



14th of July 2022

Tenterfield Shire Council
Daryl Buckingham - CEO
Tenterfield Shire Council
NSW 2372

By email / Australia Post

**Breach of Local Government Act and Regulations
Failed Community Consultation – Invalid Community Strategic Plan and Subsidiary Plans**

Mr Buckingham

This is to inform you that the undersigned, in representation of its members and the wider community of the Tenterfield Shire hereby put the Tenterfield Shire Council Administration and the Councillors on notice for the above-mentioned breach of Government Legislation.

We therefore request that this failure to comply be promptly remedied by means of annulment of the report to Council, annulment of the Community Strategic Plan and its subsidiary plans, annulment of the so-called Community Consultation AND a complete repetition of the community consultation process (transparent and inclusive), rewrite of the strategic plan and subsidiary plans based on the then actual input from the community.

Details:

1. At no point during the so-called Public Consultation period did Council inform the community openly about the projected 200% rate increase (over 10 years). The document *TSC-Community-Strategic-Plan-Financial-Sustainability-Presentation-to-Community-Consultation-Sessions-April-2022*, which showed the proposed rate rises, **was only presented to those attending the consultation meetings**. The document was NOT available on the Council's website at the time and was only added to the website shortly before the consultation period ended on the 2nd of May 2022. This shows how the Council avoided consultation related to TWO MOST IMPORTANT ASPECTS for this community – **Rate Rises and Financial Sustainability**.

OSOCI did pick up a personal Facebook post by the Mayor in early April that informed about a proposed 79% rate increase and within one week of simple public information, OSOCI attracted around 300 attendees to an information session. This shows that the community does understand and is interested to participate in those

consultations, should the Council openly inform about those topics instead of hiding the information.

The Council-driven “Lack of Information and Misleading Information” campaign continued via multiple media, including Radio, Facebook and the monthly newsletter all the way to the Council Meeting on the 25th of May at which a significant number of residents attended to personally object to the proposed Budget and CSP. At this meeting, more than half of the available seats in the Council chambers were occupied by Council workers and the projection of the meeting to the audience standing outside was “unavailable due to lack of personnel”.

MAYORAL MESSAGE

ADDRESSING RECENT COMMUNITY DISCUSSIONS

As required by State legislation, Tenterfield Shire Council (TSC) is reviewing its 10-year Strategic Plan, 4-year Delivery Program, 2022/23 Operational Plan and its Long-Term Financial Plan – with drafts available on Council’s website. Council has held community consultations in Tenterfield (2), Jennings, Sunnyside, Mingoola, Torrington, Bolivia, Drake, Urbenville, Legume and Liston.

As part of the review of the Long-Term Financial Plan, an application for a Special Rate Variation (SRV) rate rise of 81% over two or three years has been proposed to fund current and future Council operations. The proposed rise only refers to the first two lines of your annual rates notice – the Rating category ad-valorem (value) and the Base Amount. It DOES NOT apply to fees and charges on the rates notice.



Figure 1: Incorrect information in Council Newsletter. Year on year increase by 40.5% is NOT 81% but 97.4%.

With the underlying rate increase – the actual increase over 2 (or 3 years) is 109%.

2. During the Chamber of Commerce Meeting on the 29th of April 2022, you, as the CEO of Tenterfield Shire Council (TSC), openly stated in front of approximately 50 participants **“that the Community Strategic Plan (CSP) is not of importance or significance, is FLUFF only and does not need the attention of the community”**.

This statement was made in response to concerns raised by the community (during the consultation phase) about the lack of relevance of the then proposed CSP.

Your response was received and understood by the attendees as an attempt to discourage community members from participating in the ongoing consultation.

As you are well aware, the Community Strategic Plan is "the highest level of strategic planning undertaken by a council... **All other plans must support achievement of the Community Strategic Plan objectives.**"

See: <https://www.olg.nsw.gov.au/wp-content/uploads/2021/11/IPR-Guidelines-2021.pdf>

Your statement was untrue and misleading. Your behaviour is in direct contradiction of said Strategic Planning documents that proclaim an open and inclusive way of community engagement and integration.

3. The Community Consultation Period ended on the 2nd of May 2022 and OSOCI have evidence of large numbers of submissions made to the nominated Council contact and Councillors alike (concurrently) in a compliant and timely manner.

None of this community input was subsequently included in the CSP or Budget.

A meeting was held between you, the CEO, Daryl Buckingham; COO, Kylie Smith; Jeff Gray; and Christian Uhrig on the 5th of May 2022 in your office. During this meeting you were requested to confirm the next steps of the Community Consultation (CC) and how the input from the community will be included in the CSP. COO and CEO both confirmed that the results will be collated by the department managers, then presented to the Councillors and then the content be included in the final CSP Draft. Despite your confirmation, this did not happen.

This behaviour is also deemed to be exclusive, deceptive, misleading and thereby raises cause for the above claim.

4. Subsequently, the CSP and IP&R Report (Item GOV43/22 - Page 282ff) were presented to the Council at the meeting on 25th of May for adoption.

The report falsely concludes the following (highlighted sections):

"...In summary, staff found that the second round of community engagement focused primarily on the Special Rate Variation (SRV) included in the Long-Term Financial Plan and subsequent service level requirements. This feedback will form the basis for the SRV Consultation required for the application to IPART and has been provided to staff to ensure that community ideas and concerns around Council operating processes, in the The Community Strategic Plan and associated documents, that according to the Office of Local Government NSW, must identify the main priorities and aspirations of the area for the next ten years. Therefore, the Community Strategic Plan leans more heavily towards the first round of Community Consultation meetings.

This process identified clearly that people involved in the consultation were generally happy with the current breadth and level of Council Service except for Roads. However, at this juncture there was no consensus as to service level reductions that would have a material impact the scenario's contained in the Long-Term Financial Plan. As such the Delivery Program is a reflection of the current levels of Service and activities that will form the basis of this Term of Council."

This constitutes a clear breach of the requirements under the Local Government Act – Section 402 of the Act – in as much as the Community Strategic Plan:

- a. **FAILS** to identify the main priorities and aspirations for the future of the local government residents.
- b. **FAILS** to prepare and implement a Community Engagement Strategy based on social justice principles for engagement with the local community in developing the Community Strategic Plan.

as well as Section 402A of the Act – in as much as the Council:

- c. **FAILS** to implement its own "community engagement strategy" – for engagement with the local community when developing its plans, policies and programs and for the purpose of determining its activities (other than routine administrative matters).

as well as Section 406 of the act – in as much as the Council:

- d. **FAILS** to comply with the requirements under this section, the respective clauses in the Local Government Regulations – in particular

Division 1A Strategic planning

196A Integrated planning and reporting guidelines — the Act, s 406

A council must comply with the integrated planning and reporting guidelines in the document entitled *Integrated Planning and Reporting Guidelines for Local Government in NSW*, published on the website of the Department, as in force from time to time.

Local Government Act

Following is a summary of the requirements of section 402 of the Act:

Community Strategic Plan

- Each local government area is to have a Community Strategic Plan that has been developed and endorsed by the council.
- The Community Strategic Plan is to identify the main priorities and aspirations for the future of the local government area.
- The Community Strategic Plan must cover a minimum timeframe of 10 years.
- The Community Strategic Plan must establish strategic objectives together with strategies to achieve those objectives.
- It must address social, environmental, economic and civic leadership issues in an integrated manner.
- The council must ensure the Community Strategic Plan is adequately informed by relevant information relating to social, environmental, economic and civic leadership issues.

- It must be based on the social justice principles of equity, access, participation and rights.
- The Community Strategic Plan must give due regard to the State Plan and other relevant state and regional plans.

Community Engagement

- Each council must prepare and implement a Community Engagement Strategy based on social justice principles for engagement with the local community in developing the Community Strategic Plan.

Submitting the Community Strategic Plan

- Councils must provide the Deputy Director General (Local Government) with a copy of the Community Strategic Plan and any amendment of the plan, within 28 days of the plan (or amendment) being endorsed.

Figure 2: Extract of the Integrated Planning and Reporting Guidelines for Local Government in NSW.

Council have received official objections to the report, CSP and Budget from the wider community – **these objections were ignored. To date there has NOT been a single meaningful response to community members from the TSC Administration or Councillors.**

The Council passed that report which does NOT represent the community's position (needs and wants) and its acts and omissions directly contradict the publicly declared purpose, values and objectives set in the *Community Engagement Strategy* and the *Community Strategic Plan*.

As such both Councillors and Council Administration have failed to fulfil their legal obligations as they have not followed due process and not satisfied the requirements under the Act and regulatory framework.

Councillors and Council Administration are practising and operating to EXCLUDE the community, which has given clear directions and requests in regard to the finances and operation of the Tenterfield Shire.

Therefore:

- the CSP must be considered null and void and all subsequent actions are invalid as the CSP is the basis of all Council activities.
- Council's activities must be suspended and the CSP be redone.

- as the consultation process also informs the adopted Financial Budget – it must be investigated to establish to what extent the failed consultation/engagement has affected the adopted budget – which shows a detrimental deficit both current and \$50 million over the coming 10 years.
- as the IP&R process also informs the adopted Resourcing Plan (amongst others) – it must be investigated to what extent the failed consultation/engagement has affected the Resourcing Strategy as a whole (predominantly Workforce and Financial Plan) – which shows a detrimental deficit due to overstaffing.

With regard to the proposed SRV, the Council was required to have discussions with the community about service levels and funding priorities and, **with the community, determine that a rate variation is the best way to achieve financial sustainability.**

This did not happen.

Yet, a 109% Rate increase over 2–3 years and 200% Rate increase over 10 years is currently promoted as the preferred option considered by Council to allow this administration to keep their top-heavy management structure that does NOT service the actual needs of their ratepayers and specific demographic.

We therefore request remediation by means of annulment of the report to Council, annulment of the Community Strategic Plan, annulment of the so-called Community Consultation AND a complete repetition of the consultation process and rewrite of the Community Strategic Plan based on actual input from the community.

In addition to the above, we request that OSOCI representatives are included in future planning and decision making. Your open-door statement and conditional offer to consider certain input is not satisfactory. You are not entitled or authorised to operate in isolation of the clearly identified and specified requests and needs of the wider community.

Respectfully submitted on behalf of its members and the supporting community members

by the OSOCI Executive Team



cc: all Councillors

This letter will also be made available publicly via website and other media