



## MINUTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

19 December 2017 commencing at 9.05am.

### PRESENT:

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

Acting General Manager, R J Scott; Transformation Director, S Law; 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 Dughutti People”.

### 3 APOLOGIES

2017.408 RESOLVED:

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

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

### 4 DECLARATIONS OF INTEREST

Nil

### 5 ASSESSMENT OF ITEMS LISTED FOR CONFIDENTIAL CONSIDERATION

2017.409 RESOLVED:

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

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

## 6 CONFIRMATION OF MINUTES

2017.410 RESOLVED:

*Moved: Cl. Shields  
Seconded: Cl. Patterson*

- 1 That the minutes of the ordinary meeting of Kempsey Shire Council dated 21 November 2017 be confirmed.
- 2 That the minutes of the extraordinary meeting of Kempsey Shire Council dated 1 December 2017 be confirmed.

## 7 CITIZENSHIP CEREMONIES

Nil

## 8 PUBLIC FORUM / PRESENTATIONS

### Public Forum

- 1 - Renea Rootes addressed Council speaking in relation to the cinema project.
- 2 - Lynne Whitmore addressed Council speaking in relation to the cinema.
- 3 - Margaret Campbell addressed Council speaking in relation to concerns on the Macleay River
- 4 - Patricia Huckstepp addressed Council in relation to the cinema and the airport.
- 5 - Jye Palise from St Paul's College addressed Council speaking in favour of the cinema project.

### Presentations

Garth Grundy from Gowings conducted a presentation on the Kempsey Cinema Project update.

Kieran Dell from Majestic Cinemas conducted a brief presentation on the Kempsey Cinema Project.

**At this stage 10.57am the meeting adjourned for morning tea and upon resumption at 11.20am all present at the adjournment were in attendance with the exception of the acting General Manager.**

**At this stage, 11.22am, Councillor Patterson retired from the Chamber and apologised for non-attendance at the remainder of the Meeting.**

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

2017.411 **RESOLVED:** *Moved: Cl. Saul*  
*Seconded: Cl. Williams*

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**

Nil

11                    **CONSIDERATION OF REPORTS RELATING TO A CONSENSUS MOTION**

2017.412 **RESOLVED:** *Moved: Cl. Shields*  
*Seconded: Cl. Saul*

That the recommendations contained in items 13.7 to 13.8, 17.1 in the current agenda as listed be adopted.

**ITEM 13.7 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 November 2017.

2017.413 **RESOLVED:** *Moved: Cl. Shields*  
*Seconded: Cl. Saul*

That the information be noted.

**ITEM 13.8 DEVELOPMENT APPROVALS AND CONSTRUCTION CERTIFICATES**

Contact Person: Erin Fuller – Manager Development Assessment

File: N/A

**PURPOSE**

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

2017.414 **RESOLVED:** *Moved: Cl. Shields*  
*Seconded: Cl. Saul*

That the information be noted.

#### ITEM 17.1 LOCAL TRAFFIC COMMITTEE MEETING HELD ON 5 DECEMBER 2017

Contact Person: Robert Scott – Director Infrastructure Services

File: F12/1958

#### PURPOSE

For Council to adopt the minutes of the Local Traffic Committee meeting 5 December 2017

2017.415 RESOLVED:

*Moved: Cl. Shields*

*Seconded: Cl. Saul*

That the recommendations of the Local Traffic Committee meeting 5 December 2017 be adopted.

### 12 MAYORAL MINUTES

#### ITEM 12.1 MAYORAL MINUTE – EASY TO DO BUSINESS PROGRAM

Contact Person: Liz Campbell – Mayor

File: F12/1722

#### PURPOSE

Reporting on the proposal to enter into a Partnership Agreement with Service NSW to implement the *Easy to do Business* model for Kempsey Shire Council.

2017.416 RESOLVED

*Moved: Cl. Campbell*

- 1 That Council delegates authority to the General Manager to enter into a contract with Service NSW for *Easy to do Business*.
- 2 That any necessary documents be authorised for execution under the Common Seal of Council.

### 13 STAFF REPORTS

#### ITEM 13.1 SUBDIVISION (ONE LOT INTO THREE LOTS)

Contact Person: Erin Fuller - Manager Development Assessment

File: T6-17-62

#### PURPOSE

To determine development application T6-17-62 which seeks development consent for a three lot subdivision. A variation greater than 10% to the minimum lot size development standard under Kempsey Local Environmental Plan (KLEP) 2013 is sought ([Appendix A](#)).

**2017.417 RESOLVED***Moved: Cl. Shields  
Seconded: Cl. McGinn*

- 1 That the variation sought to the minimum lot size development standard in clause 4.1 of KLEP 2013 be supported.
- 2 That development consent be granted to development application T6-17-62 for a three lot subdivision at 14 Hilton Trotter Place, West Kempsey subject to the conditions contained in [\(Appendix B\)](#).

A Division resulted in the following votes.

F = Voted For  
A = Voted Against

Campbell	F	Hauville	A	McGinn	F	Morris	F
Saul	F	Shields	F	Williams	F		

**ITEM 13.2 ADDITIONS TO EXISTING EDUCATIONAL ESTABLISHMENT – COVERED OUTDOOR LEARNING CENTRE (COLA)**

Contact Person: Erin Fuller - Manager Development Assessment

File: T6-17-381

**PURPOSE**

To determine development application T6-17-381 which seeks development consent for a Covered Outdoor Learning Centre (COLA) at Kempsey High School. A variation greater than 10% to the building height development standard under *Kempsey Local Environmental Plan (KLEP) 2013* is sought.

**2017.418 RESOLVED***Moved: Cl. Morris  
Seconded: Cl. McGinn*

- 1 That the variation sought to the building height development standards in clause 4.3 of KLEP 2013 be supported.
- 2 That development consent be granted to development application T6-17-381 for additions to an existing educational establishment (covered outdoor learning centre) at Kempsey High School, Broughton Street, West Kempsey subject to the conditions contained in [\(Appendix D\)](#).

A Division resulted in the following votes.

F = Voted For  
A = Voted Against

Campbell	F	Hauville	F	McGinn	F	Morris	F
Saul	F	Shields	F	Williams	F		

Councillor Williams declared a non-significant interest in the following item for the reason that he is president of a soccer club who use land referred to in the report and remained in the Chamber.

### ITEM 13.3 PLAN OF MANAGEMENT FOR COMMUNITY LAND

Contact Person: Robert Scott – Acting Director of Operations

File: F12/2083

#### PURPOSE

To report on the outcomes of the public exhibition of the Plan of Management for Community Land (POM) and recommend the plan for adoption.

**2017.419 RESOLVED**

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

**That the Plan of Management for Community Land be adopted.**

### ITEM 13.4 PROCEDURE ON PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR COUNCILLORS

Contact Person: Daniel Thoroughgood – Manager Information Management & Governance

File: F12/818-04

#### PURPOSE

To adopt Council's procedure on the payment of expenses and provision of facilities to the Mayor and Councillors.

**2017.420 RESOLVED**

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

**That the procedure on payment of expenses and provision of facilities for the Mayor and Councillors be adopted with the removal of clauses 6.33, 6.34, 6.35 and 6.36.**

### ITEM 13.5 MATTERS IN PROGRESS

Contact Person: Daryl Hagger – Acting General Manager

File: F12/1930

#### PURPOSE

To update Councillors on the progress of resolutions of Council

**MOVED**

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

**1 That the information be noted.**

- 2 That the acting General Manager provides Council with an information update on the progress of item 131.
- 3 That in item 212 Council acknowledge the draft VPA has not been placed on public exhibition at this stage.

**WORKSHOP**

**2017.421 RESOLVED:** *Moved: Cl. Morris*  
*Seconded: Cl. McGinn*

That Council move into workshop to allow discussion in open Council on item 13.5.

**MOTION TO RESUME COUNCIL MEETING**

**2017.422 RESOLVED:** *Moved: Cl. Shields*  
*Seconded: Cl. Morris*

That the formal Council meeting be resumed.

**2017.423 The MOTION was PUT to the MEETING and was CARRIED.**

<b>ITEM 13.6 ON SITE SEWAGE MANAGEMENT STRATEGY</b>	
Contact Person: Ken Ward – Manager Regulatory Compliance	File: F12/2136

**PURPOSE**

To consider variation to the Budget to transfer funds from On-site Sewage Management Reserve Fund to engage additional officer to increase the number of inspections of very high and high risk sites.

**2017.424 RESOLVED** *Moved: Cl. Morris*  
*Seconded: Cl. Hauville*

That \$126,000 from On-site Sewage Management Reserve is allocated to conduct additional inspections over the remainder of this financial year.

<b>ITEM 13.9 ENVIRONMENTAL LEVY COMMUNITY ENGAGEMENT</b>	
Contact Person: Lyndal Harper – Acting Manager Community Relations	File: F12/2079

**PURPOSE**

Reporting on consultation with the community regarding consideration of an application to IPART to renew the existing Environmental Levy, due to expire on 30 June 2018.

**2017.425 RESOLVED** *Moved: Cl. McGinn*

*Seconded: Cl. Williams*

- 1 That the engagement results be noted.
- 2 That the community feedback be considered in designing future environmental programs.
- 3 That an application be made to the Independent Pricing and Regulatory Tribunal (IPART) to seek a Special Rate Variation of 4.20% above the annual rate peg of 2.30% to renew the Environmental Levy for a further 10 years, commencing in 2018/2019.

**14 RESCISSION MOTIONS**

Nil

**15 NOTICES OF MOTION**

**ITEM 15.1 REQUEST TO STATE TREASURY FOR ECONOMIC BENEFIT ANALYSIS - PLUMMERS LANE UPGRADE**

Contact Person: – Leo Hauville - Councillor

File: F12/1722

**MOVED**

*Moved: Cl. Hauville  
Seconded: Cl. Williams*

That Council request an Economic Benefit Analysis of a Plummerts Lane upgrade from State Treasury, with the change of 9.9 kilometres at 80 km/hr to 9.2 kilometres at 100 km/hr being factored-in to show:

- A) Drivers' yearly benefit in time and fuel costs savings,
- B) The cohort of 2700 daily vehicle users yearly benefit in time and fuel costs savings and
- C) The flow-on economic benefit to the whole Kempsey Shire Community.

The MOTION was PUT to the Meeting and was LOST.

**2017.426 RESOLVED**

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

That Council does not proceed with further investigations into realignment of Plummerts Lane and similar notices of motion not be brought before this Council for the remainder of its term.

A DIVISION was called for by Councillors Morris and McGinn which resulted in the following votes being recorded.

Campbell	F	Hauville	A	McGinn	F	Morris	F
Saul	F	Shields	F	Williams	F		



16 DELEGATES REPORT

Nil

17 COMMITTEE REPORTS

18 DELIVERY PROGRAM PERFORMANCE INDICATORS

**ITEM 18.1 KEY PERFORMANCE INDICATORS**

Contact Person: Daryl Hagger – Acting General Manager

File: F12/1908

**PURPOSE**

Updating status of key performance indicators for the month ending 30 November 2017.

2017.427 RESOLVED

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

That the information be noted.

19 COUNCILLOR QUESTIONS

2017-12-19	*
COUNCILLOR S E MCGINN	FILE: F12/1945
QFNM1 Can an explanation be provided why there has been very low water pressure at Lower Macleay recently?	

2017-12-19	*
COUNCILLOR S E MCGINN	FILE: F12/1945
QFNM2 What is the time frame for replacing the broken tiles on the Smith Street Mall?	

2017-12-19	*
COUNCILLOR L J HAUVILLE	FILE: F12/1945
QFNM1 Will all Councillors be given access via the Digital Locker to all of the Federal Government Grant of \$2 million Conditions towards the Cinema and were any of these conditions dependent on a Public Private Partnership or was a Voluntary Planning Agreement also in these Grant's Conditions?	

2017-12-19	*
COUNCILLOR L J HAUVILLE	FILE: F12/1945
QFNM2 What is the itemised breakdown of the costs of external advice etc in support of the Kempsey Cinema Project and what would be the estimated cost of staff time allocated?	

2017-12-19	*
COUNCILLOR L J HAUVILLE	FILE: F12/1945
<b>QFNM3</b> With regards to Byron and Bega Shire Councils decisions to recommend against a Development Application being submitted to Joint Regional Planning Panels, and to elect Councillors (at Byron SC) to speak in opposition to a particular DA KSC was informed by the previous GM and a Director that these actions would be illegal if undertaken by this Council? Are these Councils (Byron and Bega) acting according to the 1993 Local Government Act?	

2017-12-19	*
COUNCILLOR L J HAUVILLE	FILE: F12/1945
<b>QFNM4</b> What has the total income to Council been from the Australian Aviation College for 2017, what has been the surmised other income to the Shire Community, and will this be increased in 2018?	

## 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.

#### ITEM 20.2 NSW QUARRY SERVICES, HARD ROCK QUARRY, LOT 4 DP622304, 593 GOWINGS HILL ROAD, DONDINGALONG

Contact Person: Erin Fuller – Manager Development Assessment      File: T6-14-53, LA7597

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

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

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.

**2017.428 RESOLVED:** *Moved: Cl. Saul  
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 1.20pm.

### **RESUME IN OPEN MEETING**

**2017.429 RESOLVED:** *Moved: Cl. Morris  
Seconded: Cl. Williams*

**That the ordinary Council meeting in Open Meeting be resumed.**

The ordinary Council meeting resumed in OPEN MEETING at 1.22pm.

### **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
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### **PURPOSE**

Reporting on the current position regarding legal matters.

**2017.430 RESOLVED** *Moved: Cl. Shields  
Seconded: Cl. McGinn*

**That the information be noted.**

#### **ITEM 20.2 NSW QUARRY SERVICES, HARD ROCK QUARRY, LOT 4 DP622304, 593 GOWINGS HILL ROAD, DONDINGALONG**

Contact Person: Erin Fuller – Manager Development Assessment	File: T6-14-53, LA7597
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### **Section 10A(2)(e) – Maintenance of Law**

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

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.

#### **PURPOSE**

To inform Council of the significant non-compliances with development consent T6-14-53 relating to the hard rock quarry at 593 Gowings Hill Road, Dondingalong and seek endorsement of the intended compliance action.

**2017.431 RESOLVED**

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

**That Council commence enforcement action as follows:**

- a in the first instance, instruct Council’s solicitor to prepare a “letter before action” providing NSW Quarry Services with a last chance to comply with the conditions in development consent T6-14-53 within a specified timeframe; and**
- b in the case of failure to comply within the specified timeframe, commence “class 4” civil proceedings in the Land and Environment Court seeking Court Orders requiring compliance with development consent T6-14-53 for the extension of an existing quarry at Lot 4 DP622304, 593 Gowings Hill Road, Dondingalong.**

## **21 CONCLUSION**

There being no further business, the Mayor then closed the meeting, the time being 1.22pm.

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# MINUTES OF THE CRESCENT HEAD COMMUNITY PURPOSES (R98039) RESERVE TRUST HELD AT THE CONCLUSION OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

19 December 2017 commencing at 1.23pm.

## PRESENT:

Councillors E A Campbell (Mayor and Chairman), L J Hauville, S E McGinn, B J Morris, D F Saul, A T Shields and A J Williams

Acting General Manager, R J Scott; Director Transformation, S Law; Manager Information Management and Governance, D S Thoroughgood; and Minute Taker D M Pearson.

## 1 APOLOGIES

2017.432 RESOLVED:

*Moved: Cl. Morris  
Seconded: Cl. Saul*

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

## 2 REPORT

### ITEM 1 LEASE RENEWAL OF CRESCENT HEAD COMMUNITY PRE-SCHOOL INC.

Contact Person: Trevor Dickson – Manager Technical and Civic Services

File: F12/1113, LA9447

### PURPOSE

To renew the lease to Crescent Head Community Pre-School Inc for a period of ten (10) years and consent to a Mortgage of Lease.

2017.433 RESOLVED

*Moved: Cl. Morris  
Seconded: Cl. Williams*

That the Common Seal of the Reserve Trust be affixed to a ten (10)-year lease and the Mortgage of the Lease between Crescent Head Community Pre-School Inc. and the Reserve Trust R98039, commencing on the current lease expiration date of 29 November 2018.

## 3 CONCLUSION

There being no further business, the Mayor then closed the meeting, the time being 1.23pm.

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