

Draft Minutes

Draft minutes of the Ordinary Council Meeting held on Tuesday 18 March 2025



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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, M B Jackson; Director Corporate and Commercial, L A Davies; Director Operations and Planning, Daniel S Thoroughgood; Director Utilities, W J Trotter; Group Manager Governance and Information Services, 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 Bain provided the opening prayer.

2 ACKNOWLEDGEMENT OF COUNTRY

Cr Lawrence provided an acknowledgement of country.

3 ACKNOWLEDGEMENT OF SERVICE MEN, WOMEN AND FAMILIES

Cr Selby 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

2025.19 RESOLVED (Cr Paix/Cr Saul):

That the minutes of the Ordinary Meeting of Kempsey Shire Council dated 18 February 2025 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 Bain declared a non-pecuniary non-significant interest in item 10.3, Planning Proposal - Macleay Valley Way, for the reason that he has a casual social relationship with the proponent.

Cr Ring declared a non-pecuniary non-significant interest in item 10.4, Disaster Ready Fund Round 3 - Proposed Projects for Grant Application, for the reason that she has family live in the impacted location.

7 ITEMS PASSED BY EXCEPTION

2025.20 RESOLVED (Cr Saul/Cr Matchett):

That the recommendations contained in the following items be adopted:

10.3 Planning Proposal – Macleay Valley Way

10.5 Statement of Cash and Investments – February 2025

12.1 Legal Matters

12.2 Tender Evaluation for the Aquatic Engineering and Design Services TQE24/47

12.3 Management Lease and Operation of Kempsey and South West Rocks Swimming Pool/s TQE 24/56

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 PLANNING PROPOSAL - MACLEAY VALLEY WAY

Officer	Simon Morrison, Strategic Planning Officer
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File Number	PP2400010
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2025.21 RESOLVED (Cr Saul/Cr Matchett):

That Council:

1. submits the planning proposal to amend the *Land Zoning, Lot Size and Floor Space Ratio Maps* at Lot 3 DP1231274, South Kempsey, to the Minister for Planning & Public Spaces for gateway determination pursuant to section 3.34 of the Environmental Planning and Assessment Act 1979;
2. requests written authorisation from the Secretary of the Department of Planning, Housing and Infrastructure for Council to exercise plan-making delegations in relation to this proposal; and
3. undertakes community consultation for the planning proposal, subject to the gateway determination, as required.

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 Statement of Cash and Investments - February 2025

Officer Stacey Milligan, Finance Manager

File No F22/3106

2025.22 RESOLVED (Cr Saul/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

12.1 Legal Matters

Officer Vicki Thomas, A/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.

2025.23 RESOLVED (Cr Saul/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

12.2 Tender Evaluation for the Aquatic Engineering and Design Services TQE24/47

Officer Peter Allen, Group Manager Commercial Business

File Number 2024/TQE 24-47 Aquatic Engineering Consultation/Source

Section 10A(2)(c) – Commercial Advantage in Business Dealing

This report is submitted on a confidential basis as it involves information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. (*Local Government Act 1993*, section 10A(2)(c))

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

Section 10A(2)(d)(i) – Commercial Position

This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. (*Local Government Act 1993*, section 10A(2)(d)(i))

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

2025.24 RESOLVED (Cr Saul/Cr Matchett):

That Council:

- 1. reject all tenders in T-24-47 for the Assessment and Design of Aquatic Infrastructure in Kempsey Shire; and**
- 2. enter into negotiations with the preferred supplier, Facility Design Group, to deliver a modified scope of work.**

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

12.3 Management Lease and Operation of Kempsey and South West Rocks Swimming Pool/s TQE 24/56

Officer Fiona Newberry, Property Coordinator

File Number F23/1933

Section 10A(2)(c) – Commercial Advantage in Business Dealing

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

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

2025.25 RESOLVED (Cr Saul/Cr Matchett):

That Council:

1. accept the tender submitted by Leisure and Recreation Group Pty Ltd for the management lease and operation of Kempsey McElhone Swimming Pool Complex (TQE 24-56) for a period of three years, commencing 1 July 2025; and
2. accept the tender submitted by South West Rocks Aquatics Pty Ltd for the management lease and operation of South West Rocks Swimming Pool Complex (TQE 24-56) for a period of three years commencing 1 July 2025.

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

Nil

9 REPORTS OF COMMITTEES

9.1 LOCAL TRAFFIC COMMITTEE MEETING MINUTES - 25 FEBRUARY 2025

Officer Maddison Cummins, Executive Officer - Operations & Planning

File Number F12/1958

2025.26 RESOLVED (Cr Paix/Cr Selby):

That Council notes the minutes and adopts the recommendations of the Local Traffic Committee meeting held 25 February 2025.

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

9.2 Australia Day Awards and Citizenship Ceremony 2025

Officer Josie Anderson, Executive Officer - Corporate and Commercial

File Number F22/2252

2025.27 RESOLVED (Cr Selby/Cr Lawrence):

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

10 REPORTS TO COUNCIL

10.1 COMMUNITY STRATEGIC PLAN 2045: YOUR FUTURE AND COMMUNITY ENGAGEMENT AND PARTICIPATION STRATEGY

Officer Carissa Graham, Integrated Planning and Reporting Manager

File Number F25/3802

2025.28 RESOLVED (Cr Wyatt/Cr Matchett):

That Council:

- 1. note the community engagement undertaken to inform the updated draft Community Strategic Plan 2045 and the Community Engagement and Participation Strategy;**
- 2. place the draft Community Strategic Plan 2045 and draft Community Engagement and Participation Strategy on public exhibition for 28 days.**

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

10.2 Draft Flood Policy

Officer Caro Szary, Group Manager Strategic and Asset Planning

File Number F24/1725

Cr Lawrence left the Chamber at 9:40am.

Cr Lawrence returned to the Chamber at 9:42am.

2025.29 RESOLVED (Cr Bain/Cr Wyatt):

That Council:

- 1. endorses the draft Flood Policy for public exhibition for at least 28 days;**
- 2. notes that feedback from the exhibition period, including community and state department input, will be incorporated into the final draft Flood Policy; and**
- 3. receives a report following the exhibition period to a future ordinary meeting of 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

10.4 DISASTER READY FUND ROUND 3 - PROPOSED PROJECTS FOR GRANT APPLICATION

Officer Daniel Thoroughgood, A/Director Operations and Planning

Cr Wyatt left the Chamber at 9:45am.
Cr Wyatt returned to the Chamber at 9:47am.

Cr Selby left the Chamber at 9:54am.
Cr Selby returned to the Chamber at 9:56am.

2025.30 RESOLVED (Cr Bain/Cr Wyatt):

That Council:

1. notes the opportunity to apply for the NSW Government Disaster Ready Fund, Round Three;
2. agrees Council apply for Disaster Ready Funding (Round 3) for the three projects detailed in the report; and
3. notes the potential implications for Council's financial position and future budgets, should Council be successful in applying for this funding.

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 Delegates Report - Bush Fire Management Committee

Councillor Cr Bain, Councillor

File Number F18/1959

2025.31 RESOLVED (Cr Bain/Cr Paix):

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 Notice of Motion - Dunghutti-Thunghutti Advisory Group

Proposed by Cr Lawrence, Councillor

Authored by Cr Wyatt, Councillor

File Number F23/1930

MOVED (Cr Lawrence/Cr Wyatt):

That Council:

1. Establish a First Nations Advisory Group as a committee of Council under section 355 of the Local Government Act
2. Prepare a draft Terms of Reference for consultation with local First Nations people and to be reviewed by Council
3. Conduct an expressions of interest process to recruit First Nations people to the First Nations Advisory Group, with appointments to be made by Council
4. Commence the expressions of interest process no later than September 2025
5. Review the First Nations Advisory Group after 24 months, with a report on the review to be presented to Council.

AMENDMENT (Cr Wyatt):

That Council:

1. Establish a First Nations Advisory Group as a committee of Council under section 355 of the Local Government Act
2. Prepare a draft Terms of Reference for consultation with local First Nations people and to be reviewed by Council
3. Conduct an expressions of interest process to recruit First Nations people to the First Nations Advisory Group, with appointments to be made by Council
4. Commence the expressions of interest process no later than September 2025
5. Review the First Nations Advisory Group after 24 months, with a report on the review to be presented to Council.
6. Notes that the name formally given to the group be decided by its members.

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

AMENDMENT (Cr Paix):

That Council:

1. Establish a First Nations Advisory Group as a committee of Council under section 355 of the Local Government Act
2. Prepare a draft Terms of Reference for consultation with local First Nations people and to be reviewed by Council
3. Conduct an expressions of interest process to recruit First Nations people to the First Nations Advisory Group, with appointments to be made by Council
4. Commence the expressions of interest process no later than September 2025
5. Review the First Nations Advisory Group after 8 meetings within 18 months, with a report on the review to be presented to Council.
6. Notes that the name formally given to the group be decided by its members.

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

MOVED (Cr Saul):

That Council defer Item 11.2 Notice of Motion - Dunghutti-Thunghutti Advisory Group to the Ordinary Council Meeting of June 2025.

The motion lapsed for want of a seconder.

2025.32 RESOLVED (Cr Lawrence/Cr Wyatt):

That Council:

1. Establish a First Nations Advisory Group as a committee of Council under section 355 of the Local Government Act
2. Prepare a draft Terms of Reference for consultation with local First Nations people and to be reviewed by Council
3. Conduct an expressions of interest process to recruit First Nations people to the First Nations Advisory Group, with appointments to be made by Council
4. Commence the expressions of interest process no later than September 2025
5. Review the First Nations Advisory Group after 8 meetings within 18 months, with a report on the review to be presented to Council
6. Notes that the name formally given to the group be decided by its members.

CARRIED (8 / 1)

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

AGAINST: Cr Saul

12 CONFIDENTIAL MATTERS

2025.33 RESOLVED (Cr Paix/Cr Matchett):

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

12.4 Affordable Housing Project

Officer Michael Jackson, A/ General Manager

Section 10A(2)(c) – Commercial Advantage in Business Dealing

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

2025.34 RESOLVED (Cr Bain/Cr Saul):

That Council:

1. approves the sale of lot 1 DP1086155, lot 2 DP343166, lot 3 DP343166, lot 11 DP629855, and lot 12 DP629855 to the preferred Community Housing Provider (CHP) for \$1 consideration;
2. delegates to the General Manager, pursuant to Section 377 of the Local Government Act 1993, authority to sign either by electronic means or otherwise Contracts for Sale of land and any other document necessary or desirable to complete the transaction;
3. approves that all housing developed on the land be designated as affordable housing secured by a Community Housing Assistance Agreement; and
4. notes that the General Manager will approve the tender process to appoint a CHP, accept the preferred Tenderer, and enter into a Heads of Agreement, lease agreement and development deed at the relevant time under delegated authority.

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

2025.35 RESOLVED (Cr Paix/Cr Bain):

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 10:51am.