

# Minutes

Minutes of the Ordinary Council Meeting held on Tuesday 18 April 2023



*Leo Hauville*

Leo Hauville - Mayor KSC (May 23, 2023 16:48 GMT+10)

The meeting commenced at 11:05 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; Group Manager Governance and Information Services, D S Thoroughgood; and Minute Taker, M L Peterson.

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 Saul provided the opening prayer.

**2 ACKNOWLEDGEMENT OF COUNTRY**

Cr Wyatt provided an acknowledgement of country.

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

Cr Hauville 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**

**2023.29 RESOLVED (Cr Bain/Cr Fergusson):**

**That the minutes of the Ordinary Meeting of Kempsey Shire Council dated 21 March 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

**2023.30 RESOLVED (Cr Saul/Cr Riddington):**

**That the minutes of the Extraordinary Meeting of Kempsey Shire Council dated 6 April 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

**6 DISCLOSURES OF INTEREST**

**Craig Milburn, General Manager, declared a pecuniary interest in item 12.2, Confidential Mayoral Minute - General Managers Interim Performance Review, for the reason that the report concerns his employment.**

**Cr Patterson declared a non-pecuniary non-significant interest in item 10.4, Delegated Authority to Waive Commercial Licence Fees, for the reason that he operates a business that provides services to the sector.**

**Cr Patterson declared a non-pecuniary non-significant interest in item 10.1 Integrated Planning and Reporting 2023-2024, for the reason that he is a rate payer.**

**7 ITEMS PASSED BY EXCEPTION**

**2023.31 RESOLVED (Cr Wyatt/Cr Butterfield):**

**That the recommendations contained in the following items be adopted:**

**10.5 Disclosure of Interest Returns**

**10.6 Development Activity and LEP Variations – Quarterly Snapshot –  
3rd Quarter 2022/2023**

**10.7 Statement of Cash and Investments – March 2023**

**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 Disclosure of Interest Returns**

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

**File Number** F22/3129

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**2023.33 RESOLVED (Cr Wyatt/Cr Butterfield):**

**That Council receive the report and note the lodgement and tabling of the Disclosure of Interest Returns.**

**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

**10.6 Development Activity and LEP Variations - Quarterly Snapshot - 3rd Quarter 2022/2023**

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**Officer** Graham Snow, Group Manager Development and Compliance

**File Number** F19/1831

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**2023.34 RESOLVED (Cr Wyatt/Cr Butterfield):**

**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 - March 2023**

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**Officer** Michael Woolnough, Finance Manager

**File No** F22/3106

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**2023.35 RESOLVED (Cr Wyatt/Cr Butterfield):**

**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**

A confidential Mayoral Minute is included on the agenda at item 12.2.

**9 REPORTS OF COMMITTEES**

**9.1 Australia Day Awards Committee**

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**Officer** Lisa Young, Group Manager Community Partnerships

**File Number** F22/2252

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**2023.32 RESOLVED (Cr Riddington/Cr Patterson):**

That Council receives and notes the report.

**CARRIED (8 / 1)**

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

**AGAINST:** Cr Bain

**10 REPORTS TO COUNCIL**

**10.1 Integrated Planning and Reporting 2023-2024**

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**Officer** Sandra Hollins, Integrated Planning and Reporting (IP&R) Manager

**File Number** F20/2703

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Cr Ring left the chambers at 12:04 pm.

Cr Ring returned to the Chambers at 12:05 pm.

**2023.36 RESOLVED (Cr Riddington/Cr Wyatt):**

That Council:

1. place the draft integrated planning and reporting suite of documents on public exhibition for a period of 28 days including:
  - a. Delivery Program 2022-2026 and Operational Plan 2023-24
  - b. Revenue Policy 2023-24
  - c. Schedule of Fees and Charges 2023-24
  - d. Rates Maps 2023-24
  - e. Long Term Financial Plan 2023-33;
2. receive a report at the June 2023 Council meeting detailing the submissions received during the public exhibition period and presenting the final integrated planning and reporting documents for adoption by Council; and
3. notes the level of loan borrowings and future sewer access fee increases required to fund the sizeable forward capital expenditure program within the Sewer Fund and endorses the Mayor and General Manager to advocate to State and Federal Government agencies for financial assistance.

**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

**2023.37 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 12:44 pm the meeting adjourned for lunch.

Upon resumption at 1:45 pm all present at the adjournment were in attendance, with the exception of Cr Riddington.

**10.2 Special Rate Variation Investigation**

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**Officer** Lyndal Harper, Group Manager Corporate Strategy

**File Number** F19/2091

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Cr Riddington returned to the Chamber at 1:46 pm.

**2023.38 RESOLVED (Cr Wyatt/Cr Riddington):**

**That Council:**

1. requests the General Manager to conduct a detailed investigation into options for achieving financial sustainability including a review of asset management plans, proposed capital programs, possible service level reductions, assessing capacity to pay and conducting community engagement; and
2. receives a further report in November 2023 recommending whether a Special Rate Variation application should be submitted with the intention of implementing a rate increase from the 2024-25 financial year, including consideration of the viability of service reductions.

**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 Waste Management Strategy 2022 - 2032**

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**Officer** Peter Allen, Group Manager Commercial Business

**File Number** F22/2078

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**2023.39 RESOLVED (Cr Wyatt/Cr Fergusson):**

**That Council:**

1. adopts the Waste Management Strategy 2022-2032;
2. notes the Community Engagement Report; and
3. notes the principles and actions contained within the strategy, which will guide waste management within Kempsey Shire over the next decade.

**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 Delegated authority to waive Commercial Licence Fees**

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**Officer** Peter Allen, Group Manager Commercial Business

**File Number** F22/2041

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**MOVED (Cr Patterson/Cr Bain):**

**That Council gives public notice in accordance with sections 610E and 610F *Local Government Act 1993* of its intention to waive payment of, or reduce, fees relating to commercial licenses on land owned, managed or controlled by Council for indigenous enterprises, cultural activities or applications requiring minimal or infrequent land use.**

**2023.40 RESOLVED (Cr Patterson/Cr Bain):**

**That Council:**

- 1. request the General Manager conduct a workshop with Councillors to discuss the matters around the possible waiving/reduction of fees relating to commercial licenses on land owned, managed or controlled by Council for indigenous enterprises, cultural activities or applications requiring minimal or infrequent land use; and**
- 2. receive a report on the outcomes of the workshop be presented to a future Council meeting.**

**CARRIED (5 / 4)**

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

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

**11 REPORTS FROM COUNCILLORS**

**11.1 Notice of Motion - Provide a Temporary Repair to Toose Road Landslip**

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**Councillor** Cr Fergusson, Councillor

**File Number** F22/3157

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**2023.41 RESOLVED (Cr Fergusson/Cr Bain):**

**That Council provide a report to the May Ordinary Council meeting providing:**

- 1. a response to the communities offer to provide a temporary repair at no cost to Council to the Toose Road Landslip; and**
- 2. an overall update on the Toose Road Landslip project.**

**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

**11.2 Notice of Motion - Zombie DAs**

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**Councillor** Cr Wyatt, Councillor

**File Number** F22/1673

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

**That Council write to The Hon Chris Minns, Premier of New South Wales, asking the NSW Government to consider reforms to the NSW planning laws regarding lapsed consents for zombie Development Applications consistent with the LGNSW 2022 Annual Conference notice of motion X36.**

**AMENDMENT (Cr Bain):**

**That Council write to The Hon Chris Minns, Premier of New South Wales, The Hon Penny Sharpe, MLC, The Hon Paul Scully, Minister for Planning and Public Spaces, Michael Kemp MP, Member for Oxley and Sue Higginson, MLC, asking the NSW Government to consider reforms to the NSW planning laws regarding lapsed consents for zombie Development Applications consistent with the LGNSW 2022 Annual Conference notice of motion X36.**

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

**2023.42 RESOLVED (Cr Wyatt/Cr Riddington):**

**That Council write to The Hon Chris Minns, Premier of New South Wales, The Hon Penny Sharpe, MLC, The Hon Paul Scully, Minister for Planning and Public Spaces, Michael Kemp MP, Member for Oxley and Sue Higginson, MLC, asking the NSW Government to consider reforms to the NSW planning laws regarding lapsed consents for zombie Development Applications consistent with the LGNSW 2022 Annual Conference notice of motion X36.**

**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

**11.3 Delegates Report - Country Mayors Association - March Meeting**

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**Councillor** Cr Hauville, Mayor

**File Number** F22/1720

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**2023.43 RESOLVED (Cr Hauville/Cr Riddington):**

**That Council receives and notes the report.**

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**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 - Local Government NSW Rural and Regional Summit**

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**Councillor** Cr Hauville, Mayor

**File Number** F22/1730

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**2023.44 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

**11.5 Delegates Report - LGNSW Community and Stakeholder Engagement Training**

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**Councillor** Cr Bain, Councillor

**File Number** F22/1720

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**2023.45 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

**11.6 Delegates Report - Bush Fire Management Committee Report - March 2023**

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**Councillor** Cr Bain, Councillor

**File Number** F18/1959

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**2023.46 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

## 12 CONFIDENTIAL MATTERS

### 2023.47 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

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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 open meeting.

**Cr Wyatt left the Chambers at 3:30 pm.**

**Cr Wyatt returned to the Chambers at 3:31 pm.**

### 2023.48 RESOLVED (Cr Saul/Cr Butterfield):

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 Managers Interim Performance Review

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**Councillor** Cr Leo Hauville, Mayor

**File Number** MIL/23552/01

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#### Section 10A(2)(a) – Personnel Matters

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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.

**Craig Milburn, General Manager, declared a pecuniary interest in item 12.2, Confidential Mayoral Minute - General Managers Interim Performance Review, for the reason that the report concerns his employment.**

**General Manager Left the chambers 3:34 pm.**

**2023.49 RESOLVED (Cr Hauville**

**That Council:**

- 1. notes the outcomes of the General Manager's Interim Performance Review;**
- 2. endorses the recommendation of the Performance Review Panel in relation to the General Manager's Total Remuneration Package including attendance at the International City Manager Conference, Disaster Preparation and Response and Resilience Study Tour, subject to submission of a detailed itinerary to and approval by the Mayor and Deputy Mayor; and**
- 3. require the General Manager to provide a full report on the Study Tour and findings to Council for consideration.**

**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

**The General Manager returned to the Chambers at 3:48 pm.**

**2023.50 RESOLVED (Cr Riddington/Cr Saul):**

**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 3:50 pm.**







# 230418 - Ordinary Council Meeting - 18 April 2023 - Minutes

Final Audit Report

2023-05-23

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