

# Minutes

Minutes of the Ordinary Council Meeting held on Tuesday 19 July 2022

Signature: 

Leo Hauville (Sep 7, 2022 14:59 GMT+10)

Email: [leo.hauville@kempsey.nsw.gov.au](mailto:leo.hauville@kempsey.nsw.gov.au)

**The meeting commenced at 9:00 am.**

**PRESENT:**

Councillors L J Hauville (Mayor and Chairperson), I A Bain, E A Campbell, V Craigie, S R A Fergusson, J D Freeman, A P Patterson, K A Riddington and A D Wyatt

General Manager, C L Milburn; Director Corporate and Commercial, S M Mitchell; Acting Director Operations and Planning, S P Beasley; Manager Governance and Information Services, D S Thorougheed; and minute taker Melanie Peterson.

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 Craigie provided the opening prayer.**

**2 ACKNOWLEDGEMENT OF COUNTRY**

**Cr Fergusson provided an acknowledgement of country.**

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

Nil

**4 CONFIRMATION OF MINUTES**

**2022.124 RESOLVED (Cr Patterson/Cr Bain):**

**That the minutes of the ordinary meeting of Kempsey Shire Council dated 28 June 2022 be confirmed.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**5 DISCLOSURES OF INTEREST**

Nil

**6 ITEMS PASSED BY EXCEPTION**

**2022.125 RESOLVED (Cr Riddington/Cr Patterson):**

**That the recommendations contained in the following items be adopted:**

**9.3 Cemetery Fees and Charges – Reservations**

- 9.5 Quarterly Development Activity Statistics & LEP Variations – 4<sup>th</sup> Quarter – 2021-2022
- 9.6 Business not included in the Agenda
- 9.7 Statement of Cash & Investments – June 2022
- 11.2 TQE21/53 Armidale Road Landslip Remediation

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**9.3 Cemetery Fees and Charges - Reservations**

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**Officer** Gayleen Burley, Manager Commercial Business

**File Number** F22/3129

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**2022.126 RESOLVED (Cr Riddington/Cr Patterson):**

That Council place the proposed cemetery fees as noted within this report on public exhibition for 28 days to allow for submissions, prior to being reported to a future meeting of Council for adoption.

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**9.5 Quarterly Development Activity Statistics & LEP Variations - 4th Quarter - 2021-2022**

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**Officer** Graham Snow, Manager Development & Compliance

**File Number** F19/1831

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**2022.127 RESOLVED (Cr Riddington/Cr Patterson):**

That Council receive and note the report.

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**9.6 Business not Included in Agenda**

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**Officer** Craig Milburn, General Manager

**File Number** F22/1930

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**2022.128 RESOLVED (Cr Riddington/Cr Patterson):**

That council receive and note the report.

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**9.7 Statement of Cash and Investments - June 2022**

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**Officer** Ron Wood, Manager Financial Services

**File No** F22/3106

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**2022.129 RESOLVED (Cr Riddington/Cr Patterson):**

**That the report is received and noted.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**11.2 TQE21/53 Armidale Road Landslip Remediation**

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**Officer** Dylan Reeves, Manager Infrastructure Delivery

**File Number** TQE21/53

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**Section 10A(2)(d)(i) – Commercial Position**

This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. (*Local Government Act 1993*, section 10A(2)(d)(i))

On balance, the public interest in preserving the confidentiality of the commercial information supplied, outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

**2022.131 RESOLVED (Cr Riddington/Cr Patterson):**

**That Council:**

- 1. accepts the lump sum tender submitted by Pan Civil Pty Ltd for as lump Sum Amount of \$1,343,980 GST inclusive for TQE21-53 Armidale Road Landslip Remediations in accordance with the tender documentation and tenderer's submission; and**
- 2. authorise the General Manager, or their delegate, to approve any necessary variations to the contract within the total project budget.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**7 MAYORAL MINUTES**

**7.1 Accounting Treatment Of Rural Fire Service ('Red Fleet') Assets**



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**Councillor** Cr Hauville, Mayor

**File Number** F22/1789

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**2022.130 MOVED (Cr Hauville):**

**That Council:**

1. writes to the local State Member for Oxley, The Hon Melinda Pavey MP, the Treasurer, The Hon Matt Kean MP, Minister for Emergency Services and Resilience, The Hon Steph Cook MP, and the Minister for Local Government, The Hon Wendy Tuckerman MP:
  - a. expressing Council's objection to the NSW Government's determination on ownership of Rural Fire Service assets;
  - b. advising of the impact of the Government's position on Council finances of this accounting treatment;
  - c. informing that Council will not carry out RFS assets stocktakes on behalf of the NSW Government and will not record RFS assets in Kempsey Shire Council's financial statements;
  - d. calling on the NSW Government to take immediate action to permanently clear up inequities and inconsistencies around the accounting treatment of Rural Fire Service (RFS) assets by acknowledging that rural firefighting equipment is vested in, under the control of and the property of the RFS; and
  - e. amending s119 of the *Rural Fires Act 1997* so that the effect is to make it clear that RFS assets are not the property of councils.
2. writes to the Shadow Treasurer, The Hon Daniel Mookhey MLC, the Shadow Minister for Emergency Services, Mr Jihad Dib MP, the Shadow Minister for Local Government, Mr Greg Warren MP, the Greens Spokesperson for Local Government, Mr Jamie Parker MP, and the leaders of the Shooters, Fishers and Farmers, Animal Justice and One Nation parties, The Hon Robert Borsak MLC, The Hon Emma Hurst MLC and The Hon Mark Latham MLC:
  - a. advising Members of Kempsey Shire Council's position, including providing copies of correspondence to NSW Government Ministers; and
  - b. seeking Members' commitments to support NSW Councils' call to amend the *Rural Fires Act 1997* as set out in correspondence.
3. notes the letter that has been sent to the Auditor General advising that notwithstanding any overtures of future qualified audits, it will not carry out RFS stocktakes on behalf of the NSW Government and will not record RFS assets in Kempsey Shire Council's financial statements, noting that the State Government's own Local Government Accounting *Code of Practice and Financial Reporting* provides for councils to determine whether or not they record the RFS assets as council assets.
4. re-affirms its complete support of and commitment to local RFS brigades noting that Kempsey Shire Council's action is entirely directed towards the NSW Government's position that rather than being owned and controlled by local brigades, RFS assets are somehow controlled by councils,
5. affirms its support to Local Government NSW (LGNSW) and requests LGNSW continue advocating on Council's behalf to get clarification finally from the State Government about the accounting treatment of RFS assets

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt  
**AGAINST:** Nil

## 8 REPORTS OF COMMITTEES

Nil

## 9 REPORTS TO COUNCIL

### 9.1 Planning Proposal PP-2021-7403 - Rosedale Avenue, South West Rocks

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**Officer** Peter Orr, Coordinator Strategic and Environmental Planning

**File Number** PP-2021-7403

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#### 2022.132 RESOLVED (Cr Patterson/Cr Fergusson):

That Council:

1. endorse the progression of this planning proposal, which applies to Lot 801 DP1270742 Rosedale Avenue, South West Rocks, to the making of the amendment to the Kempsey Local Environmental Plan 2013 (KLEP 2013);
2. request the Parliamentary Counsel's Office draft the legal instrument, under subsection 3.36(1) of the *Environmental Planning and Assessment Act 1979* to give effect to the final planning proposal;
3. authorise the General Manager to exercise the delegation from the Minister for Planning to make the amending instrument to KLEP 2013; and
4. request that upon the making of the amendment to KLEP 2013, the Department of Planning & Environment (DPE) be notify the plan on the NSW Legislation webpage.

#### CARRIED (8 / 1)

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson and Cr Riddington  
**AGAINST:** Cr Wyatt

### 9.2 Planning Proposal PP-2022-529 - Facilitate the Macleay Valley Recreation and Adventure Park

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**Officer** Marnie Jeffery, Strategic Planning Officer

**File Number** KLEP2013-AM-24

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#### 2022.133 RESOLVED (Cr Patterson/Cr Freeman):

That Council:

1. endorse the progression of this planning proposal, which applies to part of Lot 1 DP 1144474 and part of Lot 2 DP 1144474, 20 Airport Road, Aldavilla, to the making of the amendment to the Kempsey Local Environmental Plan (KLEP) 2013;
2. staff request the Parliamentary Counsel's Office to draft the legal instrument, KLEP 2013 (Amendment 34), under s 3.36(1) of the *Environmental Planning and Assessment Act 1979* to give effect to the final planning proposal;

3. endorse the General Manager to exercise delegation from the Minister for Planning to make the amending instrument, KLEP 2013 (Amendment 34); and
4. upon the making of KLEP 2013 (Amendment 34), the Department of Planning and Environment be requested to notify the plan on the NSW Legislation webpage.

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

#### **9.4 New South Wales Local Roads Conference Communique 2022**

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**Officer** Steven Beasley, Director Operations & Planning

**File Number** F20/1720

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**2022.134 RESOLVED (Cr Bain/Cr Riddington):**

**That Council:**

1. notes the information provided within this report on the annual Local Roads Conference held for 2022;
2. endorses the Conference Communique; and
3. progresses the Conference Communique by writing to the following Ministers and NSW and Australian Government MPs, seeking their support for the 2021 NSW Local Roads Conference outcomes:
  - a. Member for Oxley, the Honourable Melinda Pavey MP
  - b. Member for Cowper, Pat Conaghan MP
  - c. The Honourable Wendy Tuckerman MP, Minister for Local Government
  - d. The Honourable David Elliott MP, Minister for Transport and Minister for Veterans
  - e. The Honourable Rob Stokes Minister for Infrastructure, Minister for Cities and Minister for active Transport
  - f. The Honourable Samuel Faraway MP, Minister for Regional Transport and Roads
  - g. The Honourable Catherine King MP, Minister for Infrastructure, Transport and Regional Development
  - h. The relevant Shadow Ministers

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

### **10 NOTICES OF MOTION/QUESTIONS WITH NOTICE**

#### **10.1 NOTICES OF MOTION**

##### **10.1.1 Delegate's Report – Rural Health Forum**

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**Councillor** Cr Hauville, Mayor

**File Number** F22/1928

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**2022.135 RESOLVED (Cr Bain/Cr Wyatt):**

**That Council receives and notes the report.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

#### **10.1.2 Delegate's Report – NGA22 Conference**

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**Councillor** Cr Hauville, Mayor

**File Number** F22/1720

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#### **2022.136 RESOLVED (Cr Riddington/Cr Freeman):**

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

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

#### **10.2 QUESTIONS WITH NOTICE**

Nil

#### **11 CONFIDENTIAL REPORTS**

#### **2022.138 RESOLVED (Cr Bain/Cr Riddington):**

**That Council form itself into the Confidential Session, and at this stage, the meeting be closed to the public to permit discussion of the confidential business items listed for the reasons as stated in the Agenda.**

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

#### **11.1 Legal Matters**

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**Officer** Daniel Thoroughgood, Manager Governance & Information Services

**File Number** F19/1960

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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.



**2022.137 RESOLVED (Cr Bain/Cr Riddington):**

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

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**2022.139 RESOLVED (Cr Bain/Cr Fergusson):**

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

**CARRIED UNANIMOUSLY (9 / 0)**

**FOR:** Cr Bain, Cr Campbell, Cr Craigie, Cr Fergusson, Cr Freeman, Cr Hauville, Cr Patterson, Cr Riddington and Cr Wyatt

**AGAINST:** Nil

**At this time Councillor Anthony Patterson made a presentation of flowers to Councillor Liz Campbell recognising her contribution to Council over the preceding 14 years, including 10 years as Council's first popularly elected Mayor.**

**The Mayor, Councillor Leo Hauville, made a presentation to Councillor Vj Craigie thanking him for his service as Councillor since December 2021.**

**12 CONCLUSION**

**There being no further business, the Mayor then closed the meeting, the time being 10:42 am.**


# 220719 - Ordinary Council Meeting - 19 July 2022 - Confirmed Minutes

Final Audit Report

2022-09-07

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## "220719 - Ordinary Council Meeting - 19 July 2022 - Confirmed Minutes" History

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