



# TAMWORTH REGIONAL COUNCIL

Notice is hereby given, in accordance with the provisions of the Local Government Act 1993, that a **Extraordinary 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**.

## EXTRAORDINARY COUNCIL AGENDA

**9 JUNE 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 of 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 DISCLOSURE OF INTEREST

Pecuniary Interest

Non Pecuniary Conflict of Interest

Political Donations

### OPEN COUNCIL REPORTS

### 4 INFRASTRUCTURE AND SERVICES

#### 4.1 TAMWORTH REGIONAL COUNCIL - WASTE MANAGEMENT WORKING GROUP TERMS OF REFERENCE – FILE NO SF3101

DIRECTORATE: WATER AND WASTE

AUTHOR: Bruce Logan, Director Water and Waste

**1 ANNEXURES ATTACHED**

#### RECOMMENDATION

*That in relation to the report “Tamworth Regional Council – Waste Management Working Group Terms of Reference”, Council adopt the Terms of Reference.*

#### SUMMARY

Council has had a Waste Management Working Group in place for more than 10 years. The present Council representatives on the Group are the Mayor, Councillor Col Murray and Deputy Mayor, Councillor Phil Betts. The Group has not met for some time, and staff are looking to re-establish regular meetings. During investigation it became apparent that Terms of Reference for the Group may not have been adopted by Council.

The purpose of this report is for Council to consider and adopt, as appropriate, the Waste Management Working Group Terms of Reference.

#### COMMENTARY

In accordance with the NSW Local Government Act 1993, Council established a Waste Management Working Group (WMWG) in late 2006. The original Terms of Reference for the WMWG, if ever compiled, cannot be located, and on that basis it is considered necessary for Council to adopt new Terms of Reference for the Group to guide its deliberations.

The primary objective of the WMWG is to:

- allow Council representatives on the Group the opportunity to provide advice and support to Council officers to guide decision making on the strategic development and operations of Council’s Waste Management;
- provide a forum for Council officers to raise issues and matters of strategic significance with Council representatives on the Group seeking input to inform decision making; and

- raise awareness amongst Councillors on the operations of Waste and Resource Recovery.

The Group is not a decision making body. All matters considered by the WMWG, which require formal resolution of Council before any action can be undertaken, will be subsequently reported to Council for direction as appropriate.

A draft Terms of Reference for the WMWG is **ATTACHED**, refer **ANNEXURE 1**.

**(a) Policy Implications**

Nil

**(b) Financial Implications**

Nil

**(c) Legal Implications**

Nil

**(d) Community Consultation**

Nil

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

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

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## **5 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.*

#### **5.1 RICHARDSON HOUSE, BARRABA – FILE NO LF7103**

**DIRECTORATE: CORPORATE AND GOVERNANCE**

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

**1 CONFIDENTIAL ENCLOSURES ENCLOSED**

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

## **SUMMARY**

The purpose of this report is to advise Council of an inquiry made by a local Solicitor on behalf of the Barraba and District Retirement Homes Association Incorporated regarding the property known as Richardson House, Gotha Street, Barraba.

### **5.2 EXTRACTION OF WATER FROM THE SCOTT ROAD DRIFT WELLS – FILE NO SF9442**

**DIRECTORATE:** WATER AND WASTE

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

**4 CONFIDENTIAL ENCLOSURES ENCLOSED**

Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (g) of the Local Government Act 1993, on the grounds that the matter and information is advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

## **SUMMARY**

An issue has arisen in relation to the continued extraction of water from Council's Scott Road Drift Wells.

### **5.3 HOPSCOTCH CAFE AND RESTAURANT AT TAMWORTH REGIONAL PLAYGROUND, BICENTENNIAL PARK TAMWORTH – FILE NO LF6602**

**DIRECTORATE:** CORPORATE AND GOVERNANCE

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

**Reference:** Item 8.11 to Ordinary Council 12 August 2014 - Minute No 213/14  
Item 13.4 to Ordinary Council 28 October 2014 - Minute No 345/14  
Item 8.5 to Ordinary Council 25 August 2015 - Minute 212/15  
Item 15.2 to Ordinary Council 23 August 2016 - Minute No 257/16  
Item 14.1 to Ordinary Council 22 November 2016 - Minute No 372/16  
Item 14.2 to Ordinary Council 23 May 2017 - Minute No 156/17

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

## **SUMMARY**

The purpose of this report is to advise Council of a request from the Lessee of the building known as Hopscotch Café and Restaurant located in Bicentennial Park and seek Council's further instructions in that regard.

**5.4 LICENCE AGREEMENT WITH THE NSW DEPARTMENT OF EDUCATION FOR USE OF RESIDENTIAL FACILITIES AT THE INTERNATIONAL FLIGHT TRAINING TAMWORTH COLLEGE – FILE NO SF10267**

**DIRECTORATE: BUSINESS AND COMMUNITY**

**AUTHOR: John Sommerlad, Director Business and Community**

Council will determine this matter in part of the Meeting closed to the public pursuant to Section 10A(2) (d)i&(d)ii of the Local Government Act 1993, on the grounds that the matter and information is 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**

The purpose of this report is to advise Council on negotiations with the NSW Department of Education for the use of the residential facilities at the Council-owned International Flight Training Tamworth college located at Tamworth Regional Airport. Also, it seeks Council's approval to have the Mayor and General Manager sign the agreement. The licence is for a limited period.



## **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.