

Extraordinary Meeting Of Council



Wollondilly Shire Council

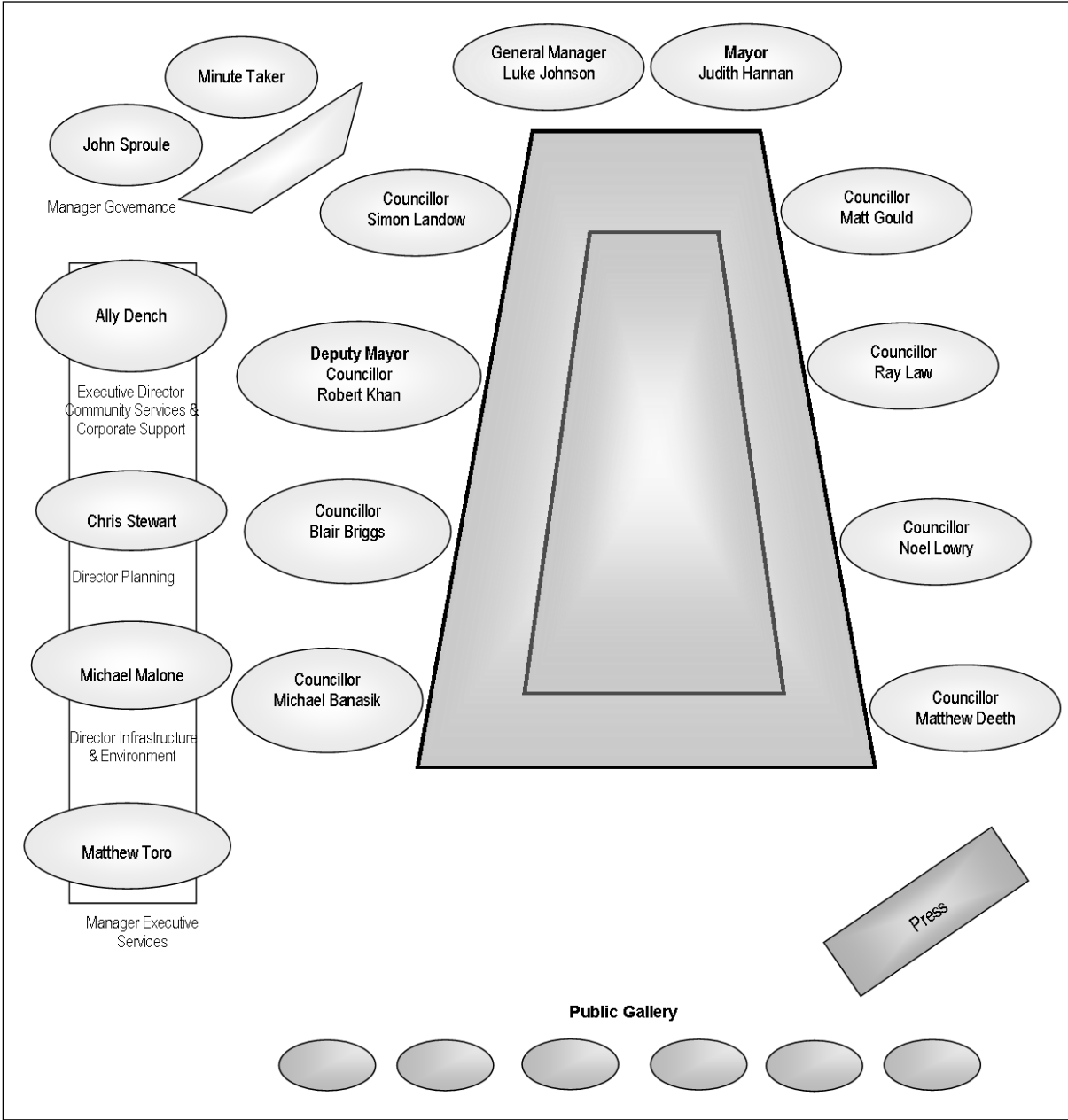
Notice of Meeting & Agenda

Monday 5 June 2017

You are invited to attend the next Extraordinary Meeting of Council to be held in the Council Chambers, 62-64 Menangle Street Picton on Monday 5 June 2017 commencing at 6.30pm.

Ally Dench
Acting General Manager

Seating in Council Chambers



EAST WARD

| | | |
|------------------|--------------|---|
| Cr Matthew Deeth | 0428 335 743 | Email: matthew.deeth@wollondilly.nsw.gov.au |
| Cr Ray Law | 0427 901 275 | Email: ray.law@wollondilly.nsw.gov.au |
| Cr Noel Lowry | 0406 047 086 | Email: noel.lowry@wollondilly.nsw.gov.au |

CENTRAL WARD

| | | |
|--------------------|--------------|---|
| Cr Michael Banasik | 0425 798 068 | Email: michael.banasik@wollondilly.nsw.gov.au |
| Cr Blair Briggs | 0418 269 913 | Email: blair.briggs@wollondilly.nsw.gov.au |
| Cr Robert Khan | 0407 705 100 | Email: robert.khan@wollondilly.nsw.gov.au |

NORTH WARD

| | | |
|------------------|--------------|---|
| Cr Matt Gould | 0427 936 471 | Email: matthew.gould@wollondilly.nsw.gov.au |
| Cr Judith Hannan | 0414 557 799 | Email: judith.hannan@wollondilly.nsw.gov.au |
| Cr Simon Landow | 0415 406 719 | Email: simon.landow@wollondilly.nsw.gov.au |

Business Papers will be available from Council's Foyer or alternatively on Council's website.

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OPENING

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.

WEBCAST NOTICE

Members of the public are advised, in accordance with Section 18 of the Privacy and Personal Information Protection Act 1998 (PPIPA), that Wollondilly Shire Council records and webcasts live all Ordinary and Extraordinary Meetings of Council held in open session for the purpose of facilitating community access. The webcasts are publically available for viewing on Council's website.

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Wollondilly Community Strategic Plan 2033

Council's format for reporting to our Ordinary Council Meetings will follow the:

1. Wollondilly Strategic Plan 2033 themes:

Looking after the **Community** | Accountable and Transparent **Governance** | Caring for the **Environment** | Building a strong local **Economy** | Management and Provision of **Infrastructure**

Under each of these themes are **Outcomes** – expressions of what we want to achieve in the long term which will be reflected in our reports.

2. Sustainability Principles (*reference page 10 of the CSP 2033*)

Equity | Precaution | Regeneration | Engagement | Sharing | Access | Participation | Rights | Governance

"Council will build the above principles into all facets of our organisation and everything we do."

1.

Community

Outcomes

1. Access to a range of activities, services and facilities.
2. A connected and supported community.

Strategies

CO1 - Community Building, Well-being and Identity

Deliver a range of community programmes, services, facilities and events which strengthen the capacity, well-being and cultural identity of our community.

CO2 - Working with Others

Work with other agencies and service providers to deliver community programmes, services and facilities which complement and enhance Council's service provision.

CO3 - Social Planning

Undertake strategic social planning and research regarding community needs and issues.

CO4 - Engagement and Communication

Implement excellence in our community engagement by listening to and responding to the needs and concerns of our residents.

Governance

Outcomes

1. Government, community and business talking and working together.
2. A Council that demonstrates good business management and ethical conduct.

Wollondilly Community Strategic Plan 2033

Strategies

- GO1 - Quality Employer
Provide an attractive employment choice for talented people.
- GO2 - Best Practice Governance
Be a leader in best practice local government governance.
- GO3 - Customer Service
Deliver responsive and helpful services to all our customers.
- GO4 - Advocacy
Advocate strongly for the interests of Wollondilly and its community.
- GO5 - Financial Sustainability
Maintain Council in a strong and sustainable financial position.
- GO6 - Resource Efficiency
Be efficient and effective in the use of Council resources and provide value for money in the delivery of services.
- GO7 - Information Management
Ensure best practice approach as to the delivery of quality information and technology services.
- GO8 - Corporate Image
Promote a positive representation of Council's corporate image.

Environment

Outcomes

1. Our local environment that is valued and protected.
2. A community that interacts with and cares for their environment.

Strategies

- EN1 - Biodiversity Resilience
Protect and conserve biodiversity and natural resources, including waterways, riparian lands and groundwater dependent ecosystems.
- EN2 - Growth Management
Apply best practice environmental principles to the management of future growth.
- EN3 - Development Assessment
Apply best practice environmental principles to the assessment of development and planning proposals.
- EN4 - Environmental Responsibility
Educate and promote legislative environmental responsibilities to the community.
- EN5 - Auditing, Monitoring and Enforcement
Undertake auditing, monitoring and regulatory enforcement to protect the environment and the health, safety and well-being of the community.
- EN6 - Waste Management
Improve waste minimisation and recycling practices in homes, workplaces, development sites and public places.
- EN7 - Sustainable Living
Educate, promote and support low consumption, sustainable lifestyles and lowering of the Shire's carbon footprint.

Economy

Outcomes

1. A strong local economy providing employment and other opportunities.

Strategies

EC1 - Economic Development

Enhance economic development in Wollondilly Shire through innovative engagement and ongoing promotion of our strengths.

EC2 - Planning for and Supporting Business

Strengthen and diversify Wollondilly's economic base by attracting and supporting the development of a diverse range of industries.

EC3 - Manage Growth

Encourage and manage growth to ensure that it contributes to economic well-being.

EC4 - Managing Development and Land Use

Manage and regulate land use and development in order to achieve a high quality built environment which contributes to economic well-being.

EC5 - Protect Natural Resources

Protect natural resources so as to contribute to the Shire's economic well-being.

Infrastructure

Outcomes

1. Safe, maintained and effective infrastructure.
2. Access to a range of transport options.

Strategies

IN1 - Maintain Road Network

Ensure that the road network is maintained to a standard that is achievable within the resources available.

IN2 - Manage Road Network

Manage the road network to respond to community needs, growth in the Shire, improving road safety and improving transport choices.

IN3 - Provision of Facilities

Provide a range of recreation and community facilities to meet the needs of the community.

IN4 - Emergency Management

Plan for and assist in the community's response to emergencies such as bushfires and flooding.

IN5 - Advocacy and Lobbying

Represent our community with regard to external services including energy, communications, water, waste management and resource recovery.

2.

Environmental Principles

EQUITY

We uphold the principles of intragenerational and intergenerational equity and fairness in how resources are distributed within this generation and between this and future generations.

PRECAUTION

We adopt the precautionary principle which is that actions that have the potential to harm our environment should not be undertaken if the consequences are uncertain and the science inconclusive.

REGENERATION

We work to protect and restore the earth's ecological integrity, biological diversity and natural processes.

ENGAGEMENT

We recognise that sustainability will happen faster if local communities become champions of sustainability and are involved in the decisions affecting sustainability.

SHARING

We will work with others to share resources and knowledge and to promote sustainability.

Social Justice Principles

EQUITY

We will strive for the fair distribution of resources with a particular emphasis on protecting those people who are considered vulnerable.

ACCESS

We will provide all people with opportunities to use relevant services and facilities regardless of their circumstances.

PARTICIPATION

We will encourage and provide opportunities for people to take part in decision making processes that impact on their quality of life.

RIGHTS

People should not be discriminated against and everyone is entitled to honesty, information and involvement.

GOVERNANCE

People deserve responsible governance and fair and accountable decision making.

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

| INTERNAL COMMITTEE OF COUNCIL WITH COUNCILLOR REPRESENTATION | COUNCILLOR REPRESENTATION 2016-17 | RESPONSIBLE COUNCIL OFFICER | WHEN HELD AND VENUE |
|---|--|---------------------------------------|--|
| ORDINARY COUNCIL MEETING | Mayor Deputy Mayor Full Council | Manager Governance | Meetings held at 6.30pm, 3rd Monday of each month in the Council Chambers. |
| COMMUNITY FORUM | Mayor Deputy Mayor Full Council | Manager Governance | Meetings held at 6.30pm, 2nd Monday of each month in the Council Foyer - Administration Building. Community Safety on the Agenda quarterly – February, May, August and November. |
| AUDIT COMMITTEE | Mayor Cr Briggs | Manager Governance | Meetings held in office hours at the Council Chambers. |
| AUSTRALIA DAY COMMITTEE | Mayor Cr Hannan Cr Law Cr Landow Cr Banasik | Manager Community Outcomes | Meetings on the 2nd Tuesday of month 5pm-7pm in the Council Boardroom as required. |
| COMMUNITY LEISURE CENTRE USERS ADVISORY GROUP | Cr Briggs | Manager Infrastructure Planning | Meetings held at 6.00pm, March & September in the Council Chambers. |
| GENERAL MANAGERS PERFORMANCE REVIEW COMMITTEE | Mayor Cr Hannan Cr Law Cr Gould Cr Khan Cr Landow | Manager Executive Services | Facilitator LG NSW. Meetings held late January/early February & late July. |
| LOCAL TRAFFIC COMMITTEE | Cr Khan Cr Briggs (alt) | Manager Infrastructure Planning | Meetings held at 2.00pm on the third Wednesday monthly, except February, May and August meetings are held on the 4 th Wednesday at 10.00am in the Council Boardroom. |
| PICTON FLOOD PLAIN RISK MANAGEMENT COMMITTEE | Cr Khan Cr Deeth | Manager Infrastructure Planning | As required. |

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

| COMMUNITY ADVISORY COMMITTEES | COUNCILLOR REPRESENTATION 2016-17 | RESPONSIBLE COUNCIL OFFICER | WHEN HELD AND VENUE |
|---|--|--|---|
| COMPANION ANIMALS ADVISORY COMMITTEE | All Welcome | Manager Compliance & Administration | Quarterly, 1 st Tuesday in March, June September and December at Council's Boardroom |
| CUBBITCH BARTA RESERVE STEERING COMMITTEE | Maximum of 2 Councillors | Manager Infrastructure Planning | Bi-monthly or as required at Council's Administration Building |
| DISABILITY ACCESS ADVISORY COMMITTEE | All Welcome | Manager Community Outcomes | Quarterly, 2nd Wednesday in February, May, August and November from 2pm – 3pm at Council's Administration Building |
| ECONOMIC DEVELOPMENT ADVISORY COMMITTEE | All Welcome | Manager Economic Development & Tourism | Thu 20/07/2017 - Boardroom |
| MINERALS, ENERGY RESOURCES, WASTE AND ENVIRONMENT ADVISORY COMMITTEE | All Welcome | Manager Environmental Services | TBA |
| RURAL INDUSTRY ADVISORY COMMITTEE | All Welcome | Manager Growth & Strategic Planning | Quarterly and as required, 7.30pm on a Wednesday at Council Administration Building |
| TOURISM AND HERITAGE ADVISORY COMMITTEE | All Welcome | Manager Economic Development & Tourism | Wed 15/11/2017 – The Gallery |
| TRANSPORT ADVISORY COMMITTEE | All Welcome | Manager Infrastructure Planning | Quarterly, at Council's Administration Building |
| YOUTH ADVISORY COMMITTEE | All Welcome | Manager Community Outcomes | Quarterly, 1 st Tuesday of the month from 6.30pm – 8.30pm at Council's Administration Building or as required. |

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

| EXTERNAL COUNCIL COMMITTEES | COUNCILLOR REPRESENTATION 2016-17 | RESPONSIBLE COUNCIL OFFICER | WHEN HELD AND VENUE |
|---|---|---|--|
| ASSOCIATION OF MINING RELATED COUNCILS COMBINED COUNCILS SOUTHERN MINING LIAISON COMMITTEE | Cr Khan Cr M Banasik Cr Lowry (2 Cr votes + alt) | Director Infrastructure & Environment | Meetings held February, May, August and November at various venues. |
| BORAL CEMENT – MALDON PLANT – COMMUNITY LIAISON COMMITTEE | Cr Law | Manager Infrastructure Planning | Meetings held quarterly at various locations. |
| CAMPBELLTOWN ARTS CENTRE CULTURAL PRECINCT ADVISORY GROUP | Cr Banasik | Manager Community Outcomes | Meetings held quarterly at Campbelltown Arts Centre. |
| COUNTRY PUBLIC LIBRARIES ASSOCIATION (SOUTH EASTERN ZONE) | Cr Banasik Cr Hannan (alt) | Manager Community Outcomes | Meetings held quarterly at rotating host Council locations. |
| GEORGES RIVER COMBINED COUNCIL COMMITTEE INC | Cr Banasik | Manager Environmental Services | Meetings held at 7.00pm, 4th Thursday of every second month at various venues. |
| GREATER SYDNEY LOCAL LAND SERVICES LOCAL GOVERNMENT ADVISORY GROUP | Cr Briggs | Manager Environmental Services | Quarterly |
| ILLAWARRA COAL COMMUNITY CONSULTATIVE COMMITTEE | Cr Lowry | Manager Environmental Services | Meetings held 4.30pm, last Tuesday of every second month. |
| LACHLAN REGIONAL TRANSPORT COMMITTEE | Cr Hannan | Director Planning | Meetings held quarterly. |

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

| EXTERNAL COUNCIL COMMITTEES | COUNCILLOR REPRESENTATION 2016-17 | RESPONSIBLE COUNCIL OFFICER | WHEN HELD AND VENUE |
|---|--|---|--|
| LOCAL EMERGENCY MANAGEMENT COMMITTEE | General Manager Luke Johnson | General Manger & Manager Works | Meetings held 6 times per year at various venues. |
| MACARTHUR REGIONAL ORGANISATION OF COUNCILS (MACROC) | Mayor – President Cr Hannan Cr Khan Cr Banasik Cr Deeth (Mayor + 3 Crs next 2yrs – Wollondilly President) | General Manager | Meetings held 7.00pm, on Wednesdays quarterly at Campbelltown, Camden & Wollondilly Councils. |
| MG MY GATEWAY | Manager Executive Services Matt Toro | Manager Executive Services | Meetings held monthly at Centric, Park Central. |
| QUEEN VICTORIA SUPPORT GROUP | Cr Law | Manager Community Outcomes | As required. |
| SOUTHERN TABLELANDS REGIONAL ARTS ADVISORY GROUP | Cr Banasik | Manager Community Outcomes | Meetings held quarterly at Goulburn Council offices. |
| SOUTH WEST SYDNEY ACADEMY OF SPORT ADVISORY GROUP | Cr Briggs | Manager Infrastructure Planning | Board Meetings held quarterly in Wollondilly, Campbelltown, Camden & Liverpool. Finance Meetings - Bi-monthly UWS. |
| SOUTH WEST REGIONAL WEEDS COMMITTEE | Cr Law | Manager Environmental Services | Meetings held at 9.00am, 1st Wednesday of March, June, September and December. Various locations South West Sydney. |
| SYDNEY PERI URBAN NETWORK | Executive Director Ally Dench | Executive Director Community Services and Corporate Support | Meetings held as required at various locations. |
| SYDNEY SOUTH WEST PLANNING PANEL | Mayor Cr Gould (alt) General Manager (Peter Wright alt. for GM) | Manager Planning | As decided by the Panel Chair. |

Internal Committee/Advisory Group Councillor Representation Membership List 2016-2017

| EXTERNAL COUNCIL COMMITTEES | COUNCILLOR REPRESENTATION 2016-17 | RESPONSIBLE COUNCIL OFFICER | WHEN HELD AND VENUE |
|--|--|------------------------------------|--|
| TAHMOOR COLLIERY COMMUNITY CONSULTATIVE COMMITTEE | Cr Khan | Manager Environmental Services | Meets quarterly as required at Tahmoor Colliery. |
| WATER NSW LOCAL GOVERNMENT REFERENCE PANEL | Cr Banasik Cr Gould (alt) | Manager Environmental Services | Meetings held at 12.00pm, 1st Monday quarterly. |
| WOLLONDILLY DISTRICT LIAISON COMMITTEE (SLA WITH RFS) | Cr Briggs Cr Khan | Manager Works | Quarterly. |
| WOLLONDILLY/ WINGECARRIBEE - BUSH FIRE MANAGEMENT COMMITTEE | Mayor Cr Briggs (12 month rotations of chair with Wingecarribee) | Manager Environmental Services | Meetings held at 12.30pm, 1st Wednesday quarterly, Venue Bridge Street, Picton. |
| YERRANDERIE MANAGEMENT COMMITTEE | Cr Lowry Cr Gould | Manager Environmental Services | Meetings held at 6.30pm, 1st Thursday March, June, September and December at The Heritage Centre, The Oaks. 1st Saturday of alternate months - all day Yerranderie. |

Planning & Economy

Matters for Consideration – General Under Section 79C(1) of the Environmental Planning & Assessment Act 1979 (EP&A)

“In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:*

 - (i) any environmental planning instrument, and*
 - (ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved), and*
 - (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under Section 93F or any draft planning agreement that a developer has offered to enter into under Section 93F, and*
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

that apply to the land to which the development application relates,

- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday
19 June 2017

Relevance to Community Strategic Plan

RELEVANCE TO COMMUNITY STRATEGIC PLAN – PLANNING AND ECONOMY

The reports contained within this section of the agenda outline actions and activities that contribute to the achievement of the outcomes as outlined in your Community Strategic Plan 2033.

Report of Planning and Economy to the Extraordinary Meeting of Council held on Monday 5 June 2017

PE1 – Consideration of a response to the Proposed Mandatory Establishment of Local Planning Panels

PLANNING AND ECONOMY

PE1 Consideration of a response to the Proposed Mandatory Establishment of Local Planning Panels

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TRIM 1127

EXECUTIVE SUMMARY

- This report relates to media speculation that the NSW Government intends to force all metropolitan Councils to use Local Planning Panels (LPPs) to determine development applications over a certain value.
- Typically LPPs comprise experts in planning, architecture, law or urban design as well as community representation. The value of development to trigger referral to an LPP has not been detailed. It is likely that the value will be less than the current threshold for determination of applications by the Sydney Regional Planning Panels (i.e. \$20Mill).
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirement extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that Council prepare and lodge a submission to NSW Government objecting to the mandated use of Local Planning Panels which would significantly reduce the ability of our communities to have a say in what developments occur in our area, erodes local democracy and is likely to threaten Council's vision of Rural Living for our shire.

REPORT

The use of LPPs or Independent Hearing and Assessment Panels (IHAPs) is currently optional for Councils. Larger Councils including Parramatta and Liverpool use IHAPs to determine locally significant development.

In January 2017, the former Planning Minister, Mr Rob Stokes released his draft changes to the Environmental Planning and Assessment Act (Act). Under these changes it was proposed to empower the Minister to order a Council to use a LPP for development applications in certain circumstances.

Council prepared a response to the changes proposed by the former Minister. The submission is attached to this report.

PE1 – Consideration of a response to the Proposed Mandatory Establishment of Local Planning Panels

On 31 May 2017, the media reported that the Berejiklian Government was due to consider reforms mandating all metropolitan Councils to use LPPs. The current Planning Minister, Mr Anthony Roberts has suggested that the reform is a valuable probity and integrity measure to ensure NSW has the best planning approval regime possible. Media reports suggest the reform will be considered alongside a suite of housing affordability measures to go before Cabinet the week commencing 29 April 2017.

Local Government NSW has criticised the proposed changes suggesting it has the potential to reduce the accountability and transparency of planning decisions. Including this reform with the suite of housing affordability initiatives has also been questioned.

CONSULTATION

The former Planning Minister, Mr Rob Stokes released his draft changes to the Environmental Planning and Assessment Act in January 2017. The documentation was placed on exhibition in February / March 2017. Council lodged its submission on 2 March 2017.

It should be noted that the draft changes did not include details of the direction now being considered by the State Government in terms of mandating use of LPPs.

FINANCIAL IMPLICATIONS

Typically LPPs comprise of experts in planning, architecture, law or urban design as well as community representation. The cost of engaging experts to assess complex development proposals will be significant.

The cost of engaging three experts to attend community forums, carry out preparatory work and attend determination meeting is likely to exceed \$20,000 per application.

Council has not allocated a budget in the 2017/2018 Operational Plan to cover the potential cost.

PE1 – Consideration of a response to the proposed mandatory establishment of Independent Hearing and Assessment Panel

CONCLUSION

It is assumed that the LPPs will not replace the South West Planning Panel. Rather the proposed initiative will add another consent authority to the planning approval regime. Under the current scheme there are 8 consent authorities. The merits of an additional consent authority are questioned given LPPs are unlikely to consider minor residential proposals which contribute significantly to addressing the housing supply crisis. There is considerable risk however that the introduction of LPPs will erode local democracy and Council's planning functions.

ATTACHMENTS

1. Copy of Council's submission.

RECOMMENDATION

That Council prepare and lodge a submission to NSW Government objecting to the mandated use of Local Planning Panels which would significantly reduce the ability of our communities to have a say in what developments occur in our area, erodes local democracy and is likely to threaten Council's vision of Rural Living for our shire.

Report of Planning and Economy to the Extraordinary Meeting of Council held on Monday 5 June 2017

PE1 – Consideration of a response to the Proposed Mandatory Establishment of Local Planning Panels

ATTACHMENT 1 – 1127 – 5 JUNE 2017



All Correspondence to PO Box 21 Picton NSW 2571
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ABN 93 723 245 808

R U R A L L I V I N G

Our Reference: 1127 mr:mr

Planning Legislation Updates 2017
NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

2 March, 2017

Dear Sir/Madam,

SUBMISSION BY WOLLONDILLY SHIRE COUNCIL PROPOSED PLANNING LEGISLATION UPDATES

This letter contains Wollondilly Shire Council's (Council) submission on the proposed Planning Legislation updates which are on exhibition.

Council is supportive of the revised structure of the EP&A Act and is of the view that its format would be more user friendly.

Council notes the advice that further information on many of the proposed amendments would be provided as part of a revised set of regulations to accompany the revised EP&A Act. Council is of the view that the revised regulations should be exhibited concurrently with the draft amendments to the EP&A Act to provide appropriate transparency and enable proper consideration of the changes as they would be implemented.

The following comments are made on the proposed amendments to the Planning Legislation:

1. Enhancing Community Participation

Community Participation Plans

Council has no objection to the amendments to the EP&A Act to require NSW Council's to prepare a Community Participation Plan.

Statement of Reasons for Decisions

PE1 – Consideration of a response to the Proposed Mandatory Establishment of Local Planning Panels

ATTACHMENT 1 – 1127 – 5 JUNE 2017

TRIM 1127

Council supports the requirement for Planning Authorities to provide a Statement of Reasons for Planning Decisions. However, there are a number of matters regarding the Statement of Reasons which require further information/clarification including:

- Who is the Statement of Reasons intended for? Is it for those who have made a submission on a Planning Matter only or is it for the general community?
- How do Planning Authorities make the Statement of Reasons available, is it via the Planning Portal (with the notice of determination) or would it be via a register (similar to the development consent register) made available for people to view on request?
- Would Planning Authorities be required to send a copy of the Statement of Reasons to all submitters with the notice of determination?

It is also recommended that the Department of Planning provide to all Council's a template for the Statement of Reasons so that a consistent method for completing the statement of reasons is adopted by Council's across NSW. The template should ensure that the Statement of Reasons is able to be completed by Council in an efficient manner.

Stronger Consultation Requirements for Major Projects

The requirement for applicants to consult with the community on State Significant development prior to lodgement is supported.

Council recommends that the amendments to the legislation also include a requirement for applicants for all State Significant Development applications also consult with local council's prior to lodgement. In this regard, the proponent should be required to include within the Environmental Impact Statement, a consultation log outlining the details and outcomes of consultation with the relevant local council.

2. Completing the Strategic Planning Framework

Local Strategic Planning Statements

Council opposes the proposed requirement for Council's to develop and publish local strategic planning statements on the basis that the intent of the local strategic planning statements is already achieved through other policy documents.

Currently, at the regional level, Council relies on the Plan for Growing Sydney and the Draft South West District Plan to inform planning decisions, while at the local level; Council also relies on the Wollondilly Vision, the Wollondilly Community Strategic Plan and the Wollondilly Growth Management Strategy. Another Planning document such as this would create unnecessary overlap.

Council's Community Strategic Plan captures the broad range of Strategic Planning Principles that would be included in the local strategic planning statement. It is considered that it would be more appropriate for the revised EP&A Act to enable the contents of a Local Strategic Planning Statement to be included in a Local Council's Community Strategic Plan to avoid overlap and confusion or in the worst case may

PE1 – Consideration of a response to the Proposed Mandatory Establishment of Local Planning Panels

ATTACHMENT 1 – 1127 – 5 JUNE 2017

TRIM 1127

contain conflicting statements. This Council is already proceeding down this path as Council's draft Community Strategic Plan includes a "position on growth".

Regular LEP Checks

Council is supportive of the proposal to require Council's to determine every 5 years whether a Local Environmental Plan should be updated, however; Council is of the view that the Department should take sufficient steps to ensure that Councils are suitably resourced to carry out such a review on an on-going basis.

Standard DCP Format

Council is of the view that the format of DCPs should be left to individual Council's to establish. The content of a DCP would vary significantly between different Council's across the state (e.g. the make-up of a rural council's DCP would be vastly different to a coastal Council's DCP) which would make it difficult for them to be based on a standard template or format. Unlike the Standard Instrument LEP which provides for consistency in the names of land use zones, definitions and standard clauses etc, a majority of the controls in a DCP would be based on locally sourced information and would include specific local controls. It is considered that the format and content of DCP's should be determined by individual Council's. Other options for consistency could be implemented. For example, require DCP's only to use land use definitions used in the LEP.

3. Better Processes for Local Development

Exploring incentives for early consultation

Council objects to the proposal to require community consultation prior to lodgement of a development application for local development. It is considered that this would place an unreasonable burden on applicants for small developments. Council is also of the view that it would be impossible to enforce this requirement, it would not be reasonable to refuse or reject a development application for an application of local significance on the basis that the applicant has not consulted with their neighbours prior to lodgement. In some cases, this would create an avenue for neighbour dispute.

The current process of adjoining landowners voicing their concerns through the relevant consent authority during the public consultation period for a particular proposal is considered the most appropriate approach for dealing with neighbour concerns.

Council strongly objects to the suggestion in the exhibition material that incentives may be introduced for early neighbour consultation (such as a reduction in fees) where an applicant can demonstrate that issues have been resolved through early consultation. This approach would not be fair across the board, as a person who may not be able to resolve issues with a neighbour due to personality clashes, language barriers etc, would not have the same ability to access these incentives as someone who has a cooperative neighbour which creates equity and fairness issues. The provision of incentives etc also increases the opportunity for corrupt behaviour and inappropriate conduct in the planning system.

PE1 – Consideration of a response to the Proposed Mandatory Establishment of Local Planning Panels

ATTACHMENT 1 – 1127 – 5 JUNE 2017

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Step in Power to ensure timely approvals

It is noted that the amendments would give the Secretary of the Department of Planning and Environment the power to provide advice, concurrence and/or General Terms of Approval (GTA's) where a government agency has not provided that advice within the statutory timeframes or where the advice between two or more agencies is conflicting.

Council does not agree with allowing the Secretary to issue concurrence or GTA's on behalf of a particular agency for the reason that they have not met their statutory timeframes. It is unclear which party would be responsible for applying to the secretary to issue GTA's or concurrence on behalf of the authority (would it be Council or the applicant) and it may also lead to an inconsistent application of the relevant standards. More appropriate means such as resourcing and ensuring that applicants provide sufficient information up front to ensure that approval bodies can make a timely decision are preferred.

Council does agree with the proposal to provide the Secretary the power to issue General Terms of Approval/Concurrence on behalf of authorities where the advice between two or more agencies on a development application is conflicting. This situation often leads to delays in determining Development applications due to the level of discussion that is then required between Council and the relevant agencies to resolve the issue. The proposed amendments would provide a more efficient and equitable means of resolving this problem.

Council also recommends that the revised EP&A Act enable Council's to apply to the Secretary for a review of the GTA's or concurrence imposed by a particular agency if Council is of the view that the conditions in GTA's or concurrence are unreasonable, do not comply with the relevant standards, or the conditions imposed are not able to be achieved.

Performance Improvement Approach

The exhibition material states that *"agencies will be supported in implementing a risk-based approach to concurrence and referrals, ensuring decisions are robust and made at the right level of government"*. There is strong concern that a risk-based approach to the concurrence and referrals of proposals by Government Agencies will reduce the quality of environmental advice and determination outcomes. Also, the terms *'risk-based'* and *'robust'* are contradictory as risk-based is a selective approach while robust is a comprehensive approach.

It is recommended that the Department provide Council with greater demonstration of how a risk-based approach in the provision of advice ensures robust decisions at the approval stage of developments. It is also recommended that the Department detail the intended procedures for the delivery of a risk-based approach.

Strengthening Deterrence of Unauthorised Works

Council does not support the proposed amendments to prevent Planning Authorities and the Court from approving a modification of consent for works already carried out. Council is of the view that non-significant works that are carried out contrary the original consent should still be able to be assessed as an application under s96 or 96AA of the EP&A Act.

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Any application under s96 or 96AA of the Act, even for works already carried out would still need to pass the test as being substantially the same development. Preventing works which are substantially the same development from being determined under s96 or 96AA of the EP&A Act would unreasonably delay the development.

Under the proposed changes, a new development application may be required to regularise the works for a minor departure from the original consent. Any unauthorised works which occur outside the parameters of the original consent would normally be subject to compliance action (e.g. prosecution), and Council is of the view that introducing increased enforcement measures into the amended Act would be a more suitable approach to deterring unauthorised works, while still enabling these works to be regularised through a modification of consent provided that they are substantially the same development.

Modifications to take into account reasons for Original Consent

Council agrees with the proposed requirement to consider the Statement of Reasons as a part of any application to modify a consent. However, Council notes that development applications determined before the commencement of the new EP&A Act would not have a statement of reasons as it would not have been a requirement at the time. Accordingly, Council recommends the following alternate wording to that proposed in the Draft Bill to ensure that this requirement is still able to be satisfied for applications that were determined prior to the commencement of the new EP&A Act:

"The consent authority must also take into consideration ~~the~~ any reasons (including any statement of reasons if applicable), given by the consent authority for the granting of consent that is sought to be modified".

Ensuring the Development meets the Standards

Council supports the proposed amendments to the EP&A Act to provide the Court with the power to declare a Complying Development Certificate invalid if it does not comply with the standards in the relevant SEPP.

Limit some sensitive categories to Council Certifiers

Council objects to the proposed amendments to limit some categories of Complying Development to Council Certifiers. If a particular site or the nature of a proposed development is such that a Complying Development Certificate would be limited to a Council Certifier then it is likely that the proposal would require consideration of a complex or contentious issue. In this case, the matter should be subject to a full merit based assessment via a development application.

Powers and Resources for Council's

Council supports the proposed changes to enable Council's the ability to issue a temporary stop work order to investigate whether the development is being carried out in accordance with a CDC.

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Council supports the proposal to establish a compliance levy to support Councils in their compliance functions for Complying Development. Council considers that further detail on how the levy would operate should be provided for comment prior to the finalisation of the Draft changes to the EP&A Act.

Levelling the Playing field between Complying Development and Development Applications

Council objects to the proposed amendments to enable Complying Development Certificates to be subject to a Deferred Commencement Condition in certain cases. If the Complying Development needs to be made subject to a deferred commencement condition, then it would generally mean that the development is unable to meet the pre-conditions of the relevant SEPP, or that there may be underlying issues that warrant more detailed assessment or investigation and therefore may not be suitable for Complying Development.

It is also noted that the summary guide in the exhibition material uses the example that such a deferred commencement condition could be used on an unregistered lot, where the CDC would become active following lot registration. Council has the following concerns with enabling a CDC to be subject to a Deferred Commencement Condition pending lot registration:

- Prior to registration, the required services (such as water, power and in some cases public road access) may not have been made available to the proposed lot.
- The lot sizes and dimensions in a subdivision approval are subject to change between the approval date and the time of registration. If the lot sizes and dimensions are amended, it may impact on whether a dwelling on the lot would meet the relevant Complying Development criteria for that type of lot;
- Until the time that the lots are registered, there is no certainty that the development would be completed, or the timeframe in which it would be completed by. It is also possible that a subdivision approval could be amended so that some future lots are removed altogether;
- Should all Council's in NSW adopt the online submission of Development Applications and CDC's, then it would be unlikely that a DA or CDC could be lodged for the unregistered lot as the eplanning portal would not identify a lot where registration is still pending;
- This practice could result in the Complying Development Certificate having a different Lot and DP number to the final registered lot. It would also result in the CDC having a different Lot and DP number to the final Occupation Certificate which can cause confusion to purchasers and administrative issues for Council's and Certifiers.

Council strongly recommends that the amendments to the Act include an inserted clause which prevents the ability for Council or a private certifier to issue a CDC or a development consent for a DA on a lot prior to registration to avoid the issues raised above and also to ensure that a consistent approach across the state is adopted.

4. Better Processes for State Significant Development

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Transferrable Conditions

Council supports the proposed amendments to introduce 'transferrable conditions' for State Significant Development applications. However, Council is of the view that either the revised EP&A Act or the Draft Regulations need to be amended to establish how the holder of the consent would be notified that the relevant consent condition has lapsed and that the relevant license/lease etc now takes effect.

It may be appropriate in these cases for the consent authority to issue a new/updated consent. It may also be necessary to keep an updated version of the consent (and relevant licenses/leases) on-line (such as within the Planning Portal) so that the appropriate regulatory authority for a particular condition can be easily identified by members of the community or government authorities and these requirements should be reflected through the revised Act or Regulations.

Clear basis for modern approaches to managing impacts

The discussion paper states that consideration is being given to the enabling of conditions of consent to apply offsetting requirements to address any environmental impact of a project, not just in relation to biodiversity impacts.

Council's Environmental Services Team are not opposed to offsetting of biodiversity impacts associated with State Significant Development projects, however, there are strong concerns over the capacity of other key impacts associated with State Significant Development to be adequately offset, in particular the ability to offset subsidence impacts to waterways associated with underground mining activities.

It is recommended that any proposal to allow offsetting of impacts related to surface and groundwater quality for mining activities be subject to a peer review by a suitably qualified independent scientific body which confirms that an offsetting approach would be capable of achieving water quality goals.

Also, no offsetting arrangements should be made available for building damage caused by certain activities (particularly underground mining related impacts). An offsetting approach is not considered suitable in this regard due to the adverse community cost and social impacts, as well as the impact on asset maintenance costs for public authorities.

Discontinuing Part 3A Arrangements

The proposed amendments to discontinue the application of Part 3A of the EP&A Act are supported.

5. Facilitating Infrastructure Delivery

Concurrence for Part 5 Activities

The proposed amendments to enable a SEPP to require a determining authority to obtain the concurrence of a particular public authority for Part 5 activities occurring within an Infrastructure corridor are supported.

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6. Fair and Consistent Planning Agreements

Council objects to the proposed amendment of section 93F of the Act to enable a Voluntary Planning Agreement (VPA) to be entered into in respect of a Complying Development Application. Typically a VPA would be entered into between Council and a developer if the development is of a large scale and is likely to attract a significant increased demand for services and infrastructure in the local area. A development which would require Council to enter into a Planning Agreement would not be appropriate for consideration as a CDC and would be more appropriate if it were considered as a development application.

It would also be difficult for Council's to enter into a VPA for a Complying Development Application for the following reasons:

- Under the Act, a Planning Agreement cannot be entered into unless public notice has been given of the proposed agreement for a period of at least 28 days. This requirement is not proposed to change under the Draft EP&A Act;
- A Complying Development Application has a Statutory timeframe of between 10 and 12 days and generally has no public notification requirements (which is not proposed to change under the EP&A Act), so it would therefore not be possible to exhibit the VPA and CDC Concurrently;
- The VPA would therefore need to be entered into prior to lodgement of the CDC application which restricts Council's in their negotiations for a VPA. A situation could also arise whereby Council enters into a VPA but would then not be responsible for determining the CDC (if it is issued by a private certifier).

Council also objects to the proposed amendments to enable Special Infrastructure Contributions to apply to Complying Development. The Special Infrastructure Contribution typically applies to large scale subdivisions (such as within Urban Release Areas) or to large scale projects to support the facilitation of regional infrastructure. If a development is of a scale that would attract Special Infrastructure Contributions, then it is likely that the development is not suitable for consideration as a Complying Development Certificate.

7. Confidence in Decision Making

Consistent provisions for local planning panels

The proposal to introduce consistent requirements for the composition and role of Local Planning Panels in the Act are supported.

Power to direct that a Local Planning Panel must make determinations

Council objects to the proposed amendments to the Act to enable the minister to direct a Council to establish a Local Planning Panel to determine development applications. The relevant Local Council should be the consent authority for local development and it would be more appropriate for a Local Planning Panel to provide advice on development matters but not make final determinations. It is also likely that this arrangement would be

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contrary to the statement in the summary guide which states that *"the vast majority of development applications should be determined by Council staff on delegation"*.

Independent Planning Commission

The exhibition material states that the role of the Planning Assessment Commission (PAC) is primarily one of determining State Significant proposals, rather than providing advice and that the commission will no longer have a statutory function to review development proposals. The PAC is generally comprised of personnel with expertise across a number of disciplines and is therefore able to provide a rigorous review of large scale proposals. Council has concerns that the proposed reforms would reduce or remove the level of scientific scrutiny of applications by a public body and recommends that some review functions for PAC be retained.

Expanded Scope for Internal review

Council supports the proposed amendments to expand the scope of internal reviews to include decisions regarding Integrated Development and State Significant Development. However, it is recommended that the Act should be amended so that a longer period is enabled for a review of determination under s82A for Integrated Development and State Significant Development.

The Act currently requires a review under s82A to be determined within 6 months of the consent date. However, applications for Integrated or State Significant Development often require a greater level of assessment and GTA's or concurrence from other approval bodies which require a greater assessment timeframe (as evidenced by the longer deemed refusal periods for Integrated and State Significant Development Applications). It is considered that a timeframe of between 9 and 12 months for the consent authority to determine a review for these types of developments is appropriate, while keeping the current 6 month timeframe in place in which to determine the review of a local development application determination.

8. Clearer Building Provisions

Consistency with the Development Approval

The proposed amendments requiring that a Construction Certificate must be consistent with a development consent and enabling the court the ability to declare a Construction Certificate invalid if it is inconsistent with the development consent are strongly supported by Council.

9. Elevating the role of design

A new design object

Council supports the proposed amendments to include a new object in the EP&A Act to promote good design in the built environment.

10. Enhancing the Enforcement Toolkit

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Enforceable Undertakings

Council supports the proposed amendments to enable the Department and Local Councils to enter into an enforceable agreement which requires the holder of a consent to rectify harm that has occurred as an alternative to prosecution. This reflects a process that is often established by Council through Court proceedings but is not currently formally recognised in the EP&A Act.

It is noted that the clause in the amended EP&A Act requires the Planning Secretary to accept a written undertaking in relation to such a matter. Council recommends that the final EP&A Act be modified to enable Council to enter into an agreement on minor compliance matters without the need for secretary approval to avoid inappropriate delays in compliance proceedings.

Summary

Council appreciates the opportunity to comment on the revised Planning Legislation and looks forward to further discussions with the Department on these amendments in the future.

Yours faithfully



Luke Johnson
General Manager

Report of Planning and Economy to the Extraordinary Meeting of Council held on Monday 5 June 2017

PE2 - Wilton new Town Advocacy Paper

PE2

Wilton New Town Advocacy Paper

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TRIM 6930-6

EXECUTIVE SUMMARY

- This report relates to a Wilton New Town Advocacy Paper that has been prepared by Council. The purpose of the paper, “Wilton...a Great New Town or no Town at all...” is to clearly and strongly express Wollondilly Council’s view that without a best practice and coordinated approach to the planning of Wilton New Town, it will fall well short of its objectives.
- It is recommended that Council endorse the Wilton New Town Advocacy Paper and commence a campaign to advocate for the outcomes contained within the paper.

REPORT

Wilton New Town has the potential to deliver positive outcomes for our Shire and our future communities if well-planned. Council is however increasingly concerned that there needs to be a more coordinated approach by all levels of government, all relevant government agencies, and all development proponents.

If this does not occur there is a real risk that Wilton New Town will struggle with the type of issues that have traditionally characterised growth on the fringe of Sydney – lagging or non-existent infrastructure, limited employment, lack of social services, poor public transport, poor design and poor place-making. Because of Wilton New Town’s separation and distance from Sydney’s established urban area, these risks are heightened.

The purpose of the Wilton New Town Advocacy Paper is to clearly and strongly express Wollondilly Council’s view that without a best practice and coordinated approach to the planning of Wilton New Town, it will not achieve its objectives and will not be the “great” new town that we envisage.

CONSULTATION

The preparation of the Wilton New Town Advocacy Paper has involved consultation with Senior Council Staff and Councillors. The key issues in the Paper also reflect feedback received from the community during the preparation of Council’s new Community Strategic Plan in relation to growth and aspirations for the future.

FINANCIAL IMPLICATIONS

The preparation of the Wilton New Town Advocacy Paper has been undertaken using existing Council staff resources.

Report of Planning and Economy to the Extraordinary Meeting of Council held on Monday 5 June 2017

PE2 - Wilton new Town Advocacy Paper

The proposed advocacy campaign is expected to involve minor administrative costs such as printing and advertising. These costs can be covered within Council's existing operating budgets.

ATTACHMENTS

1. Wilton New Town Advocacy Paper "Wilton...a Great New Town or no Town at all..." to be distributed to Councillors under separate cover

RECOMMENDATION

1. That Council endorse the Wilton New Town Advocacy Paper "Wilton...a Great New Town or no Town at all..."
2. That Council commence a campaign to advocate for the outcomes contained within the paper.

Infrastructure

Report of Infrastructure to the Extraordinary Meeting of Council held on Monday 5 June 2017

Relevance to the Community Strategic Plan

RELEVANCE TO COMMUNITY STRATEGIC PLAN - INFRASTRUCTURE

The reports contained within this section of the agenda outline actions and activities that contribute to the achievement of the outcomes as outlined in your Community Strategic Plan 2033.

Report of Infrastructure to the Extraordinary Meeting of Council held on Monday 5 June 2017

IN1 – Tender 2016/24 Blaxland Crossing Bridge Bearing Replacement – Assessment and Recommendation

INFRASTRUCTURE

IN1 **Tender 2016/24 Blaxland Crossing Bridge Bearing Replacement – Assessment and Recommendation**
276532 TRIM 9482

EXECUTIVE SUMMARY

The Blaxland Crossing Bridge is co-owned by Wollondilly and Penrith Councils. The bridge is 50 years old and both Councils have scheduled the replacement of the bridge bearings, which are approaching the end of their design life-span.

This report recommends:

- That Council resolve to reject all submitted tenders for the Blaxland Crossing Bridge Bearing Replacement Tender 2016/24 and enter into negotiations with those tenderers that express an interest in providing a revised submission against the revised specification and scope of works.

REPORT

BACKGROUND

The Blaxland Crossing Bridge is co-owned by Wollondilly and Penrith Councils. The bridge is 50 years old and both Councils have scheduled the replacement of the bridge bearings, which are approaching the end of their design life-span.

As a part of the preparation for the replacement of the bridge bearings, the bridge was inspected and tested to confirm the condition of the bearings and the bridge structure. This testing revealed that the bridge bearings were not functioning correctly and they do require replacement. Due to the age of the bridge the bearings cannot easily be replaced and investigations were undertaken by Council's design consultants.

The design consultants compiled a set of design drawings for Tender for Option A, which was the mandatory option. Option A included the construction of a concrete corbel/headstock at each pier to facilitate jacking operations and support the new bearings. Tenderers were invited to price an alternative option for the works (Option B). Option B included the permanent raising of the bridge deck, to provide sufficient space for the installation of compliant bearings. It was noted that Option B potentially had a larger traffic impact on road users.

Report of Infrastructure to the Extraordinary Meeting of Council held on Monday 5 June 2017

IN1 – Tender 2016/24 Blaxland Crossing Bridge Bearing Replacement – Assessment and Recommendation

EVALUATION PARTICULARS

In accordance with Section 55 of the Local Government Act 1993, tenders were called on Tuesday 22 November, 2016. An extension of time for tender closing was granted following requests from multiple tenderers to allow additional time to review the technical design and provide realistic prices.

Tenders closed at 9.00am on Monday 19 December 2016, with seven (7) conforming submissions received.

The first Tender Assessment Panel (TAP) meeting, including representatives from Wollondilly Shire Council, Penrith City Council and an independent engineering consultant, was held 4 January 2017.

The tender review process completed by the TAP identified that:

- Additional consultation with utility service providers regarding the potential impacts of the works on services attached to the bridge was required. This consultation became an approval process due to the critical nature of the assets and proximity to the Nepean River.
- The understanding of the loads on the bridge was modified during the consultation process and this required additional design iterations around both the structure and the proposed works method. This process has been protracted and could not have been completed during the design phase as the impact assessment is dependent on the design and construction methodology, which were the subject of the tender process. As result of this process, the structural design for the bearing replacements has changed.
- The utility consultation and approval process has resulted in a different risk assessment (by the utility owner) and requires a service integrity plan as opposed to a contingency plan which also could not have been completed during the design phase as the impact assessment is dependent on the design, construction methodology and duration, which were the subject of the tender process.

The TAP reconvened during May 2017 and concluded that the resulting changes in specification and scope are a significant deviation from the tender, and as such is not in a position to recommend any submitted tender. It is noted that the TAP has a high degree of confidence in all the tenderers' ability to perform the works and the reason to decline the tenders is purely due to the change in specification and scope.

The TAP has recommended rejecting all tenders and entering into negotiations with those tenderers that express an interest in providing a revised submission.

Report of Infrastructure to the Extraordinary Meeting of Council held on Monday 5 June 2017

IN1 – Tender 2016/24 Blaxland Crossing Bridge Bearing Replacement – Assessment and Recommendation

CONSULTATION

Stakeholders including utility service providers have been consulted to confirm that the tendered construction methodology will not impact their important infrastructure which runs through the bridge.

The community have been kept informed on project progress via a project webpage.

FINANCIAL IMPLICATIONS

The works for the Blaxland Crossing Bridge Bearing Replacement works are budgeted under the 2016/17 and 2017/18 Capital Works Program.

Should a budget adjustment be required in 2017/18, it will be the subject of a later report.

In accordance with the executed Memorandum of Understanding between Wollondilly Shire Council and Penrith City Council, 50% of the cost of the works will be reimbursed to Wollondilly Council by Penrith Council.

RECOMMENDATION

That Council reject all submitted tenders for the Blaxland Crossing Bridge Bearing Replacement Tender 2016/24 and enter into negotiations with those tenderers that express an interest in providing a revised submission against an updated scope and specification.