



Minutes

Minutes of the Ordinary Council Meeting of
Kempsey Shire Council
Tuesday 15 December 2020



The meeting commenced at 09:00 am.

PRESENT:

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

General Manager, C L Milburn; Director Corporate and Commercial, S M Mitchell; Director Operations and Planning, R A Fish; and Manager Governance and Information Services, D S Thoroughgood.

In accordance with s747A of the Local Government Act 1993, in response to the COVID-19 pandemic, Councillor L J Hauville attended this meeting by video conference.

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

An opening prayer was conducted.

2 ACKNOWLEDGEMENT OF COUNTRY

An Acknowledgement of the Traditional Aboriginal Landowners was provided.

3 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE BY COUNCILLORS

Nil

4 CONFIRMATION OF MINUTES

MOVED (Cl Saul/Cl Morris):

That the minutes of the ordinary meeting of Kempsey Shire Council dated 17 November 2020 be confirmed.

AMENDMENT (Cl Morris/Cl Hauville):

That:

- 1. the minutes of the ordinary meeting of Kempsey Shire Council dated 17 November 2020 be confirmed.**
- 2. in the event that the minutes are changed due to a submission by a Councillor, or a change by the staff, that those amended minutes are circulated to Councillors within 2 working days.**

LOST (3 / 6)

FOR: Cl Baxter, Cl Hauville, Cl Morris

AGAINST: Cl Campbell, Cl McGinn, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

2020.227 RESOLVED (CI Saul/CI Morris):

That the minutes of the ordinary meeting of Kempsey Shire Council dated 17 November 2020 be confirmed.

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

5 DISCLOSURES OF INTEREST

CI McGinn declared a non-pecuniary non-significant interest in item 11.1, Legal Matters, for the reason that as she knows one of the parties named in the report.

CI McGinn declared a non-pecuniary non-significant interest in item 11.3, Plant and Truck Hire Contract, for the reason that knows some of the contractors listed.

CI Patterson declared a non-pecuniary non-significant interest in item 11.3, Plant and Truck Hire Contract, for the reason that he knows some of the contractors listed.

CI Campbell declared a non-pecuniary non-significant interest in item 11.3, Plant and Truck Hire Contract, for the reason that she knows some of the contractors listed.

CI Saul declared a non-pecuniary non-significant interest in item 9.1, Saleyards Management/Operational Model, for the reason that he has property near the saleyards.

CI Shields declared a non-pecuniary non-significant interest in item 9.1, Saleyards Management/Operational Model, for the reason that she is a stakeholder in the operation of the saleyards due to her business.

CI Hauville declared a non-pecuniary non-significant interest in item 8.1, Minutes of Local Traffic Committee 1 December 2020, for the reason that he was a teacher at Aldavilla Public School 29 years ago.

6 ITEMS PASSED BY EXCEPTION

2020.228 RESOLVED (CI Morris/CI Patterson):

That the recommendations contained in the following items be adopted:

- 9.6 MNCJO UPDATE DECEMBER 2020**
- 9.7 DEVELOPMENT CONTRIBUTIONS UPDATE**
- 9.11 CODE OF CONDUCT COMPLAINT STATISTICS**
- 9.13 STATEMENT OF CASH AND INVESTMENTS - NOVEMBER 2020**

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

9.6 MNCJO UPDATE DECEMBER 2020

Officer Craig Milburn, General Manager
File No F19/1577
Attachments Nil

RECOMMENDATION

That the information be noted.

2020.229 RESOLVED (CI Morris/CI Patterson):

That the information be noted.

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

9.7 DEVELOPMENT CONTRIBUTIONS UPDATE

Officer Beau Spry, Strategic Planning Officer
File No F19/2092
Attachments 1. Procedure 1-01-17 Developer Contributions Moratorium Townships of Kempsey and Frederickton [9.7.1 - 5 pages]

RECOMMENDATION

That Council:

1. Note the information within the report on the outcomes of the implementation of the moratorium over the 5-year period, which ended in October 2020.
2. Revoke the Kempsey Shire Council Procedure *1.1.17 - Developer Contributions Moratorium – Townships of Kempsey and Frederickton*.

2020.230 RESOLVED (CI Morris/CI Patterson):

That Council:

1. Note the information within the report on the outcomes of the implementation of the moratorium over the 5-year period, which ended in October 2020.
2. Revoke the Kempsey Shire Council Procedure *1.1.17 - Developer Contributions Moratorium – Townships of Kempsey and Frederickton*.

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

9.11 CODE OF CONDUCT COMPLAINT STATISTICS

Officer Daniel Thoroughgood, Manager – Governance and Information Services

File No F19/2017
Attachments 1. Model Code of Conduct Complaint Statistics - November 2020 [9.11.1 - 3 pages]

RECOMMENDATION

That the information be noted

2020.231 RESOLVED (CI Morris/CI Patterson):

That the information be noted

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

9.13 STATEMENT OF CASH AND INVESTMENTS - NOVEMBER 2020

Officer Ron Wood, Manager Financial Services
File No N/A
Attachments 1. Statement of Cash & Investments [9.13.1 - 3 pages]

RECOMMENDATION

That the information be noted.

2020.232 RESOLVED (CI Morris/CI Patterson):

That the information be noted.

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

7 MAYORAL MINUTES

Nil

8 REPORTS OF COMMITTEES

8.1 MINUTES OF LOCAL TRAFFIC COMMITTEE 1 DECEMBER 2020

Officer Cliff Toms, Investigations Engineer
File No F19/1958
Attachments 1. 201201 Local Traffic Committee Minutes of 1 st December 2020 [8.1.1 - 19 pages]

RECOMMENDATION

That Council notes the minutes and adopts the recommendations of the Local Traffic Committee meeting held on 1 December 2020.

MOVED (CI Patterson/CI Morris):

That Council notes the minutes and adopts the recommendations of the Local Traffic Committee meeting held on 1 December 2020.

AMENDMENT (CI Hauville):

That:

- 1. Council notes the minutes and adopts the recommendations of the Local Traffic Committee meeting held on 1 December 2020.**
- 2. Council investigate the cost associated with road widening at Aldavilla Public School and investigate opportunities for grant funding.**

The amendment lapsed for want of a seconder.

2020.233 RESOLVED (CI Patterson/CI Morris):

That Council notes the minutes and adopts the recommendations of the Local Traffic Committee meeting held on 1 December 2020.

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

9 REPORTS TO COUNCIL

9.1 SALEYARDS MANAGEMENT / OPERATIONAL MODEL

Officer Gayleen Burley, Manager Commercial Business
File No TQE20/25
Attachments Nil

RECOMMENDATION

That Council:

- 1. undertake a selective tender process for a 10 year, plus 1 x 10 year option, lease of Kempsey Regional Saleyards with the following three shortlisted companies (listed in alphabetical order), with a report to come back to Council for award of tender:**
 - a. AAM Investment Group Pty Ltd**
 - b. Kempsey Stock & Land Pty Ltd**
 - c. Outcross Pty Ltd**
- 2. note that a Bushfire Local Economic Recovery Fund grant application, for capital improvements at the Kempsey Regional Saleyards, will be submitted in January 2021 and will be incorporated into the selective tender process documents.**

MOVED (CI Patterson/CI Saul):

That Council:

- 1. undertake a selective tender process for a 10 year, plus 1 x 10 year option, lease of Kempsey Regional Saleyards with the following three shortlisted companies (listed in alphabetical order), with a report to come back to Council for award of tender:**
 - a. AAM Investment Group Pty Ltd**
 - b. Kempsey Stock & Land Pty Ltd**
 - c. Outcross Pty Ltd**
- 2. note that a Bushfire Local Economic Recovery Fund grant application, for capital improvements at the Kempsey Regional Saleyards, will be submitted in January 2021 and will be incorporated into the selective tender process documents.**

2020.253 RESOLVED (CI McGinn/CI Morris):

That under clause 10.24 of the Code of Meeting Practice speeches be limited to 2 minutes for this meeting.

CARRIED (8 / 1)

FOR: CI Campbell, CI Baxter, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: CI Hauville

AMENDMENT (CI Morris/CI McGinn):

That Council:

- 1. undertake a selective tender process for a 10 year, plus 1 x 10 year option, lease of Kempsey Regional Saleyards with the following three shortlisted companies (listed in alphabetical order), with a report to come back to Council to consider the award of the tender:**
 - a. AAM Investment Group Pty Ltd**
 - b. Kempsey Stock & Land Pty Ltd**
 - c. Outcross Pty Ltd**
- 2. note that a Bushfire Local Economic Recovery Fund grant application, for capital improvements at the Kempsey Regional Saleyards, will be submitted in January 2021 and will be incorporated into the selective tender process documents.**

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

CI Hauville raised a point of order that CI Saul wasn't asking a question. The Mayor upheld the point of order and asked CI Saul to state his question.

2020.234 RESOLVED (CI Patterson/CI Saul):

That Council:

- 1. undertake a selective tender process for a 10 year, plus 1 x 10 year option, lease of Kempsey Regional Saleyards with the following three shortlisted companies (listed in**

alphabetical order), with a report to come back to Council to consider the award of the tender:

- a. AAM Investment Group Pty Ltd
 - b. Kempsey Stock & Land Pty Ltd
 - c. Outcross Pty Ltd
2. note that a Bushfire Local Economic Recovery Fund grant application, for capital improvements at the Kempsey Regional Saleyards, will be submitted in January 2021 and will be incorporated into the selective tender process documents.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

9.2 VOLUNTARY PLANNING AGREEMENT: 600 MACLEAY VALLEY WAY

Officer Steve Schwartz, Coordinator Strategic and Environmental Planning

File No KLEP2013-AM-24

Attachments 1. Voluntary Planning Agreement [9.2.1 - 27 pages]

RECOMMENDATION

That Council:

1. Consider the attached draft planning agreement dealing with the provision of water and sewer infrastructure to 600 Macleay Valley Way associated with a planning proposal to allow development of a Highway Service Centre on the land.
2. Endorse the mandatory public notification of the planning agreement for a minimum period of 28 days.
3. Delegate to the General Manager the authority to execute the agreement if he is satisfied there are no further changes required following the notification period, noting that the General Manager will also approve the making of the associated changes to the Kempsey Local Environmental Plan 2013 at the same time, as previously resolved by Council.

MOVED (Cl Saul/Cl McGinn):

That Council:

1. Consider the attached draft planning agreement dealing with the provision of water and sewer infrastructure to 600 Macleay Valley Way associated with a planning proposal to allow development of a Highway Service Centre on the land.
2. Endorse the mandatory public notification of the planning agreement for a minimum period of 28 days.
3. Delegate to the General Manager the authority to execute the agreement if he is satisfied there are no further changes required following the notification period, noting that the General Manager will also approve the making of the associated changes to the Kempsey Local Environmental Plan 2013 at the same time, as previously resolved by Council.

AMENDMENT (Cl Hauville/Cl Morris):

That Council:

1. Consider the attached draft planning agreement dealing with the provision of water and sewer infrastructure to 600 Macleay Valley Way associated with a planning proposal to allow development of a Highway Service Centre on the land.
2. Endorse the mandatory public notification of the planning agreement for a minimum period of 28 days.
3. Submissions be brought to Council with recommendations for further action.

LOST (1 / 8)

FOR: Cl Hauville

AGAINST: Cl Campbell, Cl Baxter, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

Cl Hauville raised a point of order raised that Cl Morris wasn't using his microphone. The mayor upheld the point of order and advised Cl Hauville of what had been said.

AMENDMENT (Cl Morris/Cl Hauville):

That Council:

1. Consider the attached draft planning agreement dealing with the provision of water and sewer infrastructure to 600 Macleay Valley Way associated with a planning proposal to allow development of a Highway Service Centre on the land.
2. Endorse the mandatory public notification of the planning agreement for a minimum period of 42 days.
3. Delegate to the General Manager the authority to execute the agreement if he is satisfied there are no further changes required following the notification period, noting that the General Manager will also approve the making of the associated changes to the Kempsey Local Environmental Plan 2013 at the same time, as previously resolved by Council.

LOST (2 / 7)

FOR: Cl Hauville, Cl Morris

AGAINST: Cl Campbell, Cl Baxter, Cl McGinn, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

2020.235 RESOLVED (Cl Saul/Cl McGinn):

That Council:

1. Consider the attached draft planning agreement dealing with the provision of water and sewer infrastructure to 600 Macleay Valley Way associated with a planning proposal to allow development of a Highway Service Centre on the land.
2. Endorse the mandatory public notification of the planning agreement for a minimum period of 28 days.
3. Delegate to the General Manager the authority to execute the agreement if he is satisfied there are no further changes required following the notification period, noting that the General Manager will also approve the making of the associated changes to the Kempsey Local Environmental Plan 2013 at the same time, as previously resolved by Council.

CARRIED (8 / 1)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: Cl Morris

9.3 SLIM DUSTY CENTRE - FEES AND CHARGES

Officer Gayleen Burley, Manager Commercial Business

File No F20/2803

Attachments 1. Slim Dusty Centre Draft Fees and Charges [9.3.1 - 2 pages]

RECOMMENDATION

1. That the existing Slim Dusty Centre Fees and Charges for the 2020-21 financial year be placed on public exhibition for a period of 35 days.
2. That a report be tabled at the Council meeting of 16 February 2021 detailing the submissions received during the public exhibition period and presenting the final Slim Dusty Centre Fees and Charges for the 2020-21 financial year for adoption.
3. That Council continue to levy fees and charges in line with current pricing and existing arrangements during the short-term agreement period with the Slim Dusty Foundation Limited, as trustee for the Slim Dusty Museum Trust Fund, until such time that the Slim Dusty Centre Fees and Charges for the 2020-21 financial year are adopted.
4. That a review of the Slim Dusty Centre Fees and Charges be undertaken as part of the due diligence process associated with the consideration of the longer-term transfer of the Slim Dusty Centre to Kempsey Shire Council.

MOVED (CI McGinn/CI Patterson):

1. That the existing Slim Dusty Centre Fees and Charges for the 2020-21 financial year be placed on public exhibition for a period of 35 days.
2. That a report be tabled at the Council meeting of 16 February 2021 detailing the submissions received during the public exhibition period and presenting the final Slim Dusty Centre Fees and Charges for the 2020-21 financial year for adoption.
3. That Council continue to levy fees and charges in line with current pricing and existing arrangements during the short-term agreement period with the Slim Dusty Foundation Limited, as trustee for the Slim Dusty Museum Trust Fund, until such time that the Slim Dusty Centre Fees and Charges for the 2020-21 financial year are adopted.
4. That a review of the Slim Dusty Centre Fees and Charges be undertaken as part of the due diligence process associated with the consideration of the longer-term transfer of the Slim Dusty Centre to Kempsey Shire Council.

AMENDMENT (CI Morris/CI Hauville):

1. That the existing Slim Dusty Centre Fees and Charges for the 2020-21 financial year be placed on public exhibition for a period of 35 days.
2. That a report be tabled at the Council meeting of 16 February 2021 detailing the submissions received during the public exhibition period and presenting the final Slim Dusty Centre Fees and Charges for the 2020-21 financial year for adoption.
3. That Council continue to levy fees and charges in line with current pricing and existing arrangements during the short-term agreement period with the Slim Dusty Foundation Limited, as trustee for the Slim Dusty Museum Trust Fund, until such time that the Slim Dusty Centre Fees and Charges for the 2020-21 financial year are adopted.
4. That a review of the Slim Dusty Centre Fees and Charges be undertaken as part of the due diligence process associated with the consideration of the longer-term transfer of the Slim Dusty Centre to Kempsey Shire Council.

5. That the fifth line in the venue hire fees, which states Mates Room - Hourly Hire Rate, by Commercial Agreement, be removed from the table.

The amendment was withdrawn by the mover.

2020.236 RESOLVED (CI McGinn/CI Patterson):

1. That the existing Slim Dusty Centre Fees and Charges for the 2020-21 financial year be placed on public exhibition for a period of 35 days.
2. That a report be tabled at the Council meeting of 16 February 2021 detailing the submissions received during the public exhibition period and presenting the final Slim Dusty Centre Fees and Charges for the 2020-21 financial year for adoption.
3. That Council continue to levy fees and charges in line with current pricing and existing arrangements during the short-term agreement period with the Slim Dusty Foundation Limited, as trustee for the Slim Dusty Museum Trust Fund, until such time that the Slim Dusty Centre Fees and Charges for the 2020-21 financial year are adopted.
4. That a review of the Slim Dusty Centre Fees and Charges be undertaken as part of the due diligence process associated with the consideration of the longer-term transfer of the Slim Dusty Centre to Kempsey Shire Council.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

9.4 PROPOSED NATURAL DISASTERS OPTIONAL LEP CLAUSE

Officer	Steve Schwartz, Coordinator Strategic and Environmental Planning
File No	KLEP2013-AM-31
Attachments	1. Natural Disasters Clause - Guidance for Implementation [9.4.1 - 3 pages] 2. Natural Disasters Proposed Clause [9.4.2 - 1 page]

RECOMMENDATION

That Council, after considering the attached draft clause and guidance material, authorise the General Manager to provide formal confirmation to the Department of Planning Industry and Environment that Kempsey Shire Council wishes to incorporate the Natural Disasters Clause into the Kempsey Local Environmental Plan (KLEP).

2020.237 RESOLVED (Cl Morris/Cl McGinn):

That Council, after considering the attached draft clause and guidance material, authorise the General Manager to provide formal confirmation to the Department of Planning Industry and Environment that Kempsey Shire Council wishes to incorporate the Natural Disasters Clause into the Kempsey Local Environmental Plan (KLEP).

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

9.5 RECOVERY UPDATE

Officer	Jo McGoldrick, Coordinator Recovery
File No	F19/2673
Attachments	1. September Recovery Newsletter [9.5.1 - 8 pages] 2. November Recovery Newsletter [9.5.2 - 4 pages] 3. December Recovery Newsletter [9.5.3 - 4 pages] 4. Recovery Action Plan Update [9.5.4 - 30 pages]

RECOMMENDATION

That the information be noted.

2020.238 RESOLVED (CI Patterson/CI Shields):

That the information be noted.

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

9.8 PROPOSED ROAD CLOSURE AT WILLI WILLI

Officer	Ian Russell, Property Officer Contractor
File No	F20/1650
Attachments	1. Extent of Road Closure [9.8.1 - 1 page]

RECOMMENDATION

That Council:

1. Pursuant to Section 38D of the *Roads Act 1993* publish a Notice of Road Closure in the NSW Government Gazette to close part of the unnamed Council public road situated on the western boundary of Lot 26 DP752424 (1338 Warbro Brook Road, Willi Willi) with the extent of road to be closed sufficient in dimensions to ensure that the dwelling and all other structures no longer encroach onto the public road network.
2. On closure, vest the land contained in the closed road as operational land.
3. Pursuant to Section 44 of the *Roads Act 1993* accept the opening of a public road within Lot 26 DP752424 as compensation for the land comprised in the road closure; provided that the road to be opened continues to link Warbro Brook Road with the Council public road network to the north of Lot 26 DP752424; and the road is opened and dedicated to the public prior to the Notice of Road Closure being published.
4. Pursuant to Section 377 of the *Local Government Act 1993* delegate Authority to the General Manager to sign:
 - a. Survey plan of road closure and road opening
 - b. Deed of road opening and road closure
 - c. Land Registry Services Forms
5. Confirm that all fees and costs involved in the road closure and road opening be the sole responsibility of the owners of Lot 26 DP752424.

2020.239 RESOLVED (CI Patterson/CI Morris):

That Council:

1. Pursuant to Section 38D of the *Roads Act 1993* publish a Notice of Road Closure in the NSW Government Gazette to close part of the unnamed Council public road situated on the western boundary of Lot 26 DP752424 (1338 Warbro Brook Road, Willi Willi) with the extent of road to be closed sufficient in dimensions to ensure that the dwelling and all other structures no longer encroach onto the public road network.
2. On closure, vest the land contained in the closed road as operational land.
3. Pursuant to Section 44 of the *Roads Act 1993* accept the opening of a public road within Lot 26 DP752424 as compensation for the land comprised in the road closure; provided that the road to be opened continues to link Warbro Brook Road with the Council public road network to the north of Lot 26 DP752424; and the road is opened and dedicated to the public prior to the Notice of Road Closure being published.
4. Pursuant to Section 377 of the *Local Government Act 1993* delegate Authority to the General Manager to sign:
 - a. Survey plan of road closure and road opening
 - b. Deed of road opening and road closure
 - c. Land Registry Services Forms
5. Confirm that all fees and costs involved in the road closure and road opening be the sole responsibility of the owners of Lot 26 DP752424.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

9.9 ANNUAL REPORT 2019-2020

Officer Kathryn Parker, Corporate Performance Coordinator

File No F20/2804

Attachments

1. 2019-20 Annual Report Part A [9.9.1 - 24 pages]
2. 2019-20 Annual Report Part B [9.9.2 - 29 pages]

RECOMMENDATION

That Council:

1. Adopt the 2019-20 Annual Report, comprising Part A and B.
2. Submit the adopted 2019-20 Annual Report to the Minister for Local Government by 31 December 2020.
3. Publish the adopted 2019-20 Annual Report on Council's website.

2020.240 RESOLVED (Cl Morris/Cl Baxter):

That Council:

1. Adopt the 2019-20 Annual Report, comprising Part A and B.
2. Submit the adopted 2019-20 Annual Report to the Minister for Local Government by 31 December 2020.
3. Publish the adopted 2019-20 Annual Report on Council's website.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

9.10 PRESENTATION OF ANNUAL FINANCIAL STATEMENTS

Officer Ron Wood, Manager Financial Services

File No F19/1906

Attachments 1. FINAL Annual Financial Statements 2019-20 [9.10.1 - 119 pages]

RECOMMENDATION

That Council adopt the annual financial statements for the year ended 30 June 2020, as submitted, together with the auditor's report.

MOVED (Cl Saul/Cl McGinn):

That Council adopt the annual financial statements for the year ended 30 June 2020, as submitted, together with the auditor's report.

MATTER OF GREAT URGENCY

Councillor Hauville introduced an urgency motion regarding a petition from South West Rocks Senior Citizens that had not been included in this meetings agenda.

That Council consider the business raised by Cl Hauville at this meeting.

LOST (1 / 8)

FOR: Cl Hauville

AGAINST: Cl Campbell, Cl Baxter, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

2020.241 RESOLVED (Cl Saul/Cl McGinn):

That Council adopt the annual financial statements for the year ended 30 June 2020, as submitted, together with the auditor's report.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

At this stage 10.29 am the meeting adjourned for morning tea and upon resumption at 10.50 am all present at the adjournment were in attendance.

9.12 DISCLOSURE OF INTEREST RETURNS

Officer Daniel Thoroughgood, Manager Governance & Information Services

File No F19/1961

- Attachments**
1. Redacted Code of Conduct Disclosure of Interest Returns [9.12.1 - 48 pages]
 2. OLG Circular 19-21 Release of IPC Guideline 1 Returns of Interests [9.12.2 - 3 pages]
 3. Information Access Guideline 1 for local councils on the disclosure of information September 2019 [9.12.3 - 12 pages]
-

RECOMMENDATION

That Council note the lodgement and tabling of the amended Disclosure of Interest Returns

MOVED (CI McGinn/CI Patterson):

That Council note the lodgement and tabling of the amended Disclosure of Interest Returns

AMENDMENT (CI Hauville/CI Morris):

That Council:

1. note the lodgement and tabling of the amended Disclosure of Interest Return
2. report to May Council which other staff under 4.21(b) of Council's Code of Conduct should be designated under clause 4.8(c) or (d), if required.

The amendment was withdrawn by the mover.

2020.242 RESOLVED (CI McGinn/CI Patterson):

That Council note the lodgement and tabling of the amended Disclosure of Interest Returns

CARRIED UNANIMOUSLY (9 / 0)

FOR: CI Campbell, CI Baxter, CI Hauville, CI McGinn, CI Morris, CI Patterson, CI Saul, CI Shields, CI Williams

AGAINST: nil

10 NOTICES OF MOTION/QUESTIONS WITH NOTICE

10.1 INVESTIGATION OF INSTALLING A MODERN AUDIO-VISUAL SYSTEM IN COUNCIL CHAMBERS

Councillor Leo Hauville, Councillor
File No F19/922
Attachments Nil

MOVED (CI Hauville/CI Morris):

That:

1. Kempsey Shire Council undertakes a investigation of options for enhanced modern audio-visual equipment in the Council chamber.

2. A report on these options and recommendation for purchase of the equipment be presented to the February 2021 Council.

LOST (2 / 7)

FOR: Cl Hauville, Cl Morris

AGAINST: Cl Campbell, Cl Baxter, Cl McGinn, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

10.2 SWR LIBRARY AND COMMUNITY CENTRE CONSULTATION AND ENGAGEMENT

Councillor Leo Hauville, Councillor

File No F20/2796

Attachments 1. community-engagement-strategy [10.2.1 - 21 pages]

MOVED (Cl Hauville/Cl Morris):

That:

1. Kempsey Shire Council consult and engage with the South West Rocks community on the facilities needed in the final design of the Community Centre and Library.
2. The Council will organise a community meeting and online consultation/engagement to gain feedback on facilities required.
3. The consultation will be undertaken prior to a report to March 2021 Council.

Cl Hauville raised a point of order raised that Cl Paterson is not asking a question but a statement. The Mayor upheld the point of order and requested Cl Patterson to ask his question.

AMENDMENT (Cl McGinn/Cl Patterson):

That we note the General Manager's comment that consultation with the South West Rocks community regarding the South West Rocks Library and Community Centre is already in the 2020/2021 Operational Plan.

CARRIED (8 / 1)

FOR: Cl Campbell, Cl Baxter, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: Cl Hauville

Cl Morris foreshadowed an amendment.

AMENDMENT (Cl Morris/Cl Hauville):

That Council:

1. acknowledge the online engagement forum commenced by Council on 7 December by Your Say Macleay
2. actively seeks community group participation for face to face meetings

MOVED (Cl Morris/Cl Hauville):

That Council move into Committee of the Whole.

LOST (2 / 7)

FOR: Cl Hauville, Cl Morris

AGAINST: Cl Campbell, Cl Baxter, Cl McGinn, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AMENDMENT (Cl Morris/Cl Hauville):

That Council:

1. acknowledge the online engagement forum commenced by Council on 7 December by Your Say Macleay
2. actively seeks community group participation for face to face meetings

LOST (2 / 7)

FOR: Cl Hauville, Cl Morris

AGAINST: Cl Campbell, Cl Baxter, Cl McGinn, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AMENDMENT (Cl Morris/Cl Hauville):

That Council:

1. note the General Manager's comment that consultation with the South West Rocks community regarding the South West Rocks Library and Community Centre is already in the 2020/2021 Operational Plan.
2. acknowledge that the online engagement forum has commenced on Your Say Macleay, and that an engagement plan has been established that includes face to face meetings.

LOST (2 / 7)

FOR: Cl Hauville, Cl Morris

AGAINST: Cl Campbell, Cl Baxter, Cl McGinn, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

Cl Shields foreshadowed an amendment.

AMENDMENT (Cl Shields/Cl McGinn):

Note that:

1. consultation has commenced with the South West Rocks community regarding the South West Rocks Library and Community Centre that is already in the 2020/2021 Operational Plan.
2. the communications strategy includes online engagement and face-to-face meetings.

CARRIED (8 / 1)

FOR: Cl Campbell, Cl Baxter, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: Cl Hauville

2020.244 RESOLVED (Cl Shields/Cl McGinn):

Note that:

1. consultation has commenced with the South West Rocks community regarding the South West Rocks Library and Community Centre that is already in the 2020/2021 Operational Plan.

2. the communications strategy includes online engagement and face-to-face meetings.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

10.3 REVIEW OF LOCAL PURCHASING POLICY

Councillor Bruce Morris, Councillor

File No F19/1933

Attachments

1. DRC Local Purchasing Policy [10.3.1 - 7 pages]
2. procedure-5-09-07-local-preference-purchasing-procedure [10.3.2 - 6 pages]

MOVED (Cl Morris/Cl Hauville):

That Council considers the implementation of some of the initiatives contained in the local purchasing policy recently adopted by Dubbo Regional Council in its next review of the current Local Preference Purchasing Procedure.

AMENDMENT (Cl Saul):

That Council continues with the existing Local Preference Purchasing Procedure.

Cl Morris raised a point of order that Cl Saul's proposed amendment was a direct negative and therefore not an amendment. The Mayor upheld the point of order and ruled the amendment out of order.

Cl Saul foreshadowed a motion.

MOVED (Cl Morris/Cl Hauville):

That Council considers the implementation of some of the initiatives contained in the local purchasing policy recently adopted by Dubbo Regional Council in its next review of the current Local Preference Purchasing Procedure.

LOST (4 / 5)

FOR: Cl Baxter, Cl Hauville, Cl Morris, Cl Williams

AGAINST: Cl Campbell, Cl McGinn, Cl Patterson, Cl Saul, Cl Shields

MOVED (Cl Saul/Cl Patterson):

That Council continues with the existing Local Preference Purchasing Procedure.

Cl Saul withdrew his motion.

10.4 PROPOSED MOTION FOR LGNSW CONFERENCE 2021

Councillor Bruce Morris, Councillor
File No F20/1720
Attachments Nil

2020.245 RESOLVED (Cl Morris/Cl Patterson):

That Council considers the submission of the following motion to the LGNSW Conference to be held in Sydney from 16 to 18 November 2021, being:

“That Local Government NSW calls on the Federal Government to remove Part 1 Sec 6 2b of the Local Government Financial Assistance Act 1995 to remove the minimum per capita amount grant, with this removal being phased in over an eight-year period.”

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

10.5 STUARTS POINT TENNIS COURTS

Councillor Bruce Morris, Councillor
File No F12/1335
Attachments

1. Letter from Stuarts Point Community Hall regarding Stuarts Point Tennis Courts [**10.5.1** - 1 page]
2. Ordinary Council Meeting 20 October 2020 Item 9.8 Stuarts Point Tennis Courts [**10.5.2** - 3 pages]
3. Ordinary Council Meeting 18 February 2020 Item 10.1 Management of Stuarts Point Tennis Courts [**10.5.3** - 3 pages]

MOVED (Cl Morris/Cl Hauville):

1. That Council acknowledges the actions of Council staff in implementing a management arrangement for the Stuarts Point Tennis Courts with a commencement date of 18 December.
2. That the interim management arrangement remains in place until a license for the Stuarts Point Tennis Courts is finalised.

LOST (4 / 5)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl Morris

AGAINST: Cl McGinn, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

10.6 VARIATION TO NSW MODEL CODE OF MEETING PRACTICE - DURATION OF SPEECHES

Councillor Bruce Morris, Councillor
File No F19/922
Attachments Nil

2020.247 RESOLVED (CI Morris/CI McGinn):

1. That Council formally requests a variation of the OLG Model Code of Meeting to allow a Council to choose the existing clause 10.22, 10.23 and 10.24, or adopt an alternative to generally limit the duration of speeches to two (2) minutes, by way of optional clauses as follows:
 - a. **10.22** A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than two (2) minutes at any one time.
 - b. **10.23** Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than two (2) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
 - c. **10.24** Despite clause 10.22, the council may resolve to vary the duration of speeches. In the event that a complex matter is to be debated, speeches may be increased in length to a maximum of five (5) minutes for such matters, or if it is necessary to expedite the consideration of business at a meeting, the duration of speeches may be varied to a minimum of one (1) minute.
2. That this formal request be made to the OLG, with a request for support for this variation made in writing to:
 - a. The Member for Oxley, the Hon Melinda Pavey,
 - b. The Minister for Local Government, the Hon Shelly Hancock.

CARRIED (7 / 2)

FOR: CI Campbell, CI Baxter, CI McGinn, CI Morris, CI Patterson, CI Shields, CI Williams

AGAINST: CI Hauville, CI Saul

10.7 LGNSW PRECONFERENCE WORKSHOP

Councillor Bruce Morris, Councillor
File No F19/922
Attachments Nil

MOVED (CI Morris/CI Hauville):

That Council:

1. conducts a workshop to consider any motions for consideration at the LGNSW Annual Conference at least two months prior to the conference.
2. conducts a Pre-Conference workshop to review the Conference Business Paper to provide guidance to voting delegates and to prepare any proposed amendments.

LOST (3 / 6)

FOR: CI Baxter, CI Hauville, CI Morris

AGAINST: CI Campbell, CI McGinn, CI Patterson, CI Saul, CI Shields, CI Williams

10.8 QUESTIONS ON NOTICE

Question 1 from CI Saul:

Will Council take action in regards to Ryan's Cut being cleaned prior to this years flood season?

Question 2 from CI Saul:

Can Council seek a clean order for 154 Tozer Street, West Kempsey?

Question 1 from CI Morris

What events, activities or experiences are proposed to be held with the Summer Fund grants were that recently announced, with all NSW councils being eligible for up to \$10,000 in funding to provide free events, activities or experiences to enliven local public spaces this summer?

Question 2 from CI Morris

What projects have Council determined as suitable to apply for grants the revitalise our high streets?

Question 3 from CI Morris

What projects have Council either applied for grant funding or plan to submit a grant funding application under the Bushfire Local Infrastructure Recovery Fund?

Question 4 from CI Morris

When is it anticipated that Community Catch up meetings will recommence?

Question 5 from CI Morris

Given that the grant application for Pipers Creek Road upgrade under the Safer Roads Program was overlooked in the Quarterly reported to the November 2020 Ordinary Council meeting. Have any other recent grant applications been overlooked for inclusion in the Quarterly report?

Question 6 from CI Morris

Can Council undertake a clean-up of the gardens and medians on the approach along Macleay Valley Way in South Kempsey prior to the Christmas New Year Period?

Question 7 from CI Morris

What is the current status of the upgrade to Council's new web page and when will transition to the new web page occur?

Question 1 from CI Patterson

Can Council request the owner of the traffic island leading into the Big W service station car park off Smith Street to repair it as it's an ongoing safety issue, as it's broken?

Question 1 from CI Hauville

With the recent advice that the Kempsey LGA has one of the highest incidences of melanoma in Australia is there any plan, or costings, to install shade structures over the many newly installed playgrounds across the Shire?

11 CONFIDENTIAL MATTERS

2020.248 RESOLVED (CI McGinn/CI Saul):

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: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

11.1 LEGAL MATTERS

Officer Melanie Peterson, Coordinator Governance and Information
File No F19/1960

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.

2020.249 RESOLVED (Cl Hauville/Cl Shields):

That the information be noted.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

11.2 AUDIT AND RISK COMMITTEE MEETING MINUTES - 11 NOVEMBER 2020

Officer Matthew Bentley, Internal Auditor
File No F20/2510

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 open meeting.

2020.250 RESOLVED (Cl Shields/Cl McGinn):

That Council note the draft meeting minutes from the Audit and Risk Committee, 11 November 2020.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

11.3 PLANT AND TRUCK HIRE CONTRACT

Officer Vicki Thomas, Coordinator Procurement & Fleet Management
File No TQE20/27

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.

2020.251 RESOLVED (Cl Morris/Cl Shields):

That Council:

1. Appoint to the Wet and Dry Plant and Truck Hire Panel the following forty-seven (47) contractors (in alphabetical order):

- a. A D&S Earthmoving
- b. ALB Haulage Pty Ltd
- c. All Done Excavations and Demolitions Pty Limited
- d. Arnway Pty Ltd
- e. Ausroad Plant Services Pty Ltd
- f. Ball's Earthmoving Pty Ltd
- g. Blanch Earthmoving Pty Limited
- h. BMH Earthmoving Pty Ltd
- i. Bob Beard Earthmoving Pty Ltd
- j. Brooks Hire Service Pty Ltd
- k. CJ & HC Ibbotson
- l. Clybucca Earthmoving Pty Ltd
- m. Coastal Earthmoving
- n. Coates Hire Operations Pty Ltd
- o. Conplant Pty Ltd
- p. Crescent Head Excavation & Contracting
- q. Eire Constructions Pty Ltd
- r. Fortade Group Pty Ltd
- s. GME Civil Construction
- t. Grounded Earthworks
- u. Henzys Haulage
- v. Jacob Lyttle Plumbing and Excavation Pty Ltd
- w. JR Richards & Sons
- x. K&T Earthworks Pty Ltd
- y. Kennards Hire
- z. L.K & L.K Weismantel
- aa. Macleay Valley Excavations Pty Ltd
- bb. Master Hire Pty Ltd
- cc. Mid Coast Cranes Pty Limited
- dd. Mid Coast Earthworks Pty Ltd

- ee. Midcoast Riverstone
- ff. ML & LT Swan
- gg. N& H S Gaddes Haulage Pty Ltd
- hh. Orange Hire
- ii. Porter Plant
- jj. Rollers Australia Pty Ltd
- kk. Smith Plant Hire NSW Pty Ltd
- ll. Solo Resource Recovery
- mm. Stabilised Pavements of Australia Pty Ltd
- nn. SH & JE Jeskie
- oo. The Mining Pty Ltd
- pp. Thurgood Haulage Pty Ltd
- qq. Total Drain Cleaning Services Pty Ltd
- rr. Tutt Bryant Hire Pty Ltd
- ss. Universal Mobile Tower Hire
- tt. Weismantel Heavy Haulage
- uu. Westerman Haulage Pty Ltd

2. Appoint the panel for a period of two (2) years from 1 January 2021 to 31 December 2022, with two (2) x one (1) year extension options taking the final option to 31 December 2024.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

2020.252 RESOLVED (Cl Morris/Cl McGinn):

That the ordinary Council meeting be resumed.

CARRIED (9 / 0)

FOR: Cl Campbell, Cl Baxter, Cl Hauville, Cl McGinn, Cl Morris, Cl Patterson, Cl Saul, Cl Shields, Cl Williams

AGAINST: nil

12 CONCLUSION OF THE MEETING

There being no further business, the Mayor then closed the meeting, the time being 12.42 pm.