbound product or standards.
	Operator will require a long-term contract to recoup capital costs
	Council has less control if contractor/operator fails in the future

### Option 3 – Build, Own, Operate and Transfer

In this option, a contractor is engaged by Council to design, construct and operate the facility on Council owned land. At some agreed point in the future, ownership of the infrastructure on the facility is transferred to Council possibly, at an agreed cost to Council.

Advantages and disadvantages of this delivery option are listed in the table below:

Advantages	Disadvantages
No upfront capital investment from Council (or minimal contribution)	Generally higher fees and costs for Council given that risks and responsibilities rest with the Contractor and Contractor's investment – although should be lower than option 2 given Council may be paying the contractor on transfer
Contractor controls the project and responsible for delivering all key components and services.	
Generally, risks for Council are minimised through allocating responsibilities to Contractor.	If Council hold EPL, this removes 'ownership of risk' from Contractor and puts back onto Council.
Contractor assumes control of all systems supporting ORF operation.	Generally, ownership of infrastructure sits with the Contractor under transfer.
Outputs and Sales remain the responsibility of Contractor.	No control on movement of outbound product or standards.
	Long-term contract i.e. 15-20 years.
	Council has less control if operator fails

#### Option 4 – Partnership or Alliance

In this option, which is similar to the model Council entered into for the augmentation of the Westdale Wastewater Treatment Plant, Council and the successful operator partner in the construction and operation of the facility.

Advantages and disadvantages of this delivery option are listed in the table below:

Advantages	Disadvantages
Reduced Contractor charges and fees to Council.	Council may generally take on long-term financial risks associated with operating the facility.
Transparent (open book) accounting of all costs.	Generally reduced or limited risks taken on by Contractor.
	Will require further review of procurement framework if characterised as PPP.

Council has received some preliminary legal advice regarding the provisions of the Local Government Act 1993 dealing with public-private-partnerships (PPP). Caution has been advised in framing an alliance or partnership type contract to avoid it being characterised as a PPP.

In any case, given issues Council had previously with an Alliance type model, this type of delivery model is not recommended.

### 3) REQUEST FOR TENDER

The design, construction, and operation of the ORF will be undertaken via a tender process. It is possible to select a delivery model and then prepare tender documents and seek tenders based on the preferred delivery model. However, it is also possible for Council to prepare tender documents which allow tenderers to provide Council with a range of delivery methods. Using this approach, Council would then use the tender assessment process to identify the preferred delivery model and the preferred tenderer/s for the project. More details are provided below:

#### 3.1 Tender Options

Tendering for the services provides Council with an opportunity to ‘test’ a number of the contract models and then decide the final preferred contract structure (and associated financial impacts) following the tender evaluation.

Tender Options available include:

- Option A: Build, Own, Operate and Transfer; and
- Option B: Separate the Parts for Building and Operating the ORF.

### **3.2 Option A**

This option includes the requirements for the tenderer to undertake all defined responsibilities for the establishment, building and commissioning of the facility. In addition, the operation of the processing facility (the processing services) for the contract term is included, with all associated responsibilities.

Tendering “Option A” provides two potential options related to pricing and finances: Part A1 and A2.

- Part A1:
  - A1 allows for a single price structure, which allows for capital payments and operational payments to the contractor to be combined and captured in a single gate fee (price per tonne) for the contract term; and
  - the fee is based on tonnes delivered or can be a set fee, paid by Council to the contractor on an agreed basis i.e. every month.
- Part A2: Allows for a two-price structure:
  - capital payments for establishing the ORF to be made to the contractor based on the agreed milestone/dates; and Council commits to payment of costs until construction of the facility is completed and prior to the organics processing services commencing;
  - payment to the contractor for operational/service costs in a gate fee (price per tonne) or set fee, from the services commencement date; and
  - the fee is based on tonnes delivered or can be a set fee, paid by Council to the contractor on an agreed basis i.e. every month.

#### **3.2.1 Option B**

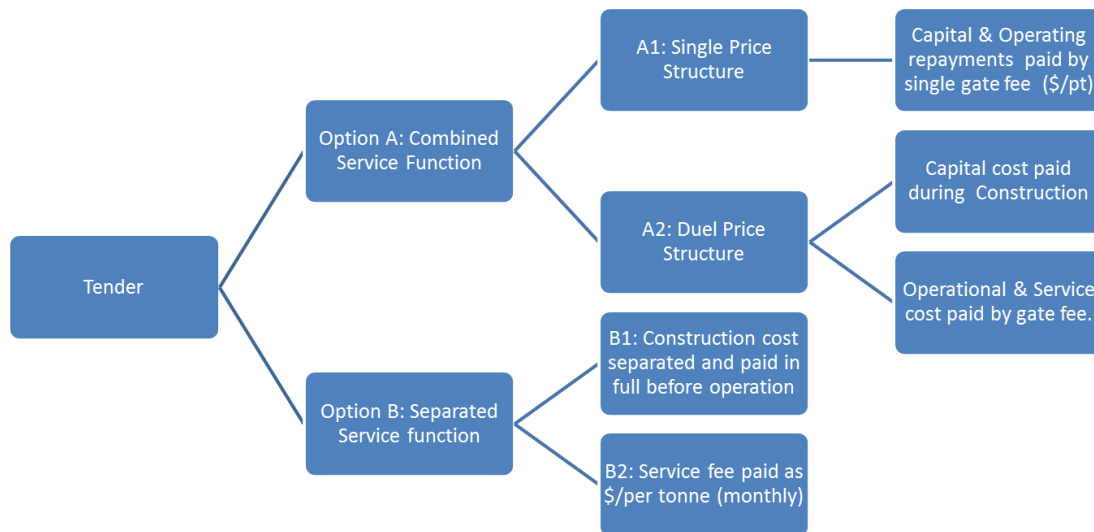
Option B allows for Council to consider the building component separately to the operating component. There are risks associated with the tight timeframe for this project and separating these components particularly in the event the construction of the facility is not complete when the operation of the facility is scheduled to commence.

Under “Option B”, the request for tender will require tenderers to provide tender submissions for both or either of the separable Parts B1 and B2:

- Part B1
  - B1 includes the requirements for the construction of the ORF, as defined. Option B1 will allow for agreed capital payments for milestones and/ dates; and
  - it would be expected that all payments are completed prior to the services commencement date.
- Part B2
  - B2 includes the requirements for the operation of the ORF i.e. processing services; and

- the fee is based on tonnes delivered or can be a set fee, paid by Council to the contractor on an agreed basis i.e. every month.

Tender option pathways are summarised below:



#### 4) EXPRESSION OF INTEREST OUTCOMES

In July 2020, Council released an Expression of Interest (EOI) for the Tamworth Organic Recycling Facility (ORF). The EOI was released via Tenderlink on 17 July 2020, and closed 11 August 2020. The EOI invited interest from suitably qualified and experienced companies to assist in the delivery of the ORF Project. The EOI requested detail to be provided on the following areas:

- detail regarding existing markets and product demand and/or potential known markets and areas of product demand;
- company details, key personnel and sub-contractors proposed for each project component;
- evidence of insurances and management systems;
- details of financial capability to complete a project of this size;
- list of previous projects of similar scope, including details on project budget and referee contact details;
- availability and build program based on proposed structure option(s);
- nominated preferred duration of operational contract;
- proposed operating model and proposed cost associated with the recommended option; and
- durability/life expectancy of the proposed building and any special maintenance requirements.

Council received 12 submissions from the following companies:

- 1) Suez;
- 2) Soil-Co;
- 3) Barpa;
- 4) Bettergrow;
- 5) GHD;

- 6) JR Richards;
- 7) Kingston;
- 8) NALG;
- 9) Re-Group;
- 10) Remondis;
- 11) Richard Crookes Construction (RCC); and
- 12) Australian Native Landscapes (ANL).

An assessment panel was constituted for the purposes of assessing the EOIs received. Panel Members were:

- Bruce Logan – Director Water and Waste;
- Morné Hattingh – Manager Waste and Resource Recovery;
- Mark Gardiner – Senior Projects Engineer; and
- Megan Mather – Senior Waste Management Officer.

Many of the submitted EOIs were from existing industry leaders, with significant experience in composting technologies and processes, waste management and product sales. Many of the submissions nominated their preference for a Build Own Operate Transfer (BOOT) or Design Construct Operate (DCO) contract model. Some others included Design and Construct (DC) and Build Own Operate (BOO).

Around half of the submissions included some detail on costs, and processing cost; these figures have been used to inform the financial modelling undertaken and detailed later in this report. Some submissions noted that further discussions would be required as it was too early to provide this detail of costs.

Most of the submissions identified infrastructure lifespan on the proposed facility to be on average around 20 years, with regular maintenance and upgrades completed every 3-5 years.

Based on the review conducted by the Panel Members - a summary document of the assessment and a detailed assessment are **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**, it is recommended that the following five companies be invited to tender under a select tender arrangement:

- 1) Suez;
- 2) JR Richards;
- 3) Kingston;
- 4) Re-Group; and
- 5) Remondis.

## **5) ADDITIONAL CONSTRUCTION REQUIREMENTS**

There are some improvement works at or adjacent to the ORF which are directly associated to the conditions of consent imposed by the NRPP. These works include:

- installation of groundwater monitoring bores prior to construction;
- upgrade of existing site bore to Commercial production;
- site entrance and haul road to operational area;
- external road Infrastructure at nominated intersections;
- stormwater dam(s) and swale upgrades prior to construction;
- site revegetation prior to construction; and
- fencing along boundary to delineate ORF property; and neighbouring landowners driveway.

The cost associated with this work is estimated at a cost \$2 million. These costs are not transferable to the ORF Contractor, under any delivery model, and as a result, Council will be responsible for funding these works.

## 6) FINANCIAL IMPLICATIONS

There may be a need to raise additional income to fund works planned in the waste area over the next 20 years, including the construction and operation of an ORF should Council agree to do so. This additional income will be raised through increased annual charges for residents, through annual domestic waste charges and for users of Council landfills through increased fees and charges. The level of increase, if any, required will be calculated using financial modelling of the waste area. Some inputs into the financial model will depend on the final delivery model chosen by Council and the final cost to Council for construction and operation of the ORF, which will not be known until after tenders have closed.

However, financial modelling has been completed based on what is known to date and by making some assumptions. Details are **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 2**. At this time modelling indicates domestic waste charges for residents who receive category 3 services (domestic waste, recycling, bulky goods and organics collection service to all developed properties within the City of Tamworth and the townships of Kootingal and Moonbi and the village of Attunga) may need to rise by up to 16%, although the final increase and how this increase if any is introduced has not been finalised as yet.

## 7) REVISED TIMELINE

Summary of delivery timeframes are as follows, should Council agree with the recommendation to proceed:

Item	Description	Delivery Date By
1	Council Approval to prepare and release Tender	1 December 2020
2	Tender and Contract preparation	Early January 2021
3	Tender Period	January - March 2021
4	Tender Evaluation Period	April - early June 2021
5	Council Report - Tender Resolution and Contract Award	Early July 2021
6	Contract Execution	End August 2021

### (a) Policy Implications

Nil

### (b) Financial Implications

As per the body of the report.

### (c) Legal Implications

Nil

### (d) Community Consultation

Nil

### (e) Delivery Program Objective/Strategy

A Region for the Future – F22 Encourage efficient use of resources to improve environmental sustainability.



## 9 GOVERNANCE, STRATEGY AND FINANCE

### 9.1 SCHEDULE OF COUNCIL MEETINGS FOR 2021

**DIRECTORATE:** OFFICE OF THE GENERAL MANAGER  
**AUTHOR:** Nicole Hunter, Coordinator Executive Services

#### RECOMMENDATION

*That in relation to the report “Schedule of Council Meetings for 2021” Council fix the dates and times for the Council Meetings for 2021, as follows:*

	Time	Jan 2021	Feb 2021	Mar 2021	Apr 2021	May 2021	June 2021	July 2021	Aug 2021	Sept 2021	Oct 2021	Nov 2021	Dec 2021
Ordinary Council	6:30 pm		9	9	13	11	8	13	10		12	9	14
			23	23	27	25	29	27	24	28	26	23	

#### SUMMARY

The purpose of this report is to confirm the dates and times for the Council Meetings for the 2021 calendar year. Council may change the dates by resolution.

#### COMMENTARY

Section 365 Local Government Act 1993, states:

*“The Council is required to meet at least 10 times each year, each time in a different month”.*

Tamworth Regional Council’s Code of Meeting Practice 2.1.3, allows for changes to dates and times for Meetings:

*Council may, by resolution, vary the time, date and place of Ordinary Meetings should circumstances exist to warrant the change in time, date or location.*

However, Ordinary Meetings of Council will generally be held on the second and fourth Tuesday of each month, commencing at 6:30pm at the Tamworth Regional Council Chambers, Fourth Floor Ray Walsh House, 437 Peel Street, NSW Tamworth. There are no Council Meetings held in January and only one Council Meeting held in December.

The month of January is a traditional holiday period. Council will not hold an Ordinary Meeting of the Council in January, unless otherwise determined by the Mayor and General Manager that a Meeting is required to attend to Council business of an urgent nature.

Council relies on the statutory role of the Mayor as stated in section 226 (d) of the Local Government Act 1993, “to exercise, in cases of necessity, the policy-making function of the governing body of the council between Meetings of the council”, should the exercise of this role of the Mayor be required during the month of January each year.

Council also relies on the statutory role of the General Manager as stated in section 335 (a) of the Local Government Act 1993, “to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council”.

The Easter holiday holidays fall on 2 and 5 April 2021, with ANZAC Day on 25 April 2021. These dates will not affect the Council Meeting dates proposed. The Council elections are to be held on 4 September 2021, therefore the Meeting that would normally be held on 14 September 2021,

will not be scheduled as it is unlikely that the poll will be declared, and inductions completed by this date. The National General Assembly is scheduled for 20-23 June 2021, and therefore the Meeting that would be scheduled for the 22 June will be moved to the 29 June 2021. The LG NSW Annual Conference is scheduled for 16-18 November 2021, which will not affect the current Meeting schedule.

The report lists one Meeting in December, that being 14 December, as Christmas falls later in December, and it is not possible to have Meetings scheduled for the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of December (14 and 28).

A copy of the proposed 2021 Schedule of Dates, is listed below:

	Time	Jan 2021	Feb 2021	Mar 2021	Apr 2021	May 2021	June 2021	July 2021	Aug 2021	Sept 2021	Oct 2021	Nov 2021	Dec 2021
Ordinary Council	6:30 pm		9	9	13	11	8	13	10		12	9	14
			23	23	27	25	29	27	24	28	26	23	

**(a) Policy Implications**

Council may, by resolution, vary the time, date and place of Ordinary Meetings should extenuating circumstances exist which would prevent the Ordinary Meetings of the Council being held.

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Public Notices advising of the dates and times of the Council Meetings (and/or Extraordinary) will be placed on our Website.

**(e) Delivery Program Objective/Strategy**

A Region of Progressive Leadership – L21 Transparency and accountability of government.

## 10 COMMUNITY SERVICES

### 10.1 TAMWORTH REGION INCLUSIVE CULTURE ADVISORY COMMITTEE (TRICAC) - MEETING - 19 NOVEMBER 2020

DIRECTORATE: GROWTH AND PROSPERITY

AUTHOR: Kay Delahunt, Manager - Cultural and Community Services

**1 ANNEXURES ATTACHED**

#### RECOMMENDATION

*That in relation to the report “Tamworth Region Inclusive Culture Advisory Committee (TRICAC) – Meeting - 19 November 2020”, Council receive and note the minutes.*

## SUMMARY

The purpose of this report is to present to Council the minutes of the Tamworth Region Inclusive Culture Advisory Committee (TRICAC) Meeting held 19 November 2020, and to provide Council with an overview of the meeting outcomes.

## COMMENTARY

The TRICAC Committee was held on 19 November 2020. The minutes of the meeting are **ATTACHED**, refer **ANNEXURE 1**. The main topics discussed included:

Presentations received from:

- Veronica Filby – Tamworth Regional Council’s Coordinator Volunteer Services – spoke about *RU Volunteering* and the ways in which this service is socially inclusive; and
- Andrew Spicer – Tamworth Regional Council’s – Senior Integrated Planner – spoke about Blueprint 100.

Planning for a workshop to be held in February 2021. The Committee agreed to structure the workshop around three actions selected from the Cultural Plan 2018/2023. The agreed actions are:

- 1) 1.9 Increase volunteerism in the cultural sector and explore ways to make volunteering a more enriching experience;
- 2) 3.6 Grow the “Fiesta La Peel” Multicultural Festival; and
- 3) 4.8 Partner with multicultural agencies to develop opportunities for members of the multicultural community to share and celebrate their cultures.

### (a) Policy Implications

Nil

### (b) Financial Implications

Nil

### (c) Legal Implications

Nil

### (d) Community Consultation

The TRICAC includes six community members who represent a broad range of cultural groups. The Committee provides strategic advice to Council in relation to “inclusive culture” within the region and makes recommendations regarding priority areas for development.

### (e) Delivery Program Objective/Strategy

A Spirit of Community – C21 Preserve and celebrate the character, heritage and culture of our city, towns and villages.

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## 10.2 CENTRAL NORTHERN REGIONAL LIBRARY (CNRL) - MEETING - 11 NOVEMBER 2020

DIRECTORATE:

GROWTH AND PROSPERITY

AUTHOR:

Kay Delahunt, Manager - Cultural and Community Services

**2 ANNEXURES ATTACHED**

## RECOMMENDATION

***That in relation to the report “Central Northern Regional Library (CNRL) - Meeting – 11 November 2020”, Council:***

- (i) receive and note the minutes of the meeting of the Central Northern Regional Library (CNRL) Annual General Meeting and Ordinary Meeting held 11 November 2020; and***
- (ii) approve the proposed Tamworth Regional Council contribution for 2021/2022.***

## **SUMMARY**

The purpose of this report is to present to Council the minutes of the CNRL Annual General Meeting and Ordinary Meeting held 11 November 2020. This report summarises the key issues from the Minutes including the proposed Tamworth Regional Council contribution for 2021/2022.

## **COMMENTARY**

The CNRL Annual General Meeting (AGM) and Ordinary Meeting were both held on 11 November 2020. The minutes of these meetings are **ATTACHED**, refer **ANNEXURE 1** and **ANNEXURE 2**.

Councillor Bill Heazlett from Walcha Council was re-elected as the CNRL Chair and Cr Catherine Reading, from Narrabri Shire Council, was re-elected as the CNRL Deputy Chair.

The Annual Financial Statements and CNRL Annual Report were presented and accepted at the meeting. The Annual Report outlined some of the effects of the COVID-19 restrictions in 2019/2020 including:

- a fall in physical loans of 16%;
- increases in e-loans with e-magazine use increasing by 75% and e-movie use increasing by 71%; and
- an increase in the proportion of CNRL loans made through the self-checker stations. This increased from 23.72% in 2018/2019 to 40.21% in 2019/2020. Every branch experienced an increase in 2019/2020.

Three policies were presented to the Committee at the Ordinary Meeting and these were all adopted. The policies included the:

- CNRL Regional Resources Policy 2020 (updated from the CNRL Regional Resources Policy 2015);
- CNRL Youth Services Policy 2020; and
- CNRL Public Access Internet Policy 2020.

The draft CNRL budget for 2021/2022 was also presented at the Ordinary Meeting. The draft budget has been prepared on the basis of a member contribution of \$12.95 per capita. The Council per capita contribution remains the same as the 2020/2021 contribution. CNRL councils have until 15 January 2021, to consider the draft budget and respond to Tamworth Regional Council.

### **(a) Policy Implications**

- CNRL Regional Resources Policy 2020
- CNRL Youth Services Policy 2020
- CNRL Public Access Internet Policy 2020

**(b) Financial Implications**

The proposed CNRL member Council contribution for 2021/2022 remains unchanged at \$12.95 per capita. Based on a population of **62,541** this would total **\$809,906** for Tamworth Regional Council.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

**(e) Delivery Program Objective/Strategy**

A Spirit of Community – C22 Provide accessible, functional, multi-purpose facilities and spaces suitable for cultural, recreational, learning and information services and activities.

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## **11 REPORTS TO BE CONSIDERED IN CLOSED COUNCIL**

### **RECOMMENDATION**

*That the confidential reports as listed be considered in a Meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993.*

### **11.1 REQUEST FOR DISCHARGE OF MORTGAGE**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Kirrilee Ringland, Manager Property and Legal Services

Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c)&(d)i of the Local Government Act 1993, on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

#### **SUMMARY**

The purpose of this report is to advise Council of a request from a Barraba resident regarding a Mortgage to the former Barraba Shire Council on the title of his land.

### **11.2 SUPPLY AND INSTALLATION OF TRAFFIC BARRIER DURING THE PERIOD 1 DECEMBER 2020 - 30 NOVEMBER 2022**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Callum Fletcher, Senior Project Engineer  
**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c)&(d)i of the Local Government Act 1993, on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business. and commercial

information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

### **SUMMARY**

The purpose of this report is to seek Council's acceptance of tenders for the supply and installation of traffic barriers during the period 1 December 2020 to 30 November 2022, advertised as open tender number T057/2021.

### **11.3 PROPOSED DISPOSAL OF COUNCIL OWNED LAND**

**DIRECTORATE:** CORPORATE AND GOVERNANCE

**AUTHOR:** Kirrilee Ringland, Manager Property and Legal Services

**2 CONFIDENTIAL ENCLOSURES ENCLOSED**

Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c)&(d)i of the Local Government Act 1993, on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

### **SUMMARY**

The purpose of this report is to advise Council of the process for the sale of the land and to obtain Council's consent to the method of the proposed sale.

### **11.4 ASSIGNMENT OF SUBLEASE AT HOPSCOTCH CAFE AND RESTAURANT AT TAMWORTH REGIONAL PLAYGROUND, BICENTENNIAL PARK, TAMWORTH**

**DIRECTORATE:** CORPORATE AND GOVERNANCE

**AUTHOR:** Kirrilee Ringland, Manager Property and Legal Services

**Reference:** Item 8.11 to Ordinary Council 12 August 2014 - Minute No 213/14

Item 13.4 to Ordinary Council 28 October 2014 - Minute No 345/14

Item 8.5 to Ordinary Council 25 August 2015 - Minute 212/15

Item 15.2 to Ordinary Council 23 August 2016 - Minute No 257/16

Item 14.1 to Ordinary Council 22 November 2016 - Minute No 372/16

Item 15.2 to Ordinary Council 23 May 2017 - Minute No 156/17

Item 7.3 to Ordinary Council 9 June 2020 - Minute No 160/20

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c)&(d)i of the Local Government Act 1993, on the grounds that the matter and information is information that would, if disclosed, confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business. and commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

### **SUMMARY**

This report seeks Council's authorisation to enter into a Deed of Assignment relating to the sublease of the building known as Hopscotch Café and Restaurant, and being more particularly described as the building occupying part Lot 73 in DP 110704.

## **CLOSED COUNCIL**

### **Confidential Reports**

#### **(Section 10A(2) of The Local Government Act 1993)**

Where it is proposed to close part of the Meeting, the Chairperson will allow members of the public to make representations to or at the meeting, before any part of the meeting is closed to the public, as to whether or not that part of the meeting should be closed to the public.

The Chairperson will check with the General Manager whether any written public submissions or representations have been received as to whether or not that part of the meeting should be closed to the public.

The grounds on which part of the Council meeting may be closed to public are listed in Section 10A(2) of the Local Government Act 1993 and are as follows:

- (a) personnel matters concerning particular individuals other than Councillors,
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.
- (h) during the receipt of information or discussion of information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (i) alleged contraventions of any code of conduct requirements applicable under section 440.

Section 10A(3) of the Act provides that Council, or a Committee of the Council of which all the members are councillors, may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Section 10B(3) of the Act provides that if a meeting is closed during discussion of a motion to close another part of the meeting to the public (as referred to in section 10A(3) of the Act), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is matter referred to in section 10A(2) of the Act).

Section 10B(1) of the Act provides that a meeting is not to remain closed to the public during the receipt of information or the discussion of matters referred to in section 10A(2):

- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret - unless the Council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest section 10B(4) of the Act states it is irrelevant that:

- (a) a person may interpret or misunderstand the discussion, or
- (b) the discussion of the matter may:
  - (i) cause embarrassment to the Council or committee concerned, or to councillors or to employees of the council, or
  - (ii) cause a loss of confidence in the Council or committee.

#### **Resolutions passed in Closed Council**

It is a requirement of Clause 253 of the Local Government (General) Regulation 2005 that any resolution passed in Closed Council, or Committee be made public as soon as practicable after the meeting has ended. At the end of Closed Council or Committee meeting, the Chairperson will provide a summary of those resolutions passed in Closed Council or Committee



CONFIDENTIAL