



# **MINUTES**

**Closed Extraordinary Council Meeting**

**3 December 2018**

**Order Of Business**

**1 Apologies and Leave of Absence Requests ..... 3**  
**2 Declaration of Interest ..... 3**  
**8 Closed Reports ..... 3**  
    8.1 Legal Advice Relating To The Pendlebury Report ..... 3

**MINUTES OF CLOSED EXTRAORDINARY COUNCIL MEETING**  
**held at the Council Chamber, 62-64 Menangle Street, Picton NSW 2571**  
**on Monday, 3 December 2018 at 7.30pm**

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

**IN ATTENDANCE:** Acting Chief Executive Officer, General Counsel, David Baird (Marsdens Law Group) and one Minute Taker.

**1 APOLOGIES AND LEAVE OF ABSENCE REQUESTS**

An apology was noted for Cr Matt Smith

**2 DECLARATION OF INTEREST**

Nil

**8 CLOSED REPORTS**

**8.1 LEGAL ADVICE RELATING TO THE PENDLEBURY REPORT**

**RESOLUTION 98/2018**

Moved: Cr Matthew Gould

Seconded: Cr Matthew Deeth

**That Council go into 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, Simon Landow and Noel Lowry

Against: Nil

**RESOLUTION 99/2018**

Moved: Cr Matthew Deeth

Seconded: Mayor Judith Hannan

**That Council go out of the committee of the whole to resume standing orders.**

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, Simon Landow and Noel Lowry

Against: Nil

**RESOLUTION 100/2018**

Moved: Mayor Judith Hannan

Seconded: Cr Matthew Gould

1. That Council acknowledge its deep concern for everyone affected by the issues raised in the lead up to and as a result of the Pendlebury Review, and in particular the family of Harry Wilson and the pain they must be going through. Further that Council note that this is a very difficult time for many staff and that employee assistance services are available to any staff that need them.
2. That Council note the preliminary legal advice indicating that the governing body may access the “Pendlebury Report/Review” (hereafter referred to as the “Pendlebury Report”).
3. That Council note that such access is both reasonable and lawful given the governing body’s obligation under section 223 of the Local Government Act to:
  - a. Direct and control the affairs of the Council in accordance with the Act,
  - b. Be responsible for ensuring that the Council acts honestly, efficiently and appropriately.
  - c. Ensure as far as possible that the Council acts in accordance with the plans set out in Chapter 3 of the Local Government Act and the programs, strategies and policies of the Council.
4. That a further emergency extraordinary meeting be held on Thursday the 6<sup>th</sup> December 2018 for the purposes of further considering Council’s response to the Pendlebury Report.
5. That the General Manager (CEO) be directed to attend and table the following items as closed items at the extraordinary meeting referred to in point 4 above:
  - a. the Pendlebury Report, lawfully redacted,
  - b. a report outlining his response to the recommendations in the Pendlebury Report and any proposed actions

Further that there be sufficient copies of the reports available at the meeting for each councillor to have a copy for the purposes of reviewing it.

6. That Council note that the Chief Executive Officer, in his role as General Manager under the Local Government Act, is required under section 335 of that act to implement, without undue delay, lawful decisions of the Council.
7. That the Mayor be delegated the authority to seek further legal and/or professional advice on the Pendlebury report, or any other related matters as she deems necessary. Further, that the Mayor provide an update to Council on any advice received at the extraordinary meeting to be held on Thursday the 6<sup>th</sup> December 2018.
8. That the functions of Council delegated to the General Manager (CEO) under the “Instrument of Delegation, Delegation of Authority – General Manager” in force from 18 September 2017 be suspended for any matters relating to the Pendlebury Report or for any issues arising from or addressed in it.
9. That for any matters relating to the Pendlebury Report or any issues arising from or addressed in it, the General Manager (CEO) be required to receive the concurrence of the Mayor before exercising any functions that would otherwise be delegated to him under the “Instrument of Delegation, Delegation of Authority – General Manager” in force from 18 September 2017. Further that councillors be advised of for any action taken using this delegation.
10. That the Mayor be delegated the authority to instruct the General Manager (CEO) on

**seeking further advice to implement resolutions 8 and 9 above.**

On being put to the meeting the motion was declared **CARRIED** 7/1

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

Against: Cr Noel Lowry

**RESOLUTION 101/2018**

Moved: Cr Michael Banasik

Seconded: Cr Simon Landow

**That Council move back 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, Simon Landow and Noel Lowry

Against: Nil

**CLOSING**

There being no further business, the Mayor resumed the open Extraordinary Council Meeting at 10.25pm.

**This and the preceding 4 pages are the Minutes of the Closed Extraordinary Meeting of Council held on Monday 3 December 2018 and were confirmed at the subsequent meeting held on Monday 10 December 2018.**

.....  
**MAYOR**