

4 March 2021

Dear Councillor,

You are kindly requested to attend the **Extraordinary Meeting** of Wingecarribee Shire Council to be held in **Council Chambers, Civic Centre, Elizabeth Street, Moss Vale** on **Tuesday 9 March 2021** commencing at **4.00PM**.

Yours faithfully

Barry W Paull  
**Acting General Manager**

SCHEDULE

3.30pm	Council Meeting begins
7.40pm	Closed Council



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## **Business**

- 1. OPENING OF THE MEETING**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. PRAYER**
- 4. APOLOGIES**  
Nil
- 5. DECLARATIONS OF INTEREST ..... 1**

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- 6. MAYORAL MINUTES**
  - 6.1 Notice of Intention to Issue a Suspension Order ..... 2

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- 7. CLOSED COUNCIL**  
Nil
- 8. MEETING CLOSURE**

## Our Mission, Our Vision, Our Values

### OUR MISSION

To create and nurture a vibrant and diverse community growing and working in harmony with our urban, agricultural and natural environments

### OUR VISION

**Leadership:** *'An innovative and effective organisation with strong leadership'*

**People:** *'A vibrant and diverse community living harmoniously, supported by innovative services and effective communication with Council'*

**Places:** *'Places that are safe, maintained, accessible, sympathetic to the built and natural environment, that supports the needs of the community'*

**Environment:** *'A community that values and protects the natural environment enhancing its health and diversity'*

**Economy:** *'A strong local economy that encourages and provides employment, business opportunities and tourism'*

### OUR VALUES

Integrity, trust and respect

Responsibility and accountability

Communication and teamwork

Service quality

## Council Chambers

### Recording and Webcasting of Ordinary and Extraordinary Meetings of Council

This meeting is being recorded and webcast via Council's website and a person's image and/or voice may be publicly broadcast. Attendance at the meeting is to be taken as consent by a person to their image and/or voice being webcast. Any part of the meeting that is held in closed session will not be webcast.

Council requests that everyone in attendance is respectful and uses appropriate language. All speakers should refrain from making any defamatory, discriminatory or offensive comments or releasing any personal information about another individual without their consent. Council accepts no liability for any damage that may result from defamatory, discriminatory or offensive comments made by persons attending meetings – all liability will rest with the individual who made the comments.

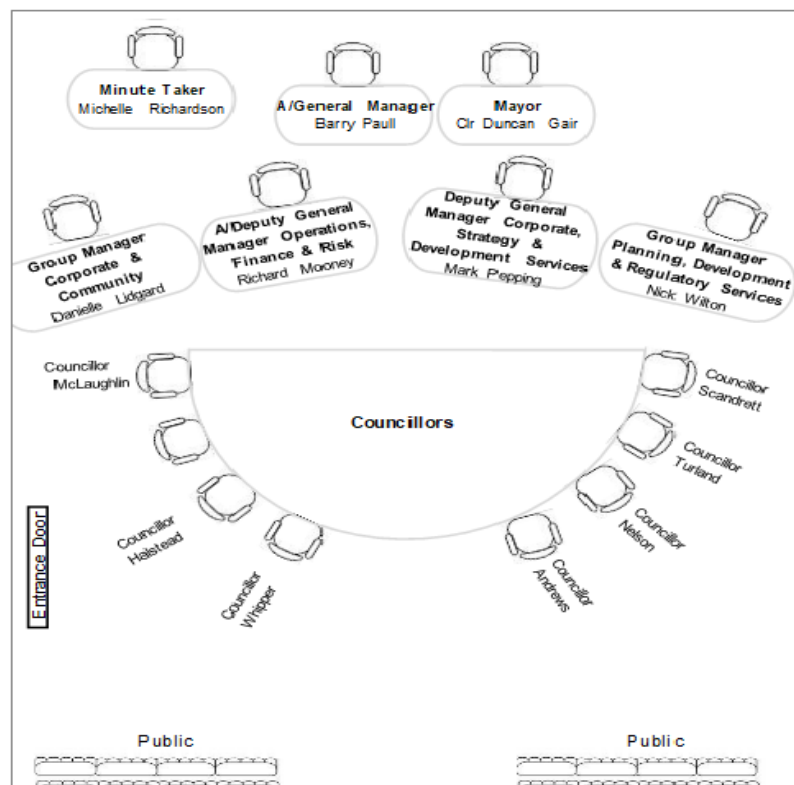
Individuals acting in a disorderly manner can be asked by the Chairperson to leave the meeting under the Council's Code of Meeting Practice.

The recording will be available for viewing on the internet for 12 months and retained as a Council record. The recording is subject to copyright.

The meeting must not be recorded by others without the prior written consent of Council in accordance with Council's Code of Meeting Practice.

Please ensure that all electronic devices including mobile phones are switched to silent.

**The Council Chamber has 24 Hour Video Surveillance.**





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## **ACKNOWLEDGEMENT OF COUNTRY**

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I would like to acknowledge the Traditional Custodians of this land and pay my respect to Elders both past and present. I would also like to extend that respect to all Aboriginal and Torres Strait Islanders present here today.

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## **APOLOGIES**

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Nil at time of print.

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## **DECLARATIONS OF INTEREST**

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101/3, 101/3.1

The provisions of Chapter 14 of the *Local Government Act 1993* regulate the way in which Councillors and nominated staff of Council conduct themselves to ensure that there is no conflict between their private interests and their public trust.

The Act prescribes that where a member of Council (or a Committee of Council) has a direct or indirect financial (pecuniary) interest in a matter to be considered at a meeting of the Council (or Committee), that interest and the reasons for declaring such interest must be disclosed as soon as practicable after the start of the meeting.

As members are aware, the provisions of the Local Government Act restrict any member who has declared a pecuniary interest in any matter from participating in the discussions or voting on that matter and further require that the member vacate the Chamber.

Council's Code of Conduct provides that if members have a non-pecuniary conflict of interest, the nature of the conflict must be disclosed. The Code also provides for a number of ways in which a member may manage non pecuniary conflicts of interest.

## 6 MAYORAL MINUTES

### 6.1 Notice of Intention to Issue a Suspension Order

Reference:	101; 102; 103/6
Report Author:	Group Manager Corporate and Community
Authoriser:	Acting General Manager
Link to Community	
Strategic Plan:	An enhanced culture of positive leadership, accountability and ethical governance that guides well informed decisions to advance agreed community priorities

#### **PURPOSE**

To consider correspondence from the Minister for Local Government, The Hon. Shelley Hancock, MP advising of her intention to issue Council with a Suspension Order.

#### **RECOMMENDATION**

1. **THAT Council considers the correspondence from the Minister for Local Government, The Hon. Shelley Hancock, MP dated 2 March 2021 as provided in Attachment 1 and determines its submission in respect of the proposed Suspension Order.**
2. **THAT Council submits its submission to the Notice of Intention to Issue a Suspension Order to the Minister for Local Government by Close of Business Wednesday 10 March 2021.**

#### **REPORT**

##### **BACKGROUND**

On 8 September 2020, the Minister for Local Government, The Hon. Shelley Hancock, MP (the Minister) issued Council with an Improvement Order. As a part of this Order, Councillors attended mediation training and the Mayor attended meeting training as required by the Order.

##### **REPORT**

On 3 March 2021, the Mayor and Acting General Manager received correspondence from the Minister dated 2 March 2021 providing Notice of Intention to Issue a Suspension Order (the Notice), in accordance with section 438K of the *Local Government Act 1993* (the Act). The Notice proposes to suspend Councillors for a period of three (3) months and appoint an interim administrator under section 438M of the Act.

The Notice and associated information summary sheet are provided in **Attachment 1 and 2** to this report. The Notice outlines the reasons for the proposed Suspension Order which the Minister has considered in forming her preliminary opinion to appoint a temporary administrator to restore the proper and effective functioning of Council. In accordance with clause 413E of the *Local Government (General) Regulation 2005*, the Minister has considered the criteria that is outlined in this clause before issuing the Notice.

The Minister has invited Council to make a submission in respect of the proposed Suspension Order and Council has been given seven days to respond to this Notice. Council's submission must be made by way of resolution of the Council.

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## **COMMUNICATION AND CONSULTATION**

### **Community Engagement**

N/A

### **Internal Communication and Consultation**

N/A

### **External Communication and Consultation**

N/A

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## **SUSTAINABILITY ASSESSMENT**

- **Environment**

There are no environmental issues in relation to this report.

- **Social**

There are no social issues in relation to this report.

- **Broader Economic Implications**

There are no broader economic implications in relation to this report.

- **Culture**

There are no cultural issues in relation to this report.

- **Governance**

The Notice of Intention to Issue a Suspension Order is made in accordance with section 438K of the *Local Government Act 1993*.

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## **COUNCIL BUDGET IMPLICATIONS**

There are no budget implications as a result of this report.

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## **RELATED COUNCIL POLICY**

Nil

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## **OPTIONS**

The options available to Council are:

Option 1

## AGENDA FOR THE EXTRAORDINARY MEETING OF COUNCIL

Tuesday 09 March 2021

### MAYORAL MINUTES



1. THAT Council considers the correspondence from the Minister for Local Government, The Hon. Shelley Hancock, MP dated 2 March 2021 in **Attachment 1** and determines its Submission.
2. THAT Council submits its Submission to the Notice of Intention to Issue a Suspension Order to the Minister for Local Government by Close of Business on Wednesday 10 March 2021.

#### Option 2

THAT Council considers the correspondence from the Minister for Local Government, The Hon. Shelley Hancock, MP and determine not to make a submission in respect of the proposed Suspension Order.

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### **CONCLUSION**

This report presents correspondence from Minister for Local Government, The Hon. Shelley Hancock, MP giving notice of her intention to issue Council with a Suspension Order. Council must consider the Notice of Intention and if it wishes to do so resolve to make a submission to the Minister by way of resolution.

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### **ATTACHMENTS**

1. Notice of Intention to Issue a Suspension Order
2. Quick Guide to Suspension Orders - Process for Councils





The Hon. Shelley Hancock MP  
Minister for Local Government

Ref: A762345

Clr Duncan Gair and Mr Barry Paul  
Mayor and Acting General Manager  
Wingecarribee Shire Council

Duncan.gair@wsc.nsw.gov.au  
Barry.paul@wsc.nsw.gov.au

### NOTICE OF INTENTION TO ISSUE A SUSPENSION ORDER

Dear Clr Gair and Mr Paul

In accordance with section 438K of the *Local Government Act 1993* (the Act), I hereby give notice of my intention to issue a suspension order to suspend councillors of Wingecarribee Shire Council for a period of three months and appoint an interim administrator under section 438M of the Act.

I am aware that there have been long-standing divisions within Council which have led to numerous code of conduct complaints and complaints about poor meeting practice. There have been ongoing requests for intervention by me and the Office of Local Government to address behavioural issues at Council and the effectiveness of Council decision-making.

Allegations of harassing and bullying behaviour towards Council staff have been made. Concerns have been raised by both councillors and staff about the impact of these behaviours on the health and well-being of staff at the council.

These concerns have been ongoing for some time. The Office of Local Government has previously attempted to work with Council to improve the underlying behaviours that gave rise to disruption at Council meetings and on Council premises, including warning letters, providing observers to meetings and conducting workshops with councillors and senior staff.

Ultimately, as a result of concerns about these issues continuing, I issued Council with a Performance Improvement Order (Order) on 8 September 2020. Councillors attended the mediation sessions and meeting training required by the Order. There were observable improvements in the conduct of meetings and general behaviours for a short time.

However, it was observed by my appointed temporary adviser that the improved behaviours that were exhibited at Council's meeting immediately following the mediation declined over subsequent meetings. This decline in civility impacted on the Mayor's chairing.

More recently it is evident that councillors appear to be unable to sustain the improvements made by the previous intervention. Council's finance committee meeting held on 22 February 2021 and Ordinary meeting on 24 February 2021 do not engender confidence that the governing body is effectively and efficiently managing the affairs of the Council.

I have formed the preliminary view that the Performance Improvement Order has been unsuccessful in effecting cultural change in the behaviour of some councillors and in improving relationships at the council.

These are serious matters. In circumstances where relationships between the councillors themselves, and between the councillors and key Council officers have broken down, that position



is untenable. On the information currently available to me, I have formed the preliminary view that there are significant reputational and work, health and safety risks facing Council that must be addressed.

In light of the division and conflict evident amongst the elected members which is impacting on the ability of the Acting General Manager and other staff to undertake their work, I do not presently believe that Council is in a position to satisfactorily identify and address the issues of concern at this time. To assist Council to move forward, and to restore and retain public confidence in Council as a functional decision-making representative body, I presently consider that a period of independent administration may be required.

In accordance with clause 413E of the Local Government (General) Regulation 2005, I have considered the criteria listed before issuing this notice of intention. Having regard to the criteria, I have formed the preliminary opinion that the appointment of an interim administrator may be necessary to restore the proper or effective functioning of Council for the reasons set out above.

I hereby invite Council to make a submission in respect of the proposed suspension. I invite Council to provide its written response within 7 days of the date of this notice. It is suggested that Council tables this notice of intention at an open Council meeting and provides its submission by way of resolution of the Council.

I have attached an information sheet about the process.

I request that you provide a copy of this notice and the information sheet to each councillor.

Yours sincerely

**The Hon. Shelley Hancock MP**  
Minister for Local Government

Encl      02 MAR 2021



Strengthening local government



## Quick Guide to Suspension Orders PROCESS FOR COUNCILS

Councils are responsible for driving their improvement and are generally best placed to do so. Where councils are dysfunctional or failing to meet their legal obligations, the Minister for Local Government and the Office of Local Government encourage and support councils to act voluntarily to fix the problem. Where this fails, new powers to issue suspension orders may be used.

This is a quick guide to how the process of issuing a suspension order will work.

### HOW DOES THE PROCESS WORK?

- Notice of intention to issue a suspension order will be given.
- The council will be given no less than 14 days to respond (in urgent circumstances, the response time will be 7 days).
- Notices of intention will outline what is required.
- The council is encouraged to consider and table the notice of intention at an open council meeting.
- The council should provide its response to the notice of intention by resolution.
- The Minister is required to consider the council's submission when making a decision.
- If a suspension order is to be made it will be published in the Gazette and an interim administrator will be appointed.
- The interim administrator will be asked to table the suspension order at an open meeting and publish the order on the council's website.
- Suspension orders, amendments or extensions to suspension orders and orders appointing interim administrators are published in the Gazette.
- During the suspension period, councillors are suspended from office and as such are not entitled to exercise the functions of civic office or receive any fee or other remuneration.
- The Office of Local Government will monitor the implementation of suspension orders.
- The interim administrator will complete a compliance report on the implementation of any performance improvement order, if one is issued, and/or progress report on the suspension period, if one is required.
- Interim administrators are required to prepare a final written report no less than 14 days before the end of a suspension period.
- Each councillor and the general manager will be advised by the Minister when the suspension period has ended.
- The Office will publish orders, interim administrator reports and monitoring assessments on its website.

Further detail is contained in the Framework for Implementing Performance and Suspension Orders. This document, available at [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au), provides more detail about who can request an order, the criteria for issuing orders, actions the Minister must take to ensure procedural fairness (e.g. notice requirements) and procedures for implementation, including actions required by councils.

Version: March 2020



Barry W Paull  
**Acting General Manager**

Thursday 4 March 2021