

Draft Minutes

Draft minutes of the Ordinary Council Meeting held on Tuesday 18 February 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, S M Mitchell; Director Corporate and Commercial, D S Thoroughgood; Director Operations and Planning, M B Jackson; 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 Saul provided the opening prayer.

2 ACKNOWLEDGEMENT OF COUNTRY

Cr Lawrence provided an acknowledgement of country.

3 ACKNOWLEDGEMENT OF SERVICE MEN, WOMEN AND FAMILIES

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

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

Nil.

5 CONFIRMATION OF MINUTES

2025.1 RESOLVED (Cr Paix/Cr Matchett):

That the minutes of the Ordinary Meeting of Kempsey Shire Council dated 17 December 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

Nil.

7 ITEMS PASSED BY EXCEPTION

2025.2 RESOLVED (Cr Bain/Cr Selby):

That the recommendations contained in the following items be adopted:

10.5 Regional Collaboration for Waste Processing Contracts MOU

10.6 Section 3.22 Mapping Amendment

10.7 Development Activity and LEP Variations – Quarterly Snapshot

10.8 Disclosure of Interest Returns

10.9 Statement of Cash and Investments – December 2024 and January 2025

12.1 Legal Matters

12.2 Compensation Agreement: Road Alignment – Nurse Kirkpatrick Bridge

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 REGIONAL COLLABORATION FOR WASTE PROCESSING CONTRACTS MOU

Officer Wes Trotter, Director Utilities

File Number F24/3797

2025.3 RESOLVED (Cr Bain/Cr Selby):

That Council note the proposed regional collaboration approach and endorse signing of the draft Memorandum of Understanding for Regional Waste Processing (Organics and Recyclables) between Port Macquarie-Hastings Council, Kempsey Shire Council, Bellingen Shire Council and Nambucca Valley 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

10.6 Section 3.22 Mapping Amendment

Officer Peter Orr, Strategic and Environmental Planning Manager

File Number KLEP2013-AM-40

2025.4 RESOLVED (Cr Bain/Cr Selby):

That Council resolves to amend the mapping layers in KLEP2013 to a digital format by lodgement of a Section 3.22 EP&A Act submission.

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

10.7 Development Activity and LEP Variations - Quarterly Snapshot

Officer Lisa Kennedy, Team Leader Office Support

File Number F19/1831

2025.5 RESOLVED (Cr Bain/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

10.8 Disclosure of Interest Returns

Officer Daniel Thoroughgood, A/Director Corporate and Commercial

File Number F22/3129

2025.6 RESOLVED (Cr Bain/Cr Selby):

That Council receives the report and notes the lodgement and tabling of the Disclosure of Interest Returns.

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

10.9 Statement of Cash and Investments - December 2024 and January 2025

Officer Stacey Milligan, Finance Manager

File No F22/3106

2025.7 RESOLVED (Cr Bain/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

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.

2025.8 RESOLVED (Cr Bain/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

12.2 Compensation Agreement: Road Realignment - Nurse Kirkpatrick Bridge

Officer Grant Dennis, Design and Investigation Manager

File Number F22/3399

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)(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.

2025.9 RESOLVED (Cr Bain/Cr Selby):

That Council:

- 1. pays compensation in the amount of \$2,909.50 (GST Exclusive) to the registered proprietors of Lot 30 DP1022692 for the acquisition of Lot 1 and 2 in plan of acquisition DP1022692.**

2. pays the legal and conveyancing costs reasonably incurred by the landowner as required by Section 59 of the Land Acquisition (Just Terms Compensation) Act 1991;
3. upon finalisation of the acquisition process, dedicate 1 & 2 as public road pursuant to Section 10 of the Roads Act 1993; and
4. delegates authority to the General Manager to sign:
 - a. Deeds of Acquisition/Contract for the Sale of Land;
 - b. Revenue NSW Purchaser Declaration Forms; and
 - c. Letters to Revenue NSW seeking exemption from the payment of stamp duty on the acquisition of Lot 1 and 2 in plan of acquisition DP1022692.

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

8.2 Thank You Stephen Mitchell

Councillor	Cr Ring, Mayor
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File Number	F23/1930
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2025.10 RESOLVED (Cr Ring):

That Council:

1. Thanks Acting General Manager Stephen Mitchell for his significant contributions to Kempsey Shire Council over the past seven years.

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

10.1 INTEGRATED PLANNING AND REPORTING ASSUMPTION

Officer	Stephen Mitchell, Acting General Manager
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File Number	F23/3642/05
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Cr Matchett left the Chamber at 9:46 am.

Cr Matchett returned to the Chamber at 9:47 am.

MOVED (Cr Saul/Cr Matchett):

That Council:

1. notes the decision by the Independent Pricing and Regulatory Tribunal (IPART) in May 2024 to approve a permanent special rate variation of 24.09% over two years from 2024-25, including 15% for the 2025-26 financial year, and the reasons supporting that approval, which included:
 - a. The IPART decision allowing Council to maintain a stable financial position over the next 2 years, while it undertakes the work required to establish whether it can reduce its costs and improve its financial sustainability through alternative means.
 - b. IPART's view that the impact of their decision on ratepayers is reasonable.
 - c. IPART noting that Council has a hardship policy in place to assist ratepayers experiencing difficulty paying their rates.
 - d. IPART stating that they considered approving a temporary Special Variation but concluded that this was not a sustainable solution for addressing Council's systemic operational deficit and financing challenges.
 - e. IPART noting that Council demonstrated it has a financial need for the Special Variation to improve its financial sustainability, maintain existing services and service levels, and maintain healthy debt serviceability ratios in line with its Community Strategic Plan.
2. endorses the recommended Integrated Planning and Reporting assumption to implement the IPART approved 15% rate increase for the 2025-26 financial year for the purposes of developing the 2025-26 Operational Plan and associated budget and the Long-Term Financial Plan, noting that the final decision on setting the rates for 2025-26 is not made until the June 2025 Council meeting.
3. notes the adverse impacts of developing a new suite of Integrated Planning and Reporting documents using one rate increase assumption, and a separate financial decision being adopted during the making of the rates in June 2025.
4. notes that should a decision be made to not increase rates by the IPART approved 15% in the 2025-26 financial year, that direction will be required as to the proposed service reductions to offset the lower rates income of approximately \$4 million per annum, with these service reductions and associated financial impacts reflected in the draft Integrated Planning and Reporting documents to be reported to the April 2025 Council meeting and subsequently, publicly exhibited for community comment.
5. notes the results from the 2024 Micromex community survey and Council's internally facilitated community engagement process, which indicates the community's preference is to maintain and not reduce service levels.
6. notes its obligations within the *Local Government Act 1993* and in particular:

- a. Section 223 Role of governing body which specifically includes the requirement to ensure as far as possible the financial sustainability of the council; and
- b. Section 8B which outlines the principles of sound financial management including the need to ensure council spending is responsible and sustainable and aligning revenue and expenses.

At this stage 10:36am the meeting adjourned for morning tea.

Upon resumption of the meeting at 10:51 am all present at the adjournment were in attendance.

2025.11 RESOLVED (Cr Bain/Cr Wyatt):

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

2025.12 RESOLVED (Cr Bain/Cr Saul):

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

2025.13 RESOLVED (Cr Bain/Cr Matchett):

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

AMENDMENT (Cr Bain):

That Council:

1. notes the decision by the Independent Pricing and Regulatory Tribunal (IPART) in May 2024 to approve a permanent special rate variation of 24.09% over two years from 2024-25, including 15% for the 2025-26 financial year, and the reasons supporting that approval, which included:
 - a. The IPART decision allowing Council to maintain a stable financial position over the next 2 years, while it undertakes the work required to establish whether it can reduce its costs and improve its financial sustainability through alternative means.

- b. IPART's view that the impact of their decision on ratepayers is reasonable.
 - c. IPART noting that Council has a hardship policy in place to assist ratepayers experiencing difficulty paying their rates.
 - d. IPART stating that they considered approving a temporary Special Variation but concluded that this was not a sustainable solution for addressing Council's systemic operational deficit and financing challenges.
 - e. IPART noting that Council demonstrated it has a financial need for the Special Variation to improve its financial sustainability, maintain existing services and service levels, and maintain healthy debt serviceability ratios in line with its Community Strategic Plan.
2. notes the recommended Integrated Planning and Reporting assumption to implement the IPART approved 15% rate increase for the 2025-26 financial year for the purposes of developing the 2025-26 Operational Plan and associated budget and the Long-Term Financial Plan, noting that the final decision on setting the rates for 2025-26 is not made until the June 2025 Council meeting.
 3. endorses the scenario 4 assumption to implement the IPART approved 15% rate increase over 2 years, being 7.5% in 2025-26 and 11.52% in 2026-27, for the purposes of developing the 2025-26 Operational Plan and associated budget and the Long-Term Financial Plan, noting that the final decision on setting the rates for 2025-26 is not made until the June 2025 Council Meeting.
 4. notes that should a decision be made to not increase rates by the IPART approved 15% in the 2025-26 financial year, that direction will be required as to the proposed service reductions to offset the lower rates income of approximately \$4 million per annum, with these service reductions and associated financial impacts reflected in the draft Integrated Planning and Reporting documents to be reported to the April 2025 Council meeting and subsequently, publicly exhibited for community comment.
 5. notes that additional loan borrowings will be required in the 2025-26 budget to fund the forecast deficit,
 6. notes the results from the 2024 Micromex community survey and Council's internally facilitated community engagement process, which indicates the community's preference is to maintain and not reduce service levels.
 7. notes its obligations within the *Local Government Act 1993* and in particular:
 - a. Section 223 Role of governing body which specifically includes the requirement to ensure as far as possible the financial sustainability of the council; and
 - b. Section 8B which outlines the principles of sound financial management including the need to ensure council spending is responsible and sustainable and aligning revenue and expenses.

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

2025.14 RESOLVED (Cr Saul/Cr Matchett):

That Council:

- 1. notes the decision by the Independent Pricing and Regulatory Tribunal (IPART) in May 2024 to approve a permanent special rate variation of 24.09% over two years from 2024-25, including 15% for the 2025-26 financial year, and the reasons supporting that approval, which included:**
 - a. The IPART decision allowing Council to maintain a stable financial position over the next 2 years, while it undertakes the work required to establish whether it can reduce its costs and improve its financial sustainability through alternative means.**
 - b. IPART's view that the impact of their decision on ratepayers is reasonable.**
 - c. IPART noting that Council has a hardship policy in place to assist ratepayers experiencing difficulty paying their rates.**
 - d. IPART stating that they considered approving a temporary Special Variation but concluded that this was not a sustainable solution for addressing Council's systemic operational deficit and financing challenges.**
 - e. IPART noting that Council demonstrated it has a financial need for the Special Variation to improve its financial sustainability, maintain existing services and service levels, and maintain healthy debt serviceability ratios in line with its Community Strategic Plan.**
- 2. notes the recommended Integrated Planning and Reporting assumption to implement the IPART approved 15% rate increase for the 2025-26 financial year for the purposes of developing the 2025-26 Operational Plan and associated budget and the Long-Term Financial Plan, noting that the final decision on setting the rates for 2025-26 is not made until the June 2025 Council meeting.**
- 3. endorses the scenario 4 assumption to implement the IPART approved 15% rate increase over 2 years, being 7.5% in 2025-26 and 11.52% in 2026-27, for the purposes of developing the 2025-26 Operational Plan and associated budget and the Long-Term Financial Plan, noting that the final decision on setting the rates for 2025-26 is not made until the June 2025 Council Meeting.**
- 4. notes that should a decision be made to not increase rates by the IPART approved 15% in the 2025-26 financial year, that direction will be required as to the proposed service reductions to offset the lower rates income of approximately \$4 million per annum, with these service reductions and associated financial impacts reflected in the draft Integrated Planning and Reporting documents to be reported to the April 2025 Council meeting and subsequently, publicly exhibited for community comment.**
- 5. notes that additional loan borrowings will be required in the 2025-26 budget to fund the forecast deficit,**
- 6. notes the results from the 2024 Micromex community survey and Council's internally facilitated community engagement process, which indicates the community's preference is to maintain and not reduce service levels.**

7. notes its obligations within the *Local Government Act 1993* and in particular:

- a. Section 223 Role of governing body which specifically includes the requirement to ensure as far as possible the financial sustainability of the council; and
- b. Section 8B which outlines the principles of sound financial management including the need to ensure council spending is responsible and sustainable and aligning revenue and expenses.

CARRIED (6 / 3)

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

AGAINST: Cr Coburn, Cr Paix and Cr Wyatt

At this stage 12:38 pm the meeting adjourned for lunch.

Upon resumption at 1:30 pm all present at the adjournment were in attendance.

10.2 CORPORATE PERFORMANCE REPORT - QUARTER 2 2024-25

Officer Carissa Graham, Integrated Planning and Reporting Manager

File Number F23/3642/05

2025.15 RESOLVED (Cr Matchett/Cr Bain):

That Council:

1. adopts the Quarterly Budget Review for the period ended 31 December 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

10.3 GRANTS POLICY

Officer Stephen Mitchell, Acting General Manager

File Number F22/1933

2025.16 RESOLVED (Cr Wyatt/Cr Coburn):

That Council adopts the Grants Policy, which will take effect from Wednesday, 19 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

10.4 Modification - Proposed Dwelling - 492 Fishermans Reach Road, Fishermans Reach

Officer Marnie Jeffery, Development Services Manager

File Number DA2300826

2025.17 RESOLVED (Cr Saul/Cr Matchett):

That Council:

1. supports variation to the height of buildings development standard in Clause 4.3 of Kempsey Local Environmental Plan 2013; and
2. grants development consent to DA2300826 REV01 for a single dwelling house subject to the conditions attached.

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 - Community Justice Centres

Councillor Cr Bain, Councillor

File Number F23/1930

2025.18 RESOLVED (Cr Bain/Cr Wyatt):

That Council writes to the NSW Attorney General Michael Daley, calling on the State Govt to reverse its decision to close all Community Justice Centres (CJs) in June.

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 2:08pm.