



MINUTES

Extraordinary Council Meeting

11 February 2020

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**MINUTES OF WOLLONDILLY SHIRE COUNCIL
EXTRAORDINARY COUNCIL MEETING
HELD AT THE COUNCIL CHAMBER, 62-64 MENANGLE STREET, PICTON NSW 2571
ON TUESDAY, 11 FEBRUARY 2020 AT 8.10PM**

PRESENT: Cr Judith Hannan, Cr Robert Khan, Cr Michael Banasik, Cr Blair Briggs, Mayor Matthew Deeth, Cr Matthew Gould, Cr Simon Landow, Cr Noel Lowry, Cr Matt Smith

IN ATTENDANCE: Chief Executive Officer, Chief Financial Officer, Executive Director Community & Corporate, Director Infrastructure & Environment, Director Planning, General Counsel, Manager Sustainable Growth, Manager Development Services, Two Minute Takers.

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 that open sessions of this meeting are webcast live for public viewing on Council's website. Audio and video footage taken is of the Chambers only; your image and voice will not be recorded if you remain quietly within the public gallery.

4 NATIONAL ANTHEM

5 ACKNOWLEDGEMENT OF COUNTRY

The Mayor acknowledged the traditional Custodians of the Land:

I would like to pay my respect and acknowledge the traditional custodians of the land on which this meeting takes place, and also pay respect to Elders both past and present.

6 APOLOGIES AND LEAVE OF ABSENCE REQUESTS

None for this meeting.

7 DECLARATION OF INTEREST

Cr Gould declared a perceived Non-Pecuniary (less than significant) Interest in Item 10.1 - 2019/20 Bushfire Relief and Recovery as he is a member of the Rural Fire Service. Cr Gould advised he will remain and vote on the item.

Cr Briggs declared a perceived Non-Pecuniary (less than significant) Interest in Item 10.1 - 2019/20 Bushfire Relief and Recovery as he is a member of the Rural Fire Service. Cr Briggs advised he will remain and vote on the item.

Cr Smith declared a perceived Non-Pecuniary (less than significant) Interest in Item 10.1 - 2019/20 Bushfire Relief and Recovery as he is a member of the Rural Fire Service. Cr Smith advised he will remain and vote on the item.

8 ITEMS TO BE TABLED

None for this meeting.

9 SUSTAINABLE AND BALANCED GROWTH

9.1 LEP REVIEW PROGRAM - ENDORSEMENT FOR WOLLONDILLY 2040 FINAL DRAFT LOCAL STRATEGIC PLANNING STATEMENT (LSPS)

MOTION

Moved: Cr Matthew Gould

Seconded: Cr Simon Landow

That Council:

1. Endorses the final draft Local Strategic Planning Statement (LSPS), Wollondilly 2040, for referral to the Greater Sydney Commission for the purposes of assurance *with the following amendment:*
 - (a) *Include the following additional text in Planning Priority 18 at the end of the 7th paragraph: "Before Council can consider planning proposals for local growth in the Shire, Council will develop an appropriate emergency management approach to these hazards. This response will be informed by a study to be prepared in partnership with emergency services agencies. "*
2. *Considers funding for the emergency management study referred to in Planning Priority 18:12 in the 2020/21 budget process;*
3. Delegates authority to the Chief Executive Officer to make any minor typographical or editing amendments to Wollondilly 2040 if required;
4. Subject to receiving a formal letter of support from the Greater Sydney Commission, delegates authority to the Chief Executive Officer to make the Local Strategic Planning Statement on Council's behalf in accordance with Section 3.9(3A) of the Environmental Planning & Assessment Act 1979; and
5. Notes that if further significant changes are required to the Local Strategic Planning Statement, these will be reported to a future meeting of Council scheduled to satisfy the statutory requirement for the Statement to be made by 31 March 2020.

Cr Landow moved an amendment.

AMENDMENT

Moved: Cr Simon Landow

Seconded: Cr Michael Banasik

That Council:

1. Endorses the final draft Local Strategic Planning Statement (LSPS), Wollondilly 2040, for referral to the Greater Sydney Commission for the purposes of assurance with the following amendment:

- (a) Include the following additional text in Planning Priority 18 at the end of the 7th paragraph: "Before Council can consider planning proposals for local growth in the Shire, Council will develop an appropriate emergency management approach to these hazards. This response will be informed by a study to be prepared in partnership with emergency services agencies."
2. Considers funding for the emergency management study referred to in Planning Priority 18:12 in the 2020/21 budget process;
 3. Delegates authority to the Chief Executive Officer to make any minor typographical or editing amendments to Wollondilly 2040 if required;
 4. Subject to receiving a formal letter of support from the Greater Sydney Commission, delegates authority to the Chief Executive Officer to make the Local Strategic Planning Statement on Council's behalf in accordance with Section 3.9(3A) of the Environmental Planning & Assessment Act 1979; and
 5. Notes that if further significant changes are required to the Local Strategic Planning Statement, these will be reported to a future meeting of Council scheduled to satisfy the statutory requirement for the Statement to be made by 31 March 2020.
 6. *That the endorsement of the LSPS is not an endorsement or support for climate change. Council does not have a role to play in setting a policy position on climate change.*

On being put to the meeting the motion was declared **LOST 2/7**

In Favour: Crs Michael Banasik and Simon Landow

Against: Crs Judith Hannan, Robert Khan, Blair Briggs, Matthew Deeth, Matthew Gould, Noel Lowry and Matt Smith

As the amendment was lost the original motion was put to the meeting.

RESOLUTION 1/2020

Moved: Cr Matthew Gould

Seconded: Cr Simon Landow

That Council:

1. **Endorses the final draft Local Strategic Planning Statement (LSPS), Wollondilly 2040, for referral to the Greater Sydney Commission for the purposes of assurance *with the following amendment:***
 - (a) ***Include the following additional text in Planning Priority 18 at the end of the 7th paragraph: "Before Council can consider planning proposals for local growth in the Shire, Council will develop an appropriate emergency management approach to these hazards. This response will be informed by a study to be prepared in partnership with emergency services agencies."***
2. ***Considers funding for the emergency management study referred to in Planning Priority 18:12 in the 2020/21 budget process;***
3. **Delegates authority to the Chief Executive Officer to make any minor typographical or editing amendments to Wollondilly 2040 if required;**
4. **Subject to receiving a formal letter of support from the Greater Sydney Commission, delegates authority to the Chief Executive Officer to make the Local Strategic Planning Statement on Council's behalf in accordance with Section 3.9(3A) of the Environmental Planning & Assessment Act 1979; and**
5. **Notes that if further significant changes are required to the Local Strategic Planning Statement, these will be reported to a future meeting of Council scheduled to satisfy the statutory requirement for the Statement to be made by 31 March 2020.**

On being put to the meeting the motion was declared **CARRIED 5/4**

In Favour: Crs Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould and Simon Landow

Against: Crs Judith Hannan, Robert Khan, Noel Lowry and Matt Smith

At 9:18pm, Cr Michael Banasik left the meeting.

10 LOOKING AFTER THE COMMUNITY

10.1 2019/20 BUSHFIRE RELIEF & RECOVERY

At 9:19pm, Cr Michael Banasik returned to the meeting.

A minutes silence was observed for the firefighters who lost their lives.

RESOLUTION 2/2020

Moved: Mayor Matthew Deeth

Seconded: Cr Blair Briggs

That Council:

1. Express its heartfelt thanks and congratulations to the Rural Fire Service, NSW Fire and Rescue, NSW Police, the State Emergency Service, all other emergency service organisations, all community organisations and volunteer groups, and the community of Wollondilly as a whole for coming together with courage and selflessness to help and support each other throughout this crisis and in its aftermath.
2. Note the range of community recovery initiatives undertaken to date by Council to support the community in recovery from the 2019/20 bushfires including approximately \$1.7m invested in bushfire response and clean up to date.
3. Waive Council development application fees for residents whose homes, outbuildings and businesses have been lost or rendered uninhabitable in the current bushfire emergency, to be resourced from existing operational budgets, as follows:
 - a. Pre-lodgement advice fees;
 - b. Development application fees;
 - c. Construction & occupation certificate fees;
 - d. Pool inspection fees;
 - e. Related application fees under Section 68 of the Local Government Act and Section 138 of the Roads Act.
4. Write to the NSW Minister for Planning & Public Spaces the Hon. Rob Stokes MP and the Minister for Disaster Recovery the Hon. John Barilaro MP to request that the NSW Government waive all its development application fees that are collected on behalf of the NSW Government by Council for residents whose homes and outbuildings have been lost or rendered uninhabitable.
5. Allocate funding from the Commonwealth Government's \$1 million Recovery Grant, provided to Council for projects and activities essential for the recovery and renewal of their communities, as follows:
 - a. *\$100,000 to establishing a Rates Payment Assistance Grant to directly support ratepayers whose homes are lost or uninhabitable due to the fires;*
 - b. *\$100,000 to support small business recovery within bushfire affected communities with economic development and tourism projects;*
 - c. *\$250,000 to fund high priority clean-up and repair costs for infrastructure assets in bushfire affected communities where other government funding sources are not applicable;*
 - d. *\$550,000 to fund the following community infrastructure in villages most significantly impacted by the fires:*
 - i. *a suitable memorial to honour the memory of Deputy Captain Geoffrey*

- Keaton and Firefighter Andrew O'Dwyer who tragically lost their lives in Buxton protecting our community*
- ii. *an appropriate youth facility and supporting infrastructure at Telopea Park, Buxton*
 - iii. *A small scale BMX track in Bargo, in a suitable location*
 - iv. *A small scale BMX track in Oakdale, in a suitable location*
6. *Consult with the relevant communities in relation to point 5(d) noting the Federal Governments requirement to provide a Program of Works by March 2020.*
 7. *Should other grant sources become available for any of the allocated funding that a report be brought forward to Council for consideration regarding the re-allocation of these funds.*
 8. *That the CEO review the capital works program to seek to bring forward capital works projects in other fire effected areas.*
 9. *Work with the Rural Fire Service and local brigades to identify and deliver appropriate infrastructure projects and station enhancements as identified by the brigades. That where this work cannot be funded through the RFS, a report be brought to identify funding to deliver these works.*
 10. *Review with the mayoral fund committee the guidelines to ensure it meets the needs of impacted residents and that a letter be sent to those whose homes were lost or uninhabitable due to the fires outlining available grant opportunities.*
 11. *Undertake a debrief, review and enhancement of council's recovery and resilience programs through a series of workshops and forums with all relevant community stakeholders. That a report on the findings be presented to council. Further that council seek funding opportunities to enable this review and if an external funding source cannot be found the matter be reported back to council to identify internal funding.*
 12. *Holds a community concert event "Band Together 2020" on March 28 at Tabcorp Park Menangle to:*
 - a. *Express thanks to the RFS and other emergency services who worked tirelessly to save our community*
 - b. *Support community recovery by reconnecting people in a spirit of gratitude and resilience*
 - c. *Provide free tickets to RFS members, SES, Emergency Services and their families and fire affected residents*
 - d. *Distribute funds raised from the event to the local RFS units, along with the local SES, WIRES and Sydney wildlife groups.*
 13. *Seeks to cover the costs of holding "Band Together 2020" through corporate and community sponsorship and volunteerism. That should alternative funding be identified for economic development and tourism that Council be consulted as to whether it can be allocated towards any potential unfunded shortfall for the event.*

On being put to the meeting the motion was declared **CARRIED 9/0**

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould, Simon Landow, Noel Lowry and Matt Smith

Against: Nil

At 9:50pm, Cr Noel Lowry left the meeting and at 9:52pm he returned to the meeting.

MATTER OF GREAT URGENCY PROCEDURAL MOTION

RESOLUTION 3/2020

Moved: Cr Michael Banasik

Seconded: Cr Blair Briggs

That Council consider a resolution about the governing body making representation to the Local Planning Panel in relation to Item: 430 - 490 Douglas Park Drive, Douglas Park – Concept Development Approval for a Cemetery including Earthworks, Landscaping, Water Storage, Roads and Car Parking and approval for Building envelopes the following proposed resolution as a matter of great urgency as the meeting is on 13 February 2020.

On being put to the meeting the motion was declared **CARRIED 9/0**

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould, Simon Landow, Noel Lowry and Matt Smith

Against: Nil

The Mayor ruled that this motion is of great urgency as the LPP meets on the 13 February 2020.

SUBMISSION TO THE LPP ON THE DOUGLAS PARK CEMETERY PROPOSAL

RESOLUTION 4/2020

Moved: Cr Michael Banasik

Seconded: Cr Blair Briggs

That Council:

- 1. Make representation to the Local Planning Panel on 13 February 2020 in relation to Item: 430 - 490 Douglas Park Drive, Douglas Park – Concept Development Approval for a Cemetery including Earthworks, Landscaping, Water Storage, Roads and Car Parking and approval for Building Envelopes.**
- 2. Nominate the Mayor or his representative to make a submission to the LPP meeting and represent the community on this matter and ensure their concerns are heard.**

On being put to the meeting the motion was declared **CARRIED 9/0**

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould, Simon Landow, Noel Lowry and Matt Smith

Against: Nil

MATTER OF GREAT URGENCY PROCEDURAL MOTION

RESOLUTION 5/2020

Moved: Cr Noel Lowry
Seconded: Cr Judith Hannan

That Council consider in closed session a rescission motion lodged today and a subsequent resolution in relation to seeking a Judicial Review of the decision of the Sydney Western City Planning Panel of 8 October 2019 in the Wilton South East - Stage 1 Development Application in the NSW Land and Environment Court as the last date for this is tomorrow 12 February 2020.

On being put to the meeting the motion was declared **CARRIED 7/2**

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Matthew Deeth, Matthew Gould, Noel Lowry and Matt Smith

Against: Crs Blair Briggs and Simon Landow

The Mayor rules the matter urgent as the last day for judicial review is 12 February 2020.

11 CLOSED REPORTS

The Mayor advised that the urgent item is considered a confidential item of business to be discussed this evening and stated that the matters and information are referred under S10A(2) of the Local Government Act clauses:

- (g) 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.

The Mayor stated that under section 10A(4) of the Local Government Act 1993 the public are invited to make representations to the Council meeting before any part of the meeting is closed, as to whether that part of the meeting should be closed.

No representations were received.

RESOLUTION 6/2020

Moved: Mayor Matthew Deeth
Seconded: Cr Robert Khan

1. **That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 10A(2) of the Local Government Act 1993:**
 - 11.1 **Notice of Rescission - Resolution 310/2019 - Sydney Western City Planning Panel – Wilton South East (Stage 1) Review.**

This matter is considered to be confidential under Section 10A(2)(g) of the Local Government Act, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

This motion contains legal advice concerning the commencement of legal proceedings and information on associated legal expenditure.
2. **That pursuant to Section 10A(1) of the Local Government Act 1993, the media and public be excluded from the meeting on the basis that the business to be considered is classified confidential under the provisions of Section 10A(2).**
3. **That the correspondence and reports relevant to the subject business be withheld from access to the media and public as required by Section 11(2) of the Local Government Act 1993.**

On being put to the meeting the motion was declared **CARRIED 8/1**

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould, Noel Lowry and Matt Smith

Against: Cr Simon Landow

The Director Community and Corporate left the meeting at 10.05pm due to a previously declared Conflict of Interest in this item as she is a member of the Sydney Western City Planning Panel.

The Director Planning left the meeting 10.05pm.

At 10:07pm, Cr Simon Landow left the meeting.

Council moved into closed session at 10.08pm. The public left the chambers.

SUSPENSION OF STANDING ORDERS

RESOLUTION 7/2020

Moved: Mayor Matthew Deeth

Seconded: Cr Judith Hannan

That Council go into a Committee of the Whole.

On being put to the meeting the motion was declared **CARRIED 8/0**

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould, Noel Lowry and Matt Smith

Against: Nil

RESUMPTION OF STANDING ORDERS

RESOLUTION 8/2020

Moved: Cr Michael Banasik

Seconded: Cr Blair Briggs

That Council move out of the Committee of the Whole.

On being put to the meeting the motion was **declared CARRIED 8/0**

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould, Noel Lowry and Matt Smith

Against: Nil

11.1 NOTICE OF RESCISSION - RESOLUTION 310/2019 - SYDNEY WESTERN CITY PLANNING PANEL – WILTON SOUTH EAST (STAGE 1) REVIEW**MOTION**

Moved: Cr Noel Lowry
Seconded: Cr Judith Hannan

That the Resolution 310/2019 titled Notice of Motion - Sydney Western City Planning Panel that was passed at the Extraordinary Meeting of 16 December 2019 be rescinded.

On being put to the meeting the motion was declared **LOST 2/6**

In Favour: Crs Judith Hannan and Noel Lowry
Against: Crs Robert Khan, Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould and Matt Smith

RESOLUTION 9/2020

Moved: Mayor Matthew Deeth

That Council moves out of the Closed Council into Open Council.

On being put to the meeting the motion was declared **CARRIED 8/0**

In Favour: Crs Judith Hannan, Robert Khan, Michael Banasik, Blair Briggs, Matthew Deeth, Matthew Gould, Noel Lowry and Matt Smith
Against: Nil

The Ordinary meeting re-opened to the public and media at 10.47pm with all those present prior to closing.

The Mayor advised that the Motion to RESCIND Resolution 310/2019: "That Council note the independent legal advice and not seek a Judicial Review of the decision of the Sydney Western City Planning Panel (Panel) in the Wilton South East – Stage 1 Development Application" was DEFEATED.

The Meeting closed at 10.47pm.

This and the preceding 13 pages are the Minutes of the Extraordinary Meeting of Council held on Tuesday 11 February 2020 and were confirmed at the Ordinary Meeting of the Wollondilly Shire Council held on 18 February 2020.

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MAYOR