



You are invited to attend the next Extraordinary Meeting of Council:

Date: Monday, 3 December 2018
Time: 7.30pm
Location: Council Chamber
62-64 Menangle Street
Picton NSW 2571

AGENDA






Extraordinary Council Meeting

3 December 2018

A handwritten signature in blue ink, appearing to read "M Malone", with a long horizontal flourish extending to the right.

Michael Malone
Acting Chief Executive Officer

COMMUNITY STRATEGIC PLAN SNAPSHOT

CSP Theme	Strategies
Sustainable and Balanced Growth 	Strategy GR1 – Growth
	Strategy GR2 – Built Environment
	Strategy GR3 – Economic Development and Tourism
	Strategy GR4 – Liveable Communities
	Strategy GR5 – Wilton New Town
	Strategy GR6 – Peri-urban Areas
	Strategy GR7 – Agriculture Strategy
	Strategy GR8 – Advocacy
Management and Provision of Infrastructure 	Strategy IN1 – Improve the condition of our Road Network
	Strategy IN2 – Provision of Infrastructure and Facilities
	Strategy IN3 – Manage Infrastructure and Facilities
	Strategy IN4 – Emergency Management
Caring for the Environment 	Strategy EN1 – Protect and Enhance Biodiversity, Waterways and Groundwaters
	Strategy EN2 – Protect the Environment from Development Pressures
	Strategy EN3 – Vegetation Management
	Strategy EN4 – Community Involvement
	Strategy EN5 – Environmental Awareness
	Strategy EN6 – Sustainable Practices
	Strategy EN7 – Agricultural Land and Capability
	Strategy EN8 – Auditing, Monitoring and Enforcement
	Strategy EN9 – Waste Management
	Strategy EN10 – Advocacy
Looking after the Community 	Strategy CO1 – Strong Community
	Strategy CO2 – Health and Wellbeing
	Strategy CO3 – Social Planning
	Strategy CO4 – Engagement and Communication
	Strategy CO5 – Advocacy
Efficient and Effective Council 	Strategy EC1 – Employee Relations
	Strategy EC2 – Risk Governance
	Strategy EC3 – Customer Service
	Strategy EC4 – Financial Sustainability
	Strategy EC5 – Resource Efficiency
	Strategy EC6 – Information Management
	Strategy EC7 – Participation Strategy
	Strategy EC8 – Accountability and Transparency
	Strategy EC9 – Advocacy

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1 OPENING

2 RECORDING OF THE MEETING

3 WEBCAST NOTICE

4 NATIONAL ANTHEM

5 ACKNOWLEDGEMENT OF COUNTRY

The Mayor will acknowledge the traditional Custodians of the Land

6 APOLOGIES AND LEAVE OF ABSENCE REQUESTS

7 DECLARATION OF INTEREST

8 OFFICE OF THE MAYOR**8.1 LEGAL ADVICE RELATING TO THE PENDLEBURY REPORT****File Number: 10619#290****EXECUTIVE SUMMARY**

- The purpose of this report is to respond to the Notice of an Extraordinary Council Meeting from All Councillors to seek legal advice regarding the governing body's right to access the "Pendlebury report".
- It is recommended that Council obtain legal advice in regard to obtaining access to the Pendlebury Report.

REPORT

An investigation was conducted by Brooke Pendlebury of Pendlebury Workplace Law.

A report has been produced which the Chief Executive Officer has determined is of a confidential nature and is not to be distributed. On 29 November 2018 the Chief Executive Officer made a statement regarding this matter.

Councillors are seeking access to this report and therefore require legal advice.

Consultation

The Mayor has discussed this matter with all Councillors.

Financial Implications

This matter has no financial impact on Council's adopted budget or forward estimates.

ATTACHMENTS

1. **Statement from the CEO**

RECOMMENDATION

That Council obtain legal advice in regard to obtaining access to the Pendlebury Report.



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RURAL LIVING

STATEMENT BY CHIEF EXECUTIVE OFFICER, MR LUKE JOHNSON DATED 29 NOVEMBER 2018

1. As many people may know in May of this year one of our valued workers, Mr David (also known as Harry) Wilson took his life. I determined, in accordance with my responsibilities for the Council staff, as well as for the day to day management of the Council, that there should be a thorough investigation in relation to a range of workplace issues at the Council.
2. The Council's then Acting General Manager, Ally Dench, and Council's Disclosure Co-ordinator, Lynette Kofod, established the grounds of reference for that investigation.
3. Brooke Pendlebury of Pendlebury Workplace Law was appointed to conduct the investigation. The tasks assigned to her included a peer review of the adequacy of the report conducted by Mr Phil O'Brien of Australian Workplace Training and Investigation into a complaint made by Mr Wilson about two of the Council's Managers. Mr O'Brien had determined that the allegations contained in Mr Wilson's complaints could not be substantiated.
4. The Council takes very seriously its obligations to provide a safe place of work and to ensure compliance with its obligations under the Work Health and Safety Act and under the Council's Code of Conduct. Bullying, harassment and intimidation will not be tolerated.
5. Ms Pendlebury's report required that she engage in a series of confidential discussions with Council personnel. I accept that unless Ms Pendlebury was able to engage in such confidential discussions, and her report kept confidential then that would:
 - prejudice the opportunity for the supply to the Council of confidential information that would facilitate the effective exercise of the Council's functions;
 - reveal a deliberation or consultation conducted, or an opinion, advice or recommendation given, in such a way as to prejudice a deliberative process of the Council;
 - prejudice the effective exercise by the Council of its functions;
 - likely found an action against the Council for breach of confidence or otherwise result in the disclosure of information provided to Ms Pendlebury, on behalf of the Council, in confidence; and
 - prejudice the conduct, effectiveness or integrity of an investigation conducted or on behalf of the Council by revealing its purpose, conduct or results.
6. Accordingly I will retain Ms Pendlebury's report on a confidential basis and will not distribute her report. For the same reasons identified in paragraph 5, I have also determined that Mr O'Brien's report should be kept confidential. I have conferred with the Office of Local Government which has agreed with me that Ms Pendlebury's report is confidential and that I am not required to disclose that report to any other person. Nevertheless I have closely examined Ms Pendlebury's report and recommendations and where necessary that report and those recommendations will be acted upon, consistent with my responsibilities referred to in paragraph 1 above.
7. Having considered Ms Pendlebury's report, and its various findings and recommendations, I am confidently able to say to you that:
 - (i) That report is thorough and responds, in an uncompromising fashion, to its terms of reference.
 - (ii) There are no reasons to doubt the findings made and conclusions reached by Mr O'Brien in his report.

- (iii) There is continuing and improving culture of acceptable and respectful workplace behaviour within the Council, brought about by improved and more practically focused training for all staff on a range of workplace issues including the requirement upon all staff to exhibit respectful behaviour to other staff members and the general public.
- (iv) The number of workplace complaints about unacceptable behaviour has dropped significantly over the last several years.
- (v) The Council has extensive, clear and comprehensive policies, procedures and codes dealing with (and seeking to prevent) bullying and harassment.
- (vi) The Council does not have a culture of nor problem with bullying in the organisation. Bullying, intimidation and harassment by any person will not be tolerated.
- (vii) We all must build on the Council's vision of a resilient, safe and supported workplace that provides respectful, efficient and effective services for our customers now and for future generations; and work together to make sure that our workplace is and remains a good and desirable place to work thereby promoting stability within the workforce and attracting high quality candidates for employment.
- (viii) It is regrettable that Mr Justin Nyholm has left the organisation. He was a fine manager and I did not seek his departure.
- (ix) No organisation is perfect and I accept that I must, and we all must, strive to make improvements where we can. You have my commitment that the Council will support all of us when we seek to make Wollondilly Shire Council not just a good, but a better place to work.
- (x) There are no grounds to support any allegation that Council's indoor and outdoor staff are treated or judged according to different standards of behaviour.
- (xi) Many of our staff have been subject to vicious and extremely hurtful comments posted on the social media platform, Wollondilly Whingers. Many of the comments directed at Council staff comprise bullying, harassment and intimidation of the cruelest and crudest nature. A number of our staff have, as a result, feared for their own safety or have felt humiliated and offended.
- (xii) I have a zero tolerance for any form of bullying from within or outside of the Council. I have referred a number of comments published on the Wollondilly Whingers platform, to the Police and I will take such measures as may be necessary to protect Council staff from the disgraceful and baseless attacks upon their integrity and professional reputations by or from the Wollondilly Whingers platform.
- (xiii) The Councillors and staff should not give any oxygen to the Wollondilly Whingers platform. Any staff engaging in the type of unacceptable comments that we have seen posted on the Wollondilly Whingers platform, whether through that medium or elsewhere, will face disciplinary action. Nor will I allow any staff to access that platform from the workplace or through the use of Council provided computers, iPhones and the like.
- (xiv) Whilst I cannot direct Councillors to not access the Wollondilly Whingers platform, I will take such steps that may be necessary through, for example, additional training, to alert them to the serious harm caused too many persons within this organisation by and as a result of the Wollondilly Whingers platform.



Luke Johnson
CHIEF EXECUTIVE OFFICER