

# Minutes

Confirmed minutes of the Ordinary Council Meeting held on Tuesday 15 November 2022

Signature:



Leo Hauville (Dec 16, 2022 10:37 GMT+11)

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The meeting commenced at 9:00 am.

**PRESENT:**

Councillors L J Hauville (Mayor and Chairperson), I A Bain, C S Butterfield, S R A Fergusson, A P Patterson, K A Riddington, K Ring, D F Saul and A D Wyatt.

General Manager, C L Milburn; Director Corporate and Commercial, S M Mitchell; and Manager Governance and Information Services, D S Thoroughgood.

The Mayor informed all present that Council permits the electronic recording and broadcasting of the proceedings of Council which are open to the public. Your attendance at this meeting is taken as consent of the possibility that your image and your voice may be recorded and broadcast to the public.

**1 OPENING PRAYER**

Cr Fergusson provided the opening prayer.

**2 ACKNOWLEDGEMENT OF COUNTRY**

Cr Bain provided an acknowledgement of country.

**3 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS**

Nil

**4 CONFIRMATION OF MINUTES**

**2022.199 RESOLVED (Cr Saul/Cr Butterfield):**

**That the minutes of the ordinary meeting of Kempsey Shire Council dated 18 October 2022 be confirmed.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

**5 DISCLOSURES OF INTEREST**

Nil

**6 ITEMS PASSED BY EXCEPTION**

**2022.200 RESOLVED (Cr Ring/Cr Bain):**

That the recommendations contained in the following items be adopted:

**9.9. Acting General Manager Appointment**

**9.10. Statement of Cash and Investments - October 2022**

**11.1. Legal Matters**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

**9.9 Acting General Manager Appointment**

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<b>Officer</b>	Daniel Thoroughgood, Group Manager Governance and Information Services
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<b>File Number</b>	F22/1854
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**2022.201 RESOLVED (Cr Ring/Cr Bain):**

**That:**

1. for the period 1 January 2023 to 31 December 2023, the person holding the position of Director Corporate & Commercial be appointed to act as General Manager if the General Manager is sick or otherwise absent from work on leave, such appointment to cease upon the return to work of the General Manager or other resolution of the Council,
2. if the person specified in paragraph 1 is unable or unwilling to act as General Manager at any time during the specified period, the person holding the position of Director Operations & Planning be appointed to act as General Manager if the General Manager is sick or otherwise absent from work on leave, such an appointment to cease upon the return to work of the General Manager or other resolution of the Council, and
3. any person acting as General Manager pursuant to this resolution has all the functions, delegations, and sub-delegations given to the General Manager by Council.

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

**9.10 Statement of Cash and Investments - October 2022**

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<b>Officer</b>	Ron Wood, Group Manager Financial Services
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<b>File No</b>	F22/3106
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**2022.202 RESOLVED (Cr Ring/Cr Bain):**

**That Council receive and note the report.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

## **11.1 Legal Matters**

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**Officer** Daniel Thoroughgood, Group Manager Governance and Information Services

**File Number** F22/1960

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### **Section 10A(2)(g) – Legal Proceedings**

This report is submitted on a confidential basis as it involves advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. (*Local Government Act 1993*, section 10A(2)(g))

On balance, the public interest in preserving the confidentiality of the advice, outweighs the public interest in openness and transparency in Council decision making by discussing the matter in open meeting.

### **2022.203 RESOLVED (Cr Ring/Cr Bain):**

**That Council receive and note the report.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

## **7 MAYORAL MINUTES**

### **7.1 Declaration of Statewide Road Emergency**

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**Councillor** Cr Hauville, Mayor

**File Number** F22/1789

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### **2022.205 RESOLVED (Cr Hauville):**

**Kempsey Shire Council joins with Local Government NSW and Country Mayors Association of NSW in declaring a State-wide Road Emergency.**

**Along with these organisations Kempsey Shire Council supports:**

- 1. an acceleration and significant increase in funding for the \$1.1 billion Fixing Local Roads and Fixing Country Bridges program from the New South Wales Government;**
- 2. a boost to Road Block Grant funding to compensate for the damage to the regional road network from the Federal Government;**
- 3. new funding to provide Councils with plant machinery and skilled workers to expedite road repairs from the Federal Government; and**
- 4. the writing of letters to the Hon Anthony Albanese MP, Prime Minister of Australia, and the Hon Dominic Perrottet MP, Premier of New South Wales.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

At this time, being 9.21 am, the Mayor suspended the ordinary meeting so that Council could receive a presentation from Gearoid Fitzgerald of the Audit Office of New South Wales and Kevin Franey of TNR regarding the conduct of the 2021-22 annual audit program.

The ordinary meeting resumed at 10.06 am.

**2022.206 RESOLVED (Cr Riddington/Cr Bain):**

That Council:

1. receive and note the presentation from TNR and the Audit Office of NSW; and
2. thank Council staff, TNR and the Audit Office of NSW for their excellent work on the audit.

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

## **8 REPORTS OF COMMITTEES**

Nil

## **9 REPORTS TO COUNCIL**

### **9.1 2022-23 Quarter 1 Corporate Performance Report**

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<b>Officer</b>	Sandra Hollins, Integrated Planning and Reporting (IP&R) Manager
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<b>File Number</b>	F19/2079
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**2022.207 RESOLVED (Cr Bain/Cr Ring):**

That Council:

1. adopt the Quarterly Budget Review for the period ended 30 September 2022 and approve the variations contained therein;
2. note the progress achieved in delivering the Delivery Program and Operational Plan 2022-23;
3. note the Financial Sustainability Program status report;
4. note the Key Performance Indicators report; and
5. note the Grants Status Summary.

**CARRIED (8 / 1)**



**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring and Cr Wyatt

**AGAINST:** Cr Saul

## 9.2 Community Grant Program 2022-23 - Round 1

**Officer** Paul Koch, Community Projects Officer

**File Number** F22/3407

### 2022.208 RESOLVED (Cr Ring/Cr Wyatt):

That Council, pursuant to section 356 of the *Local Government Act 1993*, grant financial assistance from the Community Grants 2022-23 for the total amount of \$53,349.93 to the following recipients:

#### Mayoral Community Fund:

Community Group	Project	Amount
Dunghutti Elders Council	Upgrades to community facility	\$4,868.53
Kempsey Flying Club	Clubhouse amenities upgrade	\$4,048.00
Stuarts Point Community Hall Committee	Sound/PA System	\$1,533.00
South West Rocks Maritime Precinct	Upgrades to display shed for historical vessel	\$2,745.40
Dongdingalong Rural Fire Brigade	Outdoor picnic tables	\$2,900.00
Kundabung Public Recreation Reserve	Community Garden	\$4,970.00
<b>Total:</b>		<b>\$21,064.93</b>

#### Environmental Levy Fund:

Community Group	Project	Amount
Big Nobby Bushcare Group	Regeneration of Big Nobby Headland, Crescent Head	\$5,000.00
South West Rocks Community Dune Care	Control invasive weeds to Back Creek boat ramp, South West Rocks	\$5,000.00
Hat Head Dune Care	Weed eradication in foredunes of Hat Head Beach	\$5,000.00
<b>Total:</b>		<b>\$15,000.00</b>

**Sporting Fund:**

Community Group	Project	Amount
Kempsey Dragons Rugby League Club	New equipment and canteen upgrades	\$2,500.00
Macleay Valley Mountain Bikers	First aid & PA System	\$2,000.00
The Valley Equestrian Club Kempsey	Upgrade marker cones	\$2,500.00
Macleay District Pony Club	New horse-riding equipment	\$4,785.00
<b>Total:</b>		<b>\$11,785.00</b>

**Quick Grant – Seniors Festival:**

Community Group	Project	Amount
CWA South West Rocks	Luncheon with guest speakers	\$500.00
Kempsey Family History Group	Morning tea with historical display	\$500.00
CWA Gladstone	Intergenerational read at Crescent Head Public School	\$500.00
<b>Total:</b>		<b>\$1,500.00</b>

**Quick Grant – Youth Week:**

Community Group	Project	Amount
Bellbrook School of Arts Hall Committee	Young Farmers Challenge	\$500.00
<b>Total:</b>		<b>\$500.00</b>

**Quick Grant – Festive Grant:**

Community Group	Project	Amount
Kempsey Macleay Dragon Boat Club	Christmas themed Dragon Boat Regatta	\$500.00
Kempsey Crescent Head Surf Life Saving Club	Carols on the foreshore	\$500.00

<b>Bellbrook School of Arts Hall Committee</b>	Community Christmas Party	\$500.00
<b>Frederickton Public School</b>	Carols by Candlelight	\$500.00
<b>Macleay Valley Mountain Bikers</b>	Summer festive season social ride & BBQ	\$500.00
<b>Kalateenee Recreation Reserve Committee</b>	Community Christmas evening	\$500.00
<b>Kempsey District Silver Band</b>	Kempsey Community Carols	\$500.00
	<b>Total:</b>	<b>\$3,500.00</b>

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

At this stage 10:36 am the meeting adjourned for morning tea.

Upon resumption of the meeting at 11:00 am all present at the adjournment were in attendance.

**9.3 DA2200497 - Continued Use of an Existing Shed as a Detached Dual Occupancy House at Toorooka**

**Officer** Leigh Cave, Town Planner

**File Number** DA2200497

**2022.209 RESOLVED (Cr Patterson/Cr Saul):**

That Council grant development consent for DA2200497 for the continued use of an existing shed as a detached dual occupancy house at Lot 60 DP752431, 690 Warbro Brook Road, Toorooka subject to the conditions contained in the attached Draft Conditions of Development Consent.

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

**9.4 Code of Meeting Practice**

**Officer** Daniel Thoroughgood, Group Manager Governance and Information Services

**File Number** F22/922

**2022.210 RESOLVED (Cr Riddington/Cr Bain):**



**That Council adopt the attached draft Code of Meeting Practice, to take effect from Wednesday 16 November 2022.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

### **9.5 Councillor Expenses and Facilities Policy**

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**Officer** Daniel Thoroughgood, Group Manager Governance and Information Services

**File Number** F22/2261

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**2022.211 RESOLVED (Cr Patterson/Cr Riddington):**

**That Council adopt the attached draft Councillor Expenses and Facilities Policy, to take effect from Wednesday, 16 November 2022.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

### **9.6 Request to Waive Commercial Licence Fees**

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**Officer** Stephen Mitchell, Director Corporate and Commercial

**File Number** F22/2041

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**MOVED (Cr Bain/Cr Ring):**

**That Council:**

1. **waive the commercial licence fees and charges associated with cultural tourism activities (Stand Up Paddle Boarding & Kayaking) at Back Creek, South West Rocks undertaken by South West Rocks Figtree Descendants Aboriginal Corporation (SWRFDAC); and**
2. **note that such decision made under 1. above does not provide approval or consent for the commercial activities to be undertaken. Consent and approval are subject to an operational decision based on the applicant meeting the requirements of the commercial licence application, assessment of risk of activities and compatibility of activities with the reserve purpose.**

**AMENDMENT (Cr Ring):**

**That Council:**

1. waive the commercial licence fees and charges associated with cultural tourism activities (Stand Up Paddle Boarding & Kayaking) at Back Creek, South West Rocks undertaken by South West Rocks Figtree Descendants Aboriginal Corporation (SWRFDAC);
2. note that such decision made under 1. above does not provide approval or consent for the commercial activities to be undertaken. Consent and approval are subject to an operational decision based on the applicant meeting the requirements of the commercial licence application, assessment of risk of activities and compatibility of activities with the reserve purpose; and
3. receive a report to a future meeting giving consideration to the processes needed to waive fees associated with the development of cultural tourism products in the shire.

The amendment was accepted by the mover and became the motion.

**AMENDMENT (Cr Wyatt/Cr Riddington):**

**That Council:**

1. waive the commercial licence fees and charges associated with cultural tourism activities (Stand Up Paddle Boarding & Kayaking) at Back Creek, South West Rocks undertaken by South West Rocks Figtree Descendants Aboriginal Corporation (SWRFDAC);
2. note that such decision made under 1. above does not provide approval or consent for the commercial activities to be undertaken. Consent and approval are subject to an operational decision based on the applicant meeting the requirements of the commercial licence application, assessment of risk of activities and compatibility of activities with the reserve purpose;
3. a report be brought back to Council giving consideration to the processes needed to waive fees associated with the development of cultural tourism products in the shire; and
4. give consideration in the development of the 2023-24 operational plan to establish criteria to waive the fees for cultural tourism activities within the shire, and that this is done in consultation with first nations local and regional peak bodies, and knowledge holders of country.

**2022.213 RESOLVED (Cr Wyatt/Cr Riddington):**

**That Council move into Committee of the Whole.**

**CARRIED (7 / 2)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Cr Ring and Cr Saul

**2022.214 RESOLVED (Cr Saul/Cr Wyatt):**

**That the ordinary Council meeting be resumed.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

**AMENDMENT (Cr Wyatt/Cr Riddington):**

**That Council:**

1. waive the commercial licence fees and charges associated with cultural tourism activities (Stand Up Paddle Boarding & Kayaking) at Back Creek, South West Rocks undertaken by South West Rocks Figtree Descendants Aboriginal Corporation (SWRFDAC);
2. note that such decision made under 1. above does not provide approval or consent for the commercial activities to be undertaken. Consent and approval are subject to an operational decision based on the applicant meeting the requirements of the commercial licence application, assessment of risk of activities and compatibility of activities with the reserve purpose;
3. a report be brought back to Council giving consideration to the processes needed to waive fees associated with the development of cultural tourism products in the shire; and
4. give consideration in the development of the 2023-24 operational plan to establish criteria to waive the fees for cultural tourism activities within the shire, and that this is done in consultation with first nations local and regional peak bodies, and knowledge holders of country.

Cr Wyatt withdrew the amendment.

Cr Wyatt foreshadowed a motion.

Cr Wyatt withdrew the foreshadowed motion.

Cr Patterson foreshadowed a motion.

**2022.212 RESOLVED (Cr Bain/Cr Ring):**

**That Council:**

1. waive the commercial licence fees and charges associated with cultural tourism activities (Stand Up Paddle Boarding & Kayaking) at Back Creek, South West Rocks undertaken by South West Rocks Figtree Descendants Aboriginal Corporation (SWRFDAC);
2. note that such decision made under 1. above does not provide approval or consent for the commercial activities to be undertaken. Consent and approval are subject to an operational decision based on the applicant meeting the requirements of the commercial licence application, assessment of risk of activities and compatibility of activities with the reserve purpose; and
3. a report be brought back to Council giving consideration to the processes needed to waive fees associated with the development of cultural tourism products in the shire.

**CARRIED (6 / 3)**

**FOR:** Cr Bain, Cr Fergusson, Cr Hauville, Cr Riddington, Cr Ring and Cr Wyatt

**AGAINST:** Cr Butterfield, Cr Patterson and Cr Saul

## 9.7 Change of Council Meeting Date - December 2022

**Officer** Daniel Thoroughgood, Group Manager Governance and Information Services

**File Number** F18/287

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### 2022.215 RESOLVED (Cr Saul/Cr Fergusson):

That Council reschedule the ordinary meeting of Council from Tuesday, 20 December 2022, to Tuesday, 13 December 2022, commencing at 9.00 am in the Council Chambers at 22 Tozer Street, West Kempsey.

### CARRIED (7 / 2)

**FOR:** Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring and Cr Saul

**AGAINST:** Cr Bain and Cr Wyatt

## 9.8 Delegation of Authority to the General Manager

**Officer** Daniel Thoroughgood, Group Manager Governance and Information Services

**File Number** F22/1854

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### 2022.216 RESOLVED (Cr Patterson/Cr Wyatt):

That Council resolves to delegate/sub-delegate to the General Manager of Kempsey Shire Council the Functions in accordance with the Instrument of Delegation to General Manager attached to this report as Attachment 1 – Instrument of Delegation to the General Manager.

### CARRIED UNANIMOUSLY (9 / 0)

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

## 10 NOTICES OF MOTION/QUESTIONS WITH NOTICE

### 10.1 Delegates Report - Local Government NSW Annual Conference

**Councillor** Cr Hauville, Mayor

**File Number** F22/1720

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### MOVED (Cr Hauville/Cr Fergusson):

That Council receive and note the report.

### 2022.217 RESOLVED (Cr Bain/Cr Wyatt):

That Council extend the conclusion of this meeting, beyond 1.00 pm, until no later than 4.00 pm in accordance with clause 18.2 of the Kempsey Shire Council Code of Meeting Practice.

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

**2022.218 RESOLVED (Cr Hauville/Cr Fergusson):**

**That Council receive and note the report.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Nil

**12 CONCLUSION**

**There being no further business, the Mayor then closed the meeting, the time being 1:02 pm.**


# 221115 Ordinary Council Meeting - 15 November 2022 -Confirmed Minutes

Final Audit Report

2022-12-15

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