

# Minutes

Confirmed Minutes of the Ordinary Council Meeting held on Tuesday 20  
February 2024

*L. Haville*

[kempsey.nsw.gov.au](http://kempsey.nsw.gov.au)



The meeting commenced at 9:01 am.

**PRESENT:**

Councillors L J Hauville (Mayor and Chairperson), I A Bain, C S Butterfield, S R A Fergusson, A P Patterson, K A Riddington, K Ring, D F Saul and A D Wyatt.

General Manager, C L Milburn; Director Corporate and Commercial, S M Mitchell; Director Operations and Planning, M B Jackson; Director Utilities, W J Trotter, Group Manager Governance and Information Services, D S Thoroughgood; and Minute Taker, S J Hunter.

The Mayor informed all present that Council permits the electronic recording and broadcasting of the proceedings of Council which are open to the public. Your attendance at this meeting is taken as consent of the possibility that your image and your voice may be recorded and broadcast to the public.

**1 OPENING PRAYER**

Cr Fergusson provided the opening prayer.

**2 ACKNOWLEDGEMENT OF COUNTRY**

Cr Bain provided an acknowledgement of country.

**3 ACKNOWLEDGEMENT OF SERVICE MEN, WOMEN AND FAMILIES**

Cr Butterfield provided an acknowledgement of service men, women and families.

**2024.10 RESOLVED (Cr Bain/Cr Riddington):**

**That Council brings forward Item 6 Disclosures of Interest and Item 10.1 Presentation of Financial Statements be dealt with immediately after Item 3 Acknowledgement of Service Men, Women and Families.**

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

**6 DISCLOSURES OF INTEREST**

Cr Bain declared a non-pecuniary non-significant interest in Item 10.3 Establishment Flood Risk Management Reference Group, for the reason that Cr Bain is an office bearer in the Save our Macleay River Incorporated Association, and one of the proposed representatives on the Committee is a colleague and office bearer in the same organisation.

**10.1 Presentation of Financial Statements**

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**Officer** Daniel Thoroughgood, Group Manager Governance and Information Services

**File Number** F22/2510

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**2024.11 RESOLVED (Cr Bain/Cr Wyatt):**

**That Council receives a presentation from Council's Auditors on the 2022-23 Financial Statements.**

**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

Council received a presentation from Gearoid Fitzgerald of the NSW Audit Office and Kevin Franey of TNR, Council's external auditor.

**4 APOLOGIES AND APPLICATIONS FOR A LEAVE OF ABSENCE OR ATTENDANCE BY AUDIO-VISUAL LINK BY COUNCILLORS**

Nil.

**5 CONFIRMATION OF MINUTES**

**2024.12 RESOLVED (Cr Saul/Cr Fergusson):**

**That the minutes of the Ordinary Meeting of Kempsey Shire Council dated 19 December 2023 be confirmed.**

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

**2024.13 RESOLVED (Cr Ring/Cr Butterfield):**

**That the minutes of the Extraordinary Meeting of Kempsey Shire Council dated 30 January 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

**7 ITEMS PASSED BY EXCEPTION**

**2024.14 RESOLVED (Cr Saul/Cr Wyatt):**



That the recommendations contained in the following items be adopted:

#### 10.5 Statement of Cash and Investments December 2023 and January 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

At this stage 10:55am the meeting adjourned for morning tea.

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

#### 10.5 Statement of Cash and Investments - December 2023 and January 2024

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**Officer** Stacey Milligan, A/Finance Manager

**FileNo** F22/3106

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**2024.15 RESOLVED (Cr Saul/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

## 8 MAYORAL MINUTES

### 8.1 Cost Shifting on Local Government

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**Councillor** Cr Hauville, Mayor

**File Number** F22/1720

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**MOVED (Cr Hauville):**

That Council:

1. receive and note the findings of the LGNSW Cost Shifting report for the 2021/2022 financial year;
2. note the approximate cost shift to Kempsey Shire in this financial year of \$6.95 million;
3. place a copy of the cost shifting report on Council's website so that our community can access it;
4. write to the Premier, the NSW Treasurer, and the NSW Minister for Local Government seeking their urgent action to cease cost shifting to Local Government and roll back the

present cost shifting through a combination of regulatory reform, budgetary provision and appropriate funding; and

5. write to the NSW Opposition Leader outlining our concerns on cost shifting.

**AMENDMENT (Cr Bain):**

**That Council:**

1. receive and note the findings of the LGNSW Cost Shifting report for the 2021/2022 financial year;
2. note the approximate cost shift to Kempsey Shire in this financial year of \$6.95 million;
3. place a copy of the cost shifting report on Council's website so that our community can access it;
4. write to the Premier, the NSW Treasurer, and the NSW Minister for Local Government seeking their urgent action to cease cost shifting to Local Government and roll back the present cost shifting through a combination of regulatory reform, budgetary provision and appropriate funding;
5. write to the NSW Opposition Leader outlining our concerns on cost shifting;
6. make a submission to the assets, premises and funding of the NSW Rural Fire Services Parliamentary Inquiry by 10 May 2024.

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

**AMENDMENT (Cr Patterson):**

**That Council:**

1. receive and note the findings of the LGNSW Cost Shifting report for the 2021/2022 financial year;
2. note the approximate cost shift to Kempsey Shire in this financial year of \$6.95 million;
3. place a copy of the cost shifting report on Council's website so that our community can access it;
4. write to the Premier, the NSW Treasurer, and the NSW Minister for Local Government seeking their urgent action to cease cost shifting to Local Government and roll back the present cost shifting through a combination of regulatory reform, budgetary provision and appropriate funding; and
5. write to the NSW Opposition Leader outlining our concerns on cost shifting.
6. note that the cost shifting equates to approximately a 21% rate increase.

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

**2024.16 RESOLVED (Cr Hauville):**

**That Council:**

1. receive and note the findings of the LGNSW Cost Shifting report for the 2021/2022 financial year;
2. note the approximate cost shift to Kempsey Shire in this financial year of \$6.95 million;
3. place a copy of the cost shifting report on Council's website so that our community can access it;
4. write to the Premier, the NSW Treasurer, and the NSW Minister for Local Government seeking their urgent action to cease cost shifting to Local Government and roll back the present cost shifting through a combination of regulatory reform, budgetary provision and appropriate funding;;
5. write to the NSW Opposition Leader outlining our concerns on cost shifting.
6. make a submission to the assets, premises and funding of the NSW Rural Fire Services Parliamentary Inquiry by 10 May 2024; and
7. note that the cost shifting equates to approximately a 21% rate increase.

**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 TO COMMITTEE**

Nil.

**10 REPORTS TO COUNCIL**

**10.2 2023-24 Quarter 2 Corporate Performance Report**

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**Officer** Lisa Young, Corporate Performance Project Manager

**File Number** F23/3642/04

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**2024.17 RESOLVED (Cr Bain/Cr Saul):**

**That Council:**

1. adopt the Quarterly Budget Review for the period ended 31 December 2023 and approve the variations contained therein;

2. note the progress achieved in delivering the Delivery Program and Operational Plan 2023-24;
3. note the Financial Sustainability Program status report;
4. note the Key Performance Indicators report;
5. note the Grants Status Summary; and
6. note the Payment of Expenses to Councillors report.

**CARRIED UNANIMOUSLY (9 / 0)**

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

**AGAINST:** Nil

**2024.18 RESOLVED (Cr Bain/Cr Fergusson):**

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

**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 12:26 pm the meeting adjourned for lunch.

Upon resumption at 1:16 pm all present at the adjournment were in attendance.

### **10.3 Establishment Flood Risk Management Reference Group**

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**Officer** Grant Dennis, Design and Investigation Manager

**File Number** F20/2679

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**2024.19 RESOLVED (Cr Saul/Cr Fergusson):**

**That Council:**

1. endorses the proposed representatives for re-establishment of the Flood Risk Management Reference Group:
  - a. Gregory Steele, NSW SES;
  - b. Maria Frazer, NSW Reconstruction Authority;
  - c. Martin Rose, DPE;
  - d. Bob (Robert) Rogers, Agriculture/Land Holder;
  - e. Anne Fraser, Agriculture/Land Holder;
  - f. David Dawson, Agriculture/Land Holder;

- g. Rodney Saul, Agriculture/Land Holder;
  - h. Ivan Sillitoe, Agriculture/Land Holder;
  - i. Paul Edwards, Agriculture/Land Holder;
  - j. Ruper Milne Home, Save Our Macleay River Inc (SOMR);
2. notes that the Mayor and Councillor Wyatt have already been appointed as delegates to the Flood Risk Management Group; and
  3. notes that the General Manager selects staff representatives on the Flood Risk Management Group.

**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 Development Activity and LEP Variations - Quarterly Snapshot**

**Officer** Retha du Preez, Group Manager Development and Compliance

**File Number** F19/1831

**2024.20 RESOLVED (Cr Wyatt/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 Rescission Motion - South West Rocks Visitor Information Centre**

**Councillor** Cr Bain, Councillor  
 Cr Hauville, Mayor  
 Cr Riddington, Councillor

**File Number** F12/279

**MOVED (Cr Hauville/Cr Riddington):**

**That Council rescind resolution number 2023.263 from the Ordinary Meeting held 19 December 2023 as printed below:**

**That Council:**

1. notes the initial Visitor Information Services Review 2019 – 2020 and subsequent action plan attached to this report;



2. notes the results of the further review of the Visitor Information Services Review, as required by resolution 2023.225 from the 21 November 2023 Council meeting, as detailed within this report; and
3. adopts the proposed Visitor Information Centre operating model, which:
  - a. comprises the provision of a co-located Visitor Information Centre at the Slim Dusty Centre and introducing two visitor outlets at the Horseshoe Bay (South West Rocks) and Crescent Head Holiday Parks;
  - b. results in the South West Rocks Visitor Information Centre no longer being located at the South West Rocks Maritime Precinct and Council no longer leasing space from the South West Rocks Maritime Precinct Inc.; and
  - c. allows direct cost savings of approximately \$10,000 per annum, as well as productivity improvements relating to Economic Development and Tourism staff resources, to be directed to digital destination marketing activities to support increased tourism and visitation to the Shire;
4. continues to work with the South West Rocks Maritime Precinct in relation to:
  - a. clarification of their charitable status;
  - b. negotiation with Crown Lands in relation to their lease;
  - c. the potential establishment of a gift shop;
  - d. the potential use of the Visitor Information Centre volunteers in other roles; and
  - e. VisitorPoint providing a range of tourism maps and brochures.

**2024.21 RESOLVED (Cr Saul):**

That the motion be put.

**CARRIED (7 / 2)**

**FOR:** Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Ring, Cr Saul and Cr Wyatt

**AGAINST:** Cr Bain and Cr Riddington

**MOVED (Cr Hauville/Cr Riddington):**

That Council rescind resolution number 2023.263 from the Ordinary Meeting held 19 December 2023 as printed below:

That Council:

1. notes the initial Visitor Information Services Review 2019 – 2020 and subsequent action plan attached to this report;
2. notes the results of the further review of the Visitor Information Services Review, as required by resolution 2023.225 from the 21 November 2023 Council meeting, as detailed within this report; and
3. adopts the proposed Visitor Information Centre operating model, which:
  - a. comprises the provision of a co-located Visitor Information Centre at the Slim Dusty Centre and introducing two visitor outlets at the Horseshoe Bay (South West Rocks) and Crescent Head Holiday Parks;
  - b. results in the South West Rocks Visitor Information Centre no longer being located at the South West Rocks Maritime Precinct and Council no longer leasing space from the South West Rocks Maritime Precinct Inc.; and
  - c. allows direct cost savings of approximately \$10,000 per annum, as well as

productivity improvements relating to Economic Development and Tourism staff resources, to be directed to digital destination marketing activities to support increased tourism and visitation to the Shire;

4. continues to work with the South West Rocks Maritime Precinct in relation to:

- a. clarification of their charitable status;
- b. negotiation with Crown Lands in relation to their lease;
- c. the potential establishment of a gift shop;
- d. the potential use of the Visitor Information Centre volunteers in other roles; and
- e. VisitorPoint providing a range of tourism maps and brochures.

**LOST (4 / 5)**

**FOR:** Cr Bain, Cr Fergusson, Cr Hauville and Cr Wyatt

**AGAINST:** Cr Butterfield, Cr Patterson, Cr Riddington, Cr Ring and Cr Saul

## **12 CONFIDENTIAL MATTERS**

**2024.22 RESOLVED (Cr Bain/Cr Patterson):**

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**

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**Officer** Daniel Thoroughgood, Group Manager Governance and Information Services

**File Number** F22/1960

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#### **Section 10A(2)(g) – Legal Proceedings**

This report is submitted on a confidential basis as it involves advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege. (*Local Government Act 1993*, section 10A(2)(g))

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

**2024.23 RESOLVED (Cr Patterson/Cr Fergusson):**

That Council receives and notes the report.

**CARRIED UNANIMOUSLY (9 / 0)**

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**FOR:** Cr Bain, Cr Butterfield, Cr Fergusson, Cr Hauville, Cr Patterson, Cr Riddington, Cr Ring, Cr Saul and Cr Wyatt  
**AGAINST:** Nil

**2024.24 RESOLVED (Cr Saul/Cr Bain):**

**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

### **13 CONCLUSION OF THE MEETING**

**There being no further business, the Mayor then closed the meeting, the time being 2:37 pm.**