

Minutes

Minutes of the Ordinary Council Meeting held on Tuesday 16 July 2024

I hereby certify that this is a true and correct record of the minutes of the Kempsey Shire Council ordinary meeting held Tuesday 16 July 2024



Mayor L J Hauville



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.

Director Corporate and Commercial, L A Davies; Director Operations and Planning, M B Jackson; Director Utilities, W J Trotter; and Group Manager Governance and Information Services, D S Thoroughgood.

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 Wyatt provided an acknowledgement of country.

3 ACKNOWLEDGEMENT OF SERVICE MEN, WOMEN AND FAMILIES

Cr Bain 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

2024.139 RESOLVED (Cr Saul/Cr Ring):

That the minutes of the Ordinary Meeting of Kempsey Shire Council dated 18 June 2024 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

Nil.

7 ITEMS PASSED BY EXCEPTION

Nil.

8 MAYORAL MINUTES

8.1 Acquittal of major projects with appropriate signage/plaques

Councillor Cr Hauville, Mayor

File Number F19/2016

Cr Patterson left the Chamber at 9:10 am.

Cr Patterson returned to the Chamber at 9:10 am.

MOVED (Cr Hauville):

That Council is to form an ongoing Committee to recognise the completion of major projects within Kempsey Shire by:

- 1. standing up an ongoing Committee with the Mayor, Deputy Mayor and an elected Councillor;**
- 2. having the Committee meet as required to determine installing appropriate recognition of completed major infrastructure projects;**
- 3. consulting with the General Manager on each decision,**
- 4. presenting a report on the determinations of the Committee to Council,**
- 5. monitoring and ensuring there is appropriate wording on each sign/plaque as determined by the Committee, including input from the General Manager, addressing the following:**
 - a. opening date,**
 - b. project funding amounts and sources,**
 - c. names of State and/or Federal Members in attendance at the opening,**
 - d. names of elected Mayor and all Councillors at the opening date, and**
 - e. the Committee may add extra appropriate wording, photographs and QR codes;**

6. funding the determined recognition of projects using the appropriate contingencies for projects or other possible sources, and
7. maintaining a register of installed signs/plaques with date, location and text.

AMENDMENT (Cr Patterson/Cr Butterfield):

That Council delegates to the Mayor and General Manager the power to recognise the completion of major projects by:

1. determining to install appropriate recognition of completed major infrastructure projects;
2. monitoring and ensuring there is appropriate wording on each sign/plaque addressing the following:
 - a. opening date,
 - b. project funding amounts and sources,
 - c. names of State and/or Federal Members in attendance at the opening,
 - d. names of elected Mayor and all Councillors at the opening date, and
 - e. appropriate extra wording, photographs and QR codes;
3. funding the determined recognition of projects using the appropriate contingencies for projects or other possible sources, and
4. maintaining a register of installed signs/plaques with date, location and text.

CARRIED (5 / 4)

FOR: Cr Butterfield, Cr Fergusson, Cr Patterson, Cr Ring and Cr Saul

AGAINST: Cr Bain, Cr Hauville, Cr Riddington and Cr Wyatt

2024.140 RESOLVED (Cr Hauville):

That Council delegates to the Mayor and General Manager the power to recognise the completion of major projects by:

1. determining to install appropriate recognition of completed major infrastructure projects;
2. monitoring and ensuring there is appropriate wording on each sign/plaque addressing the following:
 - a. opening date,
 - b. project funding amounts and sources,
 - c. names of State and/or Federal Members in attendance at the opening,
 - d. names of elected Mayor and all Councillors at the opening date, and
 - e. appropriate extra wording, photographs and QR codes;

3. funding the determined recognition of projects using the appropriate contingencies for projects or other possible sources, and
4. maintaining a register of installed signs/plaques with date, location and text.

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 Planning Proposal - 154 Arakoon Road, South West Rocks - PP-2024-829

Officer Peter Orr, Strategic and Environmental Planning Manager

File Number PP2400008

MOVED (Cr Riddington/Cr Saul):

That Council:

1. submits the planning proposal which seeks to amend the Land Zoning Map, Lot Size Map and Height of Buildings Map at Lot 9 DP1219664, 157 Arakoon Road, South West Rocks, to the Minister for Planning and Public Spaces for gateway consideration pursuant to section 3.34 of the *Environmental Planning and Assessment Act 1979*;
2. requests that the Secretary of the Department of Planning, Housing and Infrastructure issue Council with written authorisation to exercise plan making delegations in relation to this proposal; and
3. undertakes, subject to the gateway determination, community consultation for the planning proposal as required.

Cr Ring left the Chamber at 9:38 am.

2024.141 RESOLVED (Cr Riddington/Cr Bain):

That Council move into Committee of the Whole.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

Cr Ring returned to the Chamber at 9:39 am.

At 10:07 am the Mayor adjourned the meeting for a period of 5 minutes under clause 14.13 of the Kempsey Shire Council Code of Meeting Practice.

At this stage 10:12 am the meeting adjourned for morning tea.

Upon resumption of the meeting at 10:39 am all present at the adjournment were in attendance.

Cr Ring left the Chamber at 11:22 am.

Cr Ring returned to the Chamber at 11:23 am.

2024.142 RESOLVED (Cr Bain/Cr Fergusson):

That the ordinary Council meeting be resumed.

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

AMENDMENT (Cr Wyatt):

That Council:

1. submits the planning proposal which seeks to amend the Land Zoning Map, Lot Size Map and Height of Buildings Map at Lot 9 DP1219664, 157 Arakoon Road, South West Rocks, to the Minister for Planning and Public Spaces for gateway consideration pursuant to section 3.34 of the *Environmental Planning and Assessment Act 1979*;
2. requests that the Secretary of the Department of Planning, Housing and Infrastructure issue Council with written authorisation to exercise plan making delegations in relation to this proposal;
3. undertakes, subject to the gateway determination, community consultation for the planning proposal as required; and
1. requests Council staff work with the consultant to improve the Aboriginal heritage report to meet contemporary standards, community and First Nations peoples expectations.

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

Cr Saul foreshadowed a motion.

2024.143 RESOLVED (Cr Riddington/Cr Saul):

That Council:

1. submits the planning proposal which seeks to amend the Land Zoning Map, Lot Size Map and Height of Buildings Map at Lot 9 DP1219664, 157 Arakoon Road, South West Rocks, to the Minister for Planning and Public Spaces for gateway consideration pursuant to section 3.34 of the *Environmental Planning and Assessment Act 1979*;
2. requests that the Secretary of the Department of Planning, Housing and Infrastructure issue Council with written authorisation to exercise plan making delegations in relation to this proposal;
3. undertakes, subject to the gateway determination, community consultation for the planning proposal as required; and
1. requests Council staff work with the consultant to improve the Aboriginal heritage report to meet contemporary standards, community and First Nations peoples expectations.

CARRIED (6 / 3)

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

AGAINST: Cr Patterson, Cr Saul and Cr Wyatt

10.2 Exhibition - Lower Macleay Flood Risk Management Study and Plan

Officer Grant Dennis, Design and Investigation Manager

File Number F20/2679

2024.144 RESOLVED (Cr Wyatt/Cr Hauville):

That Council:

1. endorses the exhibition of the Draft Lower Macleay Flood Risk Management Plan for public consultation;
2. supports the recommendation from the Flood Risk Reference Group for the formation of an ongoing Flood Risk Management Committee consisting of community representatives that meets at least once a year; and
3. thanks all members of the Flood Risk Reference Group for their contribution to this process.

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 Electric Vehicle Charging Fees and Charges

Officer Jessica Marsh, Sustainability Project Officer

File Number F21/2867

2024.145 RESOLVED (Cr Bain/Cr Riddington):

That Council places the proposed electric vehicle charging fees as noted within this report on public exhibition for 28 days to allow for submissions, prior to being reported to a future meeting of Council for adoption.

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

10.4 Council Meeting Dates

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number F18/287

2024.146 RESOLVED (Cr Saul/Cr Ring):

That Council cancels the Ordinary Council Meeting currently scheduled to be held on 17 September 2024 and does not conduct an Ordinary Council Meeting in September 2024.

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 Central Kempsey WWTP Project Update

Officer Wes Trotter, Director Utilities

File Number CP24/15

2024.147 RESOLVED (Cr Patterson/Cr Ring):

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

2024.148 RESOLVED (Cr Bain/Cr Fergusson):

The Council determine under clause 17.2 of the Kempsey Shire Council Code of Meeting Practice that this meeting conclude no later than 4.00 pm, rather than 1.00 pm.

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 12:29 pm the meeting adjourned for lunch.

Upon resumption at 1:25 pm all present at the adjournment were in attendance, with the exception of Cr Ring.

10.6 Development Activity and LEP Variations - Quarterly Snapshot

Officer Lisa Kennedy, Team Leader Office Support

File Number F19/1831

Cr Ring returned to the Chamber at 1:30 pm.

2024.149 RESOLVED (Cr Bain/Cr Wyatt):

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

10.7 Statement of Cash and Investments - June 2024

Officer Stacey Milligan, Finance Manager

File No F22/3106

2024.150 RESOLVED (Cr Bain/Cr Riddington):

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

11 REPORTS FROM COUNCILLORS

11.1 Notice of Motion - Statement of Management Intent for Crown Land Reserves

Councillor Cr Wyatt, Councillor

File Number F20/2800

MOVED (Cr Wyatt/Cr Riddington):

That Council:

1. prepares a prioritised list of the reserves that will require a statement of management intent to better guide the future use and to protect natural and cultural values of those reserves by the February 2025 Ordinary Council Meeting;
2. commits to preparing statements of management intent as funds become available and add those to a future DPOP; and
3. notes that some reserves may have volunteer organisations working to protect natural and cultural values and therefore Council work in partnership with those volunteer organisations to prepare and approve those plans/statements.

AMENDMENT (Cr Patterson/Cr Saul):

That Council:

1. considers preparing a prioritised list of the reserves that will require a statement of management intent to better guide the future use and to protect natural and cultural values of those reserves during development of the next Delivery Program and Operational Plan; and
2. notes that some reserves may have volunteer organisations working to protect natural and cultural values and therefore Council work in partnership with those volunteer organisations to prepare and approve those plans/statements.

LOST (4 / 5)

FOR: Cr Butterfield, Cr Fergusson, Cr Patterson and Cr Saul

AGAINST: Cr Bain, Cr Hauville, Cr Riddington, Cr Ring and Cr Wyatt

2024.151 RESOLVED (Cr Wyatt/Cr Riddington):

That Council:

1. prepares a prioritised list of the reserves that will require a statement of management intent to better guide the future use and to protect natural and cultural values of those reserves by the February 2025 Ordinary Council Meeting;
2. commits to preparing statements of management intent as funds become available and add those to a future DPOP; and
3. notes that some reserves may have volunteer organisations working to protect natural and cultural values and therefore Council work in partnership with those volunteer organisations to prepare and approve those plans/statements.

CARRIED (5 / 4)

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

AGAINST: Cr Butterfield, Cr Fergusson, Cr Patterson and Cr Saul

11.2 Notice of Motion - Revenue Task Force

Councillor Cr Bain, Councillor

File Number F22/2550

Cr Riddington left the Chamber at 2:21 pm.

Cr Riddington returned to the Chamber at 2:23 pm.

2024.152 RESOLVED (Cr Bain/Cr Fergusson):

That Council receives a report to the October 2024 meeting of Council setting out the framework for a Revenue/Review Taskforce, to be jointly chaired by the Mayor and the General Manager.

CARRIED (7 / 2)

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

AGAINST: Cr Patterson and Cr Saul

11.3 Delegates Report - Road Congress - Institute of Public Works Engineering Australasia

Officer Cr Hauville, Mayor

File Number F22/1720

2024.153 RESOLVED (Cr Hauville/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

11.4 Delegates Report - Country Mayors Association Conference Kempsey

Officer Cr Hauville, Mayor

File Number F22/1720

2024.154 RESOLVED (Cr Hauville/Cr Fergusson):

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 CONFIDENTIAL MATTERS

2024.155 RESOLVED (Cr Saul/Cr Fergusson):

That Council form itself into the Confidential Session, and at this stage, the meeting be closed to the public to permit discussion of the confidential business items listed for the reasons as stated in the agenda.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr 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 open meeting.

2024.156 RESOLVED (Cr Saul/Cr Patterson):

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

12.2 Confidential Mayoral Minute - General Manager's Annual Performance Review

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number MIL/23552/01

Section 10A(2)(a) - Personnel Matters

This report is submitted on a confidential basis as it involves personnel matters concerning particular individuals (other than Councillors). (*Local Government Act 1993*, section 10A(2)(a))

On balance, the public interest in preserving the confidentiality of personal information outweighs the public interest in openness and transparency in Council decision-making by discussing the matter in an open meeting.

All staff, with the exception of Director Operations and Planning, Michael Jackson, and Group Manager Governance and Information Services, Daniel Thoroughgood, left the chamber at 3:03 pm.

Cr Ring left the Chamber at 3:04 pm, and offered their apologies for the remainder of the meeting.

2024.157 RESOLVED (Cr Hauville):

That:

1. the deliberations of the Performance Review Panel be noted, endorsed and where relevant be referred to the incoming Council; and
2. the statutory increase of 0.5% the Federal Government Superannuation Guarantee Charge be noted and Council approve the corresponding increase in the General Manager's Total Remuneration Package.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

The Director Operations and Planning, Michael Jackson, and Group Manager Governance and Information Services, Daniel Thoroughgood, left the chamber at 3:17 pm.

2024.158 RESOLVED (Cr Hauville):

That Council:

1. note the Local Government Award increases for 2023 and 2024 of 8% (plus \$1,000 one off payment) and the 3.75% increases awarded by the Australian Fair Work Commission (minimum wage increase) and the Local Government Remuneration Tribunal (Mayors and Councillors) and approve an increase of 3.75% to the General Manager's Total Remuneration Package effective from his contract anniversary date, 1 September 2024, due to the careful consideration of the GM Performance Review Committee's assessment that Mr Milburn's performance was well above average.
2. refer matters relating to Councillor's Workshops and timing for future performance reviews to the incoming Council for determination.

CARRIED (7 / 1)

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

AGAINST: Cr Wyatt

The staff returned to the chamber at 3:54 pm.

2024.159 RESOLVED (Cr Patterson/Cr Fergusson):

That the ordinary Council meeting be resumed.

CARRIED UNANIMOUSLY (8 / 0)

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

AGAINST: Nil

Group Manager Governance and Information Services, Daniel Thoroughgood, then read out in open Council the decisions taken in the Confidential Session.

13 CONCLUSION OF THE MEETING

There being no further business, the Mayor then closed the meeting, the time being 4:00 pm.