



# 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

**15 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, 1 December 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 **DRAFT NAMOI UNLIMITED - MANAGING CONTAMINATED OR POTENTIALLY CONTAMINATED LAND POLICY 2019**

DIRECTORATE: PLANNING AND COMPLIANCE

AUTHOR: Ross Briggs, Manager Compliance

**1 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “Draft Namoi Unlimited – Managing Contaminated or Potentially Contaminated Land Policy 2019”, Council:*

- (i) endorse the public exhibition of the Draft Managing Contaminated or Potentially Contaminated Land Policy 2019 for a period of 28 days;*
- (ii) following the public exhibition period, if feedback is received, request a further report on the feedback and any amendments to the Draft Policy for consideration and adoption by Council; and*

- (iii) *following the public exhibition period, if no feedback is received, adopt the Draft Policy as presented.*

## **SUMMARY**

The objective of the Draft Namoi Unlimited Managing Contaminated or Potentially Contaminated Land Policy 2019 (the Policy) is to provide a framework to assist Council, residents and proponents of development to respond proactively to contaminated land-based hazards and risks.

This project has been identified to assist Council in identifying, assessing, recording and managing contaminated lands within the Tamworth region. Future applications for development approvals, the Policy will enable Council to more accurately consider future applications for development approval with respect to contaminated lands and if required, advise in relation to remediation, monitoring and managing identified sites in accordance with NSW legislation and standards.

## **COMMENTARY**

The Policy as **ATTACHED**, refer **ANNEXURE 1**, has been developed in consultation with Namoi Unlimited, which comprises the Councils of the Tamworth, Gunnedah, Liverpool Plains, Gwydir and Walcha, as part of the NSW Environment Protection Authority (EPA) funded Regional Contaminated Land Capacity Building Program.

When carrying out planning functions under the Environmental Planning and Assessment Act 1979 (EP&A Act), Council must consider the possibility that a previous land use, or any adjoining or nearby land use, has caused contamination to the site; as well as the potential risk to health and/or the environment.

Council also has a statutory responsibility to include specific information on certificates issued for the purposes of Section 10.7 of the EP&A Act.

This policy is designed to enable Council to respond responsibly and proactively to contamination hazards and risks, through the land use planning framework, and to facilitate economic development of contaminated or potentially contaminated land. Proactive measures to prevent possible contamination can have significant environmental and financial benefits for Council and the community.

To achieve this, councils will:

- 1) Maintain individual Council specific databases of contaminated or potentially contaminated land, managed jointly where/when feasible, and record any relevant information on remediation, abatement, or site audits of work undertaken in the Namoi Unlimited areas;
- 2) Ensure that information provided by the EPA in respect of its *Register of Significantly Contaminated Land* (and other information as appropriate), or information held in Council's Contaminated or Potentially Contaminated Land Database (CPCL Database) is noted on any relevant Section 10.7(2) Planning Certificate, including advice that further information is available from Council.
- 3) Ensure that appropriate consideration is given to contamination issues during the rezoning and development assessment process, including:
  - identification of the presence of, or the potential for, contamination on the land;
  - consideration of the outcomes of any land contamination study;

- consideration of any remediation or abatement that has occurred on the land; and
  - the application of requirements set out in the Contaminated Land Management Act, State Environmental Planning Policy (SEPP) 55, SEPP55 Guidelines, and any applicable Local Environmental Plans, Development Control Plans, policies or guidelines.
- 4) Develop and implement educational material and a formal Communications Strategy to translate the Policy into operational guidelines for Council officers and the community.

Information held in the Contaminated Land Information System is also to be made available to the public by way of access to documents on request in accordance with the requirements of the Government Information (Public Access) Act 2009. This includes making publicly available and free of charge, any land contamination consultants reports filed in the Council system with the consent of the land owner.

The next step is to exhibit the Draft Namoi Unlimited - Managing Contaminated or Potentially Contaminated Land Policy 2019 for 28 days. Should submissions be received, these will be reviewed and a final version of the Policy will be brought back to Council for consideration including the submissions, at Council's February 2021 Ordinary Meeting.

**(a) Policy Implications**

Should it be adopted, the Namoi Unlimited - Managing Contaminated or Potentially Contaminated Land Policy 2019 will be included in Council's Policy Register.

**(b) Financial Implications**

This project has been developed in consultation with Namoi Unlimited as part of the EPA funded Regional Contaminated Land Capacity Building Program. Following the funded three year program, the program will be resourced by current staff that have been upskilled in Contaminated Land Management.

**(c) Legal Implications**

Currently statutory responsibility for the management of contaminated lands is shared between the EPA, NSW Department of Planning, Industry and Environment (DPIE), and Council through two processes:

- 1) Sites that are considered to have significant contamination are regulated by the EPA under the *Contaminated Land Management Act 1997 and associated Regulations*;
- 2) Other sites are managed by local government via land use planning instruments under the EP&A Act and Regulation. In these cases, the planning and development process determines what remediation is required to ensure the land is suitable for a different use.

Instruments under the Act include SEPP 55 Remediation of Land 1998 which recommends that *"each local council develop and adopt a formal policy for managing land contamination to provide a local context for decision making"* and that *"the policy should be consistent with the SEPP Remediation of Land Guidelines and either adopt or be based in them, with variations based on local conditions and procedure."*

SEPP 55 also states that *"council's policy on contaminated land may be contained within a number of documents, such as planning instruments that contain land use restrictions relevant to contamination and a DCP or plan. However, it is advisable to have a formal "stand alone" policy document."*



This Policy is therefore designed to satisfy legislative requirements, via a *framework* developed by the JO to manage contaminated or potentially contaminated land within the Region in accordance with the EP&A Act and SEPP55.

**(d) Community Consultation**

The policy will be placed on Public Exhibition for a period of at least 28 days. At the close of the exhibition period should submissions be received these will be reviewed and a final version of the Policy brought back to Council for consideration.

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

A Spirit of Community – C31 Create safe environments to live, work and play.

**7.2 DEVELOPMENT APPLICATION No.DA2020-0470 FOR SITE CONSOLIDATION AND CONSTRUCTION AND USE OF A FOOD AND DRINK PREMISES (MCDONALDS) AT LOTS 429 AND 430 DP 1033753, 114-122 PEEL STREET, NORTH TAMWORTH**

**DIRECTORATE: PLANNING AND COMPLIANCE**

**AUTHOR: Amanda Faulkner, Senior Development Assessment Planner**

**8 ANNEXURES ATTACHED**

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

**GENERAL MANAGER'S ADVISORY NOTE TO:**

**Councillors  
Applicants  
Persons making public submissions (written or verbal) Members of the Public**

**Record (Division) of Voting**

In accordance with Section 375A(3) of the Local Government Act 1993, a Division is required to be called whenever a motion for a planning decision is put at a meeting of the Council or a Council Committee.

A DIVISION under Section 375A(3) of the Act is required on this Planning Application.

**Relevant Planning Application**

In accordance with Section 10.4(4) of the Environmental Planning and Assessment Act 1979, a person who makes a relevant planning application to Council is required to disclose the following reportable political donations and gifts (if any) made by a person with a financial interest in the application within the period commencing 2 years before the application is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of the Council;
- (b) all gifts made to any local councillor or employee of the Council.

**Relevant Public Submission**

In accordance with Section 10.4(5) of the Environmental Planning and Assessment Act 1979, a person who makes a relevant public submission to Council in relation to a relevant planning application made to the Council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing two years before the submission is made and ending when the application is determined:

- (a) all reportable political donations made to any local councillor of the Council;
- (b) all gifts made to any local councillor or employee of the Council.

**Disclosure of Reportable Political Donations and Gifts**

**Planning Applications**

NIL

**Public Submissions**

NIL

**RECOMMENDATION**

*That in relation to Development Application (DA2020-0470) for consolidation and construction and use of a food and drink premises (McDonalds) at 114-122 Peel Street, North Tamworth (Lots 429 and 430 DP 1033753) approval be granted subject to the following conditions:*

**PRIOR TO WORK COMMENCING**

- 1) *The approved development which is the subject of this development consent must not be commenced until:*
  - a) *a construction certificate for the building work has been issued by the consent authority, Council (if Council is not the consent authority) or an accredited Certifier;*
  - b) *the person having the benefit of the development consent has:*
    - i) *appointed a Principal Certifying Authority (PCA) for the building work; and*
    - ii) *notified the PCA that the person will carry out the building work as an owner-builder, if that is the case;*
  - c) *the PCA has, no later than two days before the building work commences:*
    - i) *notified the consent authority and Council (if Council is not the consent authority) of his or her appointment; and*
    - ii) *notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and*
  - d) *the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:*
    - i) *appointed a principal contractor for the building work who must be the holder of a contractor license if any residential building work is involved;*
    - ii) *notified the PCA of any such appointment;*
    - iii) *unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work; and*
    - iv) *given at least two days' notice to Council of the person's intention to commence the erection of the building.*
- 2) *Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at*

*the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided:*

- a) must be a standard flushing toilet; and*
- b) must be connected to a public sewer; or*
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by Council.*

*The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.*

- 3) The applicant must ensure that a sign containing the following information is erected in a prominent position and maintained on the site at all times:*
  - a) the name, address and telephone number of the Principal Certifying Authority for the work;*
  - b) the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and*
  - c) a statement that unauthorised entry to the work site is prohibited.*

*The sign is to be removed when the work has been completed.*

- 4) The developer must install water pollution, erosion and sedimentation controls in accordance with the "Managing Urban Stormwater - Soils and Construction" published by the NSW Department of Housing ("The Blue Book").*
- 5) The contractors engaged to undertake work on Council land or infrastructure must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to Council prior to the commencement of work and upon request, during the progress of the work.*
- 6) A peg out survey prepared by a Registered Surveyor is to be submitted to the Certifying Authority to confirm the building may be sited in accordance with approved plans.*
- 7) Pursuant to Section 68 of the Local Government Act 1993, the following approvals must be obtained:*
  - a) carry out water supply work;*
  - b) carry out sewer work;*
  - c) carry out stormwater work; and*
  - d) a trade waste agreement.*
- 8) A Subdivision Works Certificate must be obtained for works in the Marius Street road reserve associated with this development.*
- 9) The contractors engaged on the development must maintain public liability insurance cover to the minimum value of \$20 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Documentary evidence of the currency of the policy shall be provided to*

*Council prior to the commencement of work and upon request, during the progress of the work.*

- 10) *Erosion and sediment control measures that will minimise damage to and avoid pollution of the environment are required for this development. An erosion and sediment control plan (ESCP) is to be prepared in accordance with the “Blue Book” Managing Urban Stormwater –Soils and Construction (Landcom 2004). THE ESCP is to be submitted to Council prior to the commencement of any construction works.*
- 11) *A Traffic Management Plan (TMP) detailing how movements in and out of the site during the construction will be adequately managed so as not to adversely impact the safe operation of the road network shall be submitted to Council for approval. This TMP shall consider both vehicular and pedestrian movements. Where the TMP is of a level of complexity that Traffic Control Plan’s (TCP’s) are required, the TCP’s shall be prepared by a person with the applicable certification from Roads and Maritime Services (RMS) in accordance with AS1742.3-2009 and the RMS current version of the "Traffic Control at Worksites" manual.*
- 12) *Prior to construction, any soil that is to be removed as waste, must be tested to determine the appropriate waste classification in accordance with the NSW EPA Waste Classification Guidelines. This testing may occur at the same time as soil investigation and/or geotechnical investigations for engineering design purposes.*

**PRIOR TO THE RELEASE OF A CONSTRUCTION CERTIFICATE**

- 13) a) *In accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979, and the Tamworth Regional Council Section 7.12 (formerly known as S94A) Development Contributions Plan 2013, \$33,365.00 shall be paid to Council to cater for the increased demand for community infrastructure resulting from the development:*
- b) *If the contributions are not paid within the financial year that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Development Contributions Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment in the following manner:*

$$\text{\$CPY} = \frac{\text{\$CDC} \times \text{CPIPY}}{\text{CPIDC}}$$

**Where:**

**\\$CPY** *Is the amount of the contribution at the date of Payment*

**\\$CDC** *Is the amount of the contribution as set out in this development consent*

**CPIPY** *Is the latest release of the Consumer Price Index (Sydney - All Groups) for the financial year at the date of Payment as published by the ABS*

**CPIDC Is the Consumer Price Index (Sydney - All Groups) for the financial year at the date of this development consent**

- c) The monetary contributions shall be paid to Council prior to the issue of a Construction Certificate.**

**It is the professional responsibility of the Principal Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above timeframes.**

**The Tamworth Regional Council Section 94A Development Contributions Plan may be viewed at [www.tamworth.nsw.gov.au](http://www.tamworth.nsw.gov.au) <<http://www.tamworth.nsw.gov.au>> or a copy may be inspected at Council's Administration Centre during normal business hours.**

- 14) Any retaining walls greater than 600mm above finished ground level or other approved methods necessary to prevent movement of excavated or filled ground, together with associated stormwater drainage measures, shall be designed by a qualified, practising Structural Engineer. Details are to be included with any Construction Certificate application.**
- 15) Section 138 approval from Council under the Roads Act 1993, is required to construct vehicle crossings for this development. Construction plans shall be provided to Council for approval.**
- 16) Section 68 approval from Council under the Local Government Act 1993, to carry out stormwater works for this development is required. Detailed stormwater plans and calculations shall be provided to Council for approval.**
- 17) Detailed engineering drawings and construction specifications, specific to the works, prepared in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments, are required for the following, as a minimum, to ensure all works are designed and constructed in accordance with recognised and accepted standards and guidelines:**
- (i) stormwater drainage in Marius Street;**
  - (ii) pavement construction including line marking and incorporating in Marius Street;**
  - (iii) kerb and gutter in Marius Street;**
  - (iv) footpath construction; and**
  - (v) water and sewer construction.**

**All plans are to include details of the location of all existing utility services.**

**The engineering drawings shall be submitted to Council for approval prior to the issue of a Subdivision Works Certificate.**

**All engineering drawings and the associated specifications are to be certified by a person qualified as defined by Council's Engineering Design Minimum Standards for Subdivisions and Developments.**

- 18) An amended Landscape plan shall be submitted to Council for approval that ensures all plant species are suitable for the Tamworth climate. The Landscaping Plan is to be amended in the following ways:**

- a) *The Eucalypt species be replaced with either of the following:*
  - *Eucalyptus leucoxylon*
  - *Eucalyptus sideroxylon.*
- b) *The Acacia species be replaced with Melaleuca linariifolia.*

**GENERAL**

- 19) *Development shall take place in accordance with the attached endorsed plans:*
  - a) *Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A041, Issue I, dated 2 December 2020;*
  - b) *Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A062,801 , Issue G, dated 16 October 2020;*
  - c) *Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A067,68 Issue G, dated 2 December 2020;*
  - d) *Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A101 Issue F, dated 14 May 2020;*
  - e) *Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A202,805 Issue E, dated 17 April 2020;*
  - f) *Architectural Plans prepared by Richmond & Ross, Project No. 190235, Drawing No. A806,807 Issue F, dated 16 October 2020;*
  - g) *Landscape Plan prepared by Site Image, Project No. SS20-4300, Drawing No. 000,101, Issue G, Dated 2 December 2020;*
  - h) *Plan of Management prepared by KDC, dated October 2020;*
  - i) *Waste Management Plan, prepared by McDonalds Australia, no date provided;*
  - j) *Crime Risk Assessment prepared by KDC, dated 22 April 2020;*
  - k) *Noise Assessment Report and Supplementary Information, prepared by Muller Acoustic Consulting, dated March 2020; and*
  - l) *Traffic Impact Report and Supplementary Information prepared by Colston Budd Rodgers & Kafes Pty Ltd, dated March 2020.*
- 20) *The development must be carried out in accordance with the Development Application and accompanying plans, drawings and other documents as amended by conditions of this consent. Any amendment to the development or to these conditions will require the consent of Council.*
- 21) *Pursuant to Section 4.17 of the Environmental Planning & Assessment Act 1979, the hours of operation are restricted to 5am – 11pm, 7 days a week for a period of at least six months from the date of commencement of the business.*

*Written notice at the commencement of the business operations must be provided to Council within seven days of commencement.*

*A noise validation assessment is to be completed at the conclusion of six months of full operation and a report submitted to Council. Recommendations for any possible noise mitigation measures must be provided in this report and implemented as soon as practicable following their identification. The noise*

*validation assessment must include evidence demonstrating compliance with Condition No's 80 and 81 and a copy of the complaints register as per condition No. 46.*

*Approval for the commencement of 24 hours/7 days per week operations must not occur and will not be considered until Council's Director Planning and Compliance is satisfied the above requirements have been met and compliance is achieved.*

*NB: Council's Director Planning and Compliance has the discretion to allow a 24 hour/7 days per week trial period, prior to the implementation of permanent 24 hours/7 days per week hours of operation.*

- 22) All building work must be carried out in accordance with the provisions of the National Construction Code (NCC).*
- 23) All building work must be carried out in accordance with the provisions of the disability (Access to Premises - Buildings) Standards 2010.*
- 24) To protect the amenity of the surrounding neighbourhood from the emission of light, any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with Australian Standard AS4282.*
- 25) The development shall be sited and constructed in accordance with the approved site plan. No portion of any proposed structures including any fences or gates shall encroach upon an adjoining property or the road reserve area.*
- 26) On-site parking accommodation shall be provided for a minimum of 41 vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. Such parking must be set out generally in accordance with the details indicated on the submitted plans, except as otherwise stated by the conditions of this consent.*
- 27) It is the responsibility of the developer to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this approval.*
- 28) All proposed building, site works or property improvement indicated on the submitted plans or otherwise required under the terms of this consent shall be completed prior to occupation of the premises to ensure compliance with the provisions of the Environmental Planning and Assessment Act 1979.*
- 29) Any existing State Survey Mark or Cadastral Survey Mark shall be preserved during construction and not disturbed unless authority has been obtained from the Surveyor-General in accordance with the Surveyor-General's Directions published by the NSW Land and Property Information Service. In this regard, the Principal Contractor is responsible for the protection of the mark.*
- 30) The Applicant shall consult with, as required:*
  - (a) Essential Energy;*
  - (b) Natural Gas Company; and*
  - (c) a Telecommunications carrier;*

*regarding requirements for the provision of services to the development and the location of existing services that may be affected by the proposed works, either on site or on the adjacent public road(s).*

- 31) *The construction, fit-out and operation of the food preparation and storage areas must comply with the Food Act 2003.*

#### **Stormwater**

- 32) *All roof water stormwater discharging from the proposed development site, buildings and works must be conveyed to the approved point of discharge by underground pipe drains complying with AS3500.3 (as amended) to the satisfaction of Council. No effluent or polluted water of any type may be allowed to enter the Council's stormwater drainage system.*
- 33) *Runoff from all hardstand areas shall be captured on site and piped to the approved point of discharge in accordance with the current version of the Engineering Design Minimum Standards for Subdivisions and Developments.*
- 34) *Additionally, the stormwater discharge drainage system must be constructed to comply with the following requirements as a minimum:*
- (i) all plumbing within the site must be carried out in accordance with relevant provisions of Australian Standard AS/NZS 3500.3 (as amended) Plumbing and Drainage – Stormwater Drainage;*
  - (ii) temporary down pipes shall be connected as soon as the roof has been covered so as to not cause a nuisance to adjoining properties;*
  - (iii) all overland surface flow paths must have a practical and satisfactory destination with due consideration to erosion and sediment control during all stages of development. A system to prevent overland flows discharging onto adjoining properties shall be implemented;*
  - (iv) any interruption to the natural overland flow of stormwater drainage which could result in the disruption of amenity, or drainage or deterioration to any other property or road reserve is not permitted; and*
  - (v) all overflow from rainwater tanks shall be collected and piped to the approved point of discharge.*

*Only a single point of discharge is permitted to the approved point of discharge.*

- 35) *The approved point of discharge for the development site is defined as Council's stormwater pits located on the southern side of Marius Street adjacent to the development site.*
- 36) *All major flows shall be directed to the Marius Street road reserve so as not to impact any adjoining properties.*

#### **Roads**

- 37) *Kerb and gutter shall be constructed on the southern side of Marius Street for the full length of the development site at full cost to the developer. The new kerb is to tie into the existing kerb and gutter on the southern side of Marius Street to direct surface flows away from the development site.*
- 38) *The Marius Street pavement shall be widened for the full frontage of the lot to be 18m wide and incorporate line marking and kerb and gutter with seal to match*
-



*the existing. The work shall be designed in accordance with Councils Engineering Design Minimum Standards for Subdivisions and Developments at full cost to the developer.*

*Advisory Note: The portion of Marius Street fronting the proposed development is classified as a Collector Road.*

#### **Parking**

- 39) *All parking areas, shall be designed to comply with Australian Standard 2890.1-2004 'Off-street car parking'.*
- 40) *To provide for the safety and security of employees and users of the facility, outdoor lighting in accordance with AS1158.3.1 Pedestrian Area (Category PC2) Lighting shall be provided to all off-street parking areas. The lighting installed must comply with AS4282 Control of Obtrusive Effects of Outdoor Lighting.*

*Advisory Note: The lighting design shall consider the spill to the properties fronting Marius Street and seniors living on the adjacent property.*

#### **Vehicular Access and Egress**

- 41) *All internal driveways and parking areas must be constructed with a base course of adequate depth to accommodate heavy vehicle loading, being sealed with either asphaltic concrete, concrete or interlocking pavers.*
- 42) *The new vehicle layback for access/egress on Marius Street shall have a minimum width of 10.95 metres as indicated on Drawing No A062 Revision G as prepared by Richmond + Ross Consulting Engineers and Project Leaders and be constructed in accordance with Council Standard Drawing number RD009.*
- 43) *The new reinforced concrete vehicle crossover on Marius Street shall be constructed in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments, at the location shown on the drawings provided with the Development Application and shall comply with the following:*
- (i) the alignment of the vehicle crossover across the verge shall be at right angles to Marius Street;*
  - (ii) the vehicle crossover shall have satisfactory clearance to any power pole or telecommunications pole, manhole cover or marker, or street tree. Any relocation, alteration or replacement required shall be in accordance with the requirements of the relevant Authority and shall be at the Developer's expense;*
  - (iii) the vehicle crossover shall be of adequate thickness to accommodate heavy vehicle loading;*
  - (iv) the vehicle crossover shall be provided with a non-slip finish; and*
  - (v) The verge adjacent to either side of the vehicle crossover shall be established with turf and finished flush with the new vehicle crossover.*

*Advisory Note: The installation of the vehicle crossing is an approved structure in accordance with Section 138 of the Roads Act 1993. The ongoing maintenance and/or repair of the vehicle crossing is the responsibility of the adjoining owner in accordance with Section 142 of the Roads Act 1993.*

### **Pedestrian Access and Egress**

- 44) **Pedestrian access off Peel Street and Marius Street shall be provided connecting existing and proposed footpaths and must comply with the requirements of AS1428.1-2009 Design for Access and Mobility.**
- 45) **A 1.5m wide footpath in Marius Street shall be constructed the full length of the development with reinforced concrete in accordance with Council's Standard Drawing RD006 at full cost to the developer. The footpath shall have a 2% fall to the kerb and guttering and shall be provided with a non-slip finish. The verge adjacent to either side of the footpath shall be established with turf and finished flush with the new footpath. Engineering plans for the footpath construction shall be provided to Council for approval.**

### **Complaints**

- 46) **Prior to the commencement of construction of the development, the applicant shall ensure that details of all complaints received through the means listed under this condition shall be recorded in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:**
- (i) the date and time, where relevant, of the complaint;**
  - (ii) the means by which the complaint was made (telephone, mail or email);**
  - (iii) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;**
  - (iv) the nature of the complaint;**
  - (v) any action(s) taken in relation to the complaint, including any follow-up contact with the complainant; and**
  - (vi) if no action was taken in relation to the complaint, the reason(s) why no action was taken.**

**The Complaints Register shall be made available for inspection by Council upon request. Subject to confidentiality, all documents required under this condition shall be made available for public inspection on request.**

### **DURING CONSTRUCTION OF WORKS**

- 47) **Work on the project shall be limited to the following hours to prevent unreasonable disturbance to the amenity of the area:**

**Monday to Friday - 7.00am to 5.00pm;**

**Saturday - 8.00am to 1.00pm if audible on residential premises, otherwise 7.00am to 5.00pm;**

**No work to be carried out on Sunday or Public Holidays if it is audible on residential premises.**

**The applicant shall be responsible to instruct and control any sub-contractors regarding the hours of work.**

- 48) **A copy of the approved and certified plans, specifications and documents incorporating conditions of approval shall be kept on the site at all times and shall be readily available for perusal.**

- 49) *All building works shall be constructed in accordance with safe work practices and complying with the relevant Australian Standards, Codes of Practice and the National Construction Code (NCC).*
- 50) *Erosion and sediment control measures in accordance with the ESCP are to be maintained by the developer at all times.*
- 51) *The Developer shall ensure that dust suppression is undertaken to ensure there is no visible dust emitted due to any works associated with the development. This can be in the form of constant water spraying or other natural based proprietary dust suppressant, to ensure that dust caused by any vehicles moving in, out or within the development site does not cause a nuisance to surrounding properties.*
- 52) *The following hoarding requirements shall be complied with:*
  - a) *no third party advertising is permitted to be displayed on any hoarding/fencing proposed to be erected around the subject site; and*
  - b) *the construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its operation.*
- 53) *The approved Traffic Management Plan (inclusive of any resultant Pedestrian Management Plans and the Traffic Control Plans) shall be implemented and any associated barriers, signage and controls shall be maintained in a functional state at all times.*
- 54) *The footpath and/or road reserve shall not be used for construction purposes or placing of building materials without prior written approval from Council. Approval will only be considered in extreme or highly constrained circumstances.*
- 55) *If the work involved in the construction of the development is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the closure of a public place, approval from Council's Development Engineering Division is required.*
- 56) *Any damage caused to Council infrastructure in, on or under the road reserve as a result of works undertaken for the development site shall be rectified by the Developer to the satisfaction of Council so as to ensure the integrity of Council's infrastructure.*
- 57) *Any spillage of materials onto Council infrastructure, as a result of delivery or handling for this development, must be removed as soon as practicable by the Developer and placed into suitable receptacles for reclamation or disposal in a manner that does not cause pollution of the environment.*
- 58) *Boundary fences/retaining walls are to be installed between the construction site and identified sensitive receivers as soon as practicable. The acoustic sound barrier on the eastern side of the development must be constructed before construction commences.*

#### **Traffic, Parking and Access**

- 59) *All internal driveways, parking areas, loading bays and vehicular turning areas being constructed with a base course of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or*

*interlocking pavers and being properly maintained to facilitate the use of vehicular access and parking facilities and to minimise any associated noise and dust nuisance.*

- 60) *All parking and loading bays shall be permanently marked out on the pavement surface with loading bays and visitor parking facilities being clearly indicated by means of appropriate signs to facilitate the orderly and efficient use of on-site parking and loading/unloading facilities in accordance with Australian Standard 2890*

#### **Noise**

- 61) *The activities at the site must not create nuisance or intrusive noise as defined by the Protection of the Environment Operations Act 1997, when measured or assessed in a habitable room of a residential premises. The noise created at the site must also comply with the NSW Noise Policy for Industry 2017.*
- 62) *Mobile screens and construction hoarding is to be used as barriers between construction works and receivers.*
- 63) *All plant and equipment must be shut down when not in use and not left to idle. Plant must be operated in a conservative manner.*
- 64) *Simultaneous use of noisy plant and or equipment must not occur where reasonable and practicable.*
- 65) *All plant and machinery are to utilise broadband reversing alarms instead of hi frequency reversing alarms.*
- 66) *All nearby receivers are to be notified in writing at least 5 days prior to commencement of works.*

#### **Allotment Filling**

- 67) *All allotment filling that is required for the development site shall meet the requirements of AS3798 (as amended) – Guidelines on Earthworks for Commercial and Residential Developments. Certification of the allotment filling shall be provided by a geotechnical testing authority registered under NATA. The testing authority shall be required to certify whether the fill complies with the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction, as “controlled fill”.*

#### **Inspections**

- 68) *It is required that a Principal Certifying Authority (PCA) be appointed to undertake all critical stage inspections as prescribed under the Environmental Planning and Assessment Regulation 2000. The owner may appoint either Council or an accredited certifier to be the PCA.*

#### **PRIOR TO THE RELEASE OF AN OCCUPATION CERTIFICATE**

- 69) *A Compliance Certificate under Section 306 of the Water Management Act 2000, must be obtained from Council (as the Local Water Supply Authority) prior to the issue of an Occupation Certificate.*

#### **Water**

- a) *a single water service must be provided to the lot from Council’s DN200mm main on the Northern Side of Marius Street;*

- b) any fire service shall be provided to the lot from Council's DN200mm main on the Northern Side of Marius Street;*
- c) works shall be undertaken in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments; and*
- d) work on live water mains is to be undertaken by Council at full cost to the developer.*

**Sewer**

- e) a single sewer service must be provided to the lot;*
- f) Council's sewerage system shall be extended to provide adequate service to the development;*
- g) Engineering design drawings prepared in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments for the extension of the sewer system shall be submitted to and approved by Council prior to issue of a Subdivision Works Certificate;*
- h) works shall be undertaken in accordance with Council's Engineering Design Minimum Standards for Subdivisions and Developments; and*
- i) work on live sewer mains is to be undertaken by Council at full cost to the developer.*

*Advisory Note: Any pressure sewer system that services the development shall be owned and maintained by the developer. The manhole connecting the service shall be adequately ventilated and sealed with protective lining preventing corrosion.*

**Headworks**

- Water – 11.8 ET x \$3,971 = \$46,980*
- Sewer – 19.5 ET x \$1,593 = \$31,110*

*Note: The above headworks contributions have been adopted under the 2020/2021 Council Annual Operational Plan. Revised rates adopted in subsequent Annual Operational Plans will apply to Headworks Contributions paid in later financial years.*

**Trade waste**

- j) a liquid trade waste agreement shall be entered into with Council as the Water Authority prior to the provision of an Occupation Certificate; and*
  - k) an appropriate pre-treatment facility shall be provided to treat liquid trade waste prior to discharge to the sewer.*
- 70) The occupation or use of the whole or any part of a new building must not commence unless an Occupation Certificate has been issued in relation to the building or part.*
- 71) The occupation or use of the whole or any part of a new building shall not commence unless a Section 68 Certificate of completion has been issued by Council. The certificate of completion shall not be issued until such time as all relevant conditions of the Section 68 approval have been complied with and all applicable documents received by Council.*

- 72) *An inspection must be completed by Council’s Environmental Health Officers prior to release of an Occupational Certificate to ensure the conditions of consent have been met.*
- 73) *Documentary evidence of lodgement of the plan of subdivision with NSW Land Registry Services for the consolidation of Lots 429 and 430 DP 1033753 must be provided to the Principal Certifying Authority prior to issue of any Occupation Certificate.*
- 74) *A written agreement between the Developer of the land and the owner of 58 Marius Street (Lot 28 DP 263313), regarding suitable treatment to the existing dwelling to mitigate vehicle headlight glare from the new driveway on Marius Street, shall be submitted to the Director Planning and Compliance and Principal Certifying Authority prior to the release of any Occupation Certificate.*
- 75) *For developments where allotment filling has been undertaken, a copy of the NATA testing authority certification for compliance to the requirements of AS2870.1 (as amended) – Residential Slabs and Footings – Construction shall be provided to Council.*
- 76) *All works as required by these conditions of consent shall be complete.*
- 77) *A Maintenance Bond in accordance with Section 1.7.3 of the current version of Council’s Engineering Design Minimum Standards for Subdivisions and Developments shall be paid to Council for all Council infrastructure works.*
- 78) *One set of “work-as-executed” plans shall be submitted to Council for approval. The drawings shall be certified by a Registered Surveyor or a Chartered Professional Civil Engineer.*
- 79) *All test results, material certificates, non-conformance reports and signed off Hold/Witness Points as required by the Inspection and Test Plan (ITP) shall be submitted for the review of Council to verify the Quality of the completed product.*

**CONTINUED OPERATIONS**

- 80) *Noise from the operation of this development must not exceed the Project Noise Trigger Levels as defined by the NSW EPA Noise Policy for Industry 2017 and listed below:*

<i>Project Noise Trigger Level</i>	<i>Sound Pressure Levels dB(A)</i>		
	<i>Day</i>	<i>Evening</i>	<i>Night</i>
<i>Residential Receivers R1-R10 (LAeq,15 min)</i>	<i>51</i>	<i>47</i>	<i>39</i>
<i>Aged Care Residential Receivers (external only) AC1-AC4 (LAeq,15 min)</i>	<i>48</i>	<i>48</i>	<i>48</i>
<i>Aged Care Residential Receivers (internal only)</i>	<i>33</i>	<i>33</i>	<i>33</i>

AC1-AC4 (LAeq,15 min)			
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**NB: Day, Evening and Night times are as per the NSW EPA Noise Policy for Industry 2017. (Day: 7am to 6pm Monday-Saturday, 8am to 6pm Sunday and Public Holidays; Evening: 6pm to 10pm; Night: the remaining periods).**

- 81) A noise assessment is to be completed within six months of full operation and a report is to be submitted to Council which outlines the actual noise levels at all receivers identified in the Statement of Environmental Effects and original noise assessment. Recommendations for any possible noise mitigation measures must be provided in this report and implemented as soon as practicable following their identification.**
- 82) The premises will be subject to an ongoing annual compliance inspection by Council's Environmental Health Officers. This inspection will be charged as per Council's Schedule of Fees and charges at the time of the inspection each year.**
- 83) A Traffic Management Plan shall be implemented and maintained for the site that monitors, controls and mitigates the traffic impacts on Council's Road network extending from the development's operations.**
- 84) Vehicles shall be loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans, or as otherwise provided in accordance with the conditions of this consent to ensure that the proposed development does not give rise to street loading or unloading operations with consequent accident potential and reduction in road efficiency. Under no circumstances are vehicles to be loaded or unloaded at the kerb side, or across the public footpath.**
- 85) To ensure that the required parking, loading/unloading facilities and associated driveways are able to function efficiently for their intended purpose, proposed parking areas, service bays, truck docks, driveways, vehicular ramps and turning areas shall be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access respectively and under no circumstances are such areas to be used for the storage of goods or waste materials.**
- 86) All vehicular movement to and from the site shall be in a forward direction to ensure that the proposed development does not give rise to vehicle reversing movements on or off the Public Road with consequent traffic accident potential and reduction in road efficiency.**
- 87) The sealing of vehicle crossovers, internal roads and all vehicular parking areas are to be maintained at all times.**
- 88) The on-site stormwater systems shall be maintained at all times so as to ensure their effective operation for their intended purpose.**
- 89) The landscaped area of the development is to be maintained at all times.**
- 90) The operation of a food premises must comply with the Australia New Zealand Food Standards Code and the Food Act 2003.**

- 91) *All lighting and signage shall be dimmed or turned off in accordance with the relevant Australian Standard via a timer switch between 11pm and 6am each night.*
- 92) *Waste collection from the premises must not occur between 10pm and 7am on any given day.*

#### APPLICATION DETAILS

Application No.:	DA2020-0470
Application For:	Consolidation and construction of a food and drink premises (McDonalds).
Date Received:	29 June 2020
Applicant:	KDC Pty Ltd
Owner:	Freedom Aged Care Properties Pty Ltd
Land/Address:	Lots 429 and 430 DP 1033753, 114-122 Peel Street, North Tamworth
Zoning:	R1 General Residential - <i>Tamworth Regional Local Environmental Plan 2010</i>

#### DEVELOPMENT ASSESSMENT SUMMARY

The proposed development involves consolidation of the two existing lots (Lots 429 and 430 in DP 1033753) into one lot and the construction and use as a food and drink premises (McDonalds Restaurant). The proposal is a permissible use in the R1 – General Residential zone and meets one of the zone objectives. Council received twenty 20 submissions over two public exhibition periods, with a number of concerns raised considered valid. In particular the proposed 24-hour, 7 days a week operation and the impact on the amenity on the neighbouring residential properties, headlight glare impacts on residential properties located opposite the site in Marius Street, potential noise impacts on the adjoining Aveo Freedom Retirement Village and road upgrade works in Marius Street.

In response to the concerns raised the Applicant has amended the proposal to increase the height of the acoustic wall on the south-east boundary from 2.2 metres to 2.8 metres, engaged with residents on the opposite side of Marius Street regarding vehicle headlights and shown on the submitted plans upgrades to Marius Street to facilitate safe entry/exit for the subject site. All the above are considered improvements to the proposal, however one outstanding matter remains which is the hours of operation. While it is acknowledged the other three McDonalds in Tamworth operate 24 hours, 7 days a week, these are located in commercially zoned areas (B3 Zone and B4 Zone). In consideration of the proximity of sensitive receptors, Council staff are not yet convinced the proposed operating hours are acceptable in respect to the zoning and amenity, and therefore to enable the development to proceed it is recommended to restrict the hours of operation.



It is considered reasonable and appropriate to limit the hours from 5am to 11pm for a minimum of six months from commencement. This will enable a noise validation assessment to be undertaken to assess the actual noise impacts on nearby sensitive receivers (residential dwellings). Once the noise validation assessment and a copy of the complaints registers has been submitted to Council, further consideration may be given to the extension of the hours of operation.

## DESCRIPTION OF PROPOSAL

The proposal involves consolidation of two existing lots (Lots 429 and 430 in DP 1033753) into one lot and the construction and use of a McDonalds Restaurant (food and drink premises). The specific details of the proposal are as follows:

- construction of McDonalds Restaurant that includes a McCafe, a play area and a dual lane drive-thru with two waiting bay parking spaces. The drive-thru will extend along the south eastern boundary which adjoins the existing Aveo Freedom Retirement Village;
- the Restaurant and drive-thru is proposed to operate 24 hours, 7 days a week and has seating for 82 patrons;
- construction of a carparking area for 41 vehicles including one accessible parking space and a bicycle rack for four bicycles;
- construction of a vehicle access driveway from Marius Street. The access point will provide two egress and one ingress lane;
- construction of a dedicated onsite loading bay adjacent to the Restaurant;
- construction of a 2.8 metres high acoustic wall parallel to the south eastern boundary which adjoins the existing Aveo Freedom Retirement Village. The acoustic wall is setback a minimum of 3.6 metres from the boundary;
- installation of a 10 metres high illuminated business identification signage pole; and
- installation of business identification signs, traffic directional signage and menu boards within the site.

The submitted plans are **ATTACHED** to this report, refer **ANNEXURE 1**.

## SUBJECT SITE AND LOCALITY MAP

The site is identified as 114-122 Peel Street North Tamworth (Lot 429 and 430 in DP 1033753) and is currently vacant with the exception of a small demountable building that is not in use and will be removed from the site to facilitate the proposed development.

The site is triangular in shape and has a total area of approximately 3,916m<sup>2</sup>, with a 97 metre frontage to Peel Street (the south-western boundary), a 117 metre frontage to Marius Street (the northern boundary) and an 80 metre rear south eastern boundary, which adjoins the existing Aveo Freedom Retirement Village.

The Northgate Shopping Centre and four residential properties are located opposite the site, on the northern side of Marius Street. Jack Woolaston Oval is located opposite the Peel street frontage of the site. The site has pedestrian access to Peel Street and vehicle and pedestrian access to Marius Street. The site is not encumbered by any easements or restrictions as to use.

A locality plan is **ATTACHED** to this report, refer **ANNEXURE 2**.

## **ASSESSMENT REPORT**

The following matters listed under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, are relevant in considering this application:

### **S4.15(1)(a)(i) Provisions of any environmental planning instrument**

#### **State Environmental Planning Policies**

##### State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

Under Clause 7, the potential for the site to be contaminated and require remediation is to be considered in determining a development application. A Preliminary Site Investigation (PSI) prepared by Reditus has been submitted. The PSI concludes that:

- *the site has no history of industrial (manufacturing) use and accordingly does not have a high potential risk for extensive soil, groundwater or soil vapour contamination associated with these activities; and*
- *there does not appear to be any visual signs of contamination or direct evidence of significant fill material being present onsite.*

Although the site is currently vacant land, there is evidence that the site may have been used for public works operations and therefore a limited soil investigation should be conducted.

However, as the redevelopment of the site is likely to require excavation and removal of surplus soils offsite, a condition of consent has been recommended to require prior to construction, any soil that is to be removed as waste, to be tested to determine the appropriate waste classification in accordance with the NSW EPA Waste Classification Guidelines. This testing may occur at the same time as soil investigation and /or geotechnical investigations for engineering design purposes.

##### State Environmental Planning Policy No. 64 – Advertising & Signage (SEPP 64)

The proposed development includes the installation of several signs to be installed on both the building and within the site.

The proposed signage includes:

- one 10 metre high x 4.3 metres wide pylon sign containing the “Golden Arches” and the words “24 Hours”, located adjacent to the corner of Peel and Marius Street;
- installation of five internally illuminated wall signs on the north west (Marius Street) elevation of the building;
- installation of three internally illuminated wall signs on the south west (Peel Street) elevation of the building;
- installation of one internally illuminated wall signs on both the south east and north east elevations of the building; and
- installation of multiple directional, vehicle safety and menu board signage within the on-site parking area, the vehicle entry and exit point and within the drive-thru area.

The proposed signs are all “business identification signs” and therefore in accordance with clause 9 of the SEPP, the concurrence of Transport for NSW (TfNSW) is not required.

Under Clause 8 of SEPP 64, Council must assess the proposed signs against the objectives contained within *Clause 3 – Aims/Objectives* and the assessment criteria contained within *Schedule 1 – Assessment Criteria*.

*The Clause 3 Aims/Objectives are:*

- “(a) *to ensure that signage (including advertising):*
- i. is compatible with the desired amenity and visual character of an area;*
  - ii. provides effective communication in suitable locations;*
  - iii. is of high-quality design and finish;*
- (b) to regulate signage (but not content) under Part 4 of the Act;*
- (c) to provide time-limited consents for the display of certain advertisements;*
- (d) to regulate the display of advertisements in transport corridors; and*
- (e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.”*

The signage is compliant with the policy by way of providing effective business identification to passing motorists and pedestrians on the transport corridors of Peel and Marius Streets and the benefit to the general public is in the identification of a food and drink premises adjacent to the existing food and drink options at the Northgate Shopping Centre. The proposed signage is not incompatible with the character of immediate locality within the transport corridors.

*Schedule 1 – Assessment Criteria*

*1. Character of the area*

Whilst the site is located within a General Residential Zone R1 it is also adjacent to Neighbourhood Centre B1 and Public Recreation RE1 land use zones which demonstrate a mixture of land use zones within the locality. It is also a high traffic area and the signage is not considered to be out of character with the existing and likely future development character of the area.

*2. Special Areas*

The site is not located within a special character or environmentally sensitive area and given the mixed land use context of the locality, it is considered that the proposed signage is acceptable with regard to the existing and likely future character of the area.

*3. Views and Vistas*

The proposed signage will not detrimentally affect any identified views or vistas.

*4. Streetscape, setting or landscape*

The proposed location and scale of the signs is reasonable for the subject development, hence there is no concern towards the risk of signage clutter or a reduced level of visual amenity. The proposed signs have a specific purpose and are designed to enhance the business by way of public identification of a food and drink premise.

*5. Site and building*

The overall design of the signage is consistent with signage on other food and drink premises and is considered to be of a reasonable scale and proportion to the proposed building and neighbouring commercial development.

*6. Associated devices and logos with advertisements and advertising structures*

The proposed signage does not require safety devices, platforms, logos or other devices.

7. *Illumination*

All proposed signage contains internal illumination. To minimise potential light glare impacts, a condition of consent has been recommended to require compliance with the Australian Standard with regard to outdoor lighting. As there are sensitive land uses within the immediate vicinity, it is deemed necessary to require the lighting to be dimmed or turned off via a timer switch from 11pm each night.

8. *Safety*

The proposed pole sign is elevated 5.8 metres above the finished ground level and will not hinder sight lines for vehicles using Marius and Peel Streets and there are no obstructions at pedestrian eye level. As such, it is considered that the proposed signage will not be a safety hazard.

State Environmental Planning Policy Infrastructure (2007) (Infrastructure SEPP)

Clause 101 of the Infrastructure SEPP applies to development that has frontage to a classified road (Peel Street). Under clause 101, Council is required to be satisfied that:

- (a) *where practicable and safe, vehicular access to the land is provided by a road other than the classified road;*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *the design of the vehicular access to the land;*
  - (ii) *the emission of smoke or dust from the development; or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land; and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emission, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Although the site has frontage to Peel Street, which is a classified road, the development proposal does not utilise Peel Street to provide vehicular access to or from the site, other than pedestrian access. Marius Street provides the only vehicle entry and exit point. Therefore, it is not anticipated that the development will negatively impact the safety, efficiency and ongoing operation of the classified road. Further, the proposed food and drink premises use is not sensitive to traffic noise or vehicle emissions.

The proposed food and drink premises triggers Clause 104 of the Infrastructure SEPP as a type of development listed in Schedule 3 of the Policy. Therefore, it is considered “traffic-generating development”, requiring a referral to Transport for NSW (TfNSW). In response, TfNSW advised it did not support a proposed exit driveway from the site to Peel Street. The Applicant amended the proposal to delete the driveway to Peel Street, resulting in all vehicle entry and exit from the site being from one driveway located in Marius Street. On the basis that the Applicant amended the plans to remove the Peel Street egress, TfNSW has advised that it is now satisfied with the proposed development.

<b>Transport for NSW</b>	<b>Council Response</b>
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<p>The proposal includes access to Peel Street (classified road). The reason for this access has not been satisfactorily demonstrated. TfNSW does not support this access point.</p>	<p>Access to Peel Street (classified road) has been removed.</p>
<p>The DA provides limited detail of the scope of works and facilities within Marius Street road reserve.</p>	<p>Amended plans have been submitted which align with the final treatment of Marius Street.</p>
<p>The site access, internal manoeuvring areas, car parking, servicing and drive-thru areas should be designed in accordance with AS2890.</p>	<p>A condition of consent requires the development to comply with AS2890.</p>
<p>It should be confirmed that SEPP 64 does not apply to the pylon sign</p>	<p>The proposed signs are all “business identification signs” and therefore in accordance with clause 9 of the SEPP, the concurrence of TfNSW is not required.</p>
<p>Only one entry lane is provided from Marius Street. This has potential to generate conflicts between vehicles accessing the drive-through and car park in peak times and queuing could block the entrance.</p>	<p>An amended plan shows vehicular access and egress is limited to a single combined crossover on Marius Street, featuring two outbound and one inbound lane. Council raises no issues in this regard.</p>
<p>Has one-way movement in carpark (counter-clockwise) been considered to reduce internal conflict?</p>	<p>The development has been designed to provide two-way circulation in accordance with AS2890. Council raises no issues in this regard.</p>
<p>There is no off-street parking for longer vehicles or heavy vehicles. This may lead to such vehicles parking on Manilla Rd, Marius St and/or pedestrian movements across surrounding roads.</p>	<p>The proposed parking provision satisfies TfNSW’s guidelines for McDonalds. Parking is prohibited on Manilla Road with future road works required in Marius Street including additional parking provisions.</p>
<p>Staff parking on-site has not been identified. This should be accommodated within the development to avoid parking on-street.</p>	<p>The parking requirements for McDonalds, recommended in TfNSW guidelines and which the development satisfies, are based on surveys of other McDonalds which include employee parking. Employees will be able to park in any of the spaces within the development.</p>
<p>Clarification that deliveries to the site will occur outside the business peak hours.</p>	<p>Amended plans detailing vehicles, including delivery trucks, being able to enter and exit in a forward direction have been provided. An updated Plan of Management including reference that deliveries to the site will occur outside of</p>

	business peak hours has been submitted.
<p>The Applicants response to TfNSW Pt.2 has used SIDRA to discount the need to further consider turning traffic on Marius Street. The issue that we raised in our letter was a safety concern, rather than a capacity concern. SIDRA addresses capacity. It is suggested that Austroads Pt.4A and 6 warrants be assessed to determine the type of treatment required to protect and cater for the safety of through, right and left-turning traffic entering the site.</p>	<p>The operation of Marius Street will be subject to additional pressure over time as traffic volumes increase organically. It has been foreshadowed that the ultimate format for Marius Street will incorporate a concrete median between Peel Street and Hunt Street. The timing of this treatment is unknown; however, it would be triggered by a reduction in the level of service which would be manifested as unacceptable queuing lengths and/or unacceptable delays for through traffic.</p> <p>A concrete median would preclude right turn movements into and out of the driveways between Peel Street and Hunt Street. This ultimate format is well suited to this section of roadway, given the presence of roundabouts to the immediate east and west. Provision of a protected right turn pocket into the proposed McDonalds site, or into the Northgate Shopping Centre site would involve sacrificing some of the on-street parking provision on Marius Street. It is considered that the parking provision is too valuable to sacrifice, and that the introduction of a concrete median at some time in the future is a more appropriate treatment in this location.</p>

The advice from TfNSW is **ATTACHED**, refer **ANNEXURE 3**, of this report.

**Local Environmental Plan**

Tamworth Regional Local Environmental Plan 2010:

The subject site is zoned R1 General Residential under the Tamworth Regional Local Environmental Plan 2010 (TRLEP 2010). The proposed use is defined as a “food and drink premises”, which is a permissible development with Council’s consent.

The objectives of the R1 zone are as follows:

- to provide for the housing needs of the community.
- to provide for a variety of housing types and densities.
- to enable other land uses that provide facilities or services to meet the day to day needs of residents.

The proposed food and drink premises is considered to be consistent with the R1 land use zone objectives as it will provide a facility (party room and playground) and a service (provision

of food and drinks) that will assist in meeting the day to day needs of residents and the wider community.

Although being consistent with the objectives of the R1 land use zone, a number of concerns were raised with regard to potential impacts on neighbouring residential properties including noise, traffic generation, light spill and headlight glare. These issues are discussed and addressed throughout this report.

**S4.15(1)(a)(ii) Provisions of any draft environmental planning instrument**

Nil

**S4.15(1)(a)(iii) Provisions of any Development Control Plan**

Tamworth Regional Development Control Plan 2010:

The Commercial/Retail Development Controls apply to the development proposal and the following assessment of the relevant controls is provided:

Development Control	Requirement	Development Proposal
<b>Building Setbacks</b>	Side and rear setbacks must meet Building Code of Australia requirements, being a 3 metre setback from the boundary.	Complies. The proposed 2.8 metre acoustic wall is setback a minimum of 3.5 metres from the south eastern boundary and the restaurant building is setback a minimum of 9.5 metres from any boundary.
<b>Outdoor Lighting</b>	Demonstrate compliance with AS 4282 Control of Obtrusive Effects of Outdoor Lighting.	Compliance can be achieved. The Applicant has advised that all lighting will be contained within the boundaries of the site, that external lighting will be directed inward, away from sensitive receivers to avoid light spill and, unreasonable glare and reflection. The Applicant has also advised that all lighting will comply with AS 4282. A condition of consent will also be included to ensure compliance with the Australian Standard.
<b>Outdoor Signage</b>	A single business premises is permitted to have: - one under awning sign; - one top hamper sign; and - one fascia sign that do not project above or beyond that to which it	The Applicant is seeking a variation in relation to the number of signs permitted for a single business and has requested the signage be illuminated all night. The proposed signage has been assessed against Schedule 1 of SEPP No.64, as discussed previously in this report and it is

	<p>is attached. One of which may be illuminated, but not flashing, moving or floodlit.</p> <p>Where there is potential for light spill from signage to adjoining properties, all illuminated signage shall be fitted with a timer switch to dim or turn off the light by 11pm each night.</p>	<p>considered to be consistent with the provisions of the Policy and a variation to the quantity of signage is supported. However given the proximity to residential properties the request for signage to be illuminated all night is not supported with a condition of consent requiring all lighting and signage shall be dimmed or turned off in accordance with the relevant Australian Standard via a timer switch between 11pm and 6am each night.</p>
<b>Design</b>	<p>Building facades shall be articulated by use of colour, arrangement of elements or by varying materials.</p>	<p>The proposed building façades reflect the current McDonalds building design.</p> <p>Building articulation is achieved via the external building materials of painted timber-look aluminium cladding, painted fibrous cement, aluminium framed glazing and by use of colour. The proposed colour scheme is vivid white, wayward grey and red. It is considered that the external design of the building is compatible with other non-residential land uses in the immediate locality.</p>
	<p>Development on corner sites shall incorporate splays, curves, building entries and other architectural elements to reinforce the corner as land mark feature of the street.</p>	<p>Although the site is a corner site, the proposed building has been sited away from the corner and it is considered that the proposed development provides a satisfactory response to its location.</p>
<b>Utilities and Services</b>	<p>Servicing strategy required to demonstrate the availability and feasibility of providing water, sewer and stormwater services appropriate for the scale and nature of development.</p>	<p>All stormwater shall be discharged to the existing stormwater pits and pipes on Marius Street. The location of this infrastructure may mean the site will need fill to function correctly in terms of stormwater drainage. Onsite detention is not required as adequate capacity exists in downstream</p>



		<p>infrastructure to cater for the development.</p> <p>To service the proposed development, the existing gravity sewer system shall be extended and a private pump system owned and operated by the developer is to be incorporated into the development.</p> <p>Council’s reticulated water is available to the subject site.</p> <p>Council’s Development Engineering Team has included appropriate conditions as part of the conditions of consent.</p>
	<p>Applications must demonstrate adequate provision for storage and handling of solid wastes.</p>	<p>The proposal provides for an 18m<sup>2</sup> “Corral”, which is a designated waste storage area for solid and liquid waste. The “Corral” has direct access to the loading bay.</p> <p>Customer waste bins are also located within the carpark area of the site.</p>
	<p>Liquid Trade Waste Application and facilities are required where liquid wastes (excluding domestic waste from a hand wash basin, shower, bath or toilet) are to be discharged to Council’s sewerage system.</p>	<p>A condition of consent has been included to ensure a Trade Waste Approval is obtained.</p>
	<p>Buildings and structures are to be located clear of utility infrastructure.</p>	<p>The proposed building and structures are located clear of existing utility infrastructure.</p>
	<p>The developer is responsible to consult with Essential Energy, natural gas and a telecommunications carrier regarding the provision of services.</p>	<p>This requirement is the subject of a recommended condition of consent.</p>
<p><b>Traffic and Access</b></p>	<p>The verge for the frontage of the development is to be constructed of hardstand</p>	<p>At Council’s request, the Applicant has proposed turf for the Marius Street frontage, which</p>

	materials to facilitate safe, low-maintenance pedestrian access. Details to accompany the development application.	is considered acceptable given the context of the site. As existing, the Peel Street frontage of the site is hardstand.
	All vehicles must be able to enter and exit the site in a forward direction.	The development proposal enables all vehicles to enter and exit the site in a forward direction.
	Design must demonstrate no conflict between pedestrian, customer vehicles and delivery vehicles.	The design complies as pedestrian pathways and vehicle routes for customers and delivery vehicles are clearly delineated and the design enables all vehicles to enter and exit the site in a forward direction.
	Wearing surfaces for access driveways, parking areas, loading/unloading facilities and associated vehicle manoeuvring areas relative to the design vehicle.	Concrete surfaces are proposed and are acceptable.
	Unsealed vehicle movement areas are not acceptable due to environmental management impacts.	Nil proposed.
	Loading bay(s) must be sited to avoid use for other purposes such as customer parking or materials storage and be line-marked and signposted.	A dedicated loading bay will be provided to the east of the building and will be line marked and signposted.
	Site access not permitted: <ul style="list-style-type: none"> <li>- Close to traffic signals, intersection or roundabouts with inadequate sight distances;</li> <li>- Opposite other large developments without a median island;</li> </ul>	Council's Engineers are satisfied that the proposed vehicular access to the site is sufficiently separated from the Peel Street roundabout, and the existing access to Northgate Shopping Centre. Traffic modelling provided by the Applicant's consultants demonstrates that peak-hour right turning traffic accessing the proposed development will not unduly

	<p>- Where there is heavy and constant pedestrian movement on the footpath; Where right turning traffic entering the site may obstruct through traffic.</p>	<p>impede through traffic on Marius Street.</p>
	<p>The number of access points from a site to any one street frontage is limited to 1 ingress and 1 egress.</p>	<p>The proposal provides a single ingress and egress driveway to Marius Street.</p>
	<p>Driveways must be provided in accordance with AS 2890.1 Parking Facilities.</p>	<p>Council’s Development Engineering Team has recommended a condition of consent to ensure compliance with the Australian Standard.</p>
	<p>Manoeuvring areas within the development must be designed to accommodate a B99 vehicle under AS2890.1 Parking Facilities for Off Street Parking.</p>	<p>Council’s Development Engineering Team has recommended a condition of consent to ensure compliance with the Australian Standard.</p>
	<p>Nominate that a pedestrian footpath be constructed for the full frontage of a development to a width consistent with any connecting pedestrian footpath or where there is no connecting footpath in accordance with Council’s Engineering Guidelines for Subdivisions and Developments.</p>	<p>A pedestrian footpath is currently provided for the full length of the Peel Street frontage of the site. The development proposal will provide a 1.5 metre wide footpath for the full length of the Marius Street frontage of the site. The proposed Marius Street footpath will connect with the existing Peel street footpath.</p>
	<p>Swept paths for a B99 vehicle must be shown on plans prepared to accompany the DA.</p>	<p>Swept paths have been shown on the plans.</p>
<p><b>Parking</b></p>	<p>1 space per 8.5m<sup>2</sup> of gross floor area plus 1 space per 3 seats.</p>	<p>The development has a gross floor area of 328m<sup>2</sup> containing 82 seats. This calculates to requiring 66 onsite parking spaces. The proposal provides</p>

		<p>41 spaces, representing a shortfall of 25 spaces.</p> <p>It is considered that a variation should be supported for the following reasons:</p> <ul style="list-style-type: none"> <li>• market analysis has shown that the use of the drive-thru is preferred by customers, which has reduced demand for onsite parking;</li> <li>• upgrade works to the Marius Street road reserve will provide parallel and angled parking spaces that will cater for any overflow from the onsite parking area; and</li> <li>• the subject site is located in mixed use area with low demand for on-street car parking within the surrounding area.</li> </ul> <p>Based on the above it is considered the variation should be supported in this instance.</p>
<b>Landscaping</b>	<p>Landscaping or shade structures shall be provided in outdoor car parking areas where &gt;10 spaces are required, to provide shading and soften the visual impact of large hard surfaces.</p>	<p>A landscape plan has been provided and the proposed vegetation will soften the visual impact of the hard surfaces of the development. However, the plan will require amendment prior to release of a construction certificate to address suitable tree planning and the endorsed site layout.</p>
	<p>Edging to be provided to retain mulch and protect the landscaping from damage from vehicles.</p>	<p>A landscape plan has been provided and includes garden bed edging. As above, the plan will require amendment prior to release of a construction certificate.</p>
	<p>Landscaping shall comprise only low maintenance, drought and frost tolerant species.</p>	<p>Council’s Horticulture and Arboriculture Specialist has reviewed the Landscaping Plan and has advised that the plantings are satisfactory with the exception that the Acacia species selected will not last long and the Eucalypt species selected are suited to the lands</p>

		<p>from the south of Sydney to East Gippsland, which are not suited to the Tamworth climate. To ensure suitable plantings are provided, a condition of consent has been recommended to require:</p> <ul style="list-style-type: none"> <li>• The Eucalypt species be replaced with either of the following:             <ul style="list-style-type: none"> <li>• Eucalyptus leucoxylon</li> <li>• Eucalyptus sideroxylon</li> </ul> </li> <li>• The Acacia species be replaced with Melaleuca linariifolia.</li> </ul>
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Tamworth Regional Section 94 (now Section 7.12) (Indirect) Contributions Plan 2013:

In accordance with the Tamworth Regional Section 7.12 (Indirect) Development Contributions Plan 2013, as the estimated value of work is \$3,336,505.00, a contribution of \$33,365.00 is payable, prior to the issue of a Construction Certificate.

Water Management Act 2000 – Water & Sewer Headwork’s Charges:

- Water = \$46,980
- Sewer= \$31,110

*Note:* The above headworks contributions have been adopted under the 2020/2021 Council Annual Operational Plan. Revised rates adopted in subsequent Annual Operational Plans will apply to Headworks Contributions paid in later financial years

**S4.15(1)(a)(iia) Provisions of any Planning Agreement**

There are no planning agreements that relate to the site or type of development.

**S4.15(1)(a)(iv) Any matters prescribed by the Regulations**

No further matters prescribed in the Environmental Planning and Assessment Regulation 2000, are applicable to the proposed development.

**S4.15(1)(b) The likely impacts of development including environmental impacts on both natural and built environments and social/economic impacts in the locality**

Hours of Operation

The development proposal requests 24-hour, 7 day a week operation for both the restaurant and drive-thru.

The three other McDonalds Restaurant sites in Tamworth operate 24 hours, 7 days a week for both the restaurant and drive-thru. However, are all located within commercial land use zones (B3 Commercial Core and B4 Mixed Use) and therefore differ from the location of the proposed site which is in a R1 General Residential zone.

Given the concerns raised in the submissions regarding the proposed 24 hour operation and the amenity impacts on the neighbouring properties:

- that site is within the R1 General Residential zone;

- adjoins the Aveo Freedom Retirement Village; and
- the proposed entry exit driveway is located opposite residential properties at 54, 56 and 58 Marius Street, it is considered appropriate to limit the development, that would restrict the hours and enable the restaurant to operate between 5am and 11pm from the date of commencement of the business operations. The period is reflected in the recommended conditions of consent.

Within six full months of operation, a noise validation assessment would be required to be submitted to Council. The noise validation assessment must identify noise impacts and provide recommendations and an implementation plan as soon as practicable following their identification.

The recommended conditions of consent also state that 24 hour operations must not commence operation until such time Council's Director Planning and Compliance has provided written confirmation and is satisfied that the requirements of the noise validation assessment have been met and compliance is achieved.

#### Noise Impacts

A Noise Assessment (NA), prepared by Muller Acoustic Consulting is **ATTACHED**, refer **ANNEXURE 4**, has quantified potential construction and operational noise impacts on the nearest sensitive receivers from the proposed 24-hour operation, including noise from mechanical plant equipment, customer generated noise and onsite vehicle movements. The potential noise emissions associated with the proposal have been assessed in consideration of the Noise Policy for Industry (2017) (NPI) issued by the Environment Protection Authority (EPA). The NA adopted a worst-case modelling scenario combining the simultaneous occurrence of all the following sources:

- customer car noise (entering/exiting side and using drive-through);
- customer ordering screens, customers, passer-by's and deliveries/collections; and
- mechanical plant.

The above represent maximum noise emissions during operation of the of the business on nearby sensitive receivers. The location of the modelled nearby sensitive receptors is detailed in Figure 1.



Figure 1 - Nearby Sensitive Receptors

The modelling incorporated the following assumptions and noise controls:

- construction of an acoustic barrier to an RL of 2.2m above the relative ground level of the drive-thru;
- the mechanical air conditioning plant is located on the plant deck of the operation which is protected by the roof parapet which extends a minimum of 500mm above the top of the highest plant item;
- the mechanical ventilation plant is located on the rooftop of the operation which is protected by the roof parapet which blocks line of sight to the top of the highest plant item; and
- the customer ordering screens are assumed to be set at the lowest volume setting.

Whilst the modelling indicates emissions from the operation satisfy the identified project noise trigger levels at all receivers, concerns were raised with the applicant that the NA did not provide a project noise trigger level for the inside of the adjoining Aged Care Facility (ACF) residential receivers, which are directly adjacent to the proposed drive-thru component of the development. The primary noise impacts on the ACF arise from the customer ordering screens with speakers, idling vehicles and the operation of mechanical plant.

The predicted noise levels in the NA are in some instances just under or right on the threshold of the identified project noise trigger levels, in particular for the ACF residential receivers.

In response, the applicant's noise consultant, Muller Acoustic Consulting (MAC) advised that the results of initial noise modelling, based on the current proposed site layout, indicate that with the incorporation of a 2.2m fence along the south-east boundary of the ACF, operational noise emissions will comply with the applicable noise criteria for all ACF receiver locations. Furthermore, MAC advised that where external noise criteria are satisfied, internal criteria would be satisfied in particular considering the attenuation of windows or partially opened windows scenario.

As a result of the concerns raised in the submissions and by Council staff, the applicant agreed to increase the height of the acoustic wall from 2.2 metre to 2.8 metres to provide additional attenuation (approximately 3dB more) and further improve the acoustic amenity of the surrounding community.

A condition of consent is recommended requiring within six months of commencement, the submission of a noise validation monitoring assessment to quantify emissions from the site and to confirm emissions meet relevant criteria set out in the NPI. Recommendations for any possible noise mitigation measures must be submitted to Council and implemented as soon as practicable following their identification. Furthermore, a condition of consent will require the customer ordering screens to be programmed to be on the lowest volume setting.

The NA identifies that construction noise levels will likely exceed the affected Noise Management Level (NML) of 56dBA at residential properties R5-R8 and NML of 55dBA at the adjoining aged care facility (AC1-4). The noise impacts associated with the construction phase are short term and suitable conditions of consent are recommended to minimise impacts on affected sensitive receivers.

In addition to the noise mitigation measures as described above, the submitted Plan of Management prepared by KDC is **ATTACHED**, refer **ANNEXURE 8**, provides the following noise management procedures with regard to noise generated by customers:

*The Duty Manager will closely monitor the following noise management procedures:*

- *the premises will comply with the relevant acoustics requirements in relation to noise emanating from the premises;*
- *the Duty Manager will ensure that customers keep noise to an appropriate level upon entering and leaving the premises and site. The Duty Manager will ask customers making any noise to leave quietly and quickly and ask any customers loitering to move on; and*
- *reports of all noise complaints received by the Duty Manager will be documented in a register.*

*Particular attention will be made to cars which enter the site and either park or enter the drive-thru facility where noise from these vehicles (including noise generated from any car stereo) exceed acceptable noise levels. Should this occur, the owners of such vehicles will be instructed to reduce noise levels or move on. McDonald's will not provide a service to customers or vehicles in the drive-thru facility who refuse to comply.*

#### Headlight Glare from Vehicles

Due to the existing colorbond boundary fencing and the proposed 2.8 metre high acoustic wall that extends the length of the southern boundary of the site, it is not considered that headlight glare will affect the units located within the Aveo Freedom Retirement Village.

The proposed entry exit driveway to the site will provide two exit points (one left turn, one right turn) from the site to Marius Street. The location of the driveway will result in headlight glare impacts on:

1. the habitable areas of an existing residential property located at located at 58 Marius Street.
2. non habitable areas of an existing residential property located at located at 56 Marius Street.



The proposed McDonalds Licensee has approached both owners to discuss mitigation measures that could be employed to reduce the impact. Council has been advised that only the owner of 58 Marius Street has engaged in discussions with the McDonalds Licensee.

The Applicant has advised Council that the owner of 58 Marius Street has suggested that headlight glare could be reduced by extending the existing pergola the full length of the house and the installation of horizontal timber slats to the top half of the pergola to obscure headlight glare. This would provide protection to the habitable areas of the property.

Although the owner of the affected unit at 56 Marius Street has not engaged in mitigation discussions, it is considered potential vehicle headlights will only impact non-habitable areas of the property (garage and stairwell) and therefore, it is not considered reasonable to require mitigation measures in this regard.

As the suggested works to 58 Marius Street are not located within the development site, Council is unable to condition any works on the properties. However, Council is able to request that a written agreement be drafted and signed between the developer of the site and the owner of 58 Marius Street (Lot 28 DP 263313), regarding suitable treatment to the existing property to mitigate against vehicle headlight glare from the new driveway on Marius Street. The written agreement will be required to be submitted to the Director Planning and Compliance and Principal Certifying Authority prior to the release of any occupation certificate.

#### Traffic Generation

A Traffic Impact Assessment, prepared by Colston Budd Rogers & Kafes Pty Ltd is **ATTACHED**, refer **ANNEXURE 5**, was submitted in support of the Development Application. That analysis was based on traffic generation rates consistent with TfNSW recommendations, at 180 vehicles per hour – two-way. The assessment found that the surrounding intersection currently operates with good levels of service which does require an upgrade and will continue to do so with the additional generated traffic by the development.

#### Vehicle Access and Upgrade Works to Marius Street

Vehicular access and egress is limited to a single combined crossover on Marius Street, featuring two outbound and one inbound lane. No vehicular access or egress is proposed to Peel Street. The Marius Street frontage is currently un-kerbed. Marius Street operates with two running lanes (one in each direction), and one on-street parking lane on the northern side. The southern side of Marius Street along the frontage of the proposed development features a wide, unimproved verge that is utilised for ad-hoc parking. A stormwater system was installed in the verge following completion of the Peel Street roundabout, to address residual stormwater issues. In order to facilitate installation of the stormwater system and accommodate an ultimate widening of the Marius Street pavement with associated kerb and channel, a plan-view design was prepared by Council. The resultant alignment of the future Marius Street kerb and channel has been depicted on the drawings accompanying the Development Application. It is proposed that the pavement widening, kerb and channel will be installed by the developer, and conditions to this effect have been included.

#### Deliveries and Servicing

A dedicated loading bay is located on the south eastern side of the restaurant building and has been designed to accommodate a 14.2 metre articulated truck and enable the truck to enter and exit the site in a forward direction. Trucks will be entering the site to make deliveries and for waste disposal and it is expected that the number of deliveries will be 2 to 3 times per week and to avoid conflict with customer traffic, deliveries will be scheduled outside of peak hours.

As advised in the Noise Assessment, to minimise potential noise impacts on the neighbouring residential properties, waste collection will not occur during the night time period, being 10pm to 7am. A condition of consent will be imposed to reflect this requirement.

#### Waste Management

A Waste Management Plan, prepared by KDC is **ATTACHED**, refer **ANNEXURE 6**, has been submitted in support of the DA. The Waste Management Plan details waste minimisation measures, packing and community education measures and litter management measures.

All waste from the operation of the premises will be stored in the “corral”, which forms part of the restaurant building. The corral has a floor area of 18m<sup>2</sup> and will accommodate a skip bin for general waste, a skip bin for recycling, two comingles plastic and glass recycling bins and a used cooking oil waste vessel.

Recycling and general waste bins will be placed within the restaurant and waste collections bins will be placed throughout the onsite parking area. Although McDonalds has community education measures in place to reduce waste and litter, beyond the boundaries of the site and verge area, human behaviour with regard to litter cannot be controlled.

Construction waste will be disposed of at Council’s Waste Management Facility.

#### Odour Impacts

Concern has been raised in submissions that the use will generate offensive cooking odour. As the operation of the premises will be required to comply with the Food Standards Code in *The Food Act 2003* and *The Food Regulation 2004*, Food Standards Australia and New Zealand – Food Standards Code 2003: and Council’s Food Premises Code, which requires the use of air filter systems to mitigate against odour, it is not expected that the proposal will have a significant or detrimental impact on the neighbouring residential properties with regard to odours from cooking or the waste storage areas on the site.

#### Overshadowing

Concern has been raised that the restaurant building and 2.8 metre high acoustic wall will result in an unacceptable loss of solar access to the units within the Aveo Retirement Village that are located along the common boundary with the subject site.

The restaurant building is setback 9.5 metres and the 2.8 metre high acoustic wall is setback a minimum of 3.6 metres from the boundary. As existing, a colorbond fence is located along the common boundary between the site and the retirement village and tree shrubs are located within the rear yard area of three of the retirement village units.

Based on the proposed heights and orientation of the proposed building and structures, a minimum of 4 hours solar access on June 21 (mid-winter) is maintained to the units in accordance with Council’s DCP and therefore it is considered that the shadowing impact is acceptable.

#### Safety, Security & Crime Prevention

Concern has been raised in submissions that the development will be a security risk for the neighbouring residential properties. Given the use has extended hours that will increase surveillance opportunities in the locality, it is not considered that this concern is validated.

A Crime Risk Assessment (CRA) is **ATTACHED**, refer **ANNEXURE 7**, has been submitted which has identified and assessed the crime risk associated with the proposal, to minimise the opportunity for crime through the design of the proposal.

The CRA states that appropriate lighting will be installed on the premises, including lighting for car parking and outdoor areas, which will contribute to the overall safety of the site, in conjunction with other security measures such as CCTV cameras. The CRA also details the following four strategies to maximise crime prevention and public safety:

- surveillance, which will be achieved by providing good visibility and appropriate of the external areas of the site, such as the carpark;
- access control, which will be achieved by providing clear access points with appropriate signposting;
- “*Territorial Enforcement*”, which will be achieved by providing clear delineation between service areas and public areas on the site; and
- “*Activity and Space Management*”, which will be achieved by maintenance of the landscaped areas and onsite parking area on the site.

In addition, a Plan of Management is **ATTACHED**, refer **ANNEXURE 8**, which is consistent with Crime Prevention through Environmental Design (CPTED), has been submitted that provides operational details of measures to be employed to ensure the safety and security of the site and deals with such matters as the amenity of the neighbourhood, lighting, surveillance equipment, vandalism, noise and anti-social behaviour.

It is considered that the CRA and the Plan of Management will provide appropriate measures to maximise safety, security and crime prevention.

#### Social Impacts

Although the development will change the existing character of the immediate locality, the development will have a positive social impact on the public domain through the provision of a modern restaurant facility that will provide appropriate landscaping to enhance its visual appearance. The facility will provide convenient, accessible premises that will assist in meeting the current and future demand for food and drink premises that offer dine in, takeaway or drive-thru options in the North Tamworth area and wider community.

#### Economic Impacts

The applicant has advised that at any given time, the facility will provide local employment and training opportunities for approximately 100 to 120 people in full time, part time and casual positions. The Applicant has also advised that McDonalds will provide sponsorship of local sporting team and community groups and will source goods and services from local suppliers.

#### **S4.15(1)(c)      *The Suitability of Site for the Development***

Subject to the mitigation measures discussed throughout this report and in particular the requirement for an initial six month limitation on the hours of operation, it is considered that the site is suitable for the proposed food and drink premises, based on its consistency with the R1 General Residential land zone objectives, the surrounding development pattern and the existing local neighbourhood characteristics. which comprise a mix of residential, commercial and recreational land uses.

#### **S4.15(1)(d)      *Any Submissions Made in Accordance with the Act or Regulations***

The application was advertised and notified in accordance with the Tamworth Regional Community Participation Plan 2019 from 16 July 2020 to 6 August 2020, with a total of 15 submissions being received.

In October 2020, the proposal was amended to remove the proposed exit driveway from the site to Peel Street resulting in all vehicle entry and exit to the site being from Marius Street.

As a result, the amended proposal was renotified to adjoining adjacent properties and to all original submitters from 30 October to 13 November 2020, with five submissions being received. Of the five submissions received, two were from parties who had lodged an objection during the first public exhibition period. Copies of the submissions are **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**.

A summary of the concerns raised and a planning response is provided below:

Concern Raised	Planning Response
24-hour operation will be a security risk to neighbouring residences.	Security impacts have been addressed in Section 4.15(1)(b) of this report.
24-hour operation is not acceptable in a residential area and next to the Aveo Freedom Retirement Village.	The proposed hours of operation have been addressed in Section 4.15(1)(b) of this report.
Food and drink premises with 24-hour operation and traffic should be located in Commercial not R1 General Residential areas.	As discussed previously in this report, a food and drink premise is permitted in the R1 General Residential land use zone in accordance with the Tamworth Regional Local Environmental Plan 2020.
Noise impacts on neighbouring residences.	Potential noise impacts have been addressed in Section 4.15(1)(b) of this report.
Increase in traffic in Peel and Marius Street and the impact on vehicle and pedestrian safety.	The traffic assessment found that the surrounding intersection currently operate with good levels of service (A/B or B), and will continue to do so with the additional generated traffic.
Increase in traffic at the Peel and Marius Street roundabout will increase safety risks.	The traffic assessment found that the surrounding intersection currently operate with good levels of service (A/B or B), and will continue to do so with the additional generated traffic.
Increase in traffic in Marius Street and the impact on the existing residential properties.	The traffic assessment found that the surrounding intersection currently operate with good levels of service (A/B or B), and will continue to do so with the additional generated traffic.
Increase in traffic congestion.	The traffic assessment found that the surrounding intersection currently operate with good levels of service (A/B

	or B), and will continue to do so with the additional generated traffic.
Increased traffic will require additional roadworks, which will cost ratepayers.	It is proposed that the pavement widening, kerb and channel will be installed by the Developer.
Windowless façade design of the building is unattractive and doesn't comply with the design controls of TRDCP 2010.	As discussed in Section 4.15(1)(a)(iii) of this report, it is considered that the design of the restaurant building is acceptable.
The proposal doesn't comply with the onsite parking requirements of TRDCP 2010, and will increase demand for on-street parking, which will have an impact on on-street parking opportunities for residents.	It is noted that the proposed development does not comply with the on-site parking provisions in accordance with the Tamworth Regional Development Control Plan 2020. This matter have been discussed in Section 4.15(1)(a)(iii) of this report and a variation to the development controls in this instance are acceptable.
The acoustic wall located between the drive-thru and the retirement village exceeds the maximum height for a fence specified by TRDCP 2010.	The 2.8 metre high acoustic wall is not a fence. It is considered an acceptable structure which is setback greater than 900mm from the nearest boundary.
The acoustic wall located between the drive thru and the retirement village will reduce solar access to units within the retirement village and will have a high visual impact.	As discussed in Section 4.15(1)(b) of this report, the acoustic wall will maintain four hours solar access to the units within the Aveo Freedom retirement village.
The lack of an acoustic wall across the building end of Marius Street and the proposed landscaping will not reduce noise impacts on neighbouring residential properties.	Noise impacts have been addressed in Section 4.15(1)(b) of this report.
The development doesn't comply with the maximum 75% site coverage in a residential zone specified in TRDCP 2010. This will result in a heat island effect and is not in keeping with the residential character of the area.	In accordance with the TRDCP2010, the maximum 75% site coverage rule applies residential development. As this is a commercial development, this control does not apply.  The character of the area is considered to be a mixture of commercial, recreational and residential. The proposed development is not considered out of character in the immediate locality.

<p>The proposed variation to the TRDCP 2010, requirement for illuminated signage to be turned off after 11pm should not be supported as the illumination will affect neighbouring residential properties.</p>	<p>As discussed in Section 4.15(1)(a)(iii) of this report, it is considered that a variation to the illumination of the signage is not supported.</p>
<p>The proposed two lane drive thru adjacent to the Aveo Freedom Retirement Village will detrimentally affect the amenity of residents with regard to noise, headlight glare and light spill.</p>	<p>Headlight glare impacts have been addressed in Section 4.15(1)(b) of this report.</p>
<p>Light glare impact on residential properties located on the opposite side of Marius Street from the entry/exit driveway.</p>	<p>Headlight glare impacts have been addressed in Section 4.15(1)(b) of this report.</p>
<p>Noise impacts from deliveries, waste disposal and cars.</p>	<p>Noise impacts have been addressed in Section 4.15(1)(b) of this report.</p>
<p>Cooking odour impacts will occur 24 hours a day.</p>	<p>Odour impacts have been addressed in Section 4.15(1)(b) of this report.</p>
<p>Proposed landscaped species are unsuitable for the Tamworth climate.</p>	<p>Agreed. A condition of consent has been imposed to require the landscape plan to be amended to provide suitable plant species for the Tamworth climate.</p>
<p>Tamworth does not need a 4<sup>th</sup> McDonalds and another McDonalds will further increase the rates of obesity in Tamworth.</p>	<p>Whilst noted, these concerns are not a matter for consideration in accordance with Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.</p>
<p>Litter and rubbish will increase in the surrounding area which will have a negative visual impact.</p>	<p>Waste management, litter and rubbish impacts have been addressed in Section 4.15(1)(b) of this report.</p>
<p>The development will devalue properties in the locale.</p>	<p>Whilst noted, the impact on property values is not a matter for consideration in accordance with Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.</p>
<p>The development will change the character of the neighbourhood.</p>	<p>As discussed in this report it is considered that the site is suitable for the proposed development and the future character of the locality.</p>

<p>The development may result in drainage issues for Jack Woolaston Oval.</p>	<p>The proposal will improve current drainage issues within the area by construction of kerb and gutter along Marius Street and control of stormwater onsite. Adequate capacity exists in downstream stormwater infrastructure to cater for the development.</p>
<p>Visitor parking for visitors to the Aveo Freedom Retirement Village should be provided in Marius Street.</p>	<p>This concern is not a matter that relates to the development proposal.</p>
<p>The development will result in increased difficulty for pedestrians to cross Marius Street to go to the Northgate Shopping Centre.</p>	<p>A pedestrian refuge is located to the east and west of the development site on Marius Street which provides a safe and suitable location for pedestrian to cross Marius Street and access Northgate Shopping Centre.</p>

**S4.15(1)(e) The Public Interest**

It is considered the development will have a positive impact upon the wider community by increasing the food and drink options for the community and for the reasons discussed throughout this report. The key issues that relate to this application have been addressed by either a redesign or the recommended conditions of consent. Therefore, it is considered that approval of the application is not contrary to the public interest, subject to implementation and compliance with the conditions as proposed.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

The application was advertised and notified in accordance with the Tamworth Regional Community Participation Plan 2019 from 16 July to 6 August 2020, with a total of 15 submissions being received.

In October 2020, the proposal was amended to remove the proposed exit driveway from the site to Peel Street resulting in all vehicle entry and exit to the site being from Marius Street.

As a result, the amended proposal was renotified to adjoining adjacent properties and to all original submitters from 30 October to 13 November 2020, with five submissions being received.

**(e) Reason for Consideration by Council**

A total of 20 submissions by way of objection were received in response to the proposal, indicating a level of community concern.

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

A Prosperous Region – P11 Support and facilitate economic development and employment.

**CONCLUSION:**

This report provides an assessment of the development with regard to all relevant matters listed under Section 4.15 (1) of the *Environmental Planning and Assessment Act 1979* and issues raised in the public submissions.

The proposal is considered to be satisfactory, having regard to the relevant legislation, Council Codes and Policies and it is considered that the development will make a positive contribution to the site and/or the community, subject to the mitigation measures recommended as conditions of consent. As a consequence, it is recommended that the application be determined by the granting of consent, subject to the recommended conditions.

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## **8 INFRASTRUCTURE AND SERVICES**

### **8.1 AMENDMENT TO THE TAMWORTH REGIONAL COUNCIL PLAN OF MANAGEMENT FOR COMMUNITY LAND**

**DIRECTORATE: REGIONAL SERVICES**

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

**1 ANNEXURES ATTACHED**

#### **RECOMMENDATION**

*That in relation to the report “Amendment to the Tamworth Regional Council Plan of Management for Community Land”, Council:*

- (i) approve the proposed amendment to the Tamworth Regional Council Plan of Management for Community Land;*
- (ii) authorise the public exhibition of the amended Tamworth Regional Council Plan of Management for Community Land for a period of 28 days; and*
- (iii) request a further report to be submitted at the completion of the formal exhibition period detailing any submissions received, or alternatively, if no submissions are received, adopt the proposed change to the Plan of Management for Community Land.*

#### **SUMMARY**

The purpose of this report is to seek Council approval to amend the Tamworth Regional Council Plan of Management for Community Land and to put on Public Exhibition for a period of 28 days.

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The amendment to the Tamworth Regional Council Plan of Management for Community Land is in relation to the provision for camping in designated campgrounds and the period in which you can camp in a calendar year.

## **COMMENTARY**

The Sports and Recreation division are proposing to amend the 2018 Plan of Management for Community Land (the Plan) to address the issue of long term campers within Council's primitive camp grounds. A copy of the proposed amended document (the Plan), is **ATTACHED**, refer **ANNEXURE 1**.

The Plan currently has the following wording in Clause 2.15 Camping:

*“Camping within Community Land is prohibited within all parks unless it is a designated camp ground.*

*Maximum stay of 21 days in authorised camp grounds.”*

The proposed amendment to Clause 2.15 Camping is as follows:

*“Camping within Community Land is prohibited within all parks unless it is a designated camp ground.*

*A maximum stay of 21 days in total within a calendar year at an authorised camp ground.*

*It is a mandatory requirement to register your visit to the camp ground with Council either by using the QR code or by calling Council's Customer Service Centre, which is provided on the sign at the entrance to the camp ground.”*

The purpose for this amendment is to address the increasing issue Council has with long term campers at our camp grounds across the Tamworth region, some of which have occupied the same site for more than a year. These campers are living permanently within the camp grounds which are not designed for long term camping. These long term campers have become a deterrent to tourists who wish to visit and stay for a short period within these camp grounds.

If approved and adopted, Council will install new signage at all authorised camp grounds which will also advise all campers of their obligation to register their visit with Council, along with the maximum period that they can remain in the camp ground. The sign will also have other details relating to prohibited activities and noise curfews.

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

If adopted, the Plan will be implemented and provide guidance for Council staff to manage the community land within the Tamworth Regional Council area.

### **(b) Financial Implications**

Nil

### **(c) Legal Implications**

Council's requirements under the Local Government Act 1993 will be met.

**(d) Community Consultation**

The Local Government Act 1993 requires Council, as a minimum, to place the Plan on Public Exhibition for a period of at least 28 days. Adopting the recommendation of this report will meet the requirement for community consultation.

Copies of the draft documents will also be made available for download from Council's website.

At the completion of the formal exhibition period, a further report detailing any submissions received during the Public Exhibition will be presented for Council's consideration and adoption of the revised Plan.

**(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 OPEN SPACE MANAGEMENT GUIDE**

**DIRECTORATE: REGIONAL SERVICES**

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

**2 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report "Open Space Management Guide", Council adopt the guide titled "Open Space Management Guide".*

**SUMMARY**

The Open Space Management Guide is a strategic document designed to guide the embellishment and level of service of all open space across Council. The guide results in embellishment levels of open space being consistently applied and the service level of open space rationalised.

The draft Open Space Management Guide was placed on Public Exhibition for 28 days between 29 September and 27 October 2020. A total of 12 respondents formally commented on the draft guide.

**COMMENTARY**

Council manages over 390 parcels of open space totalling approximately 3,000 hectares across the Council area. Open space areas are significant assets to the community that require a strategic investment of finances and resources from Council to effectively manage and maintain them. Well managed and maintained open space promotes active and passive recreation, community pride, sense of place and supports the health and well being of the community.

The Open Space Management Guide (OSMG) is **ATTACHED**, refer **ANNEXURE 1**, and provides a clear hierarchical approach to open space that ensures facilities and services are delivered based on equity and consistency across suburbs and towns.

For each of the hierarchical levels, the OSMG details:

- the expected levels of embellishment; and
-

- the expected service level.

These two principles are fundamental in ensuring the appropriate allocation of Council resources and managing community expectation in this area.

### **Embellishment**

The embellishment of open space refers to the physical infrastructure Council puts into open space to service the community. Examples of embellishment in this context are a swing set, bubblers, bollards, amenities, etc.

In the OSMG there are six different park hierarchy categories for open space and each category has a defined embellishment guide. This minimum general embellishment level is guided by industry best practice, and will result in Council embellishing its open space to a consistent standard.

### **Service Level**

The service level of open space is the management of green infrastructure within open space. Examples of service level are mowing, brush cutting, weeding, pruning, etc.

Council acknowledges that it does not have the resources, nor does the community expect, all areas of open space to be serviced to one standard. The OSMG includes a Service Level Assessment tool that Council has used to assess all areas of open space. This tool determines which of the five service level standards an area of open space falls into, and the standard Council will aim to deliver to the community (subject to seasonal influences).

Each area of open space will be reviewed annually to ensure the variables that contribute toward its embellishment and service level are up to date and reflective of its service to the community.

### **Watering requirements during Water Restrictions – Review**

As part of the OSMG the water restrictions imposed on open space were also reviewed. Council's 2015 Drought Management Plan assigns each individual park and garden in Council a water restriction level at which that park or garden will cease to be watered. Following the review and to ensure a consistent approach, park hierarchy classifications will be assigned a water restriction level instead of individual parks and open spaces.

The draft OSMG was placed on Public Exhibition for 28 days between 29 September and 27 October 2020. A total of 12 submissions were received. A summary of these submissions, along with comments from Council's technical staff is collated and **ATTACHED**, refer **ANNEXURE 2**. Following these submissions a few minor amendments were made to the service level assigned to some areas of open space however, there were no significant changes to the document.

To assist the community with better understanding and easy viewing of the embellishment and service levels of all open space, Council technical staff have created an online map that displays all the OSMG information. This map can be found here:

<https://portal.tamworth.nsw.gov.au/geohub/apps/webappviewer/index.html?id=9f2192c2557d43d7a2b7c1f280974d38> or via the QR code displayed in Figure 1 below. This map will provide the community with an interactive platform to view the hierarchy and service level of every area of open space across Council identified in the OSMG.

*Figure 1 – QR Code for the OSMG interactive map*



It is recommended that the OSMG be adopted by Council and implemented from early 2021.

Following on from this large body of work, Council's technical staff will now embark on a review of the quantity of open space land (in accordance with the OSMG) to identify any parcels of land that are possibly surplus to the community needs and potentially available for sale. It is anticipated that any funds derived from the sale of excess land would be re-invested into nearby parks to reflect the embellishment levels required as per the OSMG.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

The draft OSMG was placed on Public Exhibition for 28 days between 29 September and 27 October 2020. A total of 12 people formally commented on the project.

A number of different methods were used to engage the community in this project. The different methods ensured activities were accessible, diverse and representative of community views. People were invited to participate through a range of communication methods, including media channels, social media, face-to-face information stands (totalling six across the Council area), Council website promotion, creation of a page on the MyTRC Online Community that hosted a Q&A section and a feedback form for formal submissions to be made.

**(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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### **8.3 TAMWORTH GLOBAL GATEWAY PARK - PROJECT UPDATE**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Graeme McKenzie, Manager, Project Management and Engineering Services

**Reference:** Item 9.1 to Ordinary Council 8 September 2020 - Minute No 275/20  
Item 8.1 to Ordinary Council 28 July 2020 - Minute No 204/20  
Item 9.9 to Ordinary Council 26 May 2020 - Minute No 114/20

**Item 9.5 to Ordinary Council 28 April 2020 - Minute No 110/20  
Item 12.4 to Ordinary Council 11 February 2020 - Minute No  
25/20**

**RECOMMENDATION**

***That in relation to the report “Tamworth Global Gateway Park - Project Update”, Council:***

- (i) receive and note the update on the Tamworth Global Gateway Park project;***
- (ii) endorse the recommendation from Transport for New South Wales regarding the closure of the Mahony Avenue pedestrian crossing at the railway on the basis of safety to the community;***
- (iii) approve the amount of \$60,000 from the Westdale Land Reserve for external legal costs in relation to preparation and review of legal documents between Qube and Council for the lease and operation of the Intermodal facility;***
- (iv) approve the amount of \$35,000 from the Westdale Land Reserve for marketing and media campaign for Stage 1 of the Tamworth Global Gateway Park; and***
- (v) approve the amount of \$15,000 from the Westdale Land Reserve for the preparation of Survey Lot Plans and the Intermodal Lease for Stage 1 of the Tamworth Global Gateway Park.***

**SUMMARY**

This report provides an update in relation to progress of the proposed industrial development known as the Tamworth Global Gateway Park (TGGP).

The report provides a short summary of the status of the projects that make up Tamworth Global Gateway Park. These include:

- Rail Line Reactivation;
- Country Road Roundabout;
- Trunk Drainage Project;
- Goddard Lane Roadworks;
- Intermodal Access Roads; and
- Intermodal.

The proposed reactivation of the rail line to the Tamworth Global Gateway Park also raises the risk to safety of the public using the Mahony Avenue pedestrian rail crossing. The report outlines the background information and justification for Transport for New South Wales (TfNSW) recommending closure of the level crossing. TfNSW is seeking Council's concurrence to close the crossing based on public safety.

The report also updates progress in relation to sales and marketing of the TGGP land and seeks authorisation for the Mayor and General Manager to sell land that meets criteria consistent with the TGGP Business Plan.

The report also seeks approval for additional funding for a marketing and promotion campaign, legal costs in relation to licences and leases with Qube for the operation of the Intermodal, licences and agreements with TfNSW and professional survey costs associated with the road and lot plans required for sale and subdivision purposes.

## COMMENTARY

Since the last report to Council in September 2020, there has been considerable effort and activity in relation to the overall project. This report provides an update to Council on progress and current anticipated timelines.

### Rail Line Reactivation Project

At the most recent Project Control Group (PCG) meeting for the rail line reactivation project, it was confirmed that the Department of Regional NSW (DRNSW) has approved this budget and in turn TfNSW has authorised John Holland Rail (JHR) to commence work in accordance with that budget.

The approved budget is as follows:

Table 1

Item	Base estimate	Upper limit estimate including contingency
TfNSW Scope	\$23,608,000	\$31,991,000
TRC Scope	\$2,677,000	\$3,260,000
<b>TOTAL</b>	<b>\$26,285,000</b>	<b>\$35,251,000</b>

In relation to the Council scope, this package of works includes the following:

- track and signal works on the Intermodal Site in conjunction with Qube construction;
- roadwork associated with Gunnedah Road level crossing;
- roadwork associated with Dampier Street level crossing;
- roadwork associated with Evans Street level crossing;
- intersection upgrade at intersection of Wallamore Road and Evans Street;
- high voltage power relocation near new rail line to intersection to Intermodal; and
- gas main protection slab near rail line to Intermodal.

The construction program currently plans to have trains operating by the end of September 2021.

The following impacts are noted during the construction:

- road closures (two days planned) for each of the level crossings. Normal communication processes will be implemented prior to the closures; and
- at the Wallamore/Evans crossing it is expected that Evans Street will be closed at the northern end for three to four weeks to ensure project safety. Traffic on Wallamore Road is expected to be controlled by portable traffic lights during construction limiting traffic to one direction at a time for periods of the job.

### Closure of the Mahony Avenue Pedestrian Rail Crossing

The Mahony Avenue pedestrian rail level crossing has existed at the current location for many years. The location of the crossing in relation to the West Tamworth Rail Yard means it will be impacted by trains accessing the Intermodal.

Currently there is only the daily passenger train service to and from Sydney that passes the existing level crossing. This service is scheduled and therefore predictable in timing and passes the level crossing within a couple of minutes.

The Qube Operational Plan is based upon a train up to 900m in length. The existing West Tamworth rail yard can only accommodate trains up to approximately 450m in length due to the proximity of the Denison Street level crossing to the north and existing rail infrastructure, including the line to be reactivated, to the south.

The shunting sequence required to navigate trains up to 900m long through the West Tamworth rail yard and onto the reactivated line to the Intermodal is reasonably complex and is expected to take approximately an hour in the morning and the afternoon to reconfigure the train for the next part of the journey (either to the Intermodal or to Sydney).

During the shunting process trains will cross the pedestrian crossing on multiple occasions and will be parked across the level crossing for periods of time.

The shunting sequence introduces far greater safety risks due to the movements of trains going both forwards and backwards across the crossing. Due to the long period that shunting occurs, it is expected that pedestrians would also be delayed from crossing for long periods of time, likely leading to pedestrian frustration or poor decision making that may result in taking an unsafe action

The TfNSW Level Crossing Closures Policy states “Due to the safety risk associated with level crossings, it is Government policy that where alternative access exists and following consultation with affected parties, level crossings be closed whenever possible”. The proposed closure of the crossing is consistent with this policy.

Alternate and far safer access exists at the Oxley Highway overbridge and the Denison Street activated (lights and bells) level crossing complete with pedestrian maze.

Community consultation has been undertaken to inform the community of the possible closure of the level crossing and to provide people an opportunity to formally object:

- between 11 June and 21 September 2020, signage was installed at the pedestrian level crossing advising users about a proposed closure of the crossing and requesting feedback on this proposal. Stakeholders were originally requested to provide feedback prior to 30 June 2020;
- on 18 June 2020, 18 letters were issued by email and post to local businesses, sports clubs, bicycle user groups, walking groups, emergency services, Tamworth Regional Council and Tamworth Business Chamber inviting them to provide a nil objection or feedback to the proposed closure;
- on 27 June 2020, an additional 40 properties along Market Street, Sale Street, Stewart Avenue and Gunnedah Road received a letterbox drop. This followed a request from the local MP to directly notify these residents of the proposal. The consultation period for stakeholders to provide feedback was extended to 12 July 2020;
- prior to 12 July 2020, two formal written nil objections and three community objections via email and phone were received;
- between 12 July and 21 September 2020, two additional community objections were received; and
- thus only five objections were received over the three month period requesting feedback. One of these objections were the residents living within the rail corridor off Gunnedah Road. They have since agreed to vacate the residence and relocate elsewhere, making their feedback redundant.

To further understand the impact of a closure on the pedestrians and cyclists in the area, a pedestrian study has also been undertaken by JHR. The study included data collection on-site via cameras on either side of the rail line between 5am and 10pm for a period of one week from 12 to 19 of August.

The data collection found:

- on average, the crossing was used 37 times per day;
- approximately 25% of users were cyclists;
- the only users were adults and cyclists. No elderly, children or people using mobility devices used the crossing; and
- the usage was typically spread across the day.

Based on the data available, the crossing is categorised as a 'Low Usage' crossing as per JHR Standards.

The current Council Shared Paths and Cycle Way Plan shows the Mahony Avenue crossing is used to tie together existing and future paths. In the event that the crossing is closed, Council will need to make minor adjustments to these plans to accommodate the necessary changes to direct users to the other available options.

The options considered include:

- Option 1 – closure of the crossing;
- Option 2 – pedestrian overbridge; and
- Option 3 – activated pedestrian crossing.

Taking into account the complexity and cost of options 2 and 3, the delays to pedestrians during shunting for option 3 and the low benefit (small number of people) to cost for options 2 and 3, it is recommended that Council support TfNSW's recommendation to close the crossing.

TfNSW seek Council's concurrence with the decision to close the crossing prior to recommending this to the Minister for formalising the closure. This concurrence forms part of the recommendations of this report. Further work will be undertaken in relation to adjustments to the Active Transport networks in the area.

## **Country Road Roundabout**

The Country Road roundabout project is progressing well.

Much of the construction at the New Winton Road formation has been completed including a main culvert at the Murroon Creek. This extension is expected to be sealed over Christmas.

In the new year, Country Road traffic will be diverted onto this new road to allow the commencement of construction of earthworks for the new roundabout also in the new year.

The project site is heavily constrained by existing services with adjustment to gas and high voltage electricity having the greatest current impact.

Design and approval issues and the procurement of components for the relocation of the high voltage electricity assets have resulted in time delays and construction sequencing issues for the project.



Coordination of works associated with gas main adjustments have also proved complex. Council staff are currently working through legal documents with APA Gas Group (APA) to arrive at a workable contract that Council is prepared to sign to get APA to adjust existing gas assets.

The current construction program shows the roundabout operational by the end of September 2021.

### **Trunk Drainage Project**

This project is in the early development stages with design of the culvert structures completed.

The project consists of four culverts referred to as culverts 2 to 5 (inclusive) that extend under and through Wallamore Road, the rail corridor and the Goonan Street road reserve. Culvert 2 extends up through stage 4 of the TGGP development.

Culvert units for culverts 2 to 5 are being manufactured by Humes, the bulk of which will be fabricated at the Tamworth factory and remainder at Blacktown.

The culverts within the rail corridor are subject to a complex third party works approval process by JHR. To date there has been good cooperation with JHR to progress this. Council staff are currently working through the final details of the design approval and then will focus on licence agreement documents with JHR and TfNSW to arrive at a workable contract that Council is prepared to sign to commence construction of the culvert structures in the rail corridor.

Within the Wallamore Road and Goonan Street road reserve there are a number of existing services (telecommunications, gas and power) that complicate the construction.

It is expected that the construction sequencing of the culverts will be managed to keep ahead of JHR for the rail line activation.

During construction of the culverts across Wallamore Road, there will be a need to close sections of Wallamore Road and divert traffic for that period of time. Normal communication processes will be implemented prior to any closures.

Culvert 5 discharges flows from Murroon Creek to below Wallamore Road onto land owned by Council as buffer and possible future operational areas of Westdale Sewage Treatment Works (WSTW). The proposal is to discharge culvert 5 into an open channel that will convey the 100 year storm discharge to below the extent of possible future WSTW operational areas. Below this a low flow channel sized for smaller, more frequent storm events will be constructed with larger storm events spilling out of the low flow channel, and flowing overland toward the Peel River anabranch to minimise the risk of erosion.

The low flow stormwater channel approach is based on advice from the NSW Department of Planning, Industry and Environment to minimise erosion.

### **Goddard Lane**

Construction of the Goddard Lane widening project commenced mid November. The initial works involved stripping of the road verge to allow local Aboriginal parties to inspect for items of Aboriginal heritage. None were located.

The construction of the sewer has commenced starting at the existing sewer main at the bottom of the TGGP near Goonan Street. To date, the progress has been a little slower than planned due to the presence of hard rock requiring hammering.

Designs for electrical reticulation and street lighting are well progressed with approval expected from Essential Energy (EE) by Christmas. This will allow a tender to commence prior

to Christmas and be awarded in the new year for a contractor to construct the electrical infrastructure. Similar progress is being made for provision of gas and communications for future lots.

The surveying work is currently being undertaken to formally define the widened Goddard Lane road reserve and the new internal roads to provide access to the Intermodal. This plan will also confirm boundaries for five lots located at the northern end of Goddard Lane. It is expected that a development application (DA) for the formal subdivision of the lots will be lodged with Council in the new year.

### **Intermodal Access Road**

This component of the TGGP consists of construction of the Goddard Lane connection, 200m of the main link road that runs through TGGP, and the road providing vehicle access to the Intermodal.

This package of work is partially funded by the Federal Government and, as a requirement of the funding, the work cannot be undertaken by Council staff. It is proposed that a tender to deliver the civil works will commence prior to Christmas 2020 and be completed in late January 2021 to identify a contractor to undertake the work.

In the meantime, an early works package is expected to be delivered prior to Christmas. This will include the stripping of topsoil for the roads, inspection of the stripped area by local Aboriginal parties, construction of a temporary access to the Intermodal site and grading of Goonan Street connecting to Goddard Lane.

The early works will give the general public a clear idea of the configuration of the development and will be a significant step forward in relation to community and business awareness of the activity to follow.

### **Intermodal**

Significant progress has been made in relation to the Tamworth Intermodal Freight Facility. The design for the facility has been finalised by Qube and a DA for the operation of the facility was lodged in late November. Advertising of the DA will close on 17 December 2020.

A significant amount of work is currently going into the legal documents that will underpin the operation of the Intermodal.

This suite of documents includes the:

- lease between Council and Qube for the Intermodal site;
- licence for Qube to access the Intermodal site during construction;
- licence for Qube to access the land between the rail corridor and the Intermodal site;
- formal agreement between Qube and Council for Qube to undertake earthworks on the land between the rail corridor and the Intermodal site; and
- formal licences involving TfNSW/JHR/Qube/Council to licence access to the rail corridor.

This suite of documents will be relatively complex and will be critical to achieve a balance so that Qube can conduct a commercially viable operation and that Council achieves the critical piece of infrastructure required to activate the TGGP.

Council has engaged legal assistance to assist in the preparation and review of the legal documents between Qube and Council and this is expected to cost in the order of \$60,000.

It is recommended that this money be made available from the Westdale Land Reserve.

### **Marketing and Sales**

Council's team have been progressing with the sales agents (Burke and Smyth and CBRE) to prepare a marketing campaign to be launched in the new year.

CBRE have provided a quotation to launch in the new year. Their price of \$28,812 includes the following components.

- four 6m x 3.6m signboards;
- online listings on the CBRE website for 26 weeks; and
- preparation of CBRE hubble drive digital ads.

As presented in the Business Plan, the costs for the marketing campaign are budgeted against the sale of the land. The business plan for TGGP showed 10% of sales allocated to pay for commission, marketing and legal costs.

It is recommended that \$30,000 be approved by Council for the marketing campaign. It is recommended that this money be made available from the Westdale Land Reserve.

To facilitate the sales of the land, survey costs of \$15,000 for Stage 1 are required for the preparation of the subdivision plans. These costs will also be recovered from the 10% of sales allocated to pay commission, marketing and legal costs.

It is noted that the intention of the TGGP is to enhance business and industrial activation within the city. To ensure this process is as easy as possible for prospective developers, it is recommended that a simple selling mechanism is established by Council to simplify the process. One part of that will be to authorise the Mayor and General Manager to sell land at terms that have been approved by Council.

A later report in Closed Council will seek authorisation to progress sales based on recommended parameters and pricing.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

This report recommends the allocation of an additional \$110,000 from the Westdale Land Reserve for costs associated with marketing and promotion campaign, legal costs in relation to licences and leases with Qube for the operation of the Intermodal, licences and agreements with TfNSW and professional survey costs associated with the road and lot plans required for sale and subdivision purposes.

These costs will ultimately be recovered through the 10% allowance for land sales in the Business Plan to account for commission, marketing and legal costs.

**(c) Legal Implications**

The report references a number of expected licences, leases and agreements that will need to be prepared and executed by Council in the coming months. Due diligence will be applied in all cases and input provided from Council's legal team when resourcing allows. Specialist external legal advice shall be provided by Maddocks Lawyers.

**(d) Community Consultation**

The TGGP Project Control Group are coordinating media releases with Council's communications team and the TGGP project progresses.

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

A Prosperous Region – P11 Support and facilitate economic development and employment opportunities.

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**8.4 BARRABA TENNIS COURTS HIRE FEES**

**DIRECTORATE: REGIONAL SERVICES**

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

**RECOMMENDATION**

*That in relation to the report “Barraba Tennis Court Hire Fees”, Council:*

- (i) place the proposed fees on Public Exhibition for 28 days; and*
- (ii) provide a further report at the completion of the formal exhibition period detailing any submissions received, or alternatively, should no submissions be received, adopt the proposed hire fees for inclusion in the Annual Operational Plan.*

**SUMMARY**

This report provides Tamworth Regional Council with information relating to the proposed hire fees associated with the use of the Barraba Tennis Courts. After extensive consultation with key user groups, it is recommended to place these proposed fees on Public Exhibition for a period of 28 days.

**COMMENTARY**

Tamworth Regional Council acknowledges the significant contribution that sport and recreation bring to the community. Sporting facilities, such as tennis courts, are social hubs that the community frequent to participate in recreational pursuits and engage in community gatherings.

Council acknowledges to date the Barraba Town and District Tennis Club (the Club) have overseen the running of the courts in Barraba. The Club has contributed tirelessly toward the upkeep of the courts and has made a valuable contribution to the community.

The Barraba Tennis Courts are owned by Council and to date do not have Council endorsed hire fees associated with their usage. To understand the current usage, Council’s Sport and Recreation staff have undertaken extensive consultation with the main users of the courts. It is understood the Club have also met with Tennis NSW on several occasions to understand fees associated with Tennis Clubs.

The following fees are proposed for the hire of a court per hour at the Barraba Tennis Courts:

**Community Rates**

- Court hire = \$8 per hour per court
- Court hire, with lights = \$10 per hour per court
- Club House hire = \$25 per community event

**Barraba Tennis Club Rates**

- Court hire = \$5 per hour per court
-

- Court hire, with lights = \$7 per hour per court
- Club House hire = Nil

The proposed fees are in line with the hire fees at both community and privately run tennis facilities across Council and the North West. It is worth noting the fees are not calculated on a cost recovery basis for the asset, rather they are largely reduced to encourage access to the facility by the broader community, as part of Council's community service obligation.

It is recommended Council place the above proposed fees on Public Exhibition for a period of 28 days, and provide a further report to Council should any submissions be received.

Sports and Recreation staff will continue to work closely with the Club to ensure its continued success and valuable contribution to the community.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

All fees and charges must be public advertised for 28 days under the Local Government Act 1993.

**(d) Community Consultation**

Council technical staff have met with the key users of the Barraba Tennis Courts, namely the Barraba Town and District Tennis Club executives. Staff have met with the Club on several occasions to discuss the current use of the courts and the fees associated with hire.

Fees are proposed to be on Public Exhibition for 28 days.

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

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

**8.5 PROPOSED PURCHASE AND ALLOCATION OF ADDITIONAL GROUNDWATER TO THE SCOTT ROAD DRIFT WELLS**

**DIRECTORATE:** WATER AND WASTE  
**AUTHOR:** Daniel Coe, Manager - Water Operations

**RECOMMENDATION**

*That in relation to the report "Proposed Purchase and Allocation of Additional Groundwater to the Scott Road Drift Wells", Council:*

- agree to purchase up to 240 megalitres (ML) of Peel Alluvium water on the temporary market (for 2020/2021) and attach that water to the four Scott Road Drift Wells considered to be extracting Peel Alluvium groundwater; and*
- fund this purchase of temporary water from the Water Reserve.*

## SUMMARY

The purpose of this report is to seek approval from Council to source further temporary groundwater from the Peel Alluvium, on the open market, to attach to Council's Scott Road Drift Wells to allow ongoing extraction in the 2020/2021 water year.

## COMMENTARY

As Council would be aware, Council operates six wells located in Scott Road, Tamworth referred to as the Scott Road Drift Wells. The wells provide water to the Calala Water Treatment Plant to help meet daily demand for treated water in Tamworth, Moonbi and Kootingal. The locality and identification numbers of the wells is provided in the image below:



For the purposes of licensing, wells 1 and 1A are considered to be so close to the Peel River that the water extracted is considered to be coming directly from the River and therefore these wells are considered to be extracting surface water. Wells 3, 4, 5 and 6 are further away from the Peel River and are therefore considered to be extracting groundwater.

Given the different water sources, Council has two licenses covering extraction from the wells. The conditions associated with each license are detailed below:

### Wells 1 and 1A

- Well 1 - when flow at Paradise Gauge (Gauge No 419024) is  $\geq 5$  ML/day extract at max of 30 litres/sec; and
- Well 1A When flow at Paradise Gauge (Gauge No 419024) is  $\geq 5$  ML/day extract at max of 20 litres/sec.

### Wells 3, 4, 5 and 6

- the annual extraction volume (groundwater) for 2020/21 is 110 ML's.

From July 2020, water supply for Tamworth, Kootingal and Moonbi has been sourced from a variety of extraction points. Water Operations staff have developed a raw water supply strategy aimed to maximise water supplies in both Dungowan Dam and Chaffey Dam. In summary, water has been sourced as follows (in priority order):

- utilisation of in stream flows within the Peel River extracted at the Calala intake. The minimum pumping capacity of the intake is 11 ML/day. Once flow within the river drops below this point sustained pumping cannot be achieved from the intake;
- utilisation of in stream flows within the Peel River extracted at Scott Road Wells 1 and 1 A. Surface water extraction at this point is limited to a maximum of 4.5 ML/day;
- the use of Dungowan Dam Pipeline in combination with the above extractions or by itself should river flows not be available. The Dungowan Pipeline is limited to a maximum flowrate of 20 ML/day; and
- the use of groundwater from Scott Road Wells 3, 4, 5 and 6. These wells have been used for emergency water extraction i.e. in the event of a Dungowan Pipeline failure and also to assist with meeting water demand during dry and hot weather periods i.e. when the Dungowan Pipeline is in use (limited to 20 ML/day) the intent would be to utilise these wells and supplement the raw water supply.

As reported to Council recently, the use of the Chaffey Pump Station and Pipeline can only operate on a permanent basis when Chaffey Dam is at or below 20% capacity. As such, the use of the Chaffey Pump Station and Pipeline has not been available to Council to source water. It should be noted however, that water cannot be sourced concurrently from both the Chaffey Dam Pump Station and Dungowan Dam. Given that Dungowan Dam has been above 90 percent capacity since July 2020, it would be the primary water supply option in any case.

In respect to the use of groundwater from Scott Road Wells 3, 4, 5 and 6, water demand for Tamworth, Kootingal and Moonbi peaked at 28.5 ML on 2 December 2020, during the hot and dry weather experienced. During this heatwave, groundwater was extracted to maintain water supply and contingency water storage levels in the storage dam at the Calala Water Treatment Plant. In addition to this usage, groundwater has been sourced whilst repairs have been completed on the Dungowan Pipeline as required. As at 7 December 2020, Council has 36.5 ML of available extraction which is approximately 6 to 7 days of operation of Wells 3, 4, 5 and 6.

Since July 2020, Council staff have been in discussions with the Department of Planning, Industry and Environments (DPIE), WaterNSW and the Natural Resource Access Regulator (NRAR) regarding the opportunity to source more groundwater from Wells 3, 4, 5 and 6. The advice to date from these agencies is that Council's existing groundwater access approval now has a discretionary condition (shown below) which permits extraction from the wells of up to 350 ML for the 2020/2021 year.

*During the 2020/2021 water year:*

- a) the combined volume of groundwater extracted from all water supply works authorised by this approval must not exceed 350ML;*
- b) water extraction from all water supply works authorised by this approval must cease if the water level in monitoring bore GW093042 measures 6.3 metres or deeper below ground level; and*
- c) monitoring bore GW093042 must be fitted with a data logger and telemetry system to monitor and record water levels. This data is to be provided to the relevant licensor upon request.*

Based on this advice, it is recommended that Council proceed with seeking a temporary trade of water allocation to wells 3, 4, 5 and 6 to bring the total water extraction allocation up to 350 ML for the 2020/2021 year. This would enable a further 40 days of extraction from these wells

to occur to cater for both high water demand periods and operational contingency i.e. Dungowan Pipeline failures. To enable this volume to be extracted, Council would need to purchase a further 240 ML of water allocation. Advice from local water traders is that this volume of water is available within the current water market.

Discussion with the DPIE, NRAR and the Office of the NSW Minister for Water, Housing and Property will continue in regard to allowing further extraction from the Scott Road Drift Wells on a permanent basis.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Latest advice from a local water broker is the cost of acquiring Peel Alluvium water on a temporary basis is approximately \$100/ML. Therefore, should Council agree with the recommendation the approximate cost will be \$24,000. Funds have not been allocated in the current financial year to purchase temporary water and again should Council agree to purchase, funding would have to be made available from the Water Reserve.

**(c) Legal Implications**

Council would be required to comply with the discretionary conditions detailed above, including the requirement to monitor and record groundwater levels at Monitoring bore GW093042.

**(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 COUNCIL INVESTMENTS NOVEMBER 2020**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Sherrill Young, Manager Financial Services

**1 ANNEXURES ATTACHED**

#### **RECOMMENDATION**

*That in relation to the report “Council Investments November 2020”, Council receive and note the report.*

#### **SUMMARY**

This report provides an overview of Council Investments for the month of November 2020.



## COMMENTARY

At its December meeting, the Reserve Bank of Australia Board elected to maintain the cash rate. In the media release issued by the Reserve Bank on 1 December 2020, the prediction is that given the economic outlook, the cash rate is not expected to increase for at least three years.

In accordance with Section 212 of the Local Government (General) Regulation 2005, the details of all money Council have invested as at 30 November 2020, is **ATTACHED**, refer **ANNEXURE 1**.

The following table provides a summary of the types of investments held and the institution they are held with:

Institution	Cash at Bank	Financial Assets Amortised Cost	Financial Assets at Fair Value	Total	% of Total
NAB	17,739,447	46,000,000	0	63,739,447	35.64%
ANZ	0	8,000,000	0	8,000,000	4.47%
BOQ	0	8,000,000	0	8,000,000	4.47%
CBA	0	14,000,000	0	14,000,000	7.83%
St George	0	37,500,000	0	37,500,000	20.97%
TCorp	0	0	11,374,854	11,374,854	6.36%
Westpac	0	36,213,234	0	36,213,234	20.25%
<b>TOTAL</b>	<b>17,739,447</b>	<b>149,713,234</b>	<b>11,374,854</b>	<b>178,827,535</b>	<b>100%</b>

The amount invested at 30 November 2020, has increased by \$8,945,924.77 compared to funds held at 31 October 2020.

Council's investments are mostly comprised of restricted funds that have been received for specific purposes or funds held for future renewal works. The following table provides a summary of investments held by each fund:

Fund	Restriction	Amount	%
General	Unrestricted	7,318,145	4.09%
General	Internally Restricted	46,911,632	26.23%
General	Externally Restricted	11,416,349	6.38%
<b>General Fund Total</b>		<b>65,646,126</b>	<b>36.71%</b>
Water	Unrestricted	2,211,934	1.24%
Water	Internally Restricted	23,145,700	12.94%
Water	Externally Restricted	25,261,589	14.13%
<b>Water Fund Total</b>		<b>50,619,223</b>	<b>28.31%</b>
Sewer	Unrestricted	2,244,467	1.26%
Sewer	Internally Restricted	44,761,907	25.03%
Sewer	Externally Restricted	15,555,812	8.70%

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<b>Sewer Fund Total</b>	<b>62,562,186</b>	<b>34.98%</b>
<b>Total Investments</b>	<b>178,827,535</b>	

Moneys received for each fund can only be used within that fund. An explanation for each category of restriction is described below:

**Unrestricted**

These are funds required to meet short term cash flow requirements and contingencies to maintain solvency.

**Internally Restricted**

Funds set aside for future commitments mostly relate to asset renewals, remediation works, or leave provisions. For General Fund, this includes self-funding activities such as the Airport, Waste Management and Fleet operations.

**Externally Restricted**

Funds provided for specific purposes such as developer contributions, grants and loans.

The use of restricted funds is largely controlled by 10 – 20 year Asset Management Plans which are included in the Resourcing Strategy of Council's Community Strategic Plan.

**(a) Policy Implications**

All of Council's investments are held in accordance with the Tamworth Regional Council Investment Policy.

**(b) Financial Implications**

The low rate of return on investments continues to thwart interest earnings which in turn has a negative impact on funding availability for future projects.

**(c) Legal Implications**

All of Council's investments are held in accordance with the Tamworth Regional Council Investment Policy, which accords with the requirements of:

- Local Government Act 1993 – Section 625;
- Local Government Act 1993 – Order (of Minister) dated 16 November 2000;
- The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A (2), 14C (1) and 2;
- Local Government (General) Regulation 2005 – Clauses 212 and 215; and
- Local Government Code of Accounting Practice & Financial Reporting – Update No 15 dated June 2007.

**(d) Community Consultation**

Nil

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

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

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## 9.2 ANNUAL OPERATIONAL PLAN 2020/2021 BUDGET VARIATION REPORT - NOVEMBER 2020

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Sherrill Young, Manager Financial Services

**Reference:** Item 9.3 to Ordinary Council 23 June 2020 - Minute No 173/20  
**1 ANNEXURES ATTACHED**

### RECOMMENDATION

*That in relation to the report “Annual Operational Plan 2020/2021 Budget Variation Report – November 2020”, Council note and approve the variations to the existing budget included in the attached annexure.*

### SUMMARY

The main items of note for budget variations for the month of November are the receipt of grant funds with money coming in from an Economic Stimulus Grant, which has provided funding for the upgrade of the Werris Creek and Rangari roads. Likewise, there were insignificant grant funds recognised for walking and cycling paths. There was also a refund on the 2019/2020 workers premium of \$51,638, though this saving was used to offset a \$34,261 increase in the estimate for the 2020/2021 premium, leaving a net saving of \$17,377.

### COMMENTARY

Council adopted the original budget included in the Annual Operational Plan for 2020/2021 at the Ordinary Council Meeting held 23 June 2020. Any changes to the budget must be approved by Council at a later Ordinary Meeting. This report seeks Council approval for any required budget variations identified during the month of November, for which there has been no previous specific report or approval.

It is important to note the budget variations provided in the monthly reports should not be viewed in isolation, the Quarterly Budget Review Statements will provide Council with a full review of revised budget forecasts and actual year to date results.

A summary of general budget variations is provided below with detailed lists included in the **ATTACHED**, refer **ANNEXURE 1**.

#### General variations identified during November 2020

Division	Budget Variation	Operating Income	Operating Expenses	Capital Income	Capital Expenses
CNRL	38,438	0	0	0	38,438
Cultural Services	2,380	(382)	1,250	0	1,512
Economic & Destination	25,132	0	25,132	0	0
Airport	69,500	67,500	2,000	0	0
Pilot Training Facility	(228,880)	(302,730)	73,850	0	0
AELEC	0	0	0	(31,775)	31,775
Admin & Governance	(24,000)	0	(24,000)	0	0

People, Culture & Safety	(10,000)	0	(10,000)	0	0
Systems & Solutions	(1,973)	(1,973)	0	0	0
Integrated Planning	1,510	(1,000)	2,510	(152,880)	152,880
Sports & Recreation	0	(56,455)	56,455	0	0
Infrastructure & Projects	20,000	0	20,000	(1,274,960)	1,274,960
Waste Management	(219,472)	(228,217)	0	0	8,745
Water & Wastewater	197,805	(25,000)	205,000	(127,195)	145,000
TRC Workers Comp	(17,377)		(17,377)		
<b>TOTAL</b>	<b>(146,937)</b>	<b>(548,257)</b>	<b>334,820</b>	<b>(1,586,810)</b>	<b>1,653,310</b>

**Material differences between budget and actual income or expenditure**

Nil to report.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

The variations included in the report have the following impact on forecast results for 2020/2021 by fund of:

Fund	Operating Income	Operating Expenses	Capital Income	Capital Expenses
General	(523,257)	133,065	(1,459,615)	1,508,310
Water	0	61,755	(127,195)	145,000
Sewer	(25,000)	140,000	0	0
<b>Total</b>	<b>(548,257)</b>	<b>334,820</b>	<b>(1,586,810)</b>	<b>1,653,310</b>

**(c) Legal Implications**

This report is in compliance with the following sections of the Local Government (General) Regulation 2005:

- 211 Authorisation of expenditure; and
- 202 Responsible Accounting Officer to maintain system for budgetary control.

**(d) Community Consultation**

Nil

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

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

**9.3 SUNDRY DEBTOR WRITE OFF**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Lauren McPherson, Senior Accountant

1 CONFIDENTIAL ENCLOSURES ENCLOSED

**RECOMMENDATION**

*That in relation to the report “Sundry Debtor Write Off”, Council approve the writing off of sundry debtors totalling \$25,824.11 in accordance with Sections 131 and 213 of the Local Government (General) Regulation 2005.*

**SUMMARY**

The purpose of this report is to advise Council of sundry debtor bad debts which have been identified as uncollectable and should now be written off in accordance with Sections 131 and 213 of the Local Government (General) Regulation 2005.

**COMMENTARY**

The writing off of these general debtors for user charges, fees and other income is submitted for approval.

The amounts written off are summarised as follows:

- legal grounds to recover exhausted \$12,087.36; and
- uneconomic to recover \$13,736.75.

As these are unsecured debts, recovery is not always possible. In accordance with Section 213 (5), it is considered that on reasonable grounds, that any further attempt to recover these debts would not be cost effective.

The table listing the proposed write offs is **ENCLOSED**, refer **CONFIDENTIAL ENCLOSURE 1**, and includes:

- the name of the person whose debt is being written off;
- the details of the account concerned; and
- the amount of the debt.

The fact that a debt that has been written off does not prevent Council initiating legal proceedings in the future to recover the debt. Any amount written off will be adjusted if part or all of the debt is subsequently recovered.

**(a) Policy Implications**

The General Policy Register, 10.1 states that all write-offs will be reported to Council.

**(b) Financial Implications**

The writing off of the amounts shown in the attachment will reduce the balance of outstanding receivables.

Of the amounts to be written off \$7,528.89 are not in the provision for doubtful debts. If the recommendation to write off these debts is approved this amount will be expensed in the current financial year.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

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

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## **10 COMMUNITY SERVICES**

### **10.1 TAMWORTH REGION ARTS ADVISORY COMMITTEE (TRAAC) - MEETING - 12 NOVEMBER 2020**

**DIRECTORATE: GROWTH AND PROSPERITY**

**AUTHOR: Bridget Guthrie, Director Tamworth Regional Gallery and Museums**

**1 ANNEXURES ATTACHED**

#### **RECOMMENDATION**

*That in relation to the report “Tamworth Region Arts Advisory Committee (TRAAC) – Meeting – 12 November 2020”, Council receive and note the report.*

#### **SUMMARY**

The purpose of this report is to present the minutes of the Tamworth Region Arts Advisory Committee (TRAAC) meeting held 12 November 2020, and to provide Council with an overview of the meeting outcomes.

#### **COMMENTARY**

The TRAAC committee held its November meeting in person, with two special guests attending the meeting. The minutes of the meeting are **ATTACHED**, refer **ANNEXURE 1**.

A presentation and discussion with Dr. Roslyn Russell the author of Significance 2.0 occurred at this meeting. Roslyn began by advising that she is a historian, editor, museum curator, and author. Roslyn has previously completed Significance Assessments for the Tamworth Regional Film and Sound Archive, Manilla Museum, Barraba Museum, and the Tamworth Regional Gallery.

Roslyn is now working on Tamworth’s Country Music Collection’s Significance Assessment – including interviewing the original organisers of the Tamworth Country Music Festival, and reviewing the collections at the Australian Country Music Hall of Fame, National Guitar Museum and Country Music Wax Museum. She is also completing a significance assessment on the Moonbi Museum collection for Council.

Karina Tyler provided an overview on the development, design and completion of a large-scale sculpture(s) for the Oxley Highway and Country Road roundabout. The roundabout will form the intersection of Oxley Highway, Country Road, New Winton Road and the entry to the new Tamworth Global Gateway Park. The roundabout will serve as a major gateway to the City from the west, as well as to the Tamworth Regional Airport. EOIs for this public artwork have now closed.

In addition to the above, the TRAAC committee members also had a general discussion identifying several important areas for further discussion including the ‘Recovery of Our Arts and Culture Sector from COVID-19’.

Lastly, the following reports were received:

- Tamworth Regional Gallery and Museums Report; and
- Entertainment Venues Report.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

The TRAAC includes six community members who represent a broad range of art disciplines. The Committee provides strategic advice to the Council in relation to ‘Arts’ matters within the region, and make 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 LUCY IRVINE PUBLIC ART**

**DIRECTORATE:** GROWTH AND PROSPERITY  
**AUTHOR:** Bridget Guthrie, Director Tamworth Regional Gallery and Museums

**1 ANNEXURES ATTACHED**

### **RECOMMENDATION**

*That in relation to the report “Lucy Irvine Public Art”, Council approves the funding for the final production and installation of this public art sculpture at Bicentennial Park.*

### **SUMMARY**

Public art in Bicentennial Park has been identified as part of the implementation of the Public Art Engagement Strategy and the Tamworth Bicentennial Park Masterplan.

In accordance with its Public Art Engagement Strategy a Council resolution is required for the commissioning of any public art sculpture over \$20,000.00. The Lucy Irvine project has an approximate cost of \$38,000.00 and the remaining costs of the project will be funded through the 2020/2021 budget for public art and a cultural gift donation.

## COMMENTARY

In accordance with the Public Art Engagement Strategy, the concept was approved through Council's Tamworth Region Arts Advisory Committee (TRAAC), and then assessed for quality control by the Tamworth Regional Gallery Director and the Regional Arts Development Officer, through Arts North West.

Liaison with Council's engineers, risk management team and parks and gardens management has taken place as part of the ongoing development of this public art work. Lucy Irvine has had several site visits to Tamworth, to work on design and construction methods and to determine the best site location for the proposed artwork **ATTACHED**, refer **ANNEXURE 1**, in consultation with Council staff.

This location is near to the walkway and cycle paths in Bicentennial Park and close to the Tamworth Regional Playground. The proposal is for this public artwork to be viewed from Kable Avenue, and effective night time lighting will add to the impact of the artwork.

Artist Lucy Irvine has been working closely with the local fabricator from Moonbi, Raymond McLaren, regarding the production through Andromeda Industries.

The intention of this artwork is to create a welcoming entry point to the park and members of the public travelling on Kable Avenue. This artwork provides a placemaking narrative for Tamworth and brings Tamworth's association with textile art into the public space. The title and description of the public artwork written by Lucy Irvine is below:

### **Holding Place**

*The strength and flexibility of a cable comes from its multiple strands, allowing it to take weight and change shape. This work considers a sense of place that also comes from the multiplicity and strength of many stories, histories, cultures and values. Holding Place is a gathering or meeting point, a city centre landmark and a marker for new narratives. It celebrates Tamworth's nationally significant textile collection in the public domain. And it seeks to perform what textiles have always done: to materialise past, present and future as a tangible, tactile and living knowledge. Just as a basket carries or a cloth can shelter this steel bower holds a space for future possibility.*

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

According to the Public Art Engagement Strategy adopted by Council in April 2016, all public art over \$20,000.00 requires the approval of Council.

The Public Art Engagement Strategy is to be utilised by Council to govern a highly professional and well managed process for the inception, coordination, installation, maintenance and ongoing management of public art in the Tamworth Regional Council Local Government area.

#### **(b) Financial Implications**

The public art work by Lucy Irvine is funded by the existing public art budget. The total project cost is \$38,000 and includes artist fees (\$10,000), production costs and transport (\$16,000), and associated foundation and lighting costs (\$12,000).

The development of the artwork commenced in 2019/2020. Payments of 60% of the artist fee (\$6,000) and 50% of production for the CAD drawings, materials and the initial construction requirements (\$8,000) were made last financial year.



Furthermore, a cultural gift donation to the value of \$10,000 (including GST) has been received to support the design, development, production and installation of this specific public artwork.

The remaining project costs of \$24,000 will be met through the combination of the existing 2020/2021 budget for the project and the cultural gift donation, with a modest contingency amount remaining.

Other options and quotes for the sculpture were sought but exceeded the existing budget amount. Additionally, the opportunity to support a local supplier was preferred and allows better opportunities for quality control of the custom built, bespoke sculpture.

Regional Services Directorate staff have provided additional support to prepare the identified site, and establish the power connection to the site for lighting. Engineering support and assessment has also been absorbed through Tamworth Regional Council to reduce external costs.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

As part of the development of the Public Art Engagement Strategy, Council engaged the community in a dialogue regarding Public Art and sought ideas for public art throughout the Local Government Area.

Contemporary public art within Bicentennial Park was identified as part of the community feedback in the consultation process and hence, prioritised as an action in the Public Art Engagement Strategy.

Consultation was also sought through TRAAC. The TRAAC includes six community members who represent a broad range of art disciplines. The Committee provides strategic advice to the Council in relation to 'Arts' matters within the region and makes recommendations regarding priority areas for development.

Public artwork with lighting is also a recommendation from the Bicentennial Park Masterplan and the public art engagement consultation process that feed into the development of the Public Art Engagement Strategy.

**(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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**10.3 CRIME PREVENTION WORKING GROUP (CPWG) - MEETING - 13 NOVEMBER 2020**

**DIRECTORATE:** PLANNING AND COMPLIANCE  
**AUTHOR:** Gino Tiberi, Crime Prevention Officer

**1 ANNEXURES ATTACHED**

**RECOMMENDATION**

*That in relation to the report "Crime Prevention Working Group (CPWG) – Meeting – 13 November 2020", Council receive and note the minutes.*

**SUMMARY**

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The purpose of this report is to present the minutes of the Crime Prevention Working Group (CPWG) meeting held on 13 November 2020, and to provide Council with an overview of the meeting outcomes.

## COMMENTARY

The following information provides a summary of the main items discussed at the Crime Prevention Working Group meeting held on 13 November 2020, as reported in the minutes **ATTACHED**, refer **ANNEXURE 1**.

- Former Member of the New South Wales Legislative Assembly, Mr Kevin Humphries addressed the CPWG seeking support for a new drug treatment program in the North West and New England areas. The program known as the Matrix Model is a structured intensive community based outpatient treatment program targeting drug addiction.

The program has been trialled successfully in a number of South Australian areas, including the Riverland region, under program director, Dr Quentin Black. The Riverland program achieved an 82 percent remission rate for participants who completed the 16 week program. Other clinics in Adelaide averaged between 55% and 70%.

The rate is extraordinary when compared with the average remission rate of 20% to 30% across other Australian residential rehabilitation programs. Additionally, 52% of Matrix participants were in long term recovery after 12 months compared to a national average of 12.5% who attended other programs.

Along with cognitive behavioural therapy, weekly drug testing and other evidence-based strategies, participants attend sessions overseen by highly qualified and experienced therapists. Participants are educated about important issues such as addiction, how to avoid relapses and socialising in a drug free environment. Upon completion of the program, participants are equipped with real world coping skills they can utilise to remain in remission.

The CPWG noted that although establishing and operating a facility such as this may be expensive, the Tamworth region is not immune to addiction issues and as such the Matrix Model should be strongly supported.

- The CPWG discussed the lack of available programs for children under the age of 12 years. Due to a number of factors including staffing levels and existing policies, the Youth Centre is not currently equipped to support this age group. It was recognised that this group is extremely vulnerable and further investigation into possible targeted solutions should be undertaken to rectify the issue.
- The Tamworth and District Liquor Accord reported venues are adapting to and operating in accordance with shifting COVID Safe guidelines. Regular inspections are being undertaken to ensure all venues are strictly adhering to those guidelines.
- Oxley Police District advised that crime rates decreased across most key crime categories. While seasonal spikes continue to occur, encouragingly, crime rates are actually down 50% from ten years ago. Youth crime continues to be an issue and is currently being targeted.

Police have welcomed a new police dog and handler to the region. The Dog Unit's general purpose dog named 'Alpha' commenced duties at Tamworth Police Station on 9 November 2020. The handler and dog will be utilised across a number of policing areas across the district.

Domestic violence incidents continue to see a steady reduction. Part of the success may be attributed to the continued strong focus by police on performing Apprehended Violence Order compliance checks. Operation 'Fair Play' is currently underway across the police district. As part of the operation, police have increased Apprehended Domestic Violence Order compliance checks. The operation seeks to ensure victims of domestic violence are protected and potential offenders are put on notice.

- A graffiti statistics report was tabled outlining results between 1 August 2020 and 31 October 2020. Throughout this period seven separate incidents were registered which were removed by Council at a cost of \$1,190. During the same period last year eight incidents were recorded with a cost of \$1,020 for removal. These figures have continued to reveal a stable trend which has existed for the past three years.

On 9 October 2020, a new legal graffiti wall was installed at Tamworth Lion's Park, also known as Bryan Martin Park, in Coorigal Street, Hillvue. The wall has received overwhelming support from the local graffiti community and other park users.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

A Spirit of Community – C31 Create safe environments to live, work and play.

#### **10.4 REQUEST TO REIMBURSE DEVELOPMENT APPLICATION FEES AND CHARGES**

**DIRECTORATE: CORPORATE AND GOVERNANCE**

**AUTHOR: Chris Weber, Director Corporate and Governance**

**1 ANNEXURES ATTACHED**

#### **RECOMMENDATION**

*That in relation to the report "Request to Reimburse Development Application Fees and Charges", Council:*

- (i) receive and note the report; and*
- (ii) determine to approve or deny the request as outlined in the body of the report.*

#### **SUMMARY**

Oxley Community Transport, via their builders, have lodged a development application for the property at 2 Curtiss Close, Taminda and have requested that Council waive the development application fees and charges associated with the associated development.

## COMMENTARY

Oxley Community Transport, via their builders, have lodged a development application for the property at 2 Curtiss Close, Taminda and have requested that Council waive the development application fees and charges associated with this application.

Details of the request from Oxley Community Transport along with a brief overview of the organisation are **ATTACHED**, refer **ANNEXURE 1**.

The applications related to this request are DA2020-0181 and LG2021-0377. The total direct Council of the fees and charges associated with this request total \$6,086.82 plus the relevant GST as shown in the below table.

The external fees associated with these applications, the DA Plan First Application Fee and the Building & Construction Long Service Leave Levy sum to \$2,615 and it is not recommended that Council consider paying these fees.

Charge Description	Application No.	Charge	GST
DA Application Fees	DA2021-0181	\$1,961.48	
Document Management Storage Fee	DA2021-0181	\$49.09	\$4.91
Development Application Compliance Levy	DA2021-0181	\$1,200.68	
CC Cons Cert Applications - Commercial	DA2021-0181	\$1,290.57	\$129.06
Building Inspections Class 2-9 Base Fee	DA2021-0181	\$795.00	
Occupation Certificate Class 2-9 Buildings	CC2021-0059	\$119.00	\$10.82
S68 - Sewer 2 inspections	LG2021-0377	\$190.00	
Sect 68 Sewer Permit	LG2021-0377	\$97.00	
S68 Water - 2 inspections	LG2021-0377	\$190.00	
Sect 68 Water Permit	LG2021-0377	\$97.00	
Sect 68 Storm Water Permit	LG2021-0377	\$97.00	
<b>Sub-total – Council</b>		<b>\$6,086.82</b>	<b>\$144.79</b>
DA Plan First Application Fee	DA2021-0181	\$404.00	
Building & Construction Long Service Leave Levy	DA2021-0181	\$2,211.00	
<b>Sub-total – External</b>		<b>\$2,615.00</b>	
<b>Total Balance</b>		<b>\$8,701.82</b>	<b>\$144.79</b>

At the time of the writing of this report, the associated fees and charges had been paid by the applicant on behalf of Oxley Community Transport.

Should Council choose to approve the request, the request would be to the value of \$6,086.82 as outlined above and would be processed as a reimbursement of the fees and charges back to the applicant rather than as a waiver of fees and charges. It should also be noted that, if approved, the funds would not be directly returned to Oxley Community Transport, although it would be a reasonable expectation that the applicant would pass this reimbursement onto Oxley Community Transport as their client and on the basis of this request.

Should Council choose to deny the request, Oxley Community Transport will be advised of this decision.

As part of the consideration for this request it should also be noted that Council is seeking to provide enhanced accessibility options within the broader Tamworth CBD area and is currently reviewing funding options for the construction of a Disability Hub in Bicentennial Park as per the adopted Masterplan. Consideration of the attached request should recognise that these funds could alternatively be used towards the work to provide enhanced accessibility options within the broader Tamworth CBD area.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

There is no budget allocated for this request. Should Council determine to approve the request, the funds would be returned from the General Fund and have a negative impact on the position of the General Fund by the value of the reimbursement of \$6,086.82.

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

A Spirit of Community – C14 Meet social justice principles through the provision of accessible and inclusive high-quality, integrated community services that meet current and emerging needs.

## **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 SUPPLY OF DRY HIRED PLANT**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** George Shearman, Manager Plant, Fleet and Building Services  
**Reference:** DOCUMENTS TABLED

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c),(d)i&(d)ii 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, commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and information that would, if disclosed, confer a commercial advantage on a competitor of Council.

## **SUMMARY**

Council invited tenders for the “Supply of Dry Hired Plant” for use on various Council maintenance and construction works, along with other projects as required. The term “dry” when relating to hired plant means the equipment is supplied without an operator or labour involved. Rates for dry hire do not include fuel as this is an additional expenditure. The tendering period is for two years commencing on 1 January 2021.

### **11.2 SUPPLY OF WET HIRED PLANT**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** George Shearman, Manager Plant, Fleet and Building Services

**Reference:** DOCUMENTS TABLED

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c),(d)i&(d)ii 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, commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it, and information that would, if disclosed, confer a commercial advantage on a competitor of Council.

## **SUMMARY**

Council invited tenders for the “Supply of Wet Hired Plant” for use on various Council maintenance and construction works, along with other projects as required. The term “wet” when relating to hired equipment means the equipment is supplied with an operator or labour involved. Rates for wet hired plant include fuel and consumables, such as oil and grease. The tendering period is for two years commencing on 1 January 2021.

### **11.3 TENDER T061/2021 TAMWORTH SHARED PATH LIGHTING**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Senior Project Management Engineer  
Jonathon Dunlop, Projects Engineer (Rotation)

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**

The purpose of this report is to seek Council’s approval to award a contract for Tender T061/2021 Tamworth Shared Path Lighting, which is funded under the Australian Government’s Local Roads and Community Infrastructure program.

### **11.4 TENDER T067/2021 CAST IN-SITU CONCRETE WORKS FOR TAMWORTH GLOBAL GATEWAY PARK TRUNK STORMWATER**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Senior Project Management Engineer  
**Reference:** Item 12.4 to Ordinary Council 11 February 2020 - Minute No 26/20  
Item 12.2 to Ordinary Council 13 October 2020 - Minute No 321/20

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**

The purpose of this report is to seek Council's approval to award Tender T067/2021 for the subcontract of cast in-situ concrete works for the Tamworth Global Gateway Park trunk stormwater drainage project.

### **11.5 PROPOSED AQUISITION FOR CORNER REALIGNMENT SAFETY UPGRADE - DAVIDSONS LANE**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Callum Fletcher, Senior Project Engineer  
**Reference:** Item 11.5 to Ordinary Council 17 November 2020 - Minute No 363/20

**3 CONFIDENTIAL ENCLOSURES ENCLOSED**

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c) 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.

#### **SUMMARY**

The purpose of this report is to seek Council's authorisation for the proposed acquisition of land for the purposes of road widening on Davidsons Lane and to authorise Council's acceptance of the land to be dedicated as a public road.

### **11.6 TENDER T026/2021 YOUTH TRAINING CAFE, VIADUCT PARK TAMWORTH, DESIGN AND CONSTRUCT**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Mark Gardiner, Senior Project Management Engineer  
**Reference:** Item 8.2 to Ordinary Council 26 May 2020 - Minute No 126/20

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**

The purpose of this report is to seek Council's approval to award Tender T026/2021 Design and Construct Youth Training Café, Viaduct Park Tamworth.

### **11.7 POSSIBLE ACQUISITION OF A PORTION OF PROPERTY FOR ROAD WIDENING AND THE ACQUISITION OF AN EASEMENT - BYLONG ROAD**

**DIRECTORATE:** CORPORATE AND GOVERNANCE

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

**Reference:** Item 14.5 to Ordinary Council 9 April 2019 - Minute No 118/19  
**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

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**

The purpose of this report is to seek Council's authorisation for the Mayor and General Manager to amend the current application to the Minister and Governor of New South Wales for the acquisition of an easement as detailed in the body this report.

### **11.8 TENDER T060/2021 SPRAYED BITUMENT SEALING OF LOCAL, REGIONAL, STATE AND NATIONAL ROADS**

**DIRECTORATE:** REGIONAL SERVICES

**AUTHOR:** Murray Russell, Business Improvement Review - Regional Services

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**

The purpose of this report is to recommend to Tamworth Regional Council acceptance of a tender for sprayed bituminous surfacing of roads within the Tamworth Regional Council area, as and when required, for two years with an optional one year extension at Council's discretion.



### **11.9 TENDER T068/2021 ROUNDABOUT CONCRETING WORKS AT THE OXLEY HIGHWAY AND COUNTRY ROAD INTERSECTION UPGRADE**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Murray Russell, Business Improvement Review - Regional Services

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**

The purpose of this report is to consider tenders submitted for the roundabout concreting works as part of the Oxley Highway and Country Road Roundabout Intersection Upgrade project.

### **11.10 PROPOSAL FROM THE UNIVERSITY OF NEW ENGLAND**

**DIRECTORATE:** CORPORATE AND GOVERNANCE  
**AUTHOR:** Kirrilee Ringland, Manager Property and Legal Services  
**5 CONFIDENTIAL ENCLOSURES ENCLOSED**

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**

The purpose of this report is to seek Council's authorisation in relation to a proposal by UNE to utilise Council owned spaces at Australian Equine and Livestock Events Centre (AELEC) and the Tamworth Sports Dome for the delivery of education programmes.

### **11.11 SALE OF TAMWORTH GLOBAL GATEWAY PARK LAND**

**DIRECTORATE:** REGIONAL SERVICES  
**AUTHOR:** Graeme McKenzie, Manager, Project Management and Engineering Services

**Reference:** Item 9.1 to Ordinary Council 8 September 2020 - Minute No 275/20

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

The Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (c) 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.

**SUMMARY**

The purpose of this report is to seek authorisation for the Mayor and General Manager to negotiate the sale of land in the area as identified as Stage 1 of the Tamworth Global Gateway Park.

## **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