



BUSINESS PAPER

EXTRA ORDINARY MEETING OF COUNCIL

To be held on

Wednesday, 19 April 2023

3:00pm

at

Walcha Council Chambers

2W Hamilton Street, Walcha

Members:

Mayor – Councillor Eric Noakes
Deputy Mayor – Councillor Scott Kermode
Councillor Mark Berry
Councillor Kevin Ferrier
Councillor Nena Hicks
Councillor Anne-Marie Pointing
Councillor Aurora Reilly
Councillor Gregory Schaefer

Quorum – 5 Members to be Present
WO/2023/00587

AGENDA

Submitted to Council: 19 April 2023

..... General Manager Mayor



Dear Mayor & Councillors

You are requested to attend the Extra Ordinary Meeting of the Walcha Council to be held in the Council Chambers, Hamilton Street, Walcha on **Wednesday, 19 April 2023** commencing at **3:00pm**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Phillip Hood'.

Phillip Hood
Interim General Manager

NOTICE:

The Ordinary, Extra-Ordinary and Committee open meetings of Council will be audio recorded for community transparency and minute taking purposes. The audio recording of all Ordinary and Extra-Ordinary Meetings of Council will be uploaded to Council's website.

ACKNOWLEDGEMENT OF COUNTRY:

We acknowledge the Dunghutti people as the traditional owners of the land that we meet on. We pay our respects to the Elders, past, present and emerging. We acknowledge and recognise their continuing connection to land, water and community of which we are a part.

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5. Closed Council
 - 5.1 Referral to Closed Council the following Reports:
 - 5.1.1 Award Tender RFT W22/221 – Derby Street Upgrade Design & Project Management;
 - 5.1.2 Award Tender for RFT W21/67 – Fixing Country Bridges Round 1: Construction of Army, Winterbourne and Mooraback Bridges; and



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- 5.1.3 Update on Tender RFT W22/224 – Walcha Skatepark Precinct
Renewal Construction only
 - 5.1.4 Planning Agreements for Renewable Energy Developments

Resolution to adjourn the Ordinary Meeting and to move into Closed Council and to exclude the Press and the Public from the entire proceedings of the Committee Meeting.

Resolution to move into Open Council.

The Mayor Publicly conveys the Resolutions passed in Closed Council Meeting.



Present:

Leave of Absence:

Clr Kermode - Received



Item 2:

Declarations of Interest



Item 3:

Matters of Urgency



Item: 3.1 **Ref:** WO/2023/00588
Title: Matters of Urgency – Extra Ordinary Meeting Business
Author: Mayor Eric Noakes
Previous Items: Not Applicable
Attachment: No

RECOMMENDATION: That the business to be discussed at today's ExtraOrdinary Meeting, being the awarding of Tenders for:

1. **Derby Street Upgrade**
2. **Fixing Country Bridges – Construction of Army, Winterbourne & Mooraback Bridges;**
3. **Tender W22/224 – Walcha Skatepark Precinct Renewal Construction only; and**
4. **Planning Agreements for Renewable Energy Developments.**

are of great **URGENCY** and requires a decision of Council before its next scheduled Ordinary Meeting on 26 April 2023

Report:

Councillors have been briefed in terms of the urgency of awarding these Tenders to ensure works are completed within grant funding guidelines.

Giving the timing of the Workshop and this ExtraOrdinary Meeting and subsequently notification under Section 367(1) of the *Local Government Act, 1993*, I table this Motion.

367 Notice of meetings

(1) *The general manager of a council must send to each councillor, at least 3 days before each meeting of the council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting.*



Item 4:

Senior Officers' Reports

RECOMMENDATION: That the Senior Officers' Reports be RECEIVED for further consideration.



Item: 4.1 **Ref:** WO/2023/00615
Title: Section 7.11 and 7.12 Contribution Plans
Author: Interim General Manager
Previous Items: Not Applicable
Attachments: Nil

Community Strategic Plan Reference:

Goal 3.2 – *The public health and wellbeing of the community will be protected and enhanced.*

Goal 6.1 – *Walcha’s distinct and diverse natural and built environment will be protected and enhanced.*

Goal 6.6 – *The character of Walcha and its surrounding villages will be maintained while protecting the productivity of our rural land.*

RECOMMENDATION: That Council:

- 1. Prepare a draft Section 7.11 Contributions Plan (Heavy Haulage) for Council consideration,**
 - 2. Review the draft Section 7.12 Contribution Plan for Council consideration, and;**
 - 3. Prepare a suitable Work Schedule for inclusion in the draft 7.12 Contribution Plan.**
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Introduction:

The funding of public infrastructure has changed substantially over the last 40 years, moving from traditional sources such as Commonwealth, State and Local Government budget allocations to a mix of sources ranging from public private partnerships to developer charges and user pays charges. The user pays philosophy underlying the funding of local infrastructure has existed in NSW since the 1940s when the planning process has had the ability to require developers to contribute to the provision of public facilities, the need for which arises as a result of the development. This report is to provide information about the preparation of a contributions framework for Council’s consideration.

Report:

Section 7.11.and 7.12 (formally Section 94 and 94A) of the *Environmental Planning & Assessment Act 1979* (EP&A Act) has traditionally been the principal method enabling councils to levy contributions for public amenities and services required as a consequence of development. This may be the provision of new facilities for a new area, the expansion of existing facilities where a developed area is growing, or compensatory funds for impacts on the local road network – particularly from heavy vehicles. Contributions are imposed by way of a condition of development consent or complying development, and can be satisfied by:

- dedication of land
- a monetary contribution



- material public benefit
- a combination of some or all of the above.

Since 1993 councils have been able to levy contributions only if they have prepared and exhibited a development contributions plan which has allowed the system to be made more transparent.

The local infrastructure contributions system is administered by Local Government as they are best placed to understand the needs of their communities. The NSW Planning sets the policy framework under which councils collect and administer contributions. This includes legislation, ministerial directions and practice notes.

There are three different methods to levy Contributions.

Section 7.11 Plan

Charged where there is a demonstrated link between the development and the infrastructure to be funded. Councils prepare contribution plans which specify what infrastructure will be provided and approximately how much it will cost. This is used to calculate a contribution rate, usually charged per dwelling.

This contribution plan can also be applied to recoup the cost of the impact on local roads by haulage of extractive materials such as gravel, sand, rock, minerals, etc.

Application:

- Optimum where growth is faster and higher levels of contributions are able to offset the considerable administration costs, financial risks and inefficiencies of managing money amongst and within the funds
- Areas with multiple owners who are unable to co-ordinate in offering dedications or works-in-kind
- Extractive industry development, or development resulting in significant impact by heavy haulage of extractive materials for construction.

Key issue:

- Substantial work required to satisfy statutory requirements against potential benefits

Section 7.12 Plan

An alternative to S7.11 contributions, charged as a percentage of the estimated cost of development. The maximum percentage that can be charged in most areas is 1%.

Application:

- Little growth and slow accrual of funds in established urban areas or rural areas, or where provision of facilities benefits a dispersed set of contributors
- Areas with multiple ownership with little scope for land



	<p>dedications or works-in-kind</p> <ul style="list-style-type: none">• Costs of needed infrastructure are relatively low and spread over time <p>Key issue:</p> <ul style="list-style-type: none">• Lower level of contributions but greater flexibility in expenditure
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Planning Agreement	<p>These are negotiated between a developer and a council, for the provision of infrastructure to support communities.</p> <p>Application:</p> <ul style="list-style-type: none">• One or few owners that have an incentive to fund infrastructure• More successful where major growth or development occurs in a distinct area• Can offer different and better outcomes through efficiencies in the process or through innovation by the parties <p>Key issue:</p> <ul style="list-style-type: none">• Are the outcomes worth the substantial effort required to implement a satisfactory agreement
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The decision on the type of contributions system to adopt should be considered in light of a council's corporate-wide strategy of infrastructure funding. The making of a development contributions plan places a financial obligation on council to deliver the public amenities and public services which it has identified and for which development contributions are then sought. Planning agreements may also lock in a council for the provision or funding of infrastructure. The preparation of a development contributions plan and the levying of contributions under that plan, or entering into a planning agreement, are discretionary powers of council.

To complete a Contribution Plan the following steps are required to be undertaken:

1. Prepare a draft Plan as per the requirements of the *Environmental Planning & Assessment Act 1979* and its associated Regulations
2. The draft Plan will be considered by Council
3. The draft Plan will be public exhibited and public consultation undertaken
4. All submissions will be considered by Council
5. The draft Plan will be endorsed by Council
6. The Plan will commence as at the date of a public notice regarding the endorsement.

Conclusion:

A Section 7.11 Contribution Plan is the most suitable Plan to use when assessing the impact of development where there is demonstrated link between the development and the infrastructure to be funded, or where the development has significant impacts



from Heavy Haulage. For Walcha Council, it is likely that impacts from the latter (Heavy Haulage) would be a more common application of Section 7.11 and Council's Section 7.11 Plan should be drafted with this focus in mind.

A Section 7.12 Plan is considered to be the most appropriate form of contribution plan in other cases (development with no, or minor, impacts from heavy haulage, and/or no demonstrated link between the development and infrastructure) with a specific emphasis on the schedule of works to ensure that it aligns with Council's current priorities. The Works Schedule is to include the following:

- A. Completed works for which contributions will be recouped
- B. Works in progress for which contributions will continue to be levied
 - 1. Stormwater Drainage
 - 2. Road Transport
- C. New Public facilities for which contributions will be sought
 - 1. Public Facilities
 - i. Community Improvement
 - ii. Stormwater Drainage
 - iii. Environmental Management
 - iv. Parks
 - v. Transport
 - vi. Road Intersection upgrades

Each project has a staging ranking being:

Short Term	1-2 years
Medium Term	3-4 years
Long Term	5-10 years
Ongoing, continuous work	

Legal Implications:

Consideration under the provisions of *the Environmental Planning & Assessment Act 1979, and associated Regulations (2021)* will be followed as part of the preparation process. The 2021 Regulations which commenced in March 2022 detail the Plan content, restrictions and process for legalising the Plans. The legislated process, content and exclusions will be considered as part of any draft plan preparation.

Financial Implications:

The collection of S7.11 and S7.12 levy increases Council capacity provide and augment public amenities, assets and services.

Environmental Implications:

Nil



Social Implications:

Nil

Policy Implications:

These Contribution Plans will be considered new Policies of Council.



Item 5:

Referral to Closed Council Meeting



Item: 5.1 **Ref:** WO/2023/00611
Title: Referral to Closed Meeting the following Reports:
1. Award Tender – Derby Street Upgrade Design & Project Management
2. Select Tenderer – Fixing Country Bridges Round 1: Construction of Army, Winterbourne and Mooraback Bridges;
3. Tender W22/224: Walcha Skatepark Precinct Renewal Construction only; and
4. Planning Agreements for Renewable Energy Developments.
Author: Interim Director Infrastructure & Development
Previous Items: Nil
Attachment: Nil

RECOMMENDATION: That, in accordance with the provisions of Section 10A (2)(c) of the *Local Government Act, 1993*, the matters of:

1. Award Tender RFT W22-221 – Derby Street Upgrade Design & Project Management;
2. Select Tenderer RFT W21/67 – Fixing Country Bridges Round 1: Construction of Army, Winterbourne & Mooraback Bridges; and
3. Update on Tender RFT W22/224 – Walcha Skatepark Precinct Renewal Construction Only; and
4. Planning Agreements for Renewable Energy Developments.

be referred to be discussed in Closed Council and close the meeting to the public for the reason that the reports relate to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

Introduction:

Council approval is sought for matters to be discussed in Closed Council.

Report:

Council approval is requested to refer matters for discussion in Closed Council and close the Meeting to the public in accordance with the provisions of Section 10A (2)(c) of the Local Government Act, 1993.

Approval to refer the matters to Closed Council is sought because the report relates to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.