

Minutes

Minutes of the Ordinary Council Meeting held on Tuesday 26
November 2024

I hereby certify that this is a true and correct record of the minutes of the Kempsey
Shire Council ordinary meeting held Tuesday 26 November 2024



Mayor K Ring



The meeting commenced at 9:00 am.

PRESENT:

Councillors K Ring (Mayor and Chairperson), I A Bain, A M Lawrence, A M Matchett, J A Coburn, B T Paix, D F Saul, N S Selby and A D Wyatt.

General Manager, S M Mitchell; Director Utilities, W J Trotter; Group Manager Strategic and Asset Planning, C Szary; Group Manager Governance and Information Services, D S Thoroughgood; Governance and Procurement Manager, V A Thomas; and Governance Advisor, T S Randle.

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 Selby provided the opening prayer.

2 ACKNOWLEDGEMENT OF COUNTRY

Cr Bain provided an acknowledgement of country.

3 ACKNOWLEDGEMENT OF SERVICE MEN, WOMEN AND FAMILIES

Cr Matchett 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

2024.211 RESOLVED (Cr Saul/Cr Paix):

That the minutes of the Ordinary Meeting of Kempsey Shire Council dated 15 October 2024 be confirmed.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt
AGAINST: Nil

6 DISCLOSURES OF INTEREST

Cr Paix declared a non-pecuniary non-significant interest in item 10.5, Adoption - Lower Macleay Flood Risk Management Study and Plan, for the reason that he owns property within the area considered by the plan.

Cr Paix declared a pecuniary interest in item 10.7, Fire Safety - 85-87 West Street, South Kempsey, for the reason that he is an employee of Fire and Rescue NSW.

Cr Bain declared a non-pecuniary non-significant interest in item 10.4, Community Grants Program, for the reason that he is a member of Save Our Macleay River Inc.

Cr Bain declared a non-pecuniary non-significant interest in item 11.2, Wigayi Cultural Park, for the reason that he is a member of Wigayi Cultural Places Incorporated.

7 ITEMS PASSED BY EXCEPTION

2024.212 RESOLVED (Cr Saul/Cr Selby):

That the recommendations contained in the following items be adopted:

- 10.1. Presentation of Financial Statements
- 10.9. Electric Vehicle Charging Fees and Charges - Community Consultation
- 10.10. Northern Regional Planning Panel - Membership Update
- 10.11. Crescent Head Community Advisory Group - Killick Creek Foreshore Inclusion to ToR
- 10.12. Delegation of Authority to the General Manager
- 10.13. Acting General Manager Appointment
- 10.14. Code of Conduct Complaint Statistics
- 10.15. Statement of Cash and Investments - October 2024
- 12.2. Audit, Risk & Improvement Committee Meeting Minutes - 23 October 2024

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.1 Presentation of Financial Statements

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number F22/2510

2024.213 RESOLVED (Cr Saul/Cr Selby):

That Council receives a presentation from Council's Auditors on the 2023-24 Financial Statements.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby 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.

10.9 Electric Vehicle Charging Fees and Charges - Community Consultation

Officer Jessica Marsh, Sustainability Project Officer

File Number F21/2867

2024.214 RESOLVED (Cr Saul/Cr Selby):

That Council:

1. notes that the proposed fee for EV charging has been placed on exhibition for 28 days with 23 anonymous survey responses and 2 formal submissions received during this period; and
2. adopts the proposed EV charging fee as detailed in the body of this report for inclusion in the existing 2024-25 Schedule of Fees and Charges.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.10 Northern Regional Planning Panel - Membership Update

Officer Retha du Preez, Group Manager Development and Compliance

File Number F19/415

2024.215 RESOLVED (Cr Saul/Cr Selby):

That Council:

1. nominates Councillor Gary Lee and Manager Development & Environment, Mr Daniel Walsh of Nambucca Valley Council as representatives to the Northern Regional Planning Panel for the Kempsey Shire;
2. nominates Senior Town Planner, Mr Michael Coulter of Nambucca Valley Council for the Northern Regional Planning Panel for the Kempsey Shire should a nominated representative be absent;
3. informs the Department of Planning & Environment of these nominations.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.11 Crescent Head Community Advisory Group - Killick Creek Foreshore Inclusion to ToR

Officer Grant Dennis, Design and Investigation Manager

File Number F19/1812

2024.216 RESOLVED (Cr Saul/Cr Selby):

That Council:

1. endorses the inclusion of Killick Creek Foreshore into the CAG Terms of Reference.
2. endorses the inclusion of the additional pedestrian route behind the Holiday Park into the CAG Terms of Reference.
3. thanks the CAG members for their respectful collaboration, time, and dedication in developing an updated foreshore concept.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.12 Delegation of Authority to the General Manager

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number F22/1854

2024.217 RESOLVED (Cr Saul/Cr Selby):

That Council resolves to delegate/sub-delegate to the General Manager of Kempsey Shire Council the Functions in accordance with the Instrument of Delegation to General Manager attached to this report as Attachment 1 – Instrument of Delegation to the General Manager.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.13 Acting General Manager Appointment

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number F22/1854

2024.218 RESOLVED (Cr Saul/Cr Selby):

That Council appoints for the period 1 January 2025 to 31 December 2025:

1. the person holding the position of Director Corporate and Commercial, excluding interim or acting appointments, to act as General Manager if the General Manager is sick or otherwise absent from work on leave, such appointment to cease upon the return to work of the General Manager or other resolution of the Council,
2. if the person specified in paragraph 1 is unable or unwilling to act as General Manager at any time during the specified period, the person holding the position of Director

Operations and Planning, excluding interim or acting appointments, to act as General Manager if the General Manager is sick or otherwise absent from work on leave, such an appointment to cease upon the return to work of the General Manager or other resolution of the Council,

3. if the person specified in paragraph 1 and 2 is unable or unwilling to act as General Manager at any time during the specified period, the person holding the position of Director Utilities, excluding interim or acting appointments, to act as General Manager if the General Manager is sick or otherwise absent from work on leave, such an appointment to cease upon the return to work of the General Manager or other resolution of the Council, and
4. any person acting as General Manager pursuant to this resolution has all the functions, delegations, and sub-delegations given to the General Manager by Council.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.14 Code of Conduct Complaint Statistics

Officer Daniel Thoroughgood, Group Manager Governance and Information Services

File Number F22/2017

2024.219 RESOLVED (Cr Saul/Cr Selby):

That Council receive and note the report.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.15 Statement of Cash and Investments - October 2024

Officer Stacey Milligan, Finance Manager

File No F22/3106

2024.220 RESOLVED (Cr Saul/Cr Selby):

That Council receives and notes the report.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

11.2 Audit, Risk & Improvement Committee Meeting Minutes - 23 October 2024

Officer Matthew Bentley, Internal Auditor

File Number F23/2510

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 an open meeting.

2024.221 RESOLVED (Cr Saul/Cr Selby):

That Council notes the draft meeting minutes from the Audit, Risk & Improvement Committee, 23 October 2024.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

8 MAYORAL MINUTES

8.1 General Manager Recruitment

Councillor Cr Ring, Mayor

File Number F24/3791

MOTION (Cr Ring):

That Council:

- 1. notes the confidential correspondence from Mr Craig Milburn, General Manager, to Mayor Ring dated 28 October 2024 including Mr Milburn's application for leave from 14 December to 1 September 2025 and resignation effective on 1 September 2025;**
- 2. conveys its sincere thanks to Mr Milburn for his exemplary leadership of the organisation throughout unprecedented challenges including the 2018 organisational restructure, natural disasters and the COVID-19 pandemic;**
- 3. acknowledges Mr Milburn's 30-year career in local government and his significant management contributions to Port Macquarie-Hastings Council, Wollongong City Council, Coffs Harbour City Council and Shoalhaven City Council;**
- 4. changes the title of the position from General Manager to Chief Executive Officer upon commencement of the newly recruited General Manager;**
- 5. under s334 *Local Government Act 1993* appoints Mr Stephen Mitchell, Director Corporate & Commercial, as Acting Chief Executive Officer until the commencement of a new Chief Executive Officer;**
- 6. immediately commences the engagement of a recruitment services provider and recruitment;**

7. in accordance with the Office of Local Government's Guidelines for the Appointment and Oversight of General Managers prescribed under s23A *Local Government Act 1993*:
 - a. delegates the task of recruitment to a selection panel consisting of the Mayor, Deputy Mayor, another Councillor and a suitably qualified person independent of Council;
 - b. delegates to the Mayor, the tasks of:
 - i. selecting and engaging a recruitment services provider,
 - ii. establishing the selection panel,
 - iii. reviewing the position description to ensure that it is current and reflects the responsibilities of the position,
 - iv. ensuring that the proposed salary range reflects the responsibilities and duties of the position,
 - v. ensuring the position is advertised in accordance with the requirements of the Local Government Act 1993,
 - vi. ensuring that information packages are prepared,
 - vii. ensuring that applicants selected for interview are notified,
 - viii. in consultation with the recruitment services provider, selecting a suitably qualified person independent of Council to be appointed to the selection panel,
 - c. notes that only the Mayor, independent member, or recruitment services provider may contact applicants or referees;
8. receives a report from the selection panel at a future meeting of Council that:
 - a. outlines the selection process,
 - b. recommends the most meritorious applicant with reasons,
 - c. recommends an eligibility list if appropriate,
 - d. recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants;
9. holds an election for the third Councillor position on the selection panel.

AMENDMENT (Cr Bain/Cr Selby):

That Council:

1. notes the confidential correspondence from Mr Craig Milburn, General Manager, to Mayor Ring dated 28 October 2024 including Mr Milburn's application for leave from 14 December to 1 September 2025 and resignation effective on 1 September 2025;

2. conveys its sincere thanks to Mr Milburn for his exemplary leadership of the organisation throughout unprecedented challenges including the 2018 organisational restructure, natural disasters and the COVID-19 pandemic;
3. acknowledges Mr Milburn's 30-year career in local government and his significant management contributions to Port Macquarie-Hastings Council, Wollongong City Council, Coffs Harbour City Council and Shoalhaven City Council;
4. under s334 *Local Government Act 1993* appoints Mr Stephen Mitchell, Director Corporate & Commercial, as Acting General Manager until the commencement of a new Chief Executive Officer;
5. immediately commences the engagement of a recruitment services provider and recruitment;
6. in accordance with the Office of Local Government's Guidelines for the Appointment and Oversight of General Managers prescribed under s23A *Local Government Act 1993*:
 - a. delegates the task of recruitment to a selection panel consisting of the Mayor, Deputy Mayor, another Councillor and a suitably qualified person independent of Council;
 - b. delegates to the Mayor, the tasks of:
 - i. selecting and engaging a recruitment services provider,
 - ii. establishing the selection panel,
 - iii. reviewing the position description to ensure that it is current and reflects the responsibilities of the position,
 - iv. ensuring that the proposed salary range reflects the responsibilities and duties of the position,
 - v. ensuring the position is advertised in accordance with the requirements of the Local Government Act 1993,
 - vi. ensuring that information packages are prepared,
 - vii. ensuring that applicants selected for interview are notified,
 - viii. in consultation with the recruitment services provider, selecting a suitably qualified person independent of Council to be appointed to the selection panel,
 - c. notes that only the Mayor, independent member, or recruitment services provider may contact applicants or referees;
7. receives a report from the selection panel at a future meeting of Council that:
 - a. outlines the selection process,
 - b. recommends the most meritorious applicant with reasons,
 - c. recommends an eligibility list if appropriate,

- d. recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants;
8. holds an election for the third Councillor position on the selection panel.

2024.241 RESOLVED (Cr Bain/Cr Wyatt):

That Council move into Committee of the Whole.

CARRIED (7 / 2)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Paix, Cr Ring, Cr Selby and Cr Wyatt

AGAINST: Cr Matchett and Cr Saul

2024.242 RESOLVED (Cr Saul/Cr Paix):

That the ordinary Council meeting be resumed.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

With the consent of Council, Cr Bain withdrew his amendment.

AMENDMENT (Cr Wyatt/Cr Paix):

That Council:

1. notes the confidential correspondence from Mr Craig Milburn, General Manager, to Mayor Ring dated 28 October 2024 including Mr Milburn's application for leave from 14 December to 1 September 2025 and resignation effective on 1 September 2025;
2. conveys its sincere thanks to Mr Milburn for his exemplary leadership of the organisation throughout unprecedented challenges including the 2018 organisational restructure, natural disasters and the COVID-19 pandemic;
3. acknowledges Mr Milburn's 30-year career in local government and his significant management contributions to Port Macquarie-Hastings Council, Wollongong City Council, Coffs Harbour City Council and Shoalhaven City Council;
4. changes the title of the position from General Manager to Chief Executive Officer upon commencement of the newly recruited Chief Executive Officer;
5. under s334 *Local Government Act 1993* appoints Mr Stephen Mitchell, Director Corporate & Commercial, as Acting General Manager until the commencement of a new Chief Executive Officer;
6. immediately commences the engagement of a recruitment services provider and recruitment;

- 7. in accordance with the Office of Local Government's Guidelines for the Appointment and Oversight of General Managers prescribed under s23A Local Government Act 1993:**
- a. delegates the task of recruitment to a selection panel consisting of the Mayor, Deputy Mayor, another Councillor and a suitably qualified person independent of Council;**
 - b. delegates to the Mayor, the tasks of:**
 - i. selecting and engaging a recruitment services provider,**
 - ii. establishing the selection panel,**
 - iii. reviewing the position description to ensure that it is current and reflects the responsibilities of the position,**
 - iv. ensuring that the proposed salary range reflects the responsibilities and duties of the position,**
 - v. ensuring the position is advertised in accordance with the requirements of the Local Government Act 1993,**
 - vi. ensuring that information packages are prepared,**
 - vii. ensuring that applicants selected for interview are notified,**
 - viii. in consultation with the recruitment services provider, selecting a suitably qualified person independent of Council to be appointed to the selection panel,**
 - ix. seeking out independent human resource specialist advice around employment contracts for senior executives, performance management and supervision;**
 - x. arranging for councillors to attend an interactive briefing session; and**
 - xi. ensuring that all Councillors receive timely updates at key milestones in the recruitment process, including:**
 - i. selection of the recruitment services provider,**
 - ii. finalisation of the position description,**
 - iii. determination of the proposed salary range, and**
 - iv. selection of an independent panel member.**
 - c. notes that only the Mayor, independent member, or recruitment services provider may contact applicants or referees;**
- 8. receives a report from the selection panel at a future closed meeting of Council that:**
- a. outlines the selection process,**
 - b. recommends the most meritorious applicant with reasons,**
 - c. recommends an eligibility list if appropriate,**

- d. recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants;
9. notes that Council must by resolution approve the position being offered to the successful candidate before that position is actually offered to that candidate; and
10. holds an election for the third Councillor position on the selection panel.

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

Cr Lawrence left the Chamber at 10:12 am.

Cr Lawrence returned to the Chamber at 10:14 am.

2024.222 RESOLVED (Cr Ring):

That Council:

1. notes the confidential correspondence from Mr Craig Milburn, General Manager, to Mayor Ring dated 28 October 2024 including Mr Milburn's application for leave from 14 December to 1 September 2025 and resignation effective on 1 September 2025;
2. conveys its sincere thanks to Mr Milburn for his exemplary leadership of the organisation throughout unprecedented challenges including the 2018 organisational restructure, natural disasters and the COVID-19 pandemic;
3. acknowledges Mr Milburn's 30-year career in local government and his significant management contributions to Port Macquarie-Hastings Council, Wollongong City Council, Coffs Harbour City Council and Shoalhaven City Council;
4. changes the title of the position from General Manager to Chief Executive Officer upon commencement of the newly recruited Chief Executive Officer;
5. under s334 *Local Government Act 1993* appoints Mr Stephen Mitchell, Director Corporate & Commercial, as Acting General Manager until the commencement of a new Chief Executive Officer;
6. immediately commences the engagement of a recruitment services provider and recruitment;
7. in accordance with the Office of Local Government's Guidelines for the Appointment and Oversight of General Managers prescribed under s23A *Local Government Act 1993*:
 - a. delegates the task of recruitment to a selection panel consisting of the Mayor, Deputy Mayor, another Councillor and a suitably qualified person independent of Council;
 - b. delegates to the Mayor, the tasks of:
 - i. selecting and engaging a recruitment services provider,
 - ii. establishing the selection panel,

- iii. reviewing the position description to ensure that it is current and reflects the responsibilities of the position,
 - iv. ensuring that the proposed salary range reflects the responsibilities and duties of the position,
 - v. ensuring the position is advertised in accordance with the requirements of the Local Government Act 1993,
 - vi. ensuring that information packages are prepared,
 - vii. ensuring that applicants selected for interview are notified,
 - viii. in consultation with the recruitment services provider, selecting a suitably qualified person independent of Council to be appointed to the selection panel,
 - ix. seeking out independent human resource specialist advice around employment contracts for senior executives, performance management and supervision;
 - x. arranging for councillors to attend an interactive briefing session; and
 - xi. ensuring that all Councillors receive timely updates at key milestones in the recruitment process, including:
 - i. selection of the recruitment services provider,
 - ii. finalisation of the position description,
 - iii. determination of the proposed salary range, and
 - iv. selection of an independent panel member.
 - c. notes that only the Mayor, independent member, or recruitment services provider may contact applicants or referees;
8. receives a report from the selection panel at a future closed meeting of Council that:
- a. outlines the selection process,
 - b. recommends the most meritorious applicant with reasons,
 - c. recommends an eligibility list if appropriate,
 - d. recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants;
9. notes that Council must by resolution approve the position being offered to the successful candidate before that position is actually offered to that candidate; and
10. holds an election for the third Councillor position on the selection panel.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

2024.223 RESOLVED (Cr Bain/Cr Matchett):

That item 11.2 be brought forward and dealt with immediately.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

11.2 Notice of Motion - Wigayi Cultural Park

Councillor Cr Wyatt, Councillor

File Number F19/2061

2024.224 RESOLVED (Cr Wyatt/Cr Matchett):

That Council:

1. organises meeting with Wigayi Cultural Places Incorporated (WCP.Inc) to discuss a legal framework of management agreement, licence or lease:
 - a. the meeting occurs prior to 31 December 2024, and
 - b. provide an update to councillors by end of January 2025;
2. provides a report to Council in the March 2025 that:
 - a. determines the best-fit agreement mechanism that meets the WCPINc needs
 - b. sets out roles and responsibilities that will be assigned to each party through an agreement
 - c. clearly defines liability for assets and asset management for each party.
3. subject to the outcomes of (1) and (2), enters into a legal management framework with WPC.Inc and bring the agreement to the July 2025 Council meeting for adoption.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

At this stage 10:25 am the meeting adjourned for morning tea.

Upon resumption of the meeting at 10:45 am all present at the adjournment were in attendance.

8.2 Freedom of the Shire

Councillor Cr Ring, Mayor

File Number F24/3792

2024.225 RESOLVED (Cr Ring):

That Council writes to 312 Squadron Macleay Valley Australian Air Force Cadets extending an invitation for Freedom of the Shire.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

2024.226 RESOLVED (Cr Coburn/Cr Bain):

That item 10.3 be brought forward and dealt with immediately.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.3 Kempsey Airport Feasibility Review

Officer Peter Allen, Group Manager Commercial Business

File Number F23/3406

2024.227 RESOLVED (Cr Bain/Cr Saul):

That Council:

1. notes the results of the Airport Feasibility Review, including the report from specialist aviation consultants, Aviation Projects and the quadruple bottom line assessment of alternatives options;
2. thanks airport users, government agencies and emergency response providers for their input into the review;
3. recognises that Kempsey Airport plays a critical role in emergency and disaster response, and on this basis, commits to the continued operation of the Kempsey Airport;
4. advocates through local member, Mr Michael Kemp MP; Minister for Regional Health, The Hon Ryan Park MP; and Minister for Emergency Services, The Hon. Jihad Dib, MP, and the Australian Airport Association, for the State Government to provide increased funding for the Airport, which has been retained at the request of State Government emergency and disaster response authorities, to support the State's health and disaster responsibilities;
5. commits to fund the Airport Runway Resurfacing, Drainage and Lighting Upgrades project, noting that value engineering principles will be applied to the runway design to meet the Civil Aviation Safety Authority standards for the type of category of current airport operations;
6. seeks further funding to support for the Airport Runway Resurfacing, Drainage and Lighting Upgrades project through the Disaster Ready Fund;
7. continues to investigate opportunities to improve the net financial cost of operating the Airport, by reducing operating costs and increasing revenue, including implementation of increased hangar ground lease fees (in accordance with 19 December 2023 Council resolution 2023.254) and awarding two new hangar ground leases; and
8. continues to explore other opportunities for commercial or public sector investment and/or management.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt
AGAINST: Nil

9 REPORTS OF COMMITTEES

Nil

10 REPORTS TO COUNCIL

10.2 Corporate Performance Report - Quarter 1 2024-25

Officer Carissa Graham, Integrated Planning and Reporting Manager

File Number F23/3642/05

2024.228 RESOLVED (Cr Bain/Cr Coburn):

That Council:

1. adopts the Quarterly Budget Review for the period ended 30 September 2024 and approve the variations contained therein;
2. notes the progress achieved in delivering the Delivery Program 2022-26 and Operational Plan 2024-25;
3. notes the Financial Sustainability Program status report;
4. notes the Grants Status Summary; and
5. notes the Councillor Expenses report.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt
AGAINST: Nil

10.4 Community Grants Program

Officer Keely Halliday, Business Support Officer

File Number F24/3407

2024.229 RESOLVED (Cr Bain/Cr Paix):

That Council, pursuant to s356 *Local Government Act 1993*, grants financial assistance from the Community Grants Program 2024-25 for the total amount of \$58,133.85, to be distributed as follows:

Community Projects Fund:

Community Group	Project	Amount
Rotary Club of South West Rocks	Generator and PA system	\$5,000.00
CWA South West Rocks	New oven and cupboard	\$1,500.00
CWA Kempsey	Modified disability access to building	\$2,420.00
Kempsey Families Inc	Materials for Love Bites Program	\$2,000.00
Kempsey Tennis Club Inc	Indigenous Tennis Camp	\$4,650.00

Kempsey Pensioners League Inc	Block out blinds for hall	\$1,140.00
South West Rocks Maritime Precinct Inc	Security Screens	\$5,000.00
	Total:	\$21,710.00

Environmental Fund:

Community Group	Project	Amount
South West Rocks Community Dune Care Group Inc	Restoration of Littoral Rainforest at Back Creek	\$4,775.00
Stuarts Point and Districts Community Organisation (SPADCO)	Grassy Head dune weeding	\$4,775.00
Hat Head Dune Care	Eradicating weeds on Hat Head Dunes	\$4,775.00
Save Our Macleay River	Water monitoring kits	\$900.00
Big Nobby Bush Care Group	Rehabilitation of Big Nobby Headland	\$4,775.00
	Total:	\$20,000.00

Sporting Fund:

Community Group	Project	Amount
South West Rocks Dragon Boat Club Inc	Purchase of second-hand Dragon Boat	\$2,500.00
Macleay Valley Mountain Bike Club	Maintenance equipment & noticeboard	\$2,316.95
Macleay Pickleball Inc	Equipment for Junior Development Program	\$1,606.90
Willawarrin & District Horse and Pony Club	Upgraded sporting equipment	\$1,000.00
Kempsey Rugby Union Football Club	New toilet doors in Clubhouse	\$2,500.00
	Total:	\$9,923.85

Creative Macleay Fund:

Community Group	Project	Amount
Kempsey Eisteddfod Society	Portable stage extension	\$5,000.00
	Total:	\$5,000.00

Festive Micro Grant:

Community Group	Project	Amount
Willawarrin Hall Committee	Festive event for all of community	\$500.00
Kempsey East P&C Association	End of year community event at school	\$500.00
	Total:	\$1,000.00

Seniors Festival Micro Grant:

Community Group	Project	Amount
Gladstone CWA Evening Branch	Intergenerational Read at Crescent Head School	\$500.00
Total:		\$500.00

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

10.5 Adoption - Lower Macleay Flood Risk Management Study and Plan

Officer Grant Dennis, Design and Investigation Manager

File Number F20/2679

MOVED (Cr Wyatt/Cr Saul):

That Council:

1. adopts the Lower Macleay Flood Risk Management Study and Plan (2024) and its proposed actions; and
2. thanks all members of the Flood Risk Reference Group and the community for their contribution to this process.

AMENDMENT (Cr Paix/Cr Bain):

That Council:

1. defers consideration of this matter to the December Ordinary Meeting of Council.
2. requests that Councillors receive a briefing on the study before 17 December 2024 to allow them to better understand the entire implications of the decision at hand; and
3. requests that a fact sheet be produced for community messaging to help raise awareness of the updated study for the December meeting and that this information be circulated and be made available to councillors to be communicated to the public.

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

Cr Saul foreshadowed a motion.

MOVED (Cr Saul):

That Council move into Committee of the Whole.

The motion lapsed for want of a seconder.

2024.230 RESOLVED (Cr Bain/Cr Saul):

That Council move into Committee of the Whole.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt
AGAINST: Nil

Cr Matchett left the Chamber at 12:01 pm.

Cr Matchett returned to the Chamber at 12:03 pm.

2024.231 RESOLVED (Cr Matchett/Cr Selby):

That the ordinary Council meeting be resumed.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt
AGAINST: Nil

2024.232 RESOLVED (Cr Wyatt/Cr Saul):

That Council:

- 1. defers consideration of this matter to the December Ordinary Meeting of Council.**
- 2. requests that Councillors receive a briefing on the study before 17 December 2024 to allow them to better understand the entire implications of the decision at hand; and**
- 3. requests that a fact sheet be produced for community messaging to help raise awareness of the updated study for the December meeting and that this information be circulated and be made available to councillors to be communicated to the public.**

CARRIED (8 / 1)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Selby and Cr Wyatt
AGAINST: Cr Saul

2024.233 RESOLVED (Cr Bain/Cr Paix):

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 Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt
AGAINST: Nil

10.6 Kempsey Development Control Plan 2013 - Chapter E4 - Yarrahapinni Land Release Area

Officer Peter Orr, Strategic and Environmental Planning Manager

File Number PP2300004

MOVED (Cr Bain/Cr Selby):

That Council:

1. approves the Kempsey Development Control Plan 2013 Chapter E4 – Yarrahapinni Land Release Area with the following amendments:
 - a. add the following under Desired Outcomes:
 - i. DO 4 Mitigate the impacts of obstructing fish passage by any waterway crossing
 - b. adding the following under Development requirements:
 - i. An assessment on in-stream structures and barriers to fish passage in accordance with Section 4 of the NSW Department of Primary Industries, *Policy and guidelines for fish habitat conservation and management (June 2013)*.
 - ii. Compliance with the policy and guidelines for fish passage (Section 4.1.2 of the Department of Primary Industries, *Policy and guidelines for fish habitat conservation and management ((June 2013)*
2. publishes notice of its decision to proceed, on its website, within 28 days of this decision being made; and
3. incorporates the new chapter into the Kempsey Development Control Plan 2023.

AMENDMENT (Cr Wyatt/Cr Selby):

That Council:

1. requests a report to the December Ordinary meeting regarding the Kempsey Development Control Plan 2013 Chapter E4 – Yarrahapinni Land Release Area with the following amendments:
 - a. add the following under Desired Outcomes:
 - i. Mitigate the impacts of obstructing fish passage by any waterway crossing
 - ii. Scenic trees along the roadsides be retained.
 - iii. Identified threatened plant species in the C2 zone are protected and enhanced resulting in net zero loss of population.
 - b. adding the following under Development requirements:
 - i. An assessment on in-stream structures and barriers to fish passage in accordance with Section 4 of the NSW Department of Primary Industries, *Policy and guidelines for fish habitat conservation and management (June 2013)*.
 - ii. Compliance with the policy and guidelines for fish passage (Section 4.1.2 of the Department of Primary Industries, *Policy and guidelines for fish habitat conservation and management (June 2013)*)
 - iii. Management actions are undertaken that enhance the threatened plant species population; such as those that are included in the species conservation strategy for those plants.
 - iv. Implement a monitoring plan for the long term protection of threatened species

- v. **Maintenance of connectivity between upstream and downstream habitats (longitudinal connectivity) and adjacent riparian and floodplain habitats (lateral connectivity) is an essential part of fish habitat management. Structural barriers, including dams, weirs and road crossings act to impede natural flows. The restoration of fish passage throughout NSW waters is a key aspect of NSW DPI commitment to improving aquatic ecology and biodiversity**

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

Cr Saul foreshadowed a motion.

Cr Lawrence left the Chamber at 12:23 pm.

Cr Lawrence returned to the Chamber at 12:24 pm.

At this stage 12:31 pm the meeting adjourned for lunch.

Upon resumption at 1:15 pm all present at the adjournment were in attendance.

AMENDMENT (Cr Bain):

That Council:

1. **requests a report to the December Ordinary meeting regarding the Kempsey Development Control Plan 2013 Chapter E4 – Yarrahapinni Land Release Area with the following amendments:**
 - a. **add the following under Desired Outcomes:**
 - i. **Mitigate the impacts of obstructing fish passage by any waterway crossing**
 - ii. **Scenic trees along the roadsides be retained.**
 - iii. **Identified threatened plant species in the C2 zone are protected and enhanced resulting in net zero loss of population.**
 - b. **adding the following under Development requirements:**
 - i. **An assessment on in-stream structures and barriers to fish passage in accordance with Section 4 of the NSW Department of Primary Industries, *Policy and guidelines for fish habitat conservation and management (June 2013)*.**
 - ii. **Compliance with the policy and guidelines for fish passage (Section 4.1.2 of the Department of Primary Industries, *Policy and guidelines for fish habitat conservation and management (June 2013)*)**
 - iii. **Management actions are undertaken that enhance the threatened plant species population; such as those that are included in the species conservation strategy for those plants.**
 - iv. **Implement a monitoring plan for the long term protection of threatened species**

- v. Maintenance of connectivity between upstream and downstream habitats (longitudinal connectivity) and adjacent riparian and floodplain habitats (lateral connectivity) is an essential part of fish habitat management. Structural barriers, including dams, weirs and road crossings act to impede natural flows. The restoration of fish passage throughout NSW waters is a key aspect of NSW DPI commitment to improving aquatic ecology and biodiversity

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

2024.234 RESOLVED (Cr Bain/Cr Selby):

That Council:

1. requests a report to the December Ordinary meeting regarding the Kempsey Development Control Plan 2013 Chapter E4 – Yarrahapinni Land Release Area with the following amendments:
 - a. add the following under Desired Outcomes:
 - i. Mitigate the impacts of obstructing fish passage by any waterway crossing
 - ii. Scenic trees along the roadsides be retained.
 - iii. Identified threatened plant species in the C2 zone are protected and enhanced resulting in net zero loss of population.
 - b. adding the following under Development requirements:
 - i. An assessment on in-stream structures and barriers to fish passage in accordance with Section 4 of the NSW Department of Primary Industries, *Policy and guidelines for fish habitat conservation and management (June 2013)*.
 - ii. Compliance with the policy and guidelines for fish passage (Section 4.1.2 of the Department of Primary Industries, *Policy and guidelines for fish habitat conservation and management (June 2013)*)
 - iii. Management actions are undertaken that enhance the threatened plant species population; such as those that are included in the species conservation strategy for those plants.
 - iv. Implement a monitoring plan for the long term protection of threatened species
 - v. Maintenance of connectivity between upstream and downstream habitats (longitudinal connectivity) and adjacent riparian and floodplain habitats (lateral connectivity) is an essential part of fish habitat management. Structural barriers, including dams, weirs and road crossings act to impede natural flows. The restoration of fish passage throughout NSW waters is a key aspect of NSW DPI commitment to improving aquatic ecology and biodiversity

CARRIED (8 / 1)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Selby and Cr Wyatt

AGAINST: Cr Saul

10.7 Fire Safety - 85-87 West Street, South Kempsey

Officer Retha du Preez, Group Manager Development and Compliance

File Number CR02455

Cr Paix declared a pecuniary interest in item 10.7, Fire Safety - 85-87 West Street, South Kempsey, for the reason that he is an employee of Fire and Rescue NSW and left the Chamber at 1:29 pm.

2024.235 RESOLVED (Cr Saul/Cr Coburn):

That Council:

1. receives and notes the recommendations from Fire and Rescue NSW;
2. notes that Council has issued orders to the property owner;
3. notes that Council has issued fines to the property owner; and
4. resolves to progress to prosecution under the most effective compliance pathway in accordance with Council's policies and procedures.

CARRIED UNANIMOUSLY (8 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

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

10.8 Annual Report and State of Our Shire Report

Officer Carissa Graham, Integrated Planning and Reporting Manager

File Number F23/3642

2024.236 RESOLVED (Cr Saul/Cr Wyatt):

That Council:

1. notes the Annual Report 2023-24; and
2. notes the State of Our Shire Report 2021-24.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

11 REPORTS FROM COUNCILLORS

11.1 Notice of Motion - Vegetation Policy

Councillor Cr Bain, Councillor

File Number F24/3793

2024.237 RESOLVED (Cr Bain/Cr Wyatt):

That Council considers integrating the attached Policy Preamble and Objectives in future policy development and review of policies related to vegetation management.

CARRIED (8 / 1)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Selby and Cr Wyatt

AGAINST: Cr Saul

ELECTION FOR COUNCILLOR DELEGATE TO CEO SELECTION PANEL

The Mayor called an election for one Councillor for the CEO selection panel, and appointed the General Manager as Returning Officer.

The Returning Officer called for nominations from the floor of the meeting.

Cr Bain nominated Cr Paix, who accepted the nomination.

Cr Saul self-nominated.

An Election by a show of hands was held.

Voting for Councillor Paix were Councillors Bain, Coburn, Lawrence, Matchett, Paix, Ring, Selby and Wyatt.

Voting for Councillor Saul was Councillor Saul.

The Returning Officer declared Councillor Paix elected as the Councillor delegate to the CEO selection panel.

12 CONFIDENTIAL MATTERS

2024.238 RESOLVED (Cr Paix/Cr Wyatt):

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 Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby 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.

2024.239 RESOLVED (Cr Wyatt/Cr Matchett):

That Council receives and notes the report.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

2024.240 RESOLVED (Cr Paix/Cr Matchett):

That the ordinary Council meeting be resumed.

CARRIED UNANIMOUSLY (9 / 0)

FOR: Cr Bain, Cr Coburn, Cr Lawrence, Cr Matchett, Cr Paix, Cr Ring, Cr Saul, Cr Selby and Cr Wyatt

AGAINST: Nil

13 CONCLUSION OF THE MEETING

There being no further business, the Mayor then closed the meeting, the time being 1:57 pm.