

# Business Paper

An Extraordinary Council Meeting will be held on Wednesday 26 March 2025 in the Council Chambers located Corner Tozer and Elbow Streets, West Kempsey commencing at 9:00 AM



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



## **NOTICE OF MEETING**

### **Request for Extraordinary Meeting of Council**

We write to request an Extraordinary Meeting of Council pursuant to Section 366 of the *Local Government Act 1993* to further consider the finalising of the recruitment and appointment of the General Manager.

Mayor Ring

Cr Coburn

Cr Paix

Date: 21 March 2025

### **Notice of Meeting**

Dear Mayor and Councillors,

In accordance with section 367 of the *Local Government Act 1993* notice is hereby given that an Extraordinary Council Meeting will be held on Wednesday 26 March 2025 in the Council Chambers located Corner Tozer and Elbow Streets, West Kempsey commencing at 9:00 am

Michael Jackson

General Manager

Date: 21 March 2025

## **ORDER OF BUSINESS**

### **6.1. General Manager Recruitment**

## **REMINDER OF OATH OR AFFIRMATION**

Under Clause 3.37, Statement of Ethical Obligations, in Kempsey Shire Council's Code of Meeting Practice, business papers for all ordinary and extraordinary meetings of the Council and Committees of the Council must contain a statement reminding Councillors of their oath or affirmation of office made under section 233A of the *Local Government Act 1993* and their obligations under the Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

Councillors are therefore reminded of the oath or affirmation which was taken by each of them.

### **Oath of Councillor**

I swear that I will undertake the duties of the office of Councillor in the best interests of the people of the Kempsey local government area and the Kempsey Shire Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the *Local Government Act 1993* or any other Act to the best of my ability and judgment.

### **Affirmation of Councillor**

I solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people of Kempsey local government area and the Kempsey Shire Council and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the *Local Government Act 1993* or any other Act to the best of my ability and judgment.

## **REMINDER OF REQUIREMENT TO DECLARE CONFLICTS OF INTEREST**

Under Clause 3.37, Statement of Ethical Obligations, in Kempsey Shire Council's Code of Meeting Practice, business papers for all ordinary and extraordinary meetings of the Council and Committees of the Council must contain a statement reminding Councillors of their oath or affirmation of office made under section 233A of the *Local Government Act 1993* and their obligations under the Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

Councillors are therefore reminded of their obligations to disclose and appropriately manage conflicts of interest.

Council's currently adopted Code of Conduct (the Code) may be found on Council's website.

The guidance below is intended for Councillors and only discusses their obligations. Members of Committees of Council, staff, advisers, and any other designated persons also have similar obligations.

This guidance is not a substitute for the full requirements of the Code, and in the event of any inconsistency between this guidance and the Code then the Code prevails. Councillors, staff, members of Committees of Council, advisers, and other designated persons must read and understand the Code.

A disclosure made at a meeting must be recorded in the minutes of the meeting. Disclosure must be made at briefing sessions, whether closed or open to the public, public forums, Council meetings, meetings of Committees or in any other forum in which the interest arises.

### **Pecuniary Interests**

Part 4 of the Code relates to the identification, disclosure, and management of pecuniary interests.

A pecuniary interest is an interest that a Councillor has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to that Councillor or a person close to them.

There are a limited set of types of pecuniary interests that do not need to be disclosed, these are outlined in clause 4.6 of the Code.

Councillors must provide both written returns of interest in accordance with clause 4.21 of the Code and declare interests at each meeting where they arise in accordance with clause 4.28 of the Code.

Under clause 4.29 of the Code, a Councillor who declares a pecuniary interest must not be present, or in sight of, the meeting of Council at any time during which the matter is being considered or discussed by the Council or at any time during which the Council is voting on any question in relation to the matter.

The Minister for Local Government may, conditionally or unconditionally, allow a Councillor who has a pecuniary interest in a matter with which the Council is concerned to be present at a meeting of the Council, to take part in the consideration or discussion of the matter and to vote on the matter under certain circumstances.

### **Non-Pecuniary Interests**

Part 5 of The Code relates to the identifications, disclosure, and management of non-pecuniary interests.

Non-pecuniary interests are a Councillor's private or personal interests that do not amount to a pecuniary interest (as previously defined). A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that a Councillor could be influenced by a private interest when carrying out their official functions in relation to a matter. The personal or political views of a Councillor do not constitute a private interest.

Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of Council decision-making. The onus is on Councillors to identify any non-pecuniary conflict of interest they may have in matters that they deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with the Code.

When considering whether a Councillor has a non-pecuniary conflict of interest in a matter they are dealing with, it is always important to think about how others would view their situation.

Non-pecuniary conflicts of interest may be either significant or not significant. Clause 5.9 provides guidance on the types of conflict that may be regarded as significant.

A significant non-pecuniary interest that arises in relation to a matter under consideration at a Council meeting must be managed in the same manner as a pecuniary interest. That is, a Councillor who declares a significant non-pecuniary interest must not be present, or in sight of, the meeting of Council at any time during which the matter is being considered or discussed by the Council or at any time during which the Council is voting on any question in relation to the matter.

A non-pecuniary interest that is not significant does not require further action. A Councillor disclosing such an interest must explain in writing why they consider the interest not to be significant.

### **Political Donations**

Councillors should be aware that matters before Council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.

Councillors must ensure that they are familiar with clauses 5.15 to 5.19 of the Code if Council is to consider a matter concerning an entity that has made a political donation to them.

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## **1 OPENING PRAYER**

“Dear Lord, help us in our deliberations today so that our decisions will be for the greater good for the whole of Kempsey Shire - Amen”

## **2 ACKNOWLEDGEMENT OF COUNTRY**

“Kempsey Shire Council acknowledges the land of the Thunggutti/Dunghutti Nation. We pay respect to Elders past and present. We acknowledge the role of emerging leaders to continue to guide us in the future. We acknowledge the Stolen Generations and the need to change practices to be inclusive. This land always was and always will be Thunggutti/Dunghutti land.”

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

“Council acknowledges the sacrifice made by Australian service men and women, and their families, in particular, those who gave their lives in defence of the freedom we enjoy today.”

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

That any apologies submitted by Councillors for non-attendance at the meeting be accepted and leave of absence granted.

That any applications for attendance by audio-visual link submitted by Councillors be accepted and permission granted.

## **5 DISCLOSURES OF INTEREST**

That any declared interests be noted.

## 6 CONFIDENTIAL MATTERS

### MOTION FOR CONFIDENTIAL SESSION

In accordance with the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021*, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2) of the Act and should be dealt with in a part of the meeting closed to the media and public.

Set out below is section 10A(2) of the Act in relation to matters which can be dealt with in the closed part of a meeting.

The matters and information are the following:

- (a) personnel matters concerning particular individuals (other than Councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would, if disclosed;
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the Council, or
  - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the Council, Councillors, Council staff or Council property
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land.
- (i) alleged contraventions of any code of conduct requirements applicable under section 440.

Councillors are reminded of their statutory obligations in relation to the non-disclosure to any outside person of matters included in this section.

**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.**

#### 6.1 General Manager Recruitment

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<b>Officer</b>	Cr Ring, Mayor
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<b>File Number</b>	F24/3791
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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.

## **7 CONCLUSION OF THE MEETING**