

3 February 2020

Dear Councillor,

You are kindly requested to attend the **Extraordinary Meeting** of Wingecarribee Shire Council to be held in **Theatrette, Civic Centre, Elizabeth Street, Moss Vale** on **Thursday 6 February 2020** commencing at **3.30pm**.

Yours faithfully

Ann Prendergast
General Manager

SCHEDULE

3.30pm	Council Meeting begins
7.40pm	Closed Council

RUNNING SHEET

EXTRAORDINARY MEETING OF COUNCIL

held in the Theatre, Civic Centre, Elizabeth Street, Moss Vale
on Thursday, 6 February 2020 at 3.30pm.

Time	Item
3.30pm	Opening of meeting – please remind all present that mobile phones must be switched off before the meeting and that the meeting is tape recorded and the Council Chamber now has 24 Hour Video Surveillance.
	Acknowledgement of Country – Mayor Clr Gair
3.32pm	Opening Prayer – Pastor Paul Crossman, Highlands Christian Church, Mittagong
3.35pm	<ul style="list-style-type: none">• Apologies (<i>if any</i>)• Declarations of Interest (<i>if any</i>)• Mayoral Minute (<i>if any</i>)• Council Reports
7.40pm	Closed Council
8.00pm	Meeting Closed

Ann Prendergast
General Manager





Business

- 1. OPENING OF THE MEETING**
- 2. ACKNOWLEDGEMENT OF COUNTRY**
- 3. PRAYER**
- 4. APOLOGIES**
Nil
- 5. DECLARATIONS OF INTEREST1**

- 6. CORPORATE STRATEGY AND DEVELOPMENT SERVICES**
 - 6.1 2019/2020 Green Wattle Creek and Morton Bushfires - Council
Development Fees and Charges Waivers2

- 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

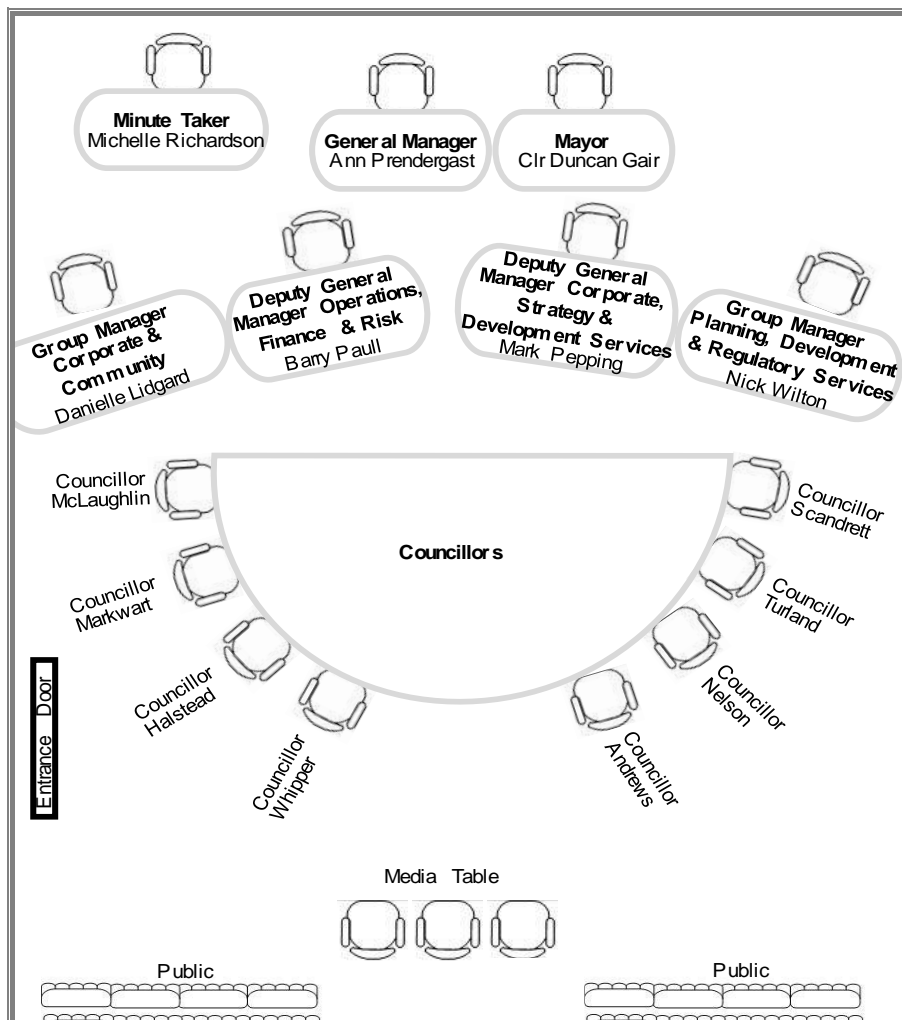
Council Chambers

Recording and Webcasting of Ordinary and Extraordinary Meetings of Council

As required under its Code of Meeting Practice, Wingecarribee Shire Council records and webcasts the proceedings of the Council meetings and Finance Committee meetings for public viewing, with the exception of any part of the meeting that is held in closed session. Members of the public attending and speaking at these meetings will be recorded and publicly broadcast. Council does not accept liability for any defamatory, discriminatory or offensive comments that are made during the course of the meeting.

Sound recording of meetings by members of the media is permitted only for the purpose of verifying the accuracy of any report concerning such meeting. Broadcasting of any sound recording is not permitted. Video recording or live streaming is also not permitted. No member of the public is to live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the meeting without prior permission of the Council.

The Council Chamber now has 24 Hour Video Surveillance.





ACKNOWLEDGEMENT OF COUNTRY

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.

APOLOGIES

Nil at time of print.

DECLARATIONS OF INTEREST

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 CORPORATE STRATEGY AND DEVELOPMENT SERVICES

6.1 2019/2020 Green Wattle Creek and Morton Bushfires - Council Development Fees and Charges Waivers

Reference:	6437/4
Report Author:	Deputy General Manager Corporate, Strategy and Development Services
Authoriser:	Deputy General Manager Corporate, Strategy and Development Services
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

The purpose of this report is to seek Council endorsement for financial relief to assist residents impacted by the recent bushfires within the Shire relating to fees and charges associated with development and related applications.

At the Extraordinary Meeting held on 29 January 2020 Council resolved inter alia as follows:

4. *Following consultation with other NSW councils and the Department of Planning, Industry and Environment a detailed report be brought back to Council at its meeting on 12 February 2020 outlining relief options for development application and associated fees for residents who have lost their dwelling houses in the 2019/20 bushfire locations.*

This matter has been brought forward given the State Government has since announced a suite of State levied fees and charges that it will waive for development and associated applications.

RECOMMENDATION

1. **THAT** Council waive the following fees and charges associated with the lodgement of applications for the rebuilding of lost and damaged buildings as a direct result of the bushfires:
 - a. Development Application
 - b. Pre-Lodgement Meeting Fees
 - c. Construction Certificate
 - d. Registration of a Construction Certificate with Council that is issued by a Private Certifier
 - e. Complying Development Certificate
 - f. Council appointed as a Principal Certifier undertaking inspections
 - g. Final Occupation Certificate
 - h. All plumbing and drainage inspections
 - i. Section 68 Application under the Local Government Act 1993
 - j. Section 138 Application and inspections under the Roads Act 1993.



- k. All archiving and associated administration fees (record search, document management)
 - l. Bushfire Attack Level Certificates
 - m. Advertising and Neighbour Notification fees.
 - n. Approval to operate an onsite sewage management system application and inspection fee.
2. **THAT** Council give public notice in accordance with s705 of the Local Government Act 1993 for 28 days commencing Monday 10 February 2020 of the category of cases in respect of which the Council has determined payment of fees should be waived (refer to Item 1 above) for the rebuild of buildings destroyed or damaged in the bushfires.
3. **THAT** if no objections are received from the public to the waiving of fees to rebuild buildings destroyed or damaged in the bushfires, the General Manager be delegated the authority to implement the waivers as part of Council's Fees and Charges immediately following the conclusion of the public notice period.
4. **THAT** if one of more objections are received to the proposed waiver of fees, a further report be presented to Council as soon as possible following the conclusion of the public notice period.
5. **THAT** if applications are lodged with Council prior to the implementation date, any fees paid be refunded or levied be cancelled in full should Council resolve to waive all development related fees and charges as per 1 above.

REPORT

BACKGROUND

New South Wales and a number of other States and Territories across Australia have battled devastating bushfires since August 2019. Within New South Wales alone 49 Local Government Areas have now had a Natural Disaster Declaration.

As reported to Council at the Extraordinary Meeting of 29 January 2020, Wingecarribee Shire has been impacted by two of the major NSW fires. The first fire known as the Green Wattle Creek Fire made its first impact on the Shire on the afternoon of Thursday 19 December 2019. This event impacted on the localities of Buxton and Balmoral in the northern part of the Shire resulting in loss of property.

On Saturday 21 December 2019, a further and more devastating impact of the Green Wattle Creek Fire occurred impacting the whole of the Balmoral locality including the Village area, and the northern and eastern outskirts of Hill Top and further west the localities of Bullio and High Range.

The second major bushfire impact on the Shire occurred on the night of Saturday 4 January 2020 when extensive ember attacks from the Currowan Fire to the south of the Shire crossed the Shoalhaven River into the Morton National Park within the Wingecarribee Shire and impacted the Village of Wingello, the eastern and southern parts of Bundanoon, the outskirts of Exeter and the locality of Meryla. The fire event named the Moreton Fire resulted in significant property losses in Wingello as well as property loss in Yuille Avenue/Evelyn Avenue area of Bundanoon and the Stonequarry Creek area of Exeter and Meryla.

On Saturday 11 January 2020, the Moreton Fire resulted in further impact to property in the Penrose locality with a number of outbuildings on properties being destroyed but no loss of houses.

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As at 3 February 2020, the RFS has classified approximately 178 properties within the Shire which have had a least one building structure destroyed or damaged with some properties having had multiple building structures destroyed or damaged. This excludes properties which have had only fencing, stockyards or other non-built structures destroyed or damaged by the fires. This information is subject to regular updating.

The reported extent of damage to date is 68 dwellings destroyed, 197 outbuildings destroyed, 18 dwellings damaged, 3 facilities damaged, 69 outbuildings damaged. As mentioned previously some properties have encountered multiple building losses.

Despite the description of property damage above, as the Shire is still being assessed with some locations remaining inaccessible such as the Bullio area where it is estimated that property damage has been extensive, the exact numbers of lost and damaged properties is unlikely to be known for several weeks.

In considering the report to Council on 29 January 2020 which was principally to determine the expenditure of the \$1 Million assistance from the Federal Government, Council resolved inter alia;

- 4. Following consultation with other NSW councils and the Department of Planning, Industry and Environment a detailed report be brought back to Council at its meeting on 12 February 2020 outlining relief options for development application and associated fees for residents who have lost their dwelling houses in the 2019/20 bushfire locations.***

REPORT

Council recognises the devastating impact of the fires on our communities, economy, environment and most importantly residents directly impacted arising out of current and ongoing fires. In recognising that there is a financial impact on property owners who have been affected, it is recommended that Council provide waivers to fees and charges relating to development and related applications.

To minimise any financial strain from Council on those impacted by the fires as much as is possible, Council is proposing a framework for Council consideration for waiving application fees for: Development Applications, Complying Development Certificates, Construction Certificates, Occupation Certificates, applications for water and sewer connections under S68 of the Local Government Act where applicable, applications for road opening permits where applicable and related fees such as inspection fees and advertising/notification fees to assist owners of those properties that are classified by the RFS as affected by the bushfires. These measures are not for the broader community. This is consistent with the approach other Councils will be undertaking.

By resolving to provide the appropriate delegation to the General Manager, staff will be able to apply the waivers to residents seeking to rebuild thereby minimising unnecessary stress on people impacted by these fires.

The intent of all the fee and charge waivers is to assist residents to maximise the rebuild funds available through their personal insurance policies and government support provided to date and possibly in the future.

It is important to note that there will be a level of financial impact to Council operations as a result of the recommendations in this report, however the short-term impacts are considered to be outweighed by the critical need to provide support to the community.



Proposed Assistance where Fees and Charges are Proposed to be Waived

- Development Application or a Complying Development Certificate and other Certificates and Inspections for current owners to rebuild their lost or damaged buildings located on their properties.
- Costs associated with any future Modification Applications to modify the development consent for this rebuilding will also be waived.
- Pre-Lodgement Meeting Fees
- For damaged onsite sewage management systems (septics), where only the system is damaged and not the building which would trigger reconstruction of the building, a notice under the Protection of the Environment Operations Act will be applied. The administration fee associated with the Notice is to be waived. Many property owners prefer this option as it means it by-passes the need to make formal application to Council. This will enable residents to avoid the application process and associated fee and ensure the property owner has permission to repair the system quickly. Alternatively, should a person oppose issue of a Notice, and prefer to apply for approval through the normal process using a s68 application, it is proposed that these fees also be waived.

It should be noted that if a property owner as part of the rebuild wishes to increase the density of development on the site for example, building a Secondary Dwelling or Dual Occupancy that did not exist prior to the bush fires, Council's normal fees will apply to the additional development. Reasonable increases in building sizes destroyed or damaged in the bushfires will not be considered additional development for the purpose of fee calculations.

Requirement Under the Local Government Act 1993.

The *Local Government Act 1993 (LG Act)* states:

610E Council may waive or reduce fees

- (1) *A council may waive payment of, or reduce, a fee (whether expressed as an actual or a maximum amount) in a particular case if the council is satisfied that the case falls within a category of hardship or any other category in respect of which the council has determined payment should be so waived or reduced.*
- (2) *However, a council must not determine a category of cases under this section until it has given public notice of the proposed category in the same way as it is required to give public notice of the amount of a proposed fee under section 610F(2) or (3).*

610F Public notice of fees

- (1) *A council must not determine the amount of a fee until it has given public notice of the fee in accordance with this section and has considered any submissions duly made to it during the period of public notice.*
- (2) *Public notice of the amount of a proposed fee must be given (in accordance with section 405) in the draft operational plan for the year in which the fee is to be made.*
- (3) *However, if, after the date on which the operational plan commences—*
 - (a) a new service is provided, or the nature or extent of an existing service is changed, or*
 - (b) the regulations in accordance with which the fee is determined are amended,*

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the council must give public notice (in accordance with section 705) for at least 28 days of the fee proposed for the new or changed service or the fee determined in accordance with the amended regulations.

COMMUNICATION AND CONSULTATION

Community Engagement

No direct community engagement has been undertaken in relation to the proposed recommendations for waivers of development and related applications fees and charges.

Internal Communication and Consultation

Executive, Chief Financial Officer, Group Manager Planning Development and Regulatory Services.

External Communication and Consultation

Council staff have engaged with the Department of Planning, Industry and Environment (DPIE) and member Councils of the Canberra Region Joint Organisation (CBO) around development related fees and charges. It is important to note that **no** Councils in the CBO have formally resolved to waive any fees as at the time of preparing this report. Within the region generally, the nearest Council to enact a waiver of fees and charges is Shoalhaven Council which did so on 20 January 2020 via an Extraordinary Council Meeting. It was established in the consultations that most Councils were considering a report to their respective Councils to waive fees at their first meeting opportunity in February 2020.

It was also noted that Councils would be seeking that the State Government also waive any associated state related charges such as the Long Service Levy fees and Planning Reform Fund fees which councils collect on their behalf. It was presumed that the State Government would waive the fees and make such announcement by mid-February 2020. As we are now aware, the Government brought forward the announcement to 31 January 2020. Council received written confirmation of the State Government's waivers through an email from the Group Deputy Secretary Planning and Assessment to the General Managers dated 31 January 2020. The email confirmed that the NSW Government has made the decision to waive applicable government fees, effective immediately, on all development applications related to dwellings damaged or destroyed in the recent bushfires.

The fees include the BASIX Certificate fee and the Planning Reform Fund fee.

This means councils are not required to collect the Planning Reform Fund fee when development applications are lodged.

Affected property owners can contact the Department to arrange for a BASIX Certificate to be issued free of charge.

The advice however did not mention the waiving of the Long Service Leave Levy which is being followed up further through the Department channels.

SUSTAINABILITY ASSESSMENT

- **Environment**

There are no environmental issues in relation to this report.

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- **Social**

The waiving of Development and related application fees and charges will relieve bush fire affected property owners of Council expenses as part of their rebuilds.

- **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**

In order for Council to waive development and related applications fees and charges, it is required under the Local Government Act 1993 to pass a resolution to that effect. Council, should it adopt the recommendations to this report, will comply with the necessary requirements under the State Legislation.

COUNCIL BUDGET IMPLICATIONS

It is estimated that in total approximately \$500,000 worth of fees and charges will be waived by the Council attributed to applications to rebuild destroyed and damaged buildings. A provision will be made in the 2020/2021 budget.

RELATED COUNCIL POLICY

Council has an adopted Fees and Charges Policy which is adopted annually as part of its annual budget. The current fees and charges were adopted in June 2019 and took effect on 1 July 2019. Council staff have no delegation to waive or alter the fees and charges unless in accordance provisions as adopted. The current fees and charges do not have any provision for Council staff to pass on or quote any discounts or waivers for development or related applications. Should Council adopt the recommendation of this report, the General Manager will immediately have the necessary authority to waive the Council development and related application fees and charges.

As mentioned previously, Council cannot waive State Government established Long Service Leave Levy and Planning Reform Fund Fees which is the responsibility of the State Government. The current Long Service Leave Levy rate is 0.35% of the value of building and construction works costing \$25,000 or more and the current Planning Reform Fund levy is 0.064% of the value of building or subdivision works costing \$50,000 or more. The State Government has confirmed that these fees will be waived for bushfire affected applications.

OPTIONS

The options available to Council are:

Option 1

1. THAT Council waive the following fees and charges associated with the lodgement of applications for the rebuilding of lost and damaged buildings as a direct result of the bushfires:

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- a. Development Application
 - b. Pre-lodgement meeting fees
 - c. Construction Certificate
 - d. Registration of a Construction Certificate with Council that is issued by a Private Certifier
 - e. Complying Development Certificate
 - f. Council appointed as a Principal Certifier undertaking inspections
 - g. Final Occupation Certificate
 - h. All plumbing and drainage inspections
 - i. Section 68 Application under the Local Government Act 1993
 - j. Section 138 Application and inspections under the Roads Act 1993.
 - k. All archiving and associated administration fees (record search, document management)
 - l. Bushfire Attack Level Certificates
 - m. Advertising and Neighbour Notification fees.
 - n. Approval to operate an onsite sewage management system application and inspection fee.
2. THAT Council give public notice in accordance with s705 of the Local Government Act 1993 for 28 days commencing Monday 10 February 2020 of the category of cases in respect of which the Council has determined payment of fees should be waived (refer to Item 1 above) for the rebuild of buildings destroyed or damaged in the bushfires.
 3. THAT if no objections are received from the public to the waiving of fees to rebuild buildings destroyed or damaged in the bushfires, the General Manager be delegated the authority to implement the waivers as part of Council's Fees and Charges immediately following the conclusion of the public notice period.
 4. THAT if one or more objections are received to the proposed waiver of fees, a further report be presented to Council as soon as possible following the conclusion of the public notice period.
 5. THAT if applications are lodged with Council prior to the implementation date, any fees paid be refunded or levied be cancelled in full should Council resolve to waive all development related fees and charges as per 1 above.

Option 2

THAT Council endorse a modified set of waivers for development and related application fees and charges

Option 1 is the recommended option to this report.

CONCLUSION

By Council waiving fees and charges for applications to rebuild destroyed or damaged buildings directly impacted by the recent bushfires, affected residents are relieved of the added expense towards the rebuild process. Further it is acknowledged that the State Government has now also waived State imposed levies associated with development. These measures ensure the cost to applicants of lodging a development application, complying development certificate application and construction certificate application will be zero dollars.

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ATTACHMENTS

There are no attachments to this report.

Mark Pepping

Deputy General Manager Corporate, Strategy and Development Services

Ann Prendergast
General Manager

Monday 3 February 2020