



QUALITY NATURE - QUALITY HERITAGE - QUALITY LIFESTYLE

BUSINESS PAPER
EXTRAORDINARY COUNCIL
MEETING
15 NOVEMBER 2023

Notice is hereby given in accordance with the provisions of the *Local Government Act 1993*, and pursuant to Clause 3.3 of Council's Code of Meeting Practice that a **Extraordinary Council Meeting** will be held in the "Koreelah Room", Council Administration Building, 247 Rouse St, Tenterfield NSW, on **Wednesday 15 November 2023** commencing at **10:30am**.

Glenn Wilcox
General Manager

COMMUNITY CONSULTATION – PUBLIC ACCESS

Community Consultation (Public Access) relating to items on this Agenda can be made between 9.00 am and 9.30 am on the day of the Meeting. Requests for public access should be made to the General Manager no later than COB on the Monday before the Meeting.

Section 8 of the Business Paper allows a period of up to 30 minutes of Open Council Meetings for members of the Public to address the Council Meeting on matters INCLUDED in the Business Paper for the Meeting.

Members of the public will be permitted a maximum of five (5) 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 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 or in person prior to close of business on the Monday prior to the day of the Meeting. Persons not registered to speak will not be able to address Council at the Meeting.

Council will only permit two (2) speakers in support and two (2) speakers in opposition to a recommendation contained in the Business Paper. If there are more than two (2) 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 order and may be expelled.

CONFLICT OF INTERESTS

What is a "Conflict of Interests" - A conflict of interests can be of two types:

Pecuniary - an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary - a private or personal interest that a Council official has that does not amount to a pecuniary interest as defined in the Local Government Act (eg. A friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Remoteness

A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Who has a Pecuniary Interest? - A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- The person, or
- Another person with whom the person is associated (see below).

Relatives, Partners

A person is taken to have a pecuniary interest in a matter if:

- The person's spouse or de facto partner or a relative of the person has a pecuniary interest in the matter, or
- The person, or a nominee, partners or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.

N.B. "Relative", in relation to a person means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person's spouse;
- (b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

No Interest in the Matter

However, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body, or
- Just because the person is a member of, or is employed by, the Council.
- Just because the person is a member of, or a delegate of the Council to, a company or other body that has a pecuniary interest in the matter provided that the person has no beneficial interest in any shares of the company or body.

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee who has a pecuniary interest in any matter with which the Council is concerned and who is present at a meeting of the Council or Committee at which the matter is being considered must disclose the nature of the interest to the meeting as soon as practicable.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - A person does not breach this Clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.

Participation in Meetings Despite Pecuniary Interest (S 452 Act)

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 452 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

There are a broad range of options available for managing conflicts & the option chosen will depend on an assessment of the circumstances of the matter, the nature of the interest and the significance of the issue being dealt with. Non-pecuniary conflicts of interests must be dealt with in at least one of the following ways:

- It may be appropriate that no action be taken where the potential for conflict is minimal. However, Councillors should consider providing an explanation of why they consider a conflict does not exist.
- Limit involvement if practical (eg. Participate in discussion but not in decision making or vice-versa). Care needs to be taken when exercising this option.
- Remove the source of the conflict (eg. Relinquishing or divesting the personal interest that creates the conflict)
- Have no involvement by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in S451 of the Local Government Act apply (particularly if you have a significant non-pecuniary interest)

Disclosures to be Recorded (s 453 Act)

A disclosure (and the reason/s for the disclosure) made at a meeting of the Council or Council Committee or Sub-Committee must be recorded in the minutes of the meeting.

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## ORDER OF BUSINESS

### Community Consultation (Public Access)

1. Opening & Welcome
2. Civic Prayer & Acknowledgement of Country
3. Apologies
4. Disclosure & Declarations of Interest
5. Tabling of Documents
6. Urgent, Late & Supplementary Items of Business
7. Mayoral Minute
8. Open Council Reports
  - Our Community
  - Our Economy
  - Our Environment
  - Our Governance
9. Notices of Motion
10. Meeting Close

# **AGENDA**

## **COMMUNITY CONSULTATION (PUBLIC ACCESS)**

### **WEBCASTING OF MEETING**

This meeting will be recorded for placement on Council's website and livestreamed on Council's YouTube Channel for the purposes of broadening knowledge and participation in Council issues and demonstrating Council's commitment to openness and accountability.

All speakers must ensure their comments are relevant to the issue at hand and to refrain from making personal comments or criticisms or mentioning any private information.

No other persons are permitted to record the meeting, unless specifically authorised by Council to do so.

### **1. OPENING & WELCOME**

### **2. (A) OPENING PRAYER**

*"We give thanks for the contribution by our pioneers, early settlers and those who fought in the various wars for the fabric of the Tenterfield Community we have today.*

*May the words of our mouths and the meditation of our hearts be acceptable in thy sight, O Lord."*

### **(B) ACKNOWLEDGEMENT OF COUNTRY**

*"Tenterfield Shire Council would like to acknowledge the Ngarabal people, the traditional custodians of this land that we are meeting on today, and also pay our respect to the Jukembal, Bundjalung, Kamilaroi, Githabul and Wahlubul people of our Shire, and extend our respect to all people."*

### **3. APOLOGIES**

### **4. DISCLOSURES & DECLARATIONS OF INTEREST**

### **5. TABLING OF DOCUMENTS**

### **6. URGENT, LATE & SUPPLEMENTARY ITEMS OF BUSINESS**

### **7. MAYORAL MINUTE**

### **8. OPEN COUNCIL REPORTS**

**OUR COMMUNITY**

**OUR ECONOMY**

**OUR ENVIRONMENT**

**OUR GOVERNANCE**

(ITEM GOV70/23) NOTIFICATION TO IPART OF INTENT TO APPLY FOR A  
SPECIAL RATE VARIATION AND COMMENCE  
COMMUNITY CONSULTATION. .... 6

**9. NOTICES OF MOTION**

**10. MEETING CLOSED**

|                      |                                                                                                                   |
|----------------------|-------------------------------------------------------------------------------------------------------------------|
| <b>Department:</b>   | <b>Office of the Chief Corporate Officer</b>                                                                      |
| <b>Submitted by:</b> | Roy Jones, Acting Chief Corporate Officer                                                                         |
| <b>Reference:</b>    | <b>ITEM GOV70/23</b>                                                                                              |
| <b>Subject:</b>      | <b>NOTIFICATION TO IPART OF INTENT TO APPLY FOR A SPECIAL RATE VARIATION AND COMMENCE COMMUNITY CONSULTATION.</b> |

#### **LINKAGE TO INTEGRATED PLANNING AND REPORTING FRAMEWORK**

|                             |                                                                                                                                                      |
|-----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CSP Goal:</b>            | <b>Leadership</b> - Council is a transparent, financially-sustainable and high-performing organisation, delivering valued services to the Community. |
| <b>CSP Strategy:</b>        | Ensure Council operates in an effective and financially sustainable manner to deliver affordable services.                                           |
| <b>CSP Delivery Program</b> | Ensure that financial sustainability and the community's capacity to pay inform adopted community service levels.                                    |

#### **SUMMARY**

This report recommends that Council notify IPART (Independent Pricing and Regulatory Tribunal) of Council's intention to apply for a Section 508 A (Permanent) Special Rate Variation (SRV) and commence community consultation process for a Special Rate Variation.

The actual per cent rate increase and duration of the special rate will be based on three scenarios presented through the community consultation process which will commence from 24 November 2023.

#### **OFFICER'S RECOMMENDATION:**

##### **That Council:**

- (1) Notify the Independent Pricing and Regulatory Tribunal of its intent to apply under section 508A of the Local Government Act 1993 for a Special Rate Variation with the three scenarios.**
- (2) Authorises booking of venues for the purpose of Community Consultation commencing 28 November 2023.**
- (3) Receive a further report that will include a draft Application to the Independent Pricing and Regulatory Tribunal (IPART) under section 508A of the Local Government Act 1993 for an increase to the ordinary rate income.**

#### **BACKGROUND**

In the Financial Year 2023 Council applied to IPART to increase its general income by a cumulative 104.49% through a permanent special rate variation of 43% (including rate peg for financial year 2023/2024) and a further 43% (including rate peg for financial year 2024/2025).

IPART approved a one year special rate variation of 43% (including rate peg) for financial year 2023/2024. For the financial year 2024/2025 Council was prescribed the rate peg amount.

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The rate peg for FY 2023/2024 is 4.2%.

This equates to an approved rate variation of 38.8% excluding rate peg.

In monetary terms this 38.8% equals \$1.88 Million additional income.

Council had sought the funds be spent in accordance with the following categories:

75% of additional income – Roads, Transport, Stormwater and Drainage.

15% of additional income – Buildings Renewal and Maintenance

10% of additional income – Other assets (e.g. swimming pool, parks and open spaces)

| CATEGORIES                                                      | DISTRIBUTION       |
|-----------------------------------------------------------------|--------------------|
| <b>Roads, Transport, Stormwater and Drainage</b>                | \$1,408,493        |
| <b>Buildings Renewal and Maintenance</b>                        | \$281,699          |
| <b>Other assets (e.g. swimming pool, parks and open spaces)</b> | \$187,799          |
| <b>Total</b>                                                    | <b>\$1,877,991</b> |

As at 30 June 2022 Council's Own Source Operating Revenue was 32.79% which is significantly below the Office of Local Government benchmark of greater than 60%. This ratio as at 30 June 2023 is 24.08% (unaudited). This indicates that Tenterfield Shire Council is highly dependent on external grants and contributions for operational purposes

#### REPORT:

The New South Wales Local Government Act 1993 requires Council to sustainably manage its assets, resources, and finances.

Council's current Long Term Financial Plan which includes the approved special rate variation amount of \$1.88 Million forecasts a deficit range of \$3.8 Million each year within the general fund (Net Operating Result before Grants and Contribution provided for Capital purposes) for the next ten years without a special rate variation.

With this in mind, and noting Council's current financial position, Council has little option but to increase its revenue or significantly reduce costs through service reductions to close the financial gap of continuing forecasted operational deficits.

This significant challenge is forecasted as a result of:

1. Upgraded core infrastructure assets for Council as a result of grant funded works (e.g. replacing timber bridges with concrete bridges, and widening and sealing of Mount Lindesay Road),
2. New and upgraded community assets (e.g. public toilets, playgrounds and community halls),
3. The increased cost of asset replacement,
4. Increasing cost of managing grants applications and acquittals, and
5. Increased costs due to meeting regulated requirements (e.g. audit costs, emergency services levy, and ongoing disaster recovery management).



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## Community Consultation

Community consultation is a key component of the request for IPART to vary Councils rates income.

Three scenarios are presented for Council to consider:

- Scenario 1) No Special Rate Variation – Council applies the rate peg amount.
- Scenario 2) 30% (including rate peg in FY 2024/2025) and 10% (including rate peg in FY 2025/26).
- Scenario 3) 43% (including rate peg in FY 2024/2025)

It is a requirement that Council presents each scenario to community as part of its consultation process to best address the challenges currently facing council whilst considering rate payers capacity to pay the rates for each scenario.

The documents detailing the impact of each scenario will be made public from 24 November 2023.

## COUNCIL IMPLICATIONS:

### 1. Community Engagement / Communication (per engagement strategy)

Community and stakeholder information session to commence from 28 November 2023 to 1 December 2023 as per table below.

|                                 |                                         |
|---------------------------------|-----------------------------------------|
| Tuesday 28 November             | Staff and Councillor Briefing 8.30am    |
|                                 | Drake Community Hall (lunch)            |
| Wednesday 29 November           | Torrington Community Hall (morning tea) |
|                                 | Bolivia Community Hall (lunch)          |
|                                 | Tenterfield Memorial Hall 6pm           |
| Thursday 30 November            | Jennings Community Hall (morning tea)   |
|                                 | Mingoola Community Hall (lunch)         |
|                                 | Sunnyside Community Hall (6pm)          |
| Friday 1 <sup>st</sup> December | Liston Community Hall                   |
|                                 | Legume Community Hall                   |
|                                 | Urbenville Community Hall (4pm)         |

### 2. Policy and Regulation

- Local Government Act 1993
- Local Government (General) Regulation 2005
- NSW Local Government State Award
- An SRV requires compliance with S508(a) of the Local Government Act 1993 and associated guidelines and regulations.
- Independent Pricing and Regulatory Tribunal (IPART) processes

Our Governance No. 70 Cont...

### **3. Financial (Annual Budget & LTFP)**

- Scenario 1) Council will be highly dependent on loans
- Scenario 2) Council will still be required to undertake loans but at a reduced amount.
- Scenario 3) Council will be less reliant on loans.

As part of council continuous productivity improvements council must reduce operational cost and re-assess its capital works program.

### **4. Asset Management (AMS)**

Nil at the time of the writing of the report, however significant work would be required subject to the outcome of the proposed application as it is all focused on meeting the Asset Maintenance and Renewal outlined in the Asset Management Strategy.

### **5. Workforce (WMS)**

Nil at the time of the writing of the report, however significant work would be required subject to the outcome of the proposed application.

### **6. Legal and Risk Management**

Should Council not achieve the level of income required to service its asset base, the risk is that assets will deteriorate much quicker and not provide the level of community service required. Without appropriate intervention Council will see an increase in the asset maintenance and renewal gap required for future works.

### **7. Performance Measures**

Nil.

### **8. Project Management**

Nil.

**Glenn Wilcox**  
**General Manager**

|                               |                                           |
|-------------------------------|-------------------------------------------|
| Prepared by staff member:     | Roy Jones, Acting Chief Corporate Officer |
| Approved/Reviewed by Manager: | Glenn Wilcox, General Manager             |
| Department:                   | Office of the Chief Corporate Officer     |
| Attachments:                  | There are no attachments for this report. |