**You are invited to attend the next Ordinary Meeting of Council:**

| | |
|---|---|
| **Date:** | **Monday, 20 August 2018** |
| **Time:** | **6.30pm** |
| **Location:** | **Council Chamber** |
| | **62-64 Menangle Street** |
| | **Picton NSW 2571** |

# AGENDA

## Ordinary Council Meeting

## 20 August 2018

**Ally Dench**

**Acting Chief Executive Officer**

# COMMUNITY STRATEGIC PLAN **SNAPSHOT**

| CSP Theme | Strategies |
|---|---|
| Sustainable and Balanced **Growth** | Strategy GR1 – Growth |
| | Strategy GR2 – Built Environment |
| | Strategy GR3 – Economic Development and Tourism |
| | Strategy GR4 – Liveable Communities |
| | Strategy GR5 – Wilton New Town |
| | Strategy GR6 – Peri-urban Areas |
| | Strategy GR7 – Agriculture Strategy |
| | Strategy GR8 – Advocacy |
| Management and Provision of **Infrastructure** | Strategy IN1 – Improve the condition of our Road Network |
| | Strategy IN2 – Provision of Infrastructure and Facilities |
| | Strategy IN3 – Manage Infrastructure and Facilities |
| | Strategy IN4 – Emergency Management |
| Caring for the **Environment** | Strategy EN1 – Protect and Enhance Biodiversity, Waterways and Groundwaters |
| | Strategy EN2 – Protect the Environment from Development Pressures |
| | Strategy EN3 – Vegetation Management |
| | Strategy EN4 – Community Involvement |
| | Strategy EN5 – Environmental Awareness |
| | Strategy EN6 – Sustainable Practices |
| | Strategy EN7 – Agricultural Land and Capability |
| | Strategy EN8 – Auditing, Monitoring and Enforcement |
| | Strategy EN9 – Waste Management |
| | Strategy EN10 – Advocacy |
| Looking after the **Community** | Strategy CO1 – Strong Community |
| | Strategy CO2 – Health and Wellbeing |
| | Strategy CO3 – Social Planning |
| | Strategy CO4 – Engagement and Communication |
| | Strategy CO5 – Advocacy |
| Efficient and Effective **Council** | Strategy EC1 – Employee Relations |
| | Strategy EC2 – Risk Governance |
| | Strategy EC3 – Customer Service |
| | Strategy EC4 – Financial Sustainability |
| | Strategy EC5 – Resource Efficiency |
| | Strategy EC6 – Information Management |
| | Strategy EC7 – Participation Strategy |
| | Strategy EC8 – Accountability and Transparency |
| | Strategy EC9 – Advocacy |

# Order Of Business


**1 Opening ....4**

**2 Recording of the Meeting ....4**

**3 Webcast Notice ....4**

**4 National Anthem ....4**

**5 Acknowledgement of Country ....4**

**6 Apologies and Leave of Absence Requests ....4**

**7 Declaration of Interest ....4**

**8 Confirmation of Minutes ....4**

**9 Items to be Tabled ....4**

**10 Mayoral Minute ....5**

10.1 Mayoral Minute ....5

**11 Sustainable and Balanced Growth ....6**

11.1 Temporary Food Premises Policy ....6

11.2 Draft Amendments to Wollondilly Development Control Plan 2016 - Vegetation Removal Controls ....8

11.3 Planning Agreement for 790 Montpelier Dr The Oaks - Review of Public Exhibition Process ....11

11.4 Deed of Variation to Planning Agreement 165 River Rd Tahmoor ....14

11.5 Update on Pre-Gateway Determination Planning Proposals within the Metropolitan Rural Area ....17

**12 Management and Provision of Infrastructure ....19**

12.1 Traffic Management Upgrades - July 2018 ....19

12.2 Recommendation to Reject all Tender Responses to Request for Tender #2018/11 for Minor Civil Works and Services ....21

**13 Caring for the Environment ....23**

Nil

**14 Looking after the Community ....23**

Nil

**15 Efficient and Effective Council ....24**

15.1 Investment of Funds as at 30 June 2018 ....24

**16 Notice of Motion/Rescissions ....27**

16.1 Notice of Motion - Picton Court House Upgrades ....27

**17 Closed Reports ....28**

Nil

**18 Questions for Next Meeting ....29**

18.1 Question for Next Meeting ....29

# 1 OPENING

# 2 RECORDING OF THE MEETING

In accordance with Council's Code of Meeting Practice the electronic recording of the Council Meeting and the use of electronic media during the proceedings is not permitted. This includes devices such as laptops, mobile phones, tape recorders and video cameras.

# 3 WEBCAST NOTICE

Members of the public are advised, in accordance with Section 18 of the Privacy and Personal Information Protection Act 1998 (PPIPA), that Wollondilly Shire Council records and webcasts live all Ordinary and Extraordinary Meetings of Council held in open session for the purpose of facilitating community access. The webcasts are publicly available for viewing on Council's website.

Video footage collected is of the decision making body only, if you do not wish your image to be recorded please remain in the public gallery. Your image, voice, personal and health information may be recorded, publicly broadcast and archived if you speak during the meeting and/or don't remain in the space provided.

The webcasts and webcast recordings are protected by copyright and owned by Council. No part of the proceedings of a meeting of the Council may be recorded, copied or made available to others by members of the public without the authority of the Council.

Council may be required to disclose recordings pursuant to the Government Information (Public Access) Act 2009, or where Council is compelled to do so by court order, warrant or subpoena or by any other legislation.

# 4 NATIONAL ANTHEM

# 5 ACKNOWLEDGEMENT OF COUNTRY

The Mayor will acknowledge the traditional Custodians of the Land.

# 6 APOLOGIES AND LEAVE OF ABSENCE REQUESTS

# 7 DECLARATION OF INTEREST

# 8 CONFIRMATION OF MINUTES

# 9 ITEMS TO BE TABLED

- 449 Return Register 2017/18

# 10 MAYORAL MINUTE

## 10.1 MAYORAL MINUTE

**File Number: 10619#11**

### REPORT

The Mayor may put to a meeting (without notice) any matter the Council is allowed to deal with or which the Council officially knows about.

### ATTACHMENTS

**Nil**

### RECOMMENDATION

That the Mayoral Minute be accepted.

# 11 SUSTAINABLE AND BALANCED GROWTH

## 11.1 TEMPORARY FOOD PREMISES POLICY

**File Number: 10619#2**

### EXECUTIVE SUMMARY

- The report recommends Council exhibit the draft Temporary Food Remises Policy.
- The Policy aims to ensure that:
  - Food safety standards are met and maintained to protect public health with regard to food businesses operating from non-fixed premises within the Wollondilly Shire Local Government Act.
  - Meet responsibilities of the Food Regulation Partnership (FRP) with NSW Food Authority and all relevant legislation.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirement extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- The following actions are to occur:
  - The Draft Temporary Food Premises Policy be placed on public exhibition for twenty eight days with a submission period of fourteen days following the expiration of the exhibition period.
  - A further report be re-submitted to Council seeking adoption of the Policy incorporating any changes if considered necessary.

### REPORT

Many Councils have chosen in the past to carry out inspections of Non-Fixed Food premises (Temporary Food Stalls and Mobile Food Vendors) which operate at temporary events and markets. Much of this inspection work occurs out of hours and on weekends.

As of 1 July 2018, all Councils in NSW are expected to undertake routine inspections of Medium to High Risk Non-Fixed Food Premises which trade at these events. This has come about due to changes to the Food Regulation Partnership Instrument of Appointment issued by the NSW Food Authority which requires all Medium to High Fixed and Non-Fixed Food Premises to be inspected at least once per financial year.

These results are reportable to the NSW Food Authority at the end of each financial year.

A Temporary Food Premises Policy has been developed. It is recommended that this policy be accepted.

### Consultation

NSW Food Authority.

Surrounding Local Government Councils.

**Financial Implications**

Where possible, inspections of temporary events and markets will be carried out in conjunction with other events/markets occurring in the Wollondilly Local Government Area. For instance, where a temporary event runs at the same time as a market.

The 2018/2019 Fees and Charges now include fees for the inspection of Temporary Food Stalls which trade at these events. However, fees are waived for charitable and “not-for-profit” organisations.

It is not clear at this stage how many Non-Fixed Food Premises exist and the resultant workload.

## ATTACHMENTS

**1. Policy - Temporary Food Premises**

## RECOMMENDATION

1. That the Draft Temporary Food Premises Policy be placed on public exhibition for twenty eight days with a submission period of fourteen days following the expiration of the exhibition period.
2. That a further report be re-submitted to Council seeking adoption of the Policy incorporating any changes if considered necessary.

## 11.2 DRAFT AMENDMENTS TO WOLLONDILLY DEVELOPMENT CONTROL PLAN 2016 - VEGETATION REMOVAL CONTROLS

**File Number: 10619#4**

### EXECUTIVE SUMMARY

- This report seeks Council support to exhibit proposed amendments to the *Wollondilly Development Control Plan 2016 – Vegetation Removal Controls*. The proposed amendments will update the development control plan to align with the *State Environmental Planning Policy (Vegetation in Non-Rural Areas)*.
- The proposed amendments were considered by Council at its July 2018 Council Meeting and the matter was deferred for clarification of some matters and to allow minor amendments to the Draft DCP.
- It is recommended that:
  - Council publicly exhibit the draft amendments to Wollondilly Development Control Plan 2016 in accordance with the proposed consultation referred to in this report;
  - A further report be provided to Council following the public exhibition on the outcomes of the consultation and the final controls for adoption.

### REPORT

The matter was reported to Council for consideration at its Ordinary Meeting on 16 July 2018. At this Ordinary Meeting Council resolved to defer a decision to allow for some matters within the Draft DCP to be clarified before proceeding to exhibition.

The following matters have since been clarified and several have been reflected through amendments to the proposed Draft DCP for exhibition:

- The report to Council in July referenced a two (2) tier permit system based on whether clearing involved less or more than 5 trees. It has now been confirmed that 5 trees is correct and this has been reflected in the revised version of the Draft amendments in attachment 2;

- The previous report on page 17 referenced three (3) tiers of permit. Only two (2) tiers of permit are proposed and this has been referenced in the Draft DCP;

- Exemptions for vegetation removal near access driveways have been removed and replaced with an exemption for the removal of trees within 3 metres of a driveway crossover. A definition of driveway crossover has been added;

- For the purposes of interpreting the Draft DCP a 'Non Rural Area' refers land within an urban or environmental land use zone and includes the following:

  - *Zone RU5 Village, Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 High Density Residential, Zone R5 Large Lot Residential, Zone B1 Neighbourhood Centre, Zone B2 Local Centre, Zone B3 Commercial Core, Zone B4 Mixed Use, Zone B5 Business Development, Zone B6 Enterprise Corridor, Zone B7 Business Park, Zone B8 Metropolitan Centre, Zone IN1 General Industrial, Zone IN2 Light Industrial, Zone IN3 Heavy Industrial, Zone IN4 Working Waterfront, Zone SP1 Special Activities, Zone SP2 Infrastructure, Zone SP3 Tourist, Zone RE1 Public Recreation, Zone RE2 Private Recreation, Zone E2 Environmental Conservation, Zone E3 Environmental Management, Zone E4 Environmental Living or Zone W3 Working Waterways.*

- The following note has been added to clarify the process for circumstances where vegetation removal meets an exemption in Table 2 but requires written confirmation from Council:

  *Note: Should the removal of vegetation meet an exemption in the table below but require written confirmation from Council, then a TR10 Tree Removal Form should be completed and submitted to Council. This form can be obtained from Council's website.*

- A note has been included under the exemption which enables vegetation to be removed within 3 metres of a dwelling to state the following:

  *Note: This exemption does not impose any obligation on a person to remove vegetation on their land which is within 3 metres of a dwelling on adjoining land.*

- The following definition of 'amenity pruning' has been added:

  *"Amenity pruning means pruning (other than lopping or pollarding) done in accordance with AS 4373 that:*

  *a) Only involves removing dead wood; or*
  *b) Does not involve removing any limbs that have a diameter greater than 50mm; or*
  *c) Is the first pruning in the calendar year, affects less than 10 per cent of the canopy and does not alter the overall shape of the canopy."*

- The definition of tree has been amended in recognition that there is an inconsistency between the definition adopted in Council's DCP and the RFS 10/50 Code of Practice to read as follows:

  *"tree is considered to be any woody plant which meets one or more of the following:*

  *a) Is greater than 4 metres in height; or*
  *b) has a combined stem diameter of 150mm or more at 1m from the ground; or*
  *c) has a branch span of greater than 3 metres.*

  *however, if any tree is proposed for removal under the Rural Fire Service 10/50 Code of Practice, then the definition of tree within that Code should be applied for that activity."*

- The following advice has been added to provide clarification on calculating the area vegetation removal:

  *For the purposes of calculating the area of vegetation removed, the canopy of any trees proposed to be removed should be included in the area calculation. The area of vegetation to be removed should not solely rely on ground coverage.*

- The following has been added in regards to issuing permits:

  *If multiple permits are issued for a lot within a 10 year period, then the cumulative total of the area authorised to be cleared by all of these permits shall be considered in whether a Tier 1 of Tier 2 Permit is required for further clearing. The cumulative total is to be included in determining whether the Biodiversity Offset Scheme threshold in table 1 is exceeded.*

- Numbering has been amended throughout to ensure it fits neatly within the DCP.

### Consultation

In accordance with Schedule 1 of the *Environmental Planning and Assessment Act, 1979* the proposed amendments to WDCP 2016 will be publically exhibited for a minimum period of 28 days.

It is considered impracticable to write to all landowners potentially affected by the proposed amendments as part of the consultation process as the changes will affect all land across the Shire. The changes will be promoted through a notice in the local newspaper and on Council's website, as well as notification by Council's social media sites.

Local Land Services, NSW Office of Environment and Heritage and Council's Environment and Heritage Committee, will also be invited to provide feedback during the consultation period.

### Financial Implications

This matter has no financial impact on Council’s adopted budget or forward estimates.

### ATTACHMENTS

1. **Council Ordinary Meeting Minutes - 16 July 2018**
2. **Council Report and Attachments - 16 July 2018**
3. **Draft Amended Version of Wollondilly Development Control Plan 2016 - Vegetation Removal Controls for Public Exhibition**

### RECOMMENDATION

1. That Council publicly exhibit the draft amendments to Wollondilly Development Control Plan 2016 - Vegetation Removal Controls in accordance with the proposed consultation referred to in this report; and
2. That a further report be provided to Council following the public exhibition on the outcomes of the consultation and the final controls for adoption.

## 11.3 PLANNING AGREEMENT FOR 790 MONTPELIER DR THE OAKS - REVIEW OF PUBLIC EXHIBITION PROCESS

**File Number: 10619#5**

### EXECUTIVE SUMMARY

- The purpose of this report is to advise Council about a Draft Planning Agreement that has been prepared for land at 790 Montpelier Drive, The Oaks.
- The Draft Planning Agreement is to accompany a development application for 73 residential lots to be developed on the site. The DA was approved by the Land & Environment Court in November 2017.
- The Draft Planning Agreement provides benefits to the local community in the form of an embellished park as well as stormwater infrastructure and funding for its long term maintenance.
- The Draft Planning Agreement has been exhibited in accordance with the *Environmental Planning & Assessment Act 1979* (the Act). One submission was received, which raised concern about the development.
- This report recommends that Council agree to Execute the attached Planning Agreement and that the Chief Executive Officer be authorised to Execute it on behalf of Council.

### REPORT

A Draft Planning Agreement has been prepared by Cove Residential Pty Ltd (the applicant). It was prepared to support a development application (DA) for a proposed 73 lot residential subdivision at 790 Montpelier Drive, The Oaks. The DA included a Letter of Offer to enter into a Planning Agreement with Council. Based on a delay in the assessment of the application, the applicant lodged an Appeal against Council's deemed refusal of the DA and the application was later granted Consent by the Court on 15 November 2017.

One of the Conditions of Consent imposed by the Court was a requirement to prepare a Planning Agreement consistent with a Letter of Offer dated 27 October 2017 (Attachment 1). The Draft Planning Agreement was prepared as required, and if executed by Council will result in the following:

- Construction of Bio-retention and on site detention works (an estimated cost of $484,352) in order to manage stormwater from the development;
- Dedication of the land on which these facilities are to be built;
- Provision of a maintenance contribution totalling $244,608 calculated in accordance with Council's Draft Dedication of Land Policy to fund the maintenance of the basin for 35 years;
- Provision of a sum of $308,600 to Council to fund the replacement of the filter medium in the basin after a period of 25 years;
- Provision of land to be used as parkland to Council. The land to be used for a park has an area of approximately 1.5 hectares and has been valued by Council's valuer at approximately $945,000. This area excludes that part of the site to be used as a detention basin;
- Provision of shared pathways through the site and providing off site connections; and
- Provision of other embellishment works as directed by Council, and including a playground, park benches, planting and maintenance, etc to a value of $320,000 including the pathways.

The benefit to Council is approximately $1.265 million, which will be provided in lieu of payment of a Section 94 contribution of approximately $903,000**.** These benefits are in addition to the $553,208 that will be provided as a contribution toward the long term maintenance of the on-site detention basin and replacement of the bio-filtration medium after 25 years.

**Consultation**

After receiving Executive approval, the Draft Planning Agreement was exhibited between 7 February 2018 and 9 March 2018. It was exhibited with the Explanatory Note, the DA Form, the Statement of Environmental Effects and the Consent issued by the Land & Environment Court. Following exhibition it is noted that some maps were inadvertently omitted from the exhibition material, so the package was re-exhibited between 16 May 2018 and 15 June 2018.

One submission was made during the first exhibition, which raised concerns about the following issues:

- Reliability of electricity supplies and the increasing demands on the system as a result of new residents;
- Inadequate internet/mobile phone reception;
- Questionable state of roads in Wollondilly Council area and the impact of additional residents on the road system; Silverdale Rd was mentioned as a road that needs upgrading;
- Capacity issues in local schools;
- Risk of flooding due to stormwater flooding and lack of capacity of on site dam to handle run off from properties without on-site detention; and
- Development will result in The Oaks losing its 'country feel" and concern that the development will turn this area into Oran Park and Gregory Hills.

*Response to submission.* Many of the above matters relate to the provision of infrastructure to service the development (eg schools, electricity or NBN/mobile phone services). Whilst these concerns are recognised they are the responsibility of other levels of Government not Council. Issues relating to local infrastructure and particularly an embellished open space area are being provided to the local residents through this Draft Planning Agreement. The concerns about local roads and Silverdale Road in particular are recognised and Council is presently undertaking a review of its development contributions plan in which upgrades to Silverdale Road are likely to be included. Matters such as stormwater would have been considered in the DA which, as noted above, has already been determined by the Land & Environment Court, (not by Council) and Conditions of Consent have been included to address this issue.

No submissions were made during the second exhibition.

**Other Matters**

The Planning Agreement has been reviewed by Council’s legal advisors and they have confirmed that the attached copy (Attachment 2) is suitable for Execution.

Prior to exhibition, the Draft Agreement was assessed against the checklist included in Council's Planning Agreements Policy and was found to comply with the matters outlined.

As noted above, the Planning Agreement also provides for land dedication for stormwater infrastructure and a maintenance contribution to maintain these structures. These proposed dedications have been endorsed by Council's Land and Property Panel. In this regard, the applicant is offering to provide $244,608 to maintain the bio-retention basin and a further $308,600 for the one-off filter removal and replacement. These amounts were calculated in accordance with the Draft Dedication of Land Policy, as exhibited.

**Financial Implications**

The main financial implication associated with this Planning Agreement is that Council will forego approximately $903,000 in Section 94 contributions. It will however receive parkland in a location that is known to be deficient in the provision of open space. The parkland has been valued at approximately $945,000 and the Agreement also provides for embellishment works to the park to the value of $320,000, and which will be of benefit to the local community. For these reasons the benefits under the Agreement are considered to be a net gain for the local community. It should also be noted that if Council was to buy an equivalent area of open space land that it would need to pay significantly more. In total Council will receive about $1.265 million in benefits under the Agreement in exchange for foregoing the Section 94 contribution. These benefits are in addition to a $553,208 contribution to fund the long term maintenance of the on-site detention basin and replacement of the bio-filtration medium after 25 years.

**ATTACHMENTS**

1. **VPA Offer - 27 October 2017**
2. **Planning Agreement for 790 Montpelier Dr the Oaks - Version for execution if agreed by Council at August meeting**

**RECOMMENDATION**

That Council:

1. Adopt the Planning Agreement as attached to this report.
2. Accept the dedication of the land as provided for in the Planning Agreement being Lot 74 in the proposed plan of subdivision for Lot 1 in DP 1215738.
3. Agree for the proposed land dedication to be classified as Community Land under the Local Government Act, 1993.
4. Agree for the Chief Executive Officer to Execute the Planning Agreement on behalf of Council.

## 11.4 DEED OF VARIATION TO PLANNING AGREEMENT 165 RIVER RD TAHMOOR

**File Number: 10619#6**

### EXECUTIVE SUMMARY

- The purpose of this report is to seek Council approval to execute a Deed of Variation (DoV) to amend an existing Planning Agreement executed in 2013 and which applies to land at 165 River Road Tahmoor.
- The DoV was prepared following a successful appeal to the Court by the applicant which increased the development yield of the site from 110 lots to 125 lots.
- The DoV was prepared to provide infrastructure to support the increased number of lots approved by the Court. It provides for the additional lots to be provided with benefits at the same rate as those under the existing Planning Agreement ($40,000 per lot).
- It also provides for the dedication of land as a park and amends some of the specific embellishment works included in the existing Planning Agreement.
- The Draft DoV was exhibited on two occasions. No submissions were received.
- It is recommended that Council agree for the Deed of Variation to be executed by the Chief Executive Officer on behalf of Council.

### REPORT

This report concerns a Deed of Variation to a Planning Agreement that applies to land at 165 River Road Tahmoor and which was executed in 2013. The existing Planning Agreement aimed to provide local infrastructure to support the development of this land for 110 large residential lots. It provided benefits equivalent to $40,000 per lot, to be allocated to road works and to recreational embellishments and totalling $22,855.45 per lot, plus an additional $17,144.55 per lot to be provided as a monetary contribution. A copy of this existing Planning Agreement is attached (Attachment 2).

Although Council granted consent to the development, the applicant never acted on it, and later lodged an application seeking to increase the development yield. The matter was ultimately determined by the Land and Environment Court, which in December 2016 granted consent for the site to be developed for 125 rural residential lots and one open space lot, together with all necessary road works, community and ancillary facilities.

Following the granting of consent by the Court, a new developer (River Road Developments Pty Ltd) assumed responsibility for the development of the site and has negotiated a Draft Deed of Variation (DoV) to the original Planning Agreement with Council. The DoV is explained in more detail below, but in summary, it provides for the existing Planning Agreement to be amended so that it provides the following:

- The transfer of the developer's rights and obligations to River Road Developments Pty Ltd;
- Providing the same pro rata contribution of $40,000 for each of the additional lots approved by the Court, amounting to an additional $600,000;
- Amending some of the items of recreational embellishments included in the original Agreement and which are no longer considered necessary, such as a boating pond or horse trails, and to replace them with items such as park furniture, pathways, a multipurpose court and other items; and
- Dedication of land for the purposes of a park.

The DoV is explained in more detail below.

**Matters included in the Draft Deed of Variation**

The changes that are included in the DoV are considered to represent a better outcome for Council and the community, because they provide for an additional $600,000 for carrying out public works, and allocates some of the other benefits in more optimal ways. In this regard, it is proposed to allocate all of the additional $600,000 sourced from the extra 15 lots approved by the Court towards the carrying out of roadworks along Remembrance Drive in Tahmoor. This will be added to the allocation in the existing Planning Agreement of $420,000 (approx.) for this purpose, making a total of $1,020,000 that can be put to road improvements along Remembrance Drive. This is a welcome contribution towards the funding of roadworks in this area because there is already a need of a range of roadworks, and the demand for them is increasing as a result of the large number of rezonings in the area and associated development likely to occur. The DoV provides flexibility in the actual works that can occur, and includes intersection upgrades, road widening and traffic safety measures as decided by Council. Furthermore, the roadworks provided for in the existing Agreement involving works along River Road between Remembrance Drive and the development site will still be carried out.

As listed above, the developer will also dedicate some land for a public reserve to Council. This park is approximately 2 hectares in size and is being dedicated at no cost to Council, meaning that its value has not been included in the $40,000 per lot being provided. Council's Land and Property Panel agreed to the dedication of this park at its meeting in August 2017 in which it was reported that the provision a park on the development site would be useful in providing recreational opportunity for the incoming and existing residents, noting that they would have some distance to travel to other recreational areas in Tahmoor. The location of the park is shown in the Plan at the end of this report. The DoV also includes an amount of $928,500 to be put towards the embellishment of this park. This is the same amount as was included in the existing Planning Agreement for open space embellishment, but the specific embellishment items included in this DoV has been reviewed and some items have been replaced with others that are considered to be more appropriate. The changes to these items are detailed in Attachment 5.

In addition, the "developers discounted monetary contribution" of $1,885,900 that is included in the existing Planning Agreement will still be provided.

In summary, the total value of the benefits (in works and cash) that Council will receive through the DoV will now be $5,000,000, allocated as follows

- Roadworks - $2,185,600
- Public Reserve Embellishment Works - $928,500
- Discounted Monetary Contribution - $1,885,900
- TOTAL $5 million

This is considered to be a generous contribution as it is double the amount that would normally be paid through Development Contributions in the absence of the Planning Agreement. As noted previously, the value of the land being dedicated as a park is not included in this contribution, and overall the delivery of the items included in the Planning Agreement will provide a good outcome for the local community.

**Consultation**

The DoV was exhibited initially between 21 March 2018 and 20 April 2018 but the closing date was extended at the request of the developer following the dispatch of letters to purchasers of lots in the estate who have bought "off the Plan" and may not have seen the advertisement notices. The exhibition was therefore extended until 4th May 2018. It was however found necessary to re-exhibit the documentation because the first exhibition did not include an Explanatory Note, which is required by the legislation to accompany a Planning Agreement or a proposal to amend a Planning Agreement. An Explanatory Note was prepared and the documents were re-exhibited between 20 June 2018 and 18 July 2018.

No submissions were received to either exhibition of the DoV.

**Other Matters**

The DoV has been reviewed by Council's legal advisors and they have confirmed that the attached copy shown at Attachment 1 is suitable for execution. They have also confirmed that it can be executed on behalf of Council by the Chief Executive Officer.

It is being recommended that the land to be dedicated as a park should be classified as "Community Land" under the Local Government Act. This is the appropriate classification for land used for open space purposes.

**Financial Implications**

There are beneficial financial implications associated with the changes to the Planning Agreement provided for by this DoV. As explained, the contributions under the existing Agreement are double the Development Contributions that would be paid in the absence of this Agreement and these contributions are being maintained for the additional 15 lots. As a result Council will incur direct financial benefits of $600,000 through this DoV, as well as the $4,400,000 already provided through the existing Planning Agreement. Additionally, the applicant is providing land for a park at the development site to provide some recreational amenity for the residents of the development and the local area. The value of this land has not been taken into account in determining the benefits under the DoV, however this is a favourable opportunity to obtain some recreational land in this area at no cost to Council.

**ATTACHMENTS**

1. **Deed of Variation of Planning Agreement executed by RRD PL**
2. **Plan for River Road Tahmoor for DoV received 7 Dec 2017**
3. **JR Stud Voluntary Planning Agreement (executed copy) - Signed and Dated**
4. **Court approved subdivison 165 River Road Tahmoor - July 2018**
5. **Recreational Embellishments 165 River Rd tahmoor**

**RECOMMENDATION**

That Council:

1. Agree to adopt the attached Deed of Variation to the executed Planning Agreement for the land at 165 River Road Tahmoor.
2. Agree to accept the land proposed to be dedicated as a park through the Deed of Variation and that it be classified as "Community Land" under the Local Government Act.
3. Agree for the Deed of Variation to be executed on behalf of Council by the Chief Financial Officer.

## 11.5 UPDATE ON PRE-GATEWAY DETERMINATION PLANNING PROPOSALS WITHIN THE METROPOLITAN RURAL AREA

**File Number: 10619#8**

### EXECUTIVE SUMMARY

- The purpose of this report is to update Council on the ongoing assessment of current Planning Proposals that have not received Gateway Determination.
- A report on six pre-gateway planning proposals was considered at the Ordinary Meeting of Council on 16 July 2018 (GR6). Council requested that individual reports for each proposal be submitted to the August Council meeting.
- Prior to reporting to Council on individual proposals, advice is required from the Local Planning Panel under Ministerial Direction 9.1.
- This report recommends that further individual reports for the relevant draft planning proposals come back to Council after advice has been provided by the Local Planning Panel.

### REPORT

On 16 July 2018, a report was considered by Council seeking broad direction on the assessment of draft planning proposals in the Metropolitan Rural Area that have not received a Gateway determination. A secondary objective of the report was to seek support on applying the suggested approach in light of six draft planning proposals in the Metropolitan Rural Area (MRA).

Council resolved not to consider the matter until a decision could be informed by the outcome of Greater Sydney Commission's Metropolitan Rural Area Technical Working Group. A copy of the report and minutes is provided at Attachment 1. Outcomes from the Technical Working Group were provided at a Councillor Workshop on Monday 23 July 2018.

It was always intended to individually report draft planning proposals following agreement on a consistent approach to applying consideration of the MRA. The preparation of individual reports will need to include a more comprehensive preliminary assessment of the draft planning proposals extending beyond consideration of the MRA. Before these individual reports can be considered by Council, the Ministerial Direction (section 9.1) requires '*a proposal' to be referred to the local planning panel for* advice *before it is forwarded to the Minister under section 3.34 of the Environmental Planning and Assessment Act 1979*. The individual reports on the six planning proposals will be presented to the Local Planning Panel and to Council thereafter.

It is anticipated that some or all of the draft planning proposals will be considered by the Local Planning Panel at their September 2018 meeting at the earliest. In order for the Local Planning Panel's advice to be considered as part of the preliminary assessment of draft planning proposals and to inform Council's decision it will not be possible to meet the timeframe for individual reports set by Council's July resolution.

It is proposed to individually report the draft planning proposals in the MRA to Council as soon as possible thereafter.

#### Consultation

The outcome of preliminary consultation will be included, where relevant, as part of future individual reports on draft planning proposals to Council.

#### Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates.

## ATTACHMENTS

**1. Minutes & Agenda from 16 July 2018 - GR6 Pre-Gateway Determination Planning Proposals within the Metropolitan Rural Area**

## RECOMMENDATION

That further individual reports for the draft planning proposals listed below come back to Council after advice has been provided by the Local Planning Panel:

- Eltondale Release Area
- West Thirlmere
- Tahmoor Town Centre Height Limit
- Barkers Lodge Road (Tourist Facilities & Residential)
- West Tahmoor Lot Size Amendment No.3
- 65-95 Ironbark Road, Bargo.

# 12 MANAGEMENT AND PROVISION OF INFRASTRUCTURE

## 12.1 TRAFFIC MANAGEMENT UPGRADES - JULY 2018

**File Number: 10619#7**

### EXECUTIVE SUMMARY

- The Local Traffic Committee Agenda was issued electronically on 11 July 2018 to consider a number of reports for traffic management in the Wollondilly Local Government Area. The agenda papers were also distributed to all Councillors.
- Responses from Committee Members were collated and are reported in the Minutes.
- This report recommends that the traffic management proposals, as considered by the Local Traffic Committee meeting of 18 July 2018, be adopted.

### REPORT

#### Background

The Local Traffic Committee is a Technical Committee of Roads and Maritime Services (RMS). The Committee operates under the authority conferred to Council by the RMS under the *Transport Administration Act 1988*.

Council has been delegated certain powers by the RMS with regard to traffic matters upon its local roads. A condition of this delegation is that Council must take into account the Local Traffic Committee advice.

There are four permanent members of the Local Traffic Committee, each of whom has a single vote only. The members are representatives of the NSW Police Force, the RMS, the Local State Member of Parliament (for the location of the issue to be voted upon) and a representative of Council.

The Minutes of the Local Traffic Committee meeting of 18 July 2018 have been distributed and are available on the Council website:

Traffic Committee Minutes - 18 July 2018

#### Consultation

Refer to Local Traffic Committee Agenda details included in the minutes.

#### Financial Implications

The proposals for Council projects contained within the Traffic Committee Agenda are able to be funded from Council's current budget allocations.

### ATTACHMENTS

**Nil**

**RECOMMENDATION**

That Council adopt the following traffic management upgrades for implementation:

**1. <u>Turner Street and Bell Street, Thirlmere – Proposed 150m of BB Type Centre Line Marking on Section of Road</u>**

52 TRIM 1598

The installation of BB type centre line marking as shown in the Local Traffic Committee Minutes of 18 July 2018

**2. <u>University of Sydney (Camden Campus), Werombi Road, Brownlow Hill – Proposed Traffic Management on Werombi Road and improvement to pedestrian safety</u>**

52 TRIM 1093

That 'No Stopping' signs be installed on both sides of Werombi Road, Brownlow Hill restricting on-street parking at this location.

## 12.2 RECOMMENDATION TO REJECT ALL TENDER RESPONSES TO REQUEST FOR TENDER #2018/11 FOR MINOR CIVIL WORKS AND SERVICES

**File Number: 10619#9**

### EXECUTIVE SUMMARY

- The purpose of this report is to inform Council that tenders were called for Minor Civil Works 2018/11 on 19 June 2018. These tenders cover civil works to be performed by contractors such as concreting, guardrail and line marking. These tenders closed on 10 July 2018. After the tenders closed, it was realised that the incorrect tender pricing schedules had been included in the tender returnables.
- This report recommends that Council reject all submitted tenders for the Minor Civil Works (2018/011) and re-run this tender with the correct documentation.

### REPORT

#### Background

Council has an existing tender for Minor Civil Works (2016/14). This tender was a panel contract with a two year term. This existing tender covers such items as concrete kerb construction, footpath construction, line marking and safety barrier installation. This tender expired in July 2018.

Due to the existing tender nearing the end of its validity period, Council prepared new tender documentation with additional items and modifications to specifications, conditions and returnables.

The new tender documents were uploaded and advertised through TenderLink and also local/regional publications (Wollondilly Advertiser and Sydney Morning Herald) on 19 June 2018. The tender closed on 10 July 2018 after a 22 day tender period with 17 tenders received.

Once tenders were received and compliance checks were performed, it was identified that the returnable schedule included in this tender was incorrect. An older version of the returnable schedule was included in the advertised documentation and, subsequently, completed by respondents. These schedules were incompatible with the specifications.

Discussions occurred as to the effect of the incorrect returnables. It was determined that the incorrect schedules made the tender responses and the specification incompatible and that it was necessary to reject the submissions and undertake a new tender process.

#### Consultation

When rejection of the tender is approved, all respondents will be contacted to inform them of this decision and to advise them of the subsequent new tender details.

#### Financial Implications

As the tenders have not been accepted, and the error was uncovered during the initial compliance checks, the only financial implication of rejecting the tenders and re-running this tender is the additional advertising costs which are a negligible amount.

The additional advertising costs are able to be funded from within existing budget allocations.

### ATTACHMENTS

**Nil**

**RECOMMENDATION**

That Council:

1. Reject all submitted tenders for the Minor Civil Works Tender #2018/11; and
2. Prepare, advertise and assess a new Minor Civil Works Tender.

## 13 CARING FOR THE ENVIRONMENT

Nil

## 14 LOOKING AFTER THE COMMUNITY

Nil

# 15 EFFICIENT AND EFFECTIVE COUNCIL

## 15.1 INVESTMENT OF FUNDS AS AT 30 JUNE 2018

**File Number: 10619#1**

### EXECUTIVE SUMMARY

- The purpose of this report is to provide details of Council's invested funds as at 30 June 2018.
- It is recommended that the information and certification in relation to the investment of funds as at 30 June 2018 be noted.

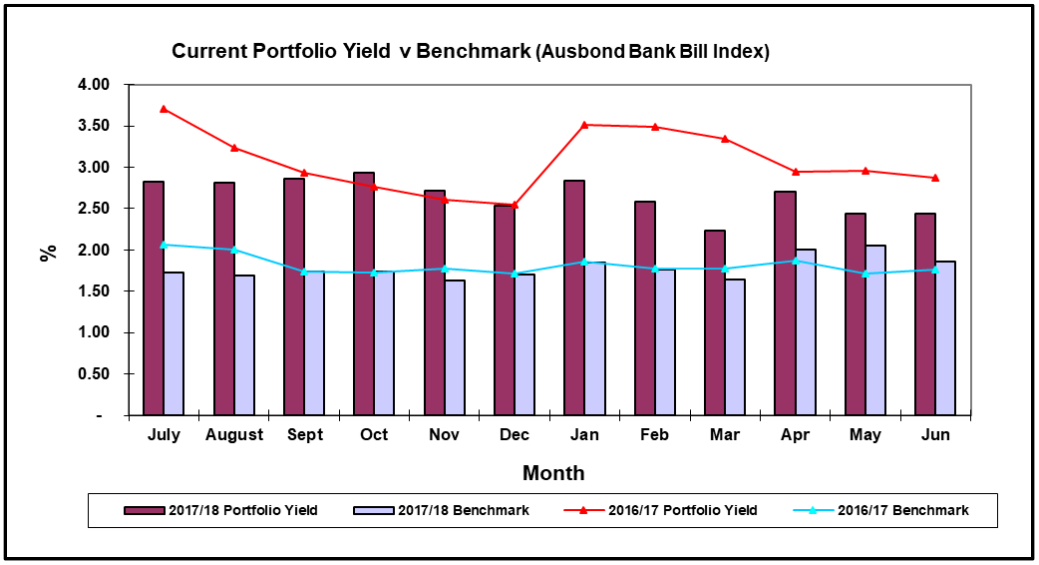
### REPORT

At its last meeting, the Reserve Bank maintained the cash rate at 1.50%. In relation to the domestic market, the Board of the Reserve Bank commented that:

> *"Financial conditions remain expansionary, although they are gradually becoming less so in some countries. There has been a broad-based appreciation of the US dollar. In Australia, short-term wholesale interest rates have increased over recent months. This is partly due to developments in the United States, but there are other factors at work as well. It remains to be seen the extent to which these factors persist.*
>
> *The recent data on the Australian economy continue to be consistent with the Bank's central forecast for GDP growth to average a bit above 3 per cent in 2018 and 2019. GDP grew strongly in the March quarter, with the economy expanding by 3.1 per cent over the year. Business conditions are positive and non-mining business investment is continuing to increase. Higher levels of public infrastructure investment are also supporting the economy. One continuing source of uncertainty is the outlook for household consumption. Household income has been growing slowly and debt levels are high.*
>
> *Higher commodity prices have provided a boost to national income recently. Australia's terms of trade are, however, expected to decline over the next few years, but remain at a relatively high level. The Australian dollar has depreciated a little, but remains within the range that it has been in over the past two years.*
>
> *The outlook for the labour market remains positive. Strong growth in employment has been accompanied by a significant rise in labour force participation. The vacancy rate is high and other forward-looking indicators continue to point to solid growth in employment. A gradual decline in the unemployment rate is expected, after being steady at around 5½ per cent for much of the past year. Wages growth remains low. This is likely to continue for a while yet, although the stronger economy should see some lift in wages growth over time. Consistent with this, the rate of wages growth appears to have troughed and there are increasing reports of skills shortages in some areas.*
>
> *Inflation is low and is likely to remain so for some time, reflecting low growth in labour costs and strong competition in retailing. A gradual pick-up in inflation is, however, expected as the economy strengthens. The central forecast is for CPI inflation to be a bit above 2 per cent in 2018."*

The majority of Council's investment portfolio (97%) is invested in deposits / securities with Australian Authorised Deposit taking Institutions (ADI's). Council has been taking advantage of term deposit "specials" from various institutions without overexposing the portfolio to any one institution. Note that the marked to market valuations on some of the direct investment products in Council's portfolio remain at less than the face value of the investment. The marked to market value of these investments is expected to be equal to or greater than the face value by the time they reach their maturity date. Early exit from these products would realise losses.

The following chart compares Council's portfolio yield with the benchmark AusBond Bank Bill Index rate in each month for 2016/17 and 2017/18.




As shown in the chart above, Council's portfolio yield has continually exceeded the benchmark AusBond 3 month Bank Bill Index due to the prudent investment of Council's portfolio.

Under Reg 212 of the Local Government (General) Regulation 2005, Council's Responsible Accounting Officer must provide Council each month with a written report setting out details of all money that Council has invested under section 625 of the Act.

Council's investment portfolio as at 30 June 2018 is summarised below.

**Investment Holdings**

| By Product | Face Value ($) | Current Value ($) | Current Yield (%) |
|---|---|---|---|
| Cash | 5,836,000.00 | 5,836,000.00 | 1.5500 |
| Floating Rate Note | 16,200,000.00 | 16,358,465.43 | 3.1514 |
| Mortgage Backed Security | 1,596,815.94 | 1,078,026.37 | 2.5287 |
| Term Deposit | 36,000,000.00 | 36,423,759.76 | 2.7400 |
| | **59,632,815.94** | **59,696,251.56** | **2.7366** |

Details of Council's investment portfolio as at 30 June 2018 are provided in attachment 1.

### Consultation

Independent advice regarding the investment of Council funds was provided by Prudential Investment Services Corp

### Financial Implications

Interest earned is allocated to restricted cash and income in accordance with Council's adopted budget, policy and legislative requirements.

The Reserve Bank of Australia has continued to keep interest rates low and the expected investment income will be reviewed and revised as more information becomes available.

**Certification**

I hereby certify that Council's investments have been made in accordance with Sec 625 of the Local Government Act 1993, clause 212 of the Local Government (General Regulations) 2005 and Council's Investment Policy.

Ashley Christie
Chief Financial Officer
WOLLONDILLY SHIRE COUNCIL

**ATTACHMENTS**

**1. Investment Summary Report as at 30 June 2018**

**RECOMMENDATION**

That the information and certification in relation to the investment of Council funds as at 30 June 2018 be noted.

# 16 NOTICE OF MOTION/RESCISSIONS

## 16.1 NOTICE OF MOTION - PICTON COURT HOUSE UPGRADES

**File Number: 10619#16**

I, Councillor Michael Banasik, give notice that at the next Ordinary Meeting of Council to be held on 20 August 2018, I intend to move the following motion.

### ATTACHMENTS

**Nil**

### MOTION

1. That Council write to the NSW Attorney General, Mark Speakman calling for urgent upgrades to the Picton Court House to cater for the increase usage at the court and for future population growth.
2. That Council send a copy of this motion to the MacArthur Law Society.

# 17 CLOSED REPORTS

Nil

# 18 QUESTIONS FOR NEXT MEETING

## 18.1 QUESTION FOR NEXT MEETING

**File Number: 10619#12**

Question

Nil.

**ATTACHMENTS**

**Nil**