


# Minutes

Minutes of the Ordinary Council Meeting held on Tuesday 15 March 2022

I hereby certify that this is a true and correct record of the minutes of the Kempsey Shire Council ordinary meeting held Tuesday 15 March 2022

  
Leo Hauville (May 14, 2022 23:01 GMT+10)

## **1 OPENING PRAYER**

Cr Fergusson delivered the opening prayer.

## **2 ACKNOWLEDGEMENT OF COUNTRY**

Cr Hauville delivered the acknowledgement of country.

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

Nil

## **4 CONFIRMATION OF MINUTES**

**2022.35 RESOLVED (Cr Patterson/Cr Bain):**

**That the minutes of the ordinary meeting of Kempsey Shire Council dated 15 February 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**

Cr Patterson declared a non-pecuniary non-significant interest in item 9.2, Kempsey Airport - Commercial Agreement for Pilot Training Proposal, for the reason that he lives within 5.5 kilometres of the airport.

Cr Fergusson declared a pecuniary interest in item 11.2, Sale of Land for Unpaid Rates, for the reason that he or his wife may be interested in acquiring some of the property for sale.

Cr Hauville declared a non-pecuniary non-significant interest in item 9.2, Kempsey Airport - Commercial Agreement for Pilot Training Proposal, for the reason that he lives within 5.5 kilometres of the airport.

## **6 ITEMS PASSED BY EXCEPTION**

Cr VJ Craigie left the chamber at 9.12 am.

**2022.36 RESOLVED (Cr Freeman/Cr Riddington):**

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

**8.2 Local Traffic Committee – 1<sup>st</sup> March 2022**

**9.5 Agribusiness Industry Plan**

**9.6 Internal Audit Charters**

**9.7 Northern Regional Planning Panel Council Nominations**

## **9.8 Statement of Cash and Investments – February 2022**

### **11.4 Rehabilitation of Apron & Taxiways at Kempsey Airport - TQE22/1**

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

**Cr VJ Craigie returned to the chamber at 9.15 am.**

### **8.2 Local Traffic Committee - 1st March 2022**

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**Officer** Cliff Toms, Investigations Engineer

**File Number** F21/1958

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#### **2022.37 RESOLVED (Cr Freeman/Cr Riddington):**

**That council notes the minutes and adopts the recommendations of the Local Traffic Committee meeting held 1 March 2022.**

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

### **9.5 Agribusiness Industry Plan**

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**Officer** Gayleen Burley, Manager Commercial Business

**File Number** F21/3061

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#### **2022.38 RESOLVED (Cr Freeman/Cr Riddington):**

**That council:**

- 1. note the submissions received during the public exhibition period of the Agribusiness Industry Plan as detailed in this report; and**
- 2. having considered the submissions, adopt the final Agribusiness Industry Plan.**

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

### **9.6 Internal Audit Charters**

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**Officer** Matthew Bentley, Internal Auditor

**File Number** F21/2510

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#### **2022.39 RESOLVED (Cr Freeman/Cr Riddington):**

That council adopt the:

1. revised Audit, Risk & Improvement Committee Charter; and
2. revised Internal Audit Charter

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

### **9.7 Northern Regional Planning Panel Council Nominations**

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**Officer** Robert Fish, Director Operations & Planning

**File Number** F18/415

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**2022.40 RESOLVED (Cr Freeman/Cr Riddington):**

That council:

1. nominate representatives Mayor Rhonda Hoban and Mr Daniel Walsh of Nambucca Valley Council for the Northern Regional Planning Panel for the Kempsey Shire;
2. nominate an alternative representative, being the Senior Town Planner position of Nambucca Valley Council once recruited, for the Northern Regional Planning Panel for the Kempsey Shire should a nominated representative be absent; and
3. inform the Department of Planning & Environment of these nominations.

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

### **9.8 Statement of Cash and Investments - February 2022**

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**Officer** Ron Wood, Manager Financial Services

**File Number** F22/3106

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**2022.41 RESOLVED (Cr Freeman/Cr Riddington):**

That council receive and note the report.

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

### **11.4 Rehabilitation of Apron & Taxiways at Kempsey Airport - TQE22/1**

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**Officer** Gayleen Burley, Manager Commercial Business

**File Number** TQE22/1

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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.

#### **2022.42 RESOLVED (Cr Freeman/Cr Riddington):**

**That council authorise the General Manager, or their delegate, to:**

- 1. accept the tender submitted by Antoun Civil Engineering Pty Ltd for a lump sum value of \$1,202,477 (ex-GST) subject to finalising the negotiation of items listed within the Tender Evaluation Report; and**
- 2. approve any necessary variations to the contract within the total project budget.**

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

## **7 MAYORAL MINUTE**

### **7.1 2022 Federal Election Campaign**

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**Councillor** Leo Hauville, Mayor

**File Number** F19/1722

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#### **2022.43 RESOLVED (Cr Hauville):**

**That council:**

- 1. supports the national funding priorities of the Australian Local Government Association (ALGA), which would contribute an estimated \$6.46 billion per year to Australia's GDP and create 43,444 jobs; and**
- 2. agrees to support and participate in the Australian Local Government Association's advocacy for their endorsed national funding priorities by writing to the local Federal Member, Mr Pat Conaghan MP of Parliament, all known election candidates in the Cowper electorate and the President of the Australian Local Government Association to:**
  - a. express support for ALGA's funding priorities;**
  - b. identify priority local projects and programs that could be progressed with the additional financial assistance from the Federal Government being sought by ALGA; and**
  - c. seek funding commitments from the members, candidates and their parties for these identified local projects and programs.**

**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**

### **8.1 Australia Day Committee**

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**Officer** Jenna Passmore, Executive Assistant

**File Number** F21/2252

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**2022.44 RESOLVED (Cr Hauville/Cr Riddington):**

**That council:**

1. vary the membership of the Australia Day Awards Committee to comprise of the Mayor; two (2) councillors; one council staff member; and to increase the number of community representatives by one (to be up to six [6]).
2. seek, via an expression of interest process, that representatives from the Upper Macleay and Lower Macleay communities be encouraged to join the committee.
3. note the information in 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 REPORTS TO COUNCIL**

### **9.1 Crescent Head Public Domain Plan - Foreshore Car Park**

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**Officer** Sandra Hollins, Internal Change Project Manager

**File Number** F19/1812

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**MOVED (Cr Patterson/Cr Fergusson):**

**That council:**

1. endorse the geographical footprint for the foreshore car park component of the Crescent Head Public Domain Plan as recommended in the attached 'Crescent Head Foreshore Review of Project Scope Report' and described as:
  - a. western limit: past the footbridge to the point where the path narrows along Killick Creek;
  - b. southern limit: bounded by the existing Crescent Head holiday park boundaries;
  - c. eastern limit: where the path meets the Crescent Head golf club boundary; and
  - d. excluding the surf club crown land lease, Crescent Head holiday park and Crescent Head golf course.
2. based on the geographical footprint described in point 1, proceed with the next steps of the engagement plan adopted by council at its Ordinary Meeting of 17 August 2021, which includes:

- a. appointing a consultant to lead engagement and design;
  - b. developing a detailed engagement plan and establishment of a Community Advisory Group; and
  - c. development of design options to inform the final Crescent Head Public Domain Plan.
3. proceed to finalise the Crescent Head Public Domain Plan, excluding the area described in point 1, to provide certainty to the community about the future of those public areas and to enable council to seek funding to further deliver on improvements to these public areas in Crescent Head.

**2022.45 RESOLVED (Cr Riddington/Cr Patterson):**

**That council move into committee of the whole.**

**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

**2022.46 RESOLVED (Cr Patterson/Cr Campbell):**

**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

**AMENDMENT (Cr Wyatt)**

**That council:**

1. endorse the geographical footprint for the foreshore car park component of the Crescent Head Public Domain Plan as recommended in the attached 'Crescent Head Foreshore Review of Project Scope Report' and described as:
  - a. western limit: past the footbridge to the point where the path narrows along Killick Creek;
  - b. southern limit: bounded by the existing Crescent Head holiday park boundaries;
  - c. eastern limit: where the path meets the Crescent Head golf club boundary; and
  - d. excluding the surf club crown land lease, Crescent Head holiday park and Crescent Head golf course.
2. based on the geographical footprint described in point 1, proceed with the next steps of the engagement plan adopted by council at its Ordinary Meeting of 17 August 2021, which includes:
  - a. appointing a consultant to lead engagement and design;
  - b. developing a detailed engagement plan and establishment of a Community Advisory Group; and

- c. development of design options to inform the final Crescent Head Public Domain Plan.
3. proceed to finalise the Crescent Head Public Domain Plan, excluding the area described in point 1, to provide certainty to the community about the future of those public areas and to enable council to seek funding to further deliver on improvements to these public areas in Crescent Head; and
4. provides to the community by various means information in relation to the financial impacts and the decision of council.

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

**2022.47 RESOLVED (Cr Patterson/Cr Fergusson):**

That council:

1. endorse the geographical footprint for the foreshore car park component of the Crescent Head Public Domain Plan as recommended in the attached 'Crescent Head Foreshore Review of Project Scope Report' and described as:
  - a. western limit: past the footbridge to the point where the path narrows along Killick Creek;
  - b. southern limit: bounded by the existing Crescent Head holiday park boundaries;
  - c. eastern limit: where the path meets the Crescent Head golf club boundary; and
  - d. excluding the surf club crown land lease, Crescent Head holiday park and Crescent Head golf course.
2. based on the geographical footprint described in point 1, proceed with the next steps of the engagement plan adopted by council at its Ordinary Meeting of 17 August 2021, which includes:
  - a. appointing a consultant to lead engagement and design;
  - b. developing a detailed engagement plan and establishment of a Community Advisory Group; and
  - c. development of design options to inform the final Crescent Head Public Domain Plan.
3. proceed to finalise the Crescent Head Public Domain Plan, excluding the area described in point 1, to provide certainty to the community about the future of those public areas and to enable council to seek funding to further deliver on improvements to these public areas in Crescent Head; and
4. provides to the community by various means information in relation to the financial impacts and the decision of council.

**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

## **9.2 Kempsey Airport - Commercial Agreement for Pilot Training Proposal**

**Officer** Gayleen Burley, Manager Commercial Business

**2022.48 RESOLVED (Cr Campbell/Cr Bain):**

That council:

1. authorise the General Manager to enter into a commercial agreement between Sportfly Aviation and Kempsey Shire Council with the following key terms and conditions:
  - a. annual fixed fee of \$1,356.00 (including GST) per recreational aircraft with CPI increase applied annually;
  - b. a contract term of one (1) year with a further one (1) year option at council's absolute discretion;
  - c. a maximum of 2,200 aircraft movements per annum (including take-offs, touch and goes, landings) within the fixed fee. Any movements above the maximum 2,200 movements will be charged in accordance with the aircraft movement fee published in council's annual Schedule of Fees and Charges;
2. endorse the annual fee being retrospectively applied to 1 January 2022; and
3. notify Sportfly Aviation of the requirement to operate in accordance with applicable legislative requirements; Kempsey Aerodrome Manual, Kempsey Airport Conditions of Use; and the Kempsey Airport Fly Neighbourly Advice, and that breaches of these requirements may result in termination of the commercial agreement.

**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 stage 10:27 am the meeting adjourned for morning tea and upon resumption at 10:50 am all present at the adjournment were in attendance.

**9.3 Planning Proposal PP-2021-7403 - Rosedale Avenue, South West Rocks**

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**Officer** Peter Orr, Senior Strategic Planning Officer

**File Number** PP 2021 7403

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**2022.49 RESOLVED (Cr Patterson/Cr Freeman):**

That council:

1. submit the Planning Proposal, which seeks to permit the minor realignment of LEP mapping layers consistent with existing development approvals at Lot 801 DP1270742 Rosedale Avenue South, South West Rocks, to the Minister for Planning for Gateway consideration pursuant to section 3.34 of the Environmental Planning and Assessment Act 1979;
2. request the Secretary of the Department of Planning and Environment to issue council with written authorisation to exercise plan making delegations in relation to this proposal; and
3. undertake, subject to the Gateway determination, community consultation for the planning proposal as required.

**CARRIED (7 / 2)**

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

**AGAINST:** Cr Craigie and Cr Wyatt

**9.4 Procedure 1.2.7 – Rental Assessment and Rebate**

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**Officer** Gayleen Burley, Manager Commercial Business

**File Number** F19/1933

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**2022.50 RESOLVED (Cr Bain/Cr Freeman):**

That council place the draft *Procedure 1.2.7 – Rental Assessment and Rebate* be placed on public exhibition for a period of 28 days, with a report to be provided back to council following the conclusion of the exhibition period.

**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**

Nil

**11 CONFIDENTIAL REPORTS**

**2022.51 RESOLVED (Cr Riddington/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 (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.

**2022.52 RESOLVED (Cr Patterson/Cr Riddington):**

**That council:**

1. receive and note the report; and
2. adopt the recommendations contained within with regard to the matter of Peter Keith Notley v Kempsey Shire Council.

**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 Sale of Land for Unpaid Rates**

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**Officer** Ron Wood, Manager Financial Services

**File Number** F21/1709

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**Section 10A(2)(b) – Hardship of Resident or Ratepayer**

This report is submitted on a confidential basis as it involves the personal hardship of a resident or ratepayer. (*Local Government Act 1993*, section 10A(2)(b))

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.

**2022.53 RESOLVED (Cr Bain/Cr Campbell):**

**That council:**

1. pursuant to Chapter 17, Part 2, Division 5, Sale of Lands for unpaid rates and charges of the Local Government Act 1993 and Local Government (General) Regulation 2021, commences sale proceedings to sell the properties listed in this report at a public auction at a time and place to be determined;
2. appoints The Centre for Sustainable Debt Recovery Pty Ltd to administer the sale on council's behalf;
3. authorises the General Manager to withdraw from the list of properties any property that, prior to the commencement of the auction, has had all rates and charges payable (including overdue rates and charges) paid in full;
4. does not accept any approach by the landowners to make arrangements for the repayment of the outstanding rates and charges over a period of time;
5. authorises the General Manager, or their delegate, to execute contracts and transfer documents pertaining to the properties specified in the body of the report; and
6. reserves the right to withdraw any property from sale for technical or legal reasons.

**CARRIED UNANIMOUSLY (8 / 0)**

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

**AGAINST:** Nil

### **11.3 Audit, Risk & Improvement Committee - February 2022 Meeting Minutes and Annual Activity Report**

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**Officer** Matthew Bentley, Internal Auditor

**File Number** F21/2510

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#### **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 open meeting.

#### **2022.54 RESOLVED (Cr Freeman/Cr Riddington):**

**That council receive and note the:**

- 1. draft meeting minutes from the Audit, Risk & Improvement Committee, 8 February 2022; and**
- 2. Annual Audit, Risk & Improvement Committee and Internal Audit Report for 2021.**

**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

#### **2022.55 RESOLVED (Cr Bain/Cr Riddington):**

**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

## **12 CONCLUSION**

**There being no further business, the Mayor then closed the meeting, the time being 11.32 am.**

# 220315 - Ordinary Council Meeting - 15 March 2022 - Confirmed Minutes

Final Audit Report

2022-05-14

Created:	2022-05-09
By:	Melanie Peterson (melanie.peterson@kempsey.nsw.gov.au)
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## "220315 - Ordinary Council Meeting - 15 March 2022 - Confirmed Minutes" History

-  Document created by Melanie Peterson (melanie.peterson@kempsey.nsw.gov.au)  
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