

Minutes

Minutes of the Ordinary Council Meeting held on Tuesday 19 March 2024

I hereby certify that this is a true and correct record of the minutes of the Kempsey Shire Council ordinary meeting held Tuesday 19 March 2024



Mayor L J Hauville



The meeting commenced at 9:01 am.

PRESENT:

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

General Manager, C L Milburn; Director Corporate and Commercial, S M Mitchell; Director Operations and Planning, M B Jackson; Director Utilities, W J Trotter, Group Manager Governance and Information Services, D S Thoroughgood; and Minute Taker, S J Hunter.

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 Saul provided the opening prayer.

2 ACKNOWLEDGEMENT OF COUNTRY

Cr Fergusson provided an acknowledgement of country.

3 ACKNOWLEDGEMENT OF SERVICE MEN, WOMEN AND FAMILIES

Cr Patterson provided an acknowledgement of service men, women and families.

4 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE OR ATTENDANCE BY AUDIO-VISUAL LINK BY COUNCILLORS

2024.33 RESOLVED (Cr Saul/Cr Fergusson):

That the apology submitted by Cr Riddington for non-attendance at the meeting be accepted and a leave of absence be granted.

CARRIED (8 / 0)

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

AGAINST: Nil

5 CONFIRMATION OF MINUTES

2024.34 RESOLVED (Cr Bain/Cr Butterfield):

That the minutes of the Ordinary Meeting of Kempsey Shire Council dated 20 February 2024 be confirmed.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

6 DISCLOSURES OF INTEREST

Craig Milburn, General Manager, declared a pecuniary interest in item 12.4, Confidential Mayoral Minute - General Manager's Interim Performance Review, for the reason that it concerns their employment.

Cr Saul declared a non-pecuniary non-significant interest in item 9.1, Local Traffic Committee Meeting Minutes, for the reason that he owns a business in the Kempsey CBD.

Cr Saul declared a non-pecuniary non-significant interest in item 12.3, Land Acquisition - Lot 1 DP1263874, for the reason that he owns a business in the Kempsey CBD.

Cr Patterson declared a non-pecuniary non-significant interest in item 10.5 Prioritisation of Sealing of Unsealed Roads as he lives on the tarred section of Spooners Avenue Road.

Cr Patterson declared a non-pecuniary non-significant interest in Item, 10.4, Marlin Crescent, Hat Head DA2300773, for the reason that he knew the owners of the property.

Cr Wyatt declared a non-pecuniary significant interest in item 10.9, Completion of Works on Private Land, for the reason that she is known to a person named in the report.

7 ITEMS PASSED BY EXCEPTION

2024.35 RESOLVED (Cr Ring/Cr Fergusson):

That Council brings forward Item 10.1 Presentations by School Leaders to be dealt with immediately.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

10.1 Presentations by School Leaders

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number F18/611

2024.36 RESOLVED (Cr Ring/Cr Fergusson):

That Council receives presentations from School Leaders of Kempsey Shire High Schools and Colleges.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

Council received a presentation from Kempsey Adventist School leaders Abigail Hammond, Senimelia Toroca, Rhy Hoschke and Bridgettte Carroll; Kempsey High School Captain's Alice McNee and Alex Ring, and St Paul's High School Kempsey Leaders Oliver Hall, Brianna O'Donnell, Isabelle Preston and Mia Quinn.

Cr Ring left the Chamber at 10:30 am.

Cr Ring returned to the Chamber at 10:32 am.

At this stage 10:51 am the meeting adjourned for morning tea.

Upon resumption of the meeting at 11:18 am all present at the adjournment were in attendance.

2024.37 RESOLVED (Cr Saul/Cr Bain):

That the recommendations contained in the following items be adopted:

10.6. Slim Dusty Centre - Council application to become Crown Land Manager

10.7. Road Safety Strategy

10.8. Write-off of Outstanding Debt

10.9. Completion of Works on Private Land

10.10. Internal Audit Charters

11.4. Delegates Report - Bush Fire Management Committee - 14 February 2024

12.1. Legal Matters

12.2. Audit, Risk & Improvement Committee - February 2024 Meeting Minutes and Annual Activity Report

12.3. Land Acquisition - Lot 1 DP1263874

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

10.6 Slim Dusty Centre - Council application to become Crown Land Manager

Officer Peter Allen, Group Manager Commercial Business

File Number F22/3031

2024.38 RESOLVED (Cr Saul/Cr Bain):

That Council applies to Crown Lands, Department of Planning, Housing and Infrastructure, to become Crown Land Manager of the Slim Dusty Centre Crown Land, Lot 299, DP 729768.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

10.7 Road Safety Strategy

Officer Cliff Toms, Investigations Engineer

File Number F21/3051/01

2024.39 RESOLVED (Cr Saul/Cr Bain):

That Council:

1. endorses the Road Safety Strategy 2024-2034 attached to this report and
2. supports implementation of the plan as part of Councils future delivery and operational plans noting opportunities for external funding of the identified actions are to be pursued through relevant state and federal government programs.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

10.8 Write-off of Outstanding Debt

Officer Nicole Poe, Revenue Officer

File Number F22/1198

2024.40 RESOLVED (Cr Saul/Cr Bain):

RECOMMENDATION

That Council approves the write-off of outstanding debts totalling \$24,567.09 as detailed in this report as at 30 June 2024.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

10.9 Completion of Works on Private Land

Officer Michael Jackson, Director Operations & Planning

File Number T6-21-22

2024.41 RESOLVED (Cr Saul/Cr Bain):

That Council notes the information provided as a requirement in accordance with s67(3) and s67(4) of the *Local Government Act 1993*.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

10.10 Internal Audit Charters

Officer Matthew Bentley, Internal Auditor

File Number F23/2510

2024.42 RESOLVED (Cr Saul/Cr Bain):

That Council adopt the revised:

- 1. Audit, Risk and Improvement Committee Charter; and**
- 2. Internal Audit Charter.**

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

11.4 Delegates Report - Bush Fire Management Committee - 14 February 2024

Councillor Cr Bain, Councillor

File Number F18/1959

2024.43 RESOLVED (Cr Saul/Cr Bain):

That Council receives and notes the report.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

12.1 Legal Matters

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

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.

2024.44 RESOLVED (Cr Saul/Cr Bain):

That Council receives and notes the report.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

12.2 Audit, Risk & Improvement Committee - February 2024 Meeting Minutes and Annual Activity Report

Officer Matthew Bentley, Internal Auditor

File Number F23/2510

Section 10A(2)(e) – Maintenance of Law

This report is submitted on a confidential basis as it involves information that would, if disclosed, prejudice the maintenance of law. (*Local Government Act 1993*, section 10A(2)(e))

On balance, the public interest in preserving the confidentiality of the information which relates to matters of law outweighs the public interest in openness and transparency in Council decision-making by discussing the matter in an open meeting.

2024.45 RESOLVED (Cr Saul/Cr Bain):

That Council note:

- 1. draft meeting minutes from the Audit, Risk & Improvement Committee, 7 February 2024;**
- 2. Annual Audit, Risk & Improvement Committee and Internal Audit Report for 2023; and**
- 3. productivity improvements from internal auditing – 2019-2023**

CARRIED UNANIMOUSLY 8 / 0)

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

AGAINST: Nil

12.3 Land Acquisition - Lot 1 DP1263874

Officer Michael Jackson, Director Operations & Planning

Section 10A(2)(c) – Commercial Advantage in Business Dealing

This report is submitted on a confidential basis as it involves information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. (*Local Government Act 1993*, section 10A(2)(c))

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 an open meeting.

2024.46 RESOLVED (Cr Saul/Cr Bain):

That Council note:

- 1. draft meeting minutes from the Audit, Risk & Improvement Committee, 7 February 2024;**
- 2. Annual Audit, Risk & Improvement Committee and Internal Audit Report for 2023; and**
- 3. productivity improvements from internal auditing – 2019-2023**

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

8 MAYORAL MINUTES

There is a Confidential Mayoral Minute included as item 12.4.

9 REPORTS OF COMMITTEES

9.1 Local Traffic Committee Meeting Minutes

Officer Michael Jackson, Director Operations & Planning

File Number F21/1958

2024.47 RESOLVED (Cr Patterson/Cr Fergusson):

That Council notes the minutes and adopts the recommendations of the Local Traffic Committee meeting held 27 February 2024.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

10 REPORTS TO COUNCIL

10.2 Planning Proposal PP_2023_2105 (PP2300005) - KLEP 2013 Housekeeping Amendment - South West Rocks Building Heights

Officer Marnie Jeffery, Strategic Planning Officer

File Number PP2300005

Cr Patterson called a point of order that he never mentioned social housing, he mentioned affordable housing. The Mayor ruled against this point of order as no Councillor was named by Cr Wyatt.

Cr Saul called a point of order that Cr Wyatt's tone was condescending. The Mayor ruled against this point of order as he found that the tone was not condescending.

2024.48 RESOLVED (Cr Wyatt/Cr Bain):

That Council:

1. endorses the progression of this planning proposal, which applies to various lots within South West Rocks, to the making of the amendment to the Kempsey Local Environmental Plan 2013;
2. requests that the Minister's delegate of the Department of Planning, Housing and Infrastructure finalise and make the plan; and
3. requests the Department of Planning, Housing and Infrastructure notify the plan on the NSW Legislation webpage upon the making of the Kempsey Local Environmental Plan 2013 amendment.

CARRIED (5 / 3)

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

AGAINST: Cr Butterfield, Cr Patterson and Cr Saul

10.3 Crescent Head Foreshore Community Advisory Group Terms of Reference and EOI

Officer Grant Dennis, Design and Investigation Manager

File Number F19/1812

MOVED (Cr Patterson/Cr Ring):

That Council:

1. notes the strong community support for the 21-year renewal of the Crescent Head Country Club (CHCC) Golf Course lease on fair and reasonable terms, with over 1200 submissions of support received through the exhibition of the draft Council managed Crown Land Plan of Management;

2. enters into direct negotiation with Crescent Head Country Club on a 21-year lease, in accordance with the terms of the Crown Land lease guidance and lease template, at an independently valued market rent;
3. removes the CHCC Golf Club lease from the Terms of Reference (TOR) from the Community Advisory Group (CAG);
4. notes that the operation of the Crescent Head Holiday Park is outside of the TOR for the Community Advisory Group (CAG) and that the revised Concept Plans will be publicly exhibited in March to April 2024 prior to being reported back to a future Council meeting for adoption; and
5. endorse the Crescent Head Foreshore Advisory Group TOR and Expression of Interest for Public Exhibition.

AMENDMENT (Cr Patterson):

That Council:

1. notes the strong community support for the 21-year renewal of the Crescent Head Country Club (CHCC) Golf Course lease on fair and reasonable terms, with over 1200 submissions of support received through the exhibition of the draft Council managed Crown Land Plan of Management;
2. removes the CHCC Golf Club lease from the Terms of Reference from the Community Advisory Group (CAG);
3. notes that the operation of the Crescent Head Holiday Park is outside of the Terms of Reference for the Community Advisory Group (CAG) and that the revised Concept Plans will be publicly exhibited in March to April 2024 prior to being reported back to a future Council meeting for adoption; and
4. request that the General Manager brings back a report that covers:
 - a. Is a ring road possible while keeping a modified 6-hole golf course;
 - b. What are the positives and negatives of such a road in terms of traffic movements, road and pedestrian safety, car parking, impacts on the golf course and any other considerations;
 - c. In considering this the staff will speak with the Country Club.

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

2024.49 RESOLVED (Cr Bain/Cr Fergusson):

The Council determine under clause 17.2 of the Kempsey Shire Council Code of Meeting Practice that this meeting conclude no later than 4.00 pm, rather than 1.00 pm.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

At this stage 12:30 pm the meeting adjourned for lunch.
Upon resumption at 1:40 pm all present at the adjournment were in attendance.

AMENDMENT (Cr Bain/Cr Wyatt):

That Council:

1. notes the strong community support for the 21-year renewal of the Crescent Head Country Club (CHCC) Golf Course lease on fair and reasonable terms, with over 1200 submissions of support received through the exhibition of the draft Council managed Crown Land Plan of Management;
2. removes the CHCC Golf Club lease from the Terms of Reference from the Community Advisory Group (CAG);
3. expands the terms of reference for the Community Advisory Group (CAG) to include the operation of the Crescent Head Holiday Park and that the revised Concept Plans will be publicly exhibited in March to April 2024 prior to being reported back to a future Council meeting for adoption;
4. request that the General Manager brings back a report that covers:
 - a. Is a ring road possible while keeping a modified 6-hole golf course;
 - b. What are the positives and negatives of such a road in terms of traffic movements, road and pedestrian safety, car parking, impacts on the golf course and any other considerations;
 - c. In considering this the staff will speak with the Country Club.

LOST (2 / 6)

FOR: Cr Bain and Cr Wyatt

AGAINST: Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Ring and Cr Saul

2024.50 RESOLVED (Cr Patterson/Cr Ring):

That Council:

1. notes the strong community support for the 21-year renewal of the Crescent Head Country Club (CHCC) Golf Course lease on fair and reasonable terms, with over 1200 submissions of support received through the exhibition of the draft Council managed Crown Land Plan of Management;
2. removes the CHCC Golf Club lease from the Terms of Reference from the Community Advisory Group (CAG);
3. notes that the operation of the Crescent Head Holiday Park is outside of the Terms of Reference for the Community Advisory Group (CAG) and that the revised Concept Plans will be publicly exhibited in March to April 2024 prior to being reported back to a future Council meeting for adoption; and
1. request that the General Manager brings back a report that covers:
 - a. Is a ring road possible while keeping a modified 6-hole golf course;

- b. What are the positives and negatives of such a road in terms of traffic movements, road and pedestrian safety, car parking, impacts on the golf course and any other considerations;
- c. In considering this the staff speak with the Crescent Head Country Club.

CARRIED (5 / 3)

FOR: Cr Butterfield, Cr Fergusson, Cr Patterson, Cr Ring and Cr Saul

AGAINST: Cr Bain, Cr Hauville and Cr Wyatt

10.4 Proposed Dwelling - Marlin Circuit, Hat Head - DA2300773

Officer Adam Costenoble, Development Services Manager

File Number DA2300773

Cr Patterson declared an interest in Item 104, Proposed Dwelling - Marlin Circuit, Hat Head - DA2300773 and left the Chambers at 1.48 pm.

2024.51 RESOLVED (Cr Saul/Cr Bain):

That Council:

1. supports variation to the height of buildings development standard in Clause 4.3 of Kempsey Local Environmental Plan 2013; and
2. grant development consent to DA2300773 for a single dwelling house and driveway subject to the conditions contained in DA2300773 Recommended Conditions.

CARRIED UNANIMOUSLY (7 / 0)

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

AGAINST: Nil

10.5 Prioritisation of Sealing of Unsealed Roads

Officer Grant Dennis, Design and Investigation Manager

File Number F19/1859

Cr Patterson returned to the Chamber at 2:19 pm.

2024.52 RESOLVED (Cr Patterson/Cr Saul):

That Council:

1. notes that Pipers Creek Road (End of seal to Wirrang Drive) and Spooners Avenue (Chain o Ponds to Collombatti Road) remain the top two priority roads;
2. notes that Spooners Avenue (Chain o Ponds to Collombatti Road) emerges as the top priority through the pairwise multi-criterion analysis and through the forecast population growth;

3. That Council endorse the following priority list for the bitumen sealing of gravel roads (in order of priority):
- a. Spooners Avenue (Chain O Ponds Road to Collombatti Road)
 - b. Piper Creek Road (End of seal to Wirrang Drive)
 - c. Pipers Creek Road (Wirrang Drive to Ballengara Road)
 - d. Collombatti Road (Swan Lane to Hughes Access)
 - e. Smiths Creek Road (Crowther Drive to Crowther Drive)
 - f. First Lane (Gladstone Street to Smith Street)

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

10.11 Crescent Head Holiday Park - Shed Relocation

Officer Harry Tory, Commercial Assets Coordinator

File Number F23/3447

2024.53 MOVED (Cr Bain/Cr Fergusson):

That Council notes the final cost of the Crescent Head Holiday Park maintenance shed project and has put strategies in place to ensure such an incident does not happen again as part of a continuous improvement process.

10.12 Statement of Cash and Investments - February 2024

Officer Stacey Milligan, A/Finance Manager

File No F22/3106

2024.54 RESOLVED (Cr Wyatt/Cr Ring):

That Council receives and notes the report.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

11 REPORTS FROM COUNCILLORS

11.1 Notice of Motion - Public Forum - Non-agenda Items

Councillor Cr Bain, Councillor

2024.55 RESOLVED (Cr Bain/Cr Wyatt):

That Council amend the Code of Meeting Practice as follows:

Council will allow members of the public to address Council during the public forum on matters not on the meeting agenda subject to the following:

- 1. Priority shall be given to speakers addressing matters on the agenda.**
- 2. A précis of the address will be provided in writing to the General Manager at least two working days prior to the meeting.**
- 3. Council has the right to refuse permission if the matter is one which will be the subject of a report to a subsequent Council meeting or a matter where a speaker has addressed a previous Council meeting in the public forum.**

CARRIED (4 / 4)

FOR: Cr Bain, Cr Fergusson, Cr Hauville and Cr Wyatt

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

The motion was carried on the casting vote of the Mayor.

11.2 Notice of Motion - Public Forum and Question Time

Councillor Cr Wyatt, Councillor

File Number F22/1930

2024.56 MOVED (Cr Wyatt/Cr Bain):

That Council:

- 1. amends Section 4.7 of the Kempsey Shire Council Meeting Code of Practice 2022 by way of the General Manager or their delegate and the Mayor or Mayor's nominated Chairperson may refuse an application to speak at a public forum. The General Manager or their delegate must give reasons in writing for a decision to refuse an applicant.**
- 2. amends the Kempsey Shire Council Meeting Code of Practice 2022 by way of:**
 - a. changes Section 4 heading to Public Access;**
 - b. adds a new subsection 4.1.1 Public Forum;**
 - c. replaces 4.1 to 4.23 with 4.1.1 to 4.1.23;**
 - d. replaces Section 4.7 with “no more than four (4) speakers are to be permitted to speak ‘for’ and no more than four (4) are allowed to speak ‘against’ each item of business on the agenda for the council meeting”; and**
 - e. adds new subsection 4.1.2 Public Question Time**
- 3. amends the Kempsey Shire Council Meeting Code of Practice 2022 to allow a public question time at the completion of the public forum;**

4. requests that the General Manager drafts procedures of engagement for Section 4.1.2 to allow for public question time following the public forum; and
5. places the amended Kempsey Shire Council Meeting Code of Practice 2022 on public exhibition in April 2024 to be brought to the June 2024 ordinary meeting; and
6. requests the General Manager to provide a suggested process for providing access for community organisations, clubs and groups to make presentations to Council and Councillors outside of the ordinary Council meeting; to be considered at the July 2024 ordinary meeting.

AMENDMENT (Cr Wyatt):

That Council:

1. amends Section 4.7 of the Kempsey Shire Council Meeting Code of Practice 2022 by way of the General Manager or their delegate and the Mayor or Mayor's nominated Chairperson may refuse an application to speak at a public forum. The General Manager or their delegate must give reasons in writing for a decision to refuse an applicant.
2. amends the Kempsey Shire Council Meeting Code of Practice 2022 by way of:
 - a. changes Section 4 heading to Public Access;
 - b. adds a new subsection 4.1.1 Public Forum;
 - c. replaces 4.1 to 4.23 with 4.1.1 to 4.1.23;
 - d. replaces Section 4.7 with “no more than four (4) speakers are to be permitted to speak ‘for’ and no more than four (4) are allowed to speak ‘against’ each item of business on the agenda for the council meeting”; and
 - e. adds new subsection 4.1.2 Public Question Time
3. amends the Kempsey Shire Council Meeting Code of Practice 2022 to allow a public question time at the completion of the public forum;
4. requests that the General Manager drafts procedures of engagement for Section 4.1.2 to allow for public question time following the public forum; and
5. places the amended Kempsey Shire Council Meeting Code of Practice 2022 on public exhibition in April 2024 to be brought to the June 2024 ordinary meeting; and
6. establish a community forum type process for providing access to community organisations, clubs and groups to make presentations to Council and Councillors outside of an Ordinary Council Meeting.

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

Cr Bain left the Chamber at 3:34 pm.

Cr Bain returned to the Chamber at 3:36 pm.

MOVED (Cr Wyatt/Cr Bain):

That Council:

1. amends Section 4.7 of the Kempsey Shire Council Meeting Code of Practice 2022 by way of the General Manager or their delegate and the Mayor or Mayor's nominated Chairperson may refuse an application to speak at a public forum. The General Manager or their delegate must give reasons in writing for a decision to refuse an applicant.
2. amends the Kempsey Shire Council Meeting Code of Practice 2022 by way of:
 - a. changes Section 4 heading to Public Access;
 - b. adds a new subsection 4.1.1 Public Forum;
 - c. replaces 4.1 to 4.23 with 4.1.1 to 4.1.23;
 - d. replaces Section 4.7 with “no more than four (4) speakers are to be permitted to speak ‘for’ and no more than four (4) are allowed to speak ‘against’ each item of business on the agenda for the council meeting”; and
 - e. adds new subsection 4.1.2 Public Question Time
3. amends the Kempsey Shire Council Meeting Code of Practice 2022 to allow a public question time at the completion of the public forum;
4. requests that the General Manager drafts procedures of engagement for Section 4.1.2 to allow for public question time following the public forum; and
5. places the amended Kempsey Shire Council Meeting Code of Practice 2022 on public exhibition in April 2024 to be brought to the June 2024 ordinary meeting; and
6. establish a community forum type process for providing access to community organisations, clubs and groups to make presentations to Council and Councillors outside of an Ordinary Council Meeting.

LOST (2 / 6)

FOR: Cr Bain and Cr Wyatt

AGAINST: Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Ring and Cr Saul

11.3 Delegates Report - Social Media for Councillors

Councillor Cr Bain, Councillor

File Number F12/253

2024.57 RESOLVED (Cr Bain/Cr Wyatt):

That Council receives and notes this report.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

12 CONFIDENTIAL MATTERS

2024.58 RESOLVED (Cr Fergusson/Cr Bain):

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 (8 / 0)

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

AGAINST: Nil

Cr Saul called a point of order that a member of the public gallery was making condescending and sarcastic remarks about a staff member. The Mayor ruled against the point of order as he found that the remarks were intended to be humorous.

12.4 Confidential Mayoral Minute - General Manager's Interim Performance Review

Councillor Cr Hauville, Mayor

File Number MIL/23552/01

Section 10A(2)(a) - Personnel Matters

This report is submitted on a confidential basis as it involves personnel matters concerning particular individuals (other than Councillors). (*Local Government Act 1993*, section 10A(2)(a))

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

Craig Milburn, General Manager declared a pecuniary significant interest in item 12.4, Confidential Mayor Minute - General Manager's Interim Performance Review, for the reason that it concerns their employment and left the chambers at 3.50 pm.

2024.59 RESOLVED (Cr Hauville):

That Council:

- 1. notes the contents of the General Manager's Interim Performance Review; and**
- 2. awards the General Manager the 0.5% Federal Government Superannuation Guarantee increase and effective from 1 July 2023.**

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

General Manager, Craig Milburn returned to the Chambers at 3:59 pm

2024.60 RESOLVED (Cr Bain/Cr Butterfield):

That the ordinary Council meeting be resumed.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

13 CONCLUSION OF THE MEETING

There being no further business, the Mayor then closed the meeting, the time being 4:01 pm.