Minutes

Minutes of the Ordinary Council Meeting held on Tuesday 16 May 2023

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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 A Riddington, 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; Group Manager Governance and Information Services, D S Thoroughgood; and Minute Taker, M L 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 Fergusson provided the opening prayer.

2 ACKNOWLEDGEMENT OF COUNTRY

Cr Bain provided an acknowledgement of country.

3 ACKNOWLEDGEMENT OF SERVICE MEN, WOMEN AND FAMILIES

Cr Riddington 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

Nil.

5 CONFIRMATION OF MINUTES

2023.51 RESOLVED (Cr Riddington/Cr Fergusson):

That the minutes of the Ordinary Meeting of Kempsey Shire Council dated 18 April 2023 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



6 DISCLOSURES OF INTEREST

Cr Wyatt declared a non-pecuniary significant interest in item 10.3, Community Grant Program 2022-23 - Round 2, for the reason that her partner is a member of one of the applicants and Cr Wyatt will leave the Chamber when the item is considered.

Cr Patterson declared a non-pecuniary non-significant interest in item 11.2, Short Term Rental Accommodation, for the reason that Cr Patterson has rental properties.

7 ITEMS PASSED BY EXCEPTION

2023.52 RESOLVED (Cr Saul/Cr Bain):

That the recommendations contained in the following items be adopted:

- 10.5 Mayoral and Councillor Fees for 2022-23
- 10.7 Statement of Cash and Investments April 2023
- 12.1 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

10.5 Mayoral and Councillor Fees for 2022-23

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number F22/2261

2023.53 RESOLVED (Cr Saul/Cr Bain):

That Council:

- 1. fix the fees payable to a Councillor for the 2023-24 financial year to be the maximum allowed for regional rural categorised Councils as determined by the Local Government Remuneration Tribunal, being \$21,730, in accordance with s248 *Local Government Act* 1993;
- fix the fees payable to the Mayor for the 2023-24 financial year to be the maximum allowed for regional rural categorised Councils as determined by the Local Government Remuneration Tribunal, being \$47,240, in accordance with s249 Local Government Act 1993;
- 3. resolves that, commencing on 1 July 2022, superannuation payments are to be made to Councillors in accordance with s254B *Local Government Act 1993*; and
- 4. notes that the Mayor receives both the Mayor and Councillor fee, and as such, receives the superannuation payments for both the Councillor and Mayoral fee.

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

10.7 Statement of Cash and Investments - April 2023

Officer Michael Woolnough, Finance Manager

File No F22/3106

2023.54 RESOLVED (Cr Saul/Cr Bain):

That Council receives and notes 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

12.1 Legal Matters

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number F22/1960

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 an open meeting.

2023.55 RESOLVED (Cr Saul/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

8 MAYORAL MINUTES

8.1 Emergency Services Levy

Councillor Cr Hauville, Mayor

File Number F19/1617



MOVED (Cr Hauville):

That Council:

- writes to The Hon. Daniel Mookhey, Treasurer, The Hon. Jihad Dib, Minister for Emergency Services, The Hon. Ron Hoenig, Minister for Local Government and Mr Michael Kemp, Member for Oxley:
 - expressing Council's strong opposition to the NSW Government's lastminute decision to impose an enormous Emergency Services Levy (ESL) cost increase on Councils for 2023-24 by scrapping the ESL subsidy for Councils and at a time after Council has publicly advertised its Operational Plan and annual budget to the community;
 - noting that as a consequence of the unannounced 73% increase in the State Emergency Services budget and an 18% increase in the Fire and Rescue NSW budget, Council's 3.7% rate increase to provide essential community services and infrastructure has been significantly eroded;
 - c. advising that the Government's decision will lead to a reduction in important local services and/or the cancellation of necessary infrastructure projects; and
 - d. calling on the NSW Government to take immediate action to:
 - i. restore the ESL subsidy in 2023-24;
 - ii. urgently introduce legislation to decouple the ESL from the rate peg to enable Councils to recover the full cost; and
 - iii. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services in consultation with local government;
- 2. writes to Carmel Donnelly PSM, Chair of the Independent Pricing and Regulatory Tribunal (IPART), advising that Council's forced emergency services contribution is manifestly disproportionate to the 2023-24 rate cap, which has resulted in additional financial stress;
- writes to Cr Darriea Turley AM, President of LGNSW, seeking the Association's ongoing advocacy to bring about a relief in the burden of Councils' emergency services contribution; and
- 4. publicises to our Kempsey Shire Council community this unacceptable situation and seeks individuals support in writing to State Government Ministers and our Local Member. This publication will include pertinent contact details.

AMENDMENT (Cr Patterson):

That Council:

- 1. writes to The Hon. Daniel Mookhey, Treasurer, The Hon. Jihad Dib, Minister for Emergency Services, The Hon. Ron Hoenig, Minister for Local Government and Mr Michael Kemp, Member for Oxley:
 - expressing Council's strong opposition to the NSW Government's lastminute decision to impose an enormous Emergency Services Levy (ESL) cost increase on Councils for 2023-24 by scrapping the ESL subsidy for Councils and at a time after Council has publicly advertised its Operational Plan and annual budget to the community;
 - b. noting that as a consequence of the unannounced 73% increase in the State Emergency Services budget and an 18% increase in the Fire and Rescue NSW



- budget, Council's 3.7% rate increase to provide essential community services and infrastructure has been significantly eroded;
- c. advising that the Government's decision will lead to a reduction in important local services and/or the cancellation of necessary infrastructure projects; and
- d. calling on the NSW Government to take immediate action to:
 - i. restore the ESL subsidy in 2023-24;
 - ii. urgently introduce legislation to decouple the ESL from the rate peg to enable Councils to recover the full cost; and
 - iii. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services in consultation with local government;
- 2. writes to Carmel Donnelly PSM, Chair of the Independent Pricing and Regulatory Tribunal (IPART), advising that Council's forced emergency services contribution is manifestly disproportionate to the 2023-24 rate cap, which has resulted in additional financial stress;
- 3. writes to Cr Darriea Turley AM, President of LGNSW, seeking the Association's ongoing advocacy to bring about a relief in the burden of Councils' emergency services contribution; and
- 4. publicises to our Kempsey Shire Council community this unacceptable situation and seeks individuals support in writing to State Government Ministers and our Local Member. This publication will include pertinent contact details.
- 5. write to the State Government and request to show the emergency service levy on our rates notices to our rate payers.

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

2023.56 RESOLVED (Cr Hauville):

That Council:

- writes to The Hon. Daniel Mookhey, Treasurer, The Hon. Jihad Dib, Minister for Emergency Services, The Hon. Ron Hoenig, Minister for Local Government and Mr Michael Kemp, Member for Oxley:
 - expressing Council's strong opposition to the NSW Government's lastminute decision to impose an enormous Emergency Services Levy (ESL) cost increase on Councils for 2023-24 by scrapping the ESL subsidy for Councils and at a time after Council has publicly advertised its Operational Plan and annual budget to the community;
 - noting that as a consequence of the unannounced 73% increase in the State Emergency Services budget and an 18% increase in the Fire and Rescue NSW budget, Council's 3.7% rate increase to provide essential community services and infrastructure has been significantly eroded;
 - c. advising that the Government's decision will lead to a reduction in important local services and/or the cancellation of necessary infrastructure projects; and
 - d. calling on the NSW Government to take immediate action to:
 - i. restore the ESL subsidy in 2023-24;
 - ii. urgently introduce legislation to decouple the ESL from the rate peg to enable Councils to recover the full cost; and



- iii. develop a fairer, more transparent and financially sustainable method of funding critically important emergency services in consultation with local government;
- 2. writes to Carmel Donnelly PSM, Chair of the Independent Pricing and Regulatory Tribunal (IPART), advising that Council's forced emergency services contribution is manifestly disproportionate to the 2023-24 rate cap, which has resulted in additional financial stress;
- 3. writes to Cr Darriea Turley AM, President of LGNSW, seeking the Association's ongoing advocacy to bring about a relief in the burden of Councils' emergency services contribution; and
- 4. publicises to our Kempsey Shire Council community this unacceptable situation and seeks individuals support in writing to State Government Ministers and our Local Member. This publication will include pertinent contact details.
- 5. writes to the State Government and request to show the emergency service levy on our rates notices to our rate payers.

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 REPORTS OF COMMITTEES

Nil.

10 REPORTS TO COUNCIL

10.1 Toose Road Update

Officer Dylan Reeves, Group Manager Infrastructure Delivery

File Number F22/3157

2023.57 RESOLVED (Cr Patterson/Cr Fergusson):

That Council:

- consider the content of this report as an update regarding the status of the Toose Road Slip and works undertaken by Council staff regarding the short term and long-term solutions;
- acknowledge and endorse the actions being undertaken by staff in preparing a list of options for consideration by Transport for NSW and the NSW Reconstruction Authority regarding short term solutions; and
- 3. acknowledge and endorse the actions being undertaken by Council staff to continue the implementation of a long-term solution for Toose Road in consultation with Transport for NSW and the NSW Reconstruction Authority.

CARRIED UNANIMOUSLY (9 / 0)

J HamilleLeo Hauville Mayor KSC (Jun 30, 2023 12:30 GMT+10)

Leo Hauville Mayor KSC (Jun 30, 2023 12:30 GMT+10)



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

and Cr Wyatt AGAINST: Nil

10.2 DA2200577 Development Application for Dragon Boat Storage Shed

Officer Adam Costenoble, Development Services Manager

File Number DA2200577

2023.58 RESOLVED (Cr Bain/Cr Riddington):

That Council grant development consent for DA2200577 for the construction and use of a Storage Shed at Riverside Park (Lot 7 and 8, Section M, DP37215) 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

10.3 Community Grant Program 2022-23 - Round 2

Officer Lisa Young, Group Manager Community Partnerships

File Number F22/3407

Cr Wyatt declared a non-pecuniary significant interest in item 10.3, Community Grant Program 2022-23 - Round 2, for the reason that her partner is a member of one of the applicants and left the Chambers at 9:55 am.

2023.59 RESOLVED (Cr Ring/Cr Riddington):

That Council, pursuant to section 356 of the *Local Government Act 1993*, grant financial assistance from the Community Grants Program 2022-23 for the total amount of \$28,140.84 to the following recipients:

Mayoral Community Fund:

| Community Group | Project | Amount |
|---|---|------------|
| Macleay District Pony Club | Equipment upgrades & facility repairs | \$2,000.00 |
| Macleay Valley Amateur Bee Association | Purchase of honey extraction equipment & gazebo | \$3,000.00 |
| | Total: | \$5,000.00 |

Sporting Fund:



| Community Group | Project | Amount |
|--|----------------------------|------------|
| Crescent Head Netball Club | New Sporting Equipment | \$1,219.72 |
| Kempsey Saints Football Club | New Sporting Equipment | \$800.00 |
| Macleay Valley Mountain Bikers Club | Signs for trails & new BBQ | \$1,759.12 |
| Macleay Valley Mustangs | New Sporting Equipment | \$2,000.00 |
| South Kempsey Tennis Club | Clubhouse Repairs | \$1,878.00 |
| | Total: | \$7,656.84 |

Get Ready Grants:

| Community Group | Project | Amount |
|--|----------------------------|-------------|
| South West Rocks Maritime Precinct | Purchase of Defibrillator | \$2,065.00 |
| SPADCO | Emergency Equipment | \$2,919.00 |
| Macleay Valley Community Art Gallery | New air-conditioning | \$3,000.00 |
| South West Rocks CWA | New air-conditioning | \$3,000.00 |
| Upper Macleay District Rodeo Association | Kitchen Equipment Upgrades | \$3,000.00 |
| | Total: | \$13,984.00 |

Quick Grant – NAIDOC week:

| Community Group | Project | Amount |
|---|---|------------|
| Aboriginal Community Housing Ltd | Morning tea & craft | \$250.00 |
| Aldavilla Public School | Educate & share knowledge to students through dance and art | \$250.00 |
| Dalaigur Preschool | Smoking ceremony, weaving and cooking event | \$250.00 |
| Dunghutti Elders Council Aboriginal Corporation | Elders Council community cultural gathering | \$250.00 |
| Kempsey Local Aboriginal Land Council | Showcase Dawn Magazines with refreshments | \$250.00 |
| South Kempsey Public School | Variety cultural activities with students | \$250.00 |
| | Total: | \$1,500.00 |

CARRIED UNANIMOUSLY (8 / 0)



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

Saul

AGAINST: Nil

Cr Wyatt returned to the Chambers at 10:01 am.

10.4 2022-23 Quarter 3 Corporate Performance Report

Officer Sandra Hollins, Integrated Planning and Reporting (IP&R) Manager

File Number F19/2079

Cr Ring left the Chambers at 10:04 am.

Cr Ring returned to the Chambers at 10:06 am.

2023.60 RESOLVED (Cr Bain/Cr Butterfield):

That Council:

- 1. adopt the Quarterly Budget Review for the period ended 31 March 2023 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;
- 5. note the Grants Status Summary; and
- 6. note the Payment of Expenses to Councillors 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

10.6 Petitions - Development at South West Rocks

Officer Craig Milburn, General Manager

File Number F20/2737

2023.61 RESOLVED (Cr Riddington/Cr Saul):

That Council receives and notes 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

At this stage 10:30 am the meeting adjourned for morning tea.



Upon resumption of the meeting at 10:55 am all present at the adjournment were in attendance.

11 REPORTS FROM COUNCILLORS

11.1 Notice of Motion - Concept Planning Greenhill Lookout

Councillor Cr Hauville, Mayor

File Number F22/1945

2023.62 RESOLVED (Cr Hauville/Cr Patterson):

That Council:

- request the General Manager to provide a report to the June 2023 Council meeting outlining the costs to develop a concept plan for the development of a modernised tourist/local lookout and car parking at Greenhill; and
- 2. consider this item for inclusion in the 2023-24 Operational Plan as part of the Council considerations at the June 2023 Council Meeting.

CARRIED (8 / 1)

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

Wyatt

AGAINST: Cr Saul

11.2 Notice of Motion - Short Term Rental Accommodation

Councillor Cr Wyatt, Councillor

File Number F20/2737

MOVED (Cr Wyatt/Cr Riddington):

That Council:

- 1. requests the General Manager to collate data into a brief report and/or data set that:
 - a. provides the number of short-term rental accommodations properties in the Shire for 2021-22 and 2022-23, for Council/Councillor review on 31 August 2023;
 - b. provides the rate, water, and sewer revenue (gross) to Council from short term rental accommodation; and
 - c. provides the number of long-term rental properties in the Shire 2021-22 and 2022-23, for Council/Councillor review on 31 August 2023.
- 2. provides a current snapshot on rental affordability and rental stress in Kempsey Shire, in geographic locations.

2023.63 RESOLVED (Cr Patterson/Cr Bain):

That Council move into Committee of the Whole.

CARRIED UNANIMOUSLY (9 / 0)

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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. request the General Manager bring a report to the June Council meeting outlining the

high-level cost and process for the development of a Housing Strategy;

2. request the report include the estimated costs and timeframe; and

3. request the General Manager identify possible projects in the draft 2023-24 Operational Plan that may be deferred or withdrawn to facilitate the development of the Housing

Strategy.

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

Cr Butterfield left the Chambers at 11:52 am and provided his apologies for the remainder of the

meeting.

2023.64 RESOLVED (Cr Bain/Cr Riddington):

That the ordinary Council meeting be resumed.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

2023.65 RESOLVED (Cr Wyatt/Cr Riddington):

That Council:

1. request the General Manager bring a report to the June Council meeting outlining the

high-level cost and process for the development of a Housing Strategy;

2. request the report include the estimated costs and timeframe; and

3. request the General Manager identify possible projects in the draft 2023-24 Operational

Plan that may be deferred or withdrawn to faciliate the development of the Housing

Strategy.

CARRIED (7 / 1)

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

AGAINST: Cr Saul

At this stage 12:10 pm the meeting adjourned for a short break and upon resumption at 12:15 pm

all present at the adjournment were in attendance.

14

12 CONFIDENTIAL MATTERS

2023.66 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 (8 / 0)

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

AGAINST: Nil

12.2 Management Lease and Operation of Council owned Swimming Pool/s - Tender Evaluation

Officer Peter Allen, Group Manager Commercial Business

File Number TQE23/4

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 an open meeting.

2023.67 RESOLVED (Cr Patterson/Cr Fergusson):

That Council:

- accept the tender submitted by Lifeguarding Services Australia Pty
 Ltd for the management lease and operation
 of Council owned swimming pools (TQE23/4) for a period of five years commencing 1 July
 2023 with a five-year option at Council's discretion, at:
 - a. Kempsey (year 1: \$375,000 including GST); and
 - b. South West Rocks (year 1: \$152,000 including GST);
- 2. in accordance with section 178 Local Government (General) Regulation 2021:
 - a. decline to accept all tenders for Gladstone pool given that the tendered values exceed the project budget; and
 - b. enter into direct negotiation with Lifeguarding Services Australia Pty Ltd and/or Hudoswim & Fitness Pty Limited tenderers for the management and operation of the Gladstone pool for a one-year period with further one-year options to extend (up to ten years in total) at Council's discretion, to allow further analysis and community engagement, as part of the SRV investigation project, into the ongoing financial viability of continuing to operate the Gladstone pool; and
- 3. note that a further report in relation to the ongoing operation of the Gladstone pool be reported to a future Council meeting.



CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

2023.68 RESOLVED (Cr Saul/Cr Riddington):

That the ordinary Council meeting be resumed.

CARRIED UNANIMOUSLY (8 / 0)

FOR: Cr Bain, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, 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 12:34 pm.

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Ordinary_Council_Meeting_-16 May 2023.

Final Audit Report 2023-06-30

Created: 2023-06-30

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