



MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

15 August 2017 commencing at 9.01am.

PRESENT:

Councillors E A Campbell (Mayor and Chairman), M J Baxter, L J Hauville, S E McGinn, A P Patterson, D F Saul, A T Shields and A J Williams

Acting General Manager, D B Hagger; Director Sustainable Environment, R B Pitt; Director Community Engagement, K E Oliver; Director Infrastructure Services, A J Green; Manager Information Management and Governance, D S Thoroughgood; and Minute Taker D M Pearson.

1 OPENING PRAYER

“Dear Lord, help us in our deliberations today so that our decisions will be for the greater good for the whole of Kempsey Shire - Amen”.

2 ACKNOWLEDGEMENT OF THE TRADITIONAL ABORIGINAL LAND OWNERS

“Council acknowledges that this meeting is being held on the traditional lands of the Dunghutti People”.

3 APOLOGIES

2017.267 RESOLVED:

*Moved: Cl. Shields
Seconded: Cl. Williams*

That the apology submitted by Councillor Morris for non-attendance at the meeting be accepted and leave of absence granted.

4 DECLARATIONS OF INTEREST

Councillor Shields declared a non-pecuniary non-significant interest in item 13.17 for the reason that she has a tree removal DA approval listed in the report.

5 ASSESSMENT OF ITEMS LISTED FOR CONFIDENTIAL CONSIDERATION

2017.268 RESOLVED:

*Moved: Cl. McGinn
Seconded: Cl. Williams*

That the confidential reports be considered in the confidential section of the meeting.

6 CONFIRMATION OF MINUTES

2017.269 RESOLVED: *Moved: Cl. Williams*
Seconded: Cl. Shields

That the minutes of the ordinary meeting of Kempsey Shire Council dated 18 July 2017 be confirmed.

8 PUBLIC FORUM / PRESENTATIONS

Public Forum

- 1 - Donna Clarke addressed Council speaking in relation to item 13.4 KLEP 2013 Feltons Lane.
- 2 - Robert Wicks addressed Council speaking in relation to item 13.4 KLEP 2013 Feltons Lane.

9 CONSIDERATION OF MOTIONS FOR SUPPLEMENTARY REPORTS AND MOTIONS FOR CHANGES TO THE ORDER OF BUSINESS

2017.270 RESOLVED: *Moved: Cl. McGinn*
Seconded: Cl. Shields

That the Agenda Order of Business be adopted and the late reports be considered in conjunction with the relevant Councillor or Community Strategic Plan reports.

10 CONSIDERATION OF REPORTS RELATING TO PUBLIC FORUM MATTERS

2017.271 RESOLVED: *Moved: Cl. Saul*
Seconded: Cl. Williams

That the reports addressed in public forum be brought forward and dealt with immediately.

ITEM 13.4 PLANNING PROPOSAL FELTON'S LANE, HAMPDEN HALL

Contact Person: Robert Pitt – Director Sustainable Environment

File: RZ-17-2: KLEP2013-AM-21

PURPOSE

The Department of Planning & Environment (DPE) has issued a Gateway Determination not to permit the Planning Proposal to change the minimum lot size for a rural land parcel in Hampden Hall to proceed.

2017.272 RESOLVED *Moved: Cl. Saul*

Seconded: Cl. McGinn

That a Request for a Review of the Gateway Determination be submitted to the Department of Planning & Environment.

A Division resulted in the following votes.

F = Voted For

A = Voted Against

Baxter	F	Campbell	F	Hauville	F	McGinn	F
Patterson	F	Saul	F	Shields	F	Williams	F

11 CONSIDERATION OF REPORTS RELATING TO A CONSENSUS MOTION

2017.273 RESOLVED:

*Moved: Cl. Patterson
Seconded: Cl. McGinn*

That the recommendations contained in items 13.12, 13.15 – 13.17 and 18.1 in the current agenda as listed be adopted.

ITEM 13.12 ESTABLISHING A COMPANY TO ENABLE SHARED SERVICES PROVISION

Contact Person: Daryl Hagger – Acting General Manager

File: F12/925-02

PURPOSE

To negate a Council resolution to establish a company for the purposes of providing local government services.

2017.274 RESOLVED:

*Moved: Cl. Patterson
Seconded: Cl. McGinn*

That the establishment of a company for the provision of local government services not be progressed.

ITEM 13.15 SUPPLY AND DELIVERY OF DGB20, DGS20 AND DGS40 GRAVEL

Contact Person: Tony Green – Manager, Engineering Works

File: TQE16/16

PURPOSE

To provide Council with a report on the supply of DGB20, DGS20 and DGS40 gravel purchased during the June 2017 quarter.

2017.275 RESOLVED:

*Moved: Cl. Patterson
Seconded: Cl. McGinn*

That the information be noted.

ITEM 13.16 STATEMENT OF CASH AND INVESTMENTS

Contact Person: Deanna O'Neill – Manager Finance

File: N/A

PURPOSE

Reporting on the statement of bank balance and investments for the month of July 2017.

2017.276 RESOLVED:

Moved: Cl. Patterson

Seconded: Cl. McGinn

That the information be noted.

ITEM 13.17 DEVELOPMENT APPROVALS AND CONSTRUCTION CERTIFICATES

Contact Person: Robert Pitt – Director Sustainable Environment

File: N/A

PURPOSE

To report that the following applications have been approved for the period of July 2017 and includes approvals by Private Certifiers.

2017.277 RESOLVED:

Moved: Cl. Patterson

Seconded: Cl. McGinn

That the information be noted.

ITEM 18.1 KEY PERFORMANCE INDICATORS

Contact Person: Kathy Oliver – Director Community Engagement

File: F12/1908

PURPOSE

Updating status of key performance indicators for the month ending July 2017.

2017.278 RESOLVED:

Moved: Cl. Patterson

Seconded: Cl. McGinn

That the information be noted.

12 MAYORAL MINUTES

Nil

13 STAFF REPORTS

ITEM 13.1 ORGANISATION CULTURE AND STRUCTURE REVIEW

Contact Person: Daryl Hagger – Acting General Manager

File: F12/2009

PURPOSE

To consider the findings and recommendations of the Culture and Structure Review of Kempsey Shire Council.

2017.279 RESOLVED

*Moved: Cl. Hauville
Seconded: Cl. Patterson*

- 1 That Council thank and acknowledge all employees for their dedication, accomplishments and continued commitment to the Kempsey Shire community.
- 2 That the LKS Quaero Kempsey Shire Council – Culture and Structure Review report be noted and recommendations adopted.
- 3 That a proposal from LKS Quaero is sought to:
 - a Carry out the role of Director Transformation for a period of six (6) months to:
 - i Establish the program plan (as described in the report and recommendations) and architecture for the governance and management of the program
 - ii Implement a fully scoped transformation program with supporting plan and business case to implement the recommendations contained within the report
- 4 That LKS Quaero be engaged to commence implementation of levels one (1) and two (2) of the structure by;
 - i Adhering to the requirements of Workplace Change, Local Government (State) Award 2017
 - ii Seeking proposals for the search and selection of the General Manager and Director positions.

The Mayor noted that the forgoing resolution was passed UNANIMOUSLY.

ITEM 13.2 KEMPSEY AIRPORT FLY NEIGHBOURLY AGREEMENT

Contact Person: Robert Pitt – Director Sustainable Environment

File: F12/1895

PURPOSE

The purpose of this report is to seek Council’s endorsement of the scope of a proposed Fly Neighbourly Agreement for the users of Kempsey Airport and to advise of feedback received from the community at recent community workshops.

- MOVED** *Moved: Cl. Patterson
Seconded: Cl. Shields*
- 1 That the scope of matters to be addressed in the Noise Management Plan and associated Fly Neighbourly Agreement, as detailed in the following report be endorsed.
 - 2 That expression of interest from community members be sought to serve on a Community Reference Group to assist in the process for preparing a draft Noise Management Plan and associated Fly Neighbourly Agreement.

WORKSHOP

- 2017.280 RESOLVED:** *Moved: Cl. Hauville
Seconded: Cl. Saul*
- That Council move into workshop to allow discussion in open Council on the following item 13.2

MOTION TO RESUME COUNCIL MEETING

- 2017.281 RESOLVED:** *Moved: Cl. McGinn
Seconded: Cl. Williams*
- That the formal Council meeting be resumed.

2017.282 The MOTION was PUT to the MEETING and was CARRIED.

ITEM 13.3 KLEP 2013 AMENDMENT 19 – LE BROCCS LANE/GOWINGS HILL ROAD, DONDINGALONG	
Contact Person: Robert Pitt - Director Sustainable Environment	File: KLEP2013-AM-19

PURPOSE

The purpose of this report is to advise of the outcomes of the Consultation/Public Exhibition for the Planning Proposal for draft Kempsey LEP Amendment No 19 to facilitate a future 14-lot rural residential subdivision at Dondingalong.

- 2017.283 RESOLVED** *Moved: Cl. Saul
Seconded: Cl. Williams*
- That Council exercise delegation from the NSW Department of Planning and Environment to make the LEP Amendment.

A Division resulted in the following votes.

F = Voted For
A = Voted Against

Baxter	F	Campbell	F	Hauville	F	McGinn	F
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Patterson	F	Saul	F	Shields	F	Williams	F
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ITEM 13.4 PLANNING PROPOSAL FELTON'S LANE, HAMPDEN HALL

Contact Person: Robert Pitt – Director Sustainable Environment

File: RZ-17-2: KLEP2013-AM-21

This report was dealt with earlier in the meeting just after PUBLIC FORUM.

ITEM 13.5 LAND ACQUISITION FOR UPGRADING SEWER PUMP STATION K3 ON LEITH STREET, WEST KEMPSEY

Contact Person: Michael Murphy – Manager Operations Water

File: F12/1983, LA13745

PURPOSE

To accept an offer of \$20,000.00 (GST Exclusive) for the acquisition of an additional 199.6m² of land adjacent to the existing pump station site on Leith Street to allow a capacity upgrade.

2017.284 RESOLVED

*Moved: Cl. McGinn
Seconded: Cl. Saul*

- 1 That the offer in the amount of \$20,000.00 (GST Exclusive) made by the owner of Lot 72 DP588049 for the acquisition of that part of Lot 72 DP588049 being Lot 1 DP1225534 be accepted.
- 2 That pursuant to Section 34 of the Local Government Act 1993, Council advertise the draft resolution. It is intended to classify Lot 1 DP1225534 (land adjoining the sewer pumping station in Leith Street, West Kempsey) as operational land.
- 3 That a further report be brought back to Council detailing any submissions received from the public during the advertising period.
- 4 That pursuant to Section 377 of the Local Government Act 1993, the General Manager is delegated authority to sign:
 - a) Contract for Sale/Deed of Acquisition.
 - b) The Land and Property Information Transfer form.

ITEM 13.6 IMPLEMENTATION OF CROWN LAND REFORMS

Contact Person: Robert Scott – Director Infrastructure Services

File: F12/2145, F12/1768

PURPOSE

To consider expressing an interest in participating in the next round of implementing the Crown Land Reforms.

2017.285 RESOLVED

*Moved: Cl. Shields
Seconded: Cl. Williams*

That an Expression of Interest be lodged in conjunction with the Kempsey Local Aboriginal Land Council to participate in the next implementation round of the Crown Lands Act.

ITEM 13.7 CHURCH HILL QUARRY

Contact Person: Robert Scott – Director Infrastructure Services

File: F12/696, LA6344 LA32156
LA32158 LA14762 LA14763
LA14765, LA14761

PURPOSE

To consider progress on the development of Church Hill Quarry.

2017.286 RESOLVED

*Moved: Cl. Shields
Seconded: Cl. Saul*

That a process be commenced to terminate the agreement with NSW Quarry Services for the development of Church Hill Quarry if an alternative agreement cannot be negotiated.

ITEM 13.8 TENDER FOR THE CONSTRUCTION OF THE EXTENSION OF SOUTH STREET TO GOWINGS HILL ROAD

Contact Person: Tony Green – Manager Engineering Works

File: TQE17/11

PURPOSE

To accept a tender for the construction of the extension of South Street from West Street to Gowings Hill Road.

2017.287 RESOLVED

*Moved: Cl. Patterson
Seconded: Cl. Williams*

- 1 That the tender of Eire Constructions Pty Ltd in the estimated amount of \$1,636,602.55 (exclusive of GST) be accepted for the construction of the extension of South Street from West Street to Gowings Hill Road.
- 2 That the contract documents be executed under the seal of Council.

ITEM 13.9 TENDER FOR THE REPLACEMENT OF MCINTYRES AND SCHMIDTS BRIDGES

Contact Person: Tony Green – Manager Engineering Works

File: TQE17/5

PURPOSE

To accept a tender for the replacement of McIntyres and Schmidts Bridges on Nulla Nulla Creek.

2017.288 RESOLVED

*Moved: Cl. Shields
Seconded: Cl. McGinn*

- 1 That the tender of Waeger Constructions Pty Ltd in the amount of \$860,000 (exclusive of GST) be accepted for the replacement of McIntyres and Schmidts Bridges.
- 2 That the Roads Program be revised to take into account the actual Roads to Recovery funding available this year and the funding required to complete McIntyres and Schmidts Bridge replacement.
- 3 That the contract documents be executed under the seal of Council.

ITEM 13.10 DRAFT PLAN OF MANAGEMENT FOR COMMUNITY LAND

Contact Person: Robert Scott – Director Infrastructure Services

File: F12/2083

PURPOSE

To consider the draft Plan of Management for Community Land for public exhibition.

2017.289 RESOLVED

*Moved: Cl. Shields
Seconded: Cl. Saul*

- 1 That the draft Plan of Management for Community Land be placed on public exhibition for submissions in accordance with the Local Government Act 1993.
- 2 That a public hearing be held during the exhibition period.

At this stage 9.48am the meeting adjourned and upon resumption at 9.53am all present at the adjournment were in attendance.

ITEM 13.11 2017 KEMPSEY SHOW WASTE MANAGEMENT FEES

Contact Person: Steve Pellen – Coordinator Civic Services

File: F12/2041

PURPOSE

To seek approval to reduce waste disposal fees for the 2017 Kempsey Show.

2017.290 RESOLVED

*Moved: Cl. McGinn
Seconded: Cl. Patterson*

That the disposal costs for waste from the 2017 Kempsey Show be waived.

At this stage 9.57am ClubGrants presentations were conducted;

- **Crescent Head Country Club**
Anne Bryant
- **South West Rocks Country Club**
Ellie Watson and Ian Doyle
- **Kempsey Macleay RSL**
- **Kempsey Height Bowling Club**

Recipients for 2016 presenting brief report on how funding was used.

- **Cedar Place Aged Care Facility Limited** - Marea Slater
New Lifter
- **Autism Spectrum Australia (Aspect)** – Gwen Paris
Early Intervention for Young Children with Autism

Recipients 2017 to receive cheques:

- **Crescent Head Community Pre School** - Lea Hudson
Fence for bush garden play environment \$2,000
- **Baylin's Gift** - Hayley Hoskins
Batyr School Programs \$4,000
- **South Kempsey Public School** – Matt Taylor - Dept of Education
North Coast Deaf Camp \$1,000
- **SHINE for Kids** - Lloyd Gibbs
'Connecting Kids' support program \$4,800

7 CITIZENSHIP CEREMONIES

At 10.08am the following citizens were nationalised; Phanindranath Prakhya from India and Navya Sri Vanam from India.

At this stage 10.15am the meeting adjourned for morning tea and upon resumption at 10.45am all present at the adjournment were in attendance.

2016 ClubGrants recipients;

- **Kempsey Basketball Association Incorporated** – Ev Jacobs
Miniball Hoops

CITIZENSHIP CEREMONIES

At 10.47am the following citizens were nationalised; Justin Augustine from India and Hannah Justin from Australia.

At 10.56am the meeting resumed.

ITEM 13.13 MATTERS IN PROGRESS

Contact Person: Daryl Hagger – Acting General Manager

File: F12/1930

PURPOSE

To update Councillors on the progress of resolutions of Council

2017.291 RESOLVED

Moved: Cl. Hauville

Seconded: Cl. Patterson

That the information be noted and that item 149 not be removed from the report.

ITEM 13.14 PROJECT COMPLETION REPORTS

Contact Person: Daryl Hagger – Acting General Manager

File: F12/1859

PURPOSE

To consider the completion reports for projects completed in the last month.

2017.292 RESOLVED

Moved: Cl. Hauville

Seconded: Cl. Saul

That the project completion reports be noted and the incomplete reports be reported again once completed with a final expenditure amount.

14 RESCISSION MOTIONS

Nil

15 NOTICES OF MOTION

Nil

16 DELEGATES REPORT

Nil

17 COMMITTEE REPORTS

Nil

18 DELIVERY PROGRAM PERFORMANCE INDICATORS

19 COUNCILLOR QUESTIONS

2017-8-15	RJS
COUNCILLOR L J HAUVILLE	FILE: F12/1945
QFNM1 What disability access provisions have been made at each of the KSC swimming pools, do they comply with requisite legislation and what improvements will be made, if needed, and in what time frame?	

2017-8-15	RBP
COUNCILLOR L J HAUVILLE	FILE: F12/1945
QFNM2 In relation to the Kempsey Regional Saleyards what expenditure was undertaken for rectification of the vandalised burnt selling shed and who was consulted in the design of the replacement facility? Was this cost covered by insurance?	

2017-8-15	RBP
COUNCILLOR L J HAUVILLE	FILE: F12/1945
QFNM3 Has there been any involvement by KSC in signage negotiations between RMS and the Slim Dusty Centre to promote the centre at the Northern and Southern interchanges? If not, should there be, to promote Kempsey and the Shire?	

2017-8-15	RJS
COUNCILLOR L J HAUVILLE	FILE: F12/1945
QFNM4 What processes are in place to prevent the extension of leases due to lack of preparation, such as the Kempsey Shire Council pool leases?	

2017-8-15	RJS
COUNCILLOR A P PATTERSON	FILE: F12/1945
QFNM1 Traffic incident report on the corner of Gladstone St and Belgrave St Kempsey - an up to date incident report for the last 12 months	

2017-8-15	KEO
COUNCILLOR S E MCGINN	FILE: F12/1945
QFNM1	

Is there a process issue that caused the delay for ratepayer Ben Thomas's letter which was handed over the Civic Centre customer services counter some 4 weeks ago that was only received in our e-mail yesterday?

20 CONFIDENTIAL ITEMS

STAFF REPORTS

FOR CONFIDENTIAL BUSINESS PAPER IN CLOSED MEETING

ITEM 20.1 VARIOUS LEGAL MATTERS

Contact Person: Daryl Hagger – Director Corporate Management

File: F12/1960

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 open meeting.

2017.293 RESOLVED:

*Moved: Cl. McGinn
Seconded: Cl. Williams*

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.

CLOSED MEETING

The ordinary Council meeting IN CLOSED commenced at 11.24am.

RESUME IN OPEN MEETING

2017.294 RESOLVED:

*Moved: Cl. Hauville
Seconded: Cl. McGinn*

That the ordinary Council meeting in Open Meeting be resumed.

The ordinary Council meeting resumed in OPEN MEETING at 11.34am.

FROM COUNCIL IN CLOSED MEETING

STAFF REPORTS

FROM CONFIDENTIAL BUSINESS PAPER IN CLOSED MEETING

ITEM 20.1 VARIOUS LEGAL MATTERS	
Contact Person: Daryl Hagger – Director Corporate Management	File: F12/1960

PURPOSE

Reporting on the current position regarding legal matters.

2017.295 RESOLVED

*Moved: Cl. Saul
Seconded: Cl. Shields*

That the information be noted.

21 CONCLUSION

There being no further business, the Mayor then closed the meeting, the time being 11.35am.

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