



EXTRAORDINARY MEETING OF COUNCIL

To be held at 1.00pm on

Monday 27 May 2024

Council Chambers

11 Manning Street, KIAMA NSW 2533

Order of Business

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- 3 Acknowledgement of Country
- 4 Statement of Ethical Obligations
- 5 Apologies
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Members

Mayor
Councillor N Reilly
Deputy Mayor
Councillor I Draisma
Councillor M Brown
Councillor M Croxford
Councillor J Keast
Councillor S Larkins
Councillor K Renkema-Lang
Councillor K Rice
Councillor W Steel

24 May 2024

To the Chairman and Councillors:

NOTICE OF EXTRAORDINARY MEETING

You are respectfully requested to attend an **Extraordinary Meeting** of the Council of Kiama, to be held in the **Council Chambers, 11 Manning Street, KIAMA NSW 2533** on **Monday 27 May 2024** commencing at **1.00pm** for the consideration of the undermentioned business.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jane Stroud', written in a cursive style.

Jane Stroud

Chief Executive Officer

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**AGENDA FOR THE
EXTRAORDINARY MEETING OF KIAMA MUNICIPAL COUNCIL
MONDAY 27 MAY 2024**

1 OPENING OF MEETING

2 WEBCASTING STATEMENT

This meeting is being recorded and made publicly available on the Council website and persons attending the meeting should refrain from making any defamatory statements.

3 ACKNOWLEDGEMENT OF COUNTRY

Kiama Municipal Council acknowledges the Traditional Custodians of Dharawal Country, the Wodi Wodi people and recognises their continued connection to the land. We pay our respects to elders past, present and emerging and the contribution that they make to our community.

4 STATEMENT OF ETHICAL OBLIGATIONS

Councillors are reminded of their oaths or affirmations of office under section 233A of the Act and their obligations under the Code of Conduct to disclose and appropriately manage any conflicts of interest.

5 APOLOGIES

6 DISCLOSURE OF INTEREST

7 PUBLIC FORUM SUMMARY

8 REPORT OF THE DIRECTOR INFRASTRUCTURE AND LIVEABILITY

8.1 Temporary change to the Chief Executive Officer's delegations for accepting a tender

CSP Objective: Outcome 5.1: Public funds and assets are managed strategically, transparently, and efficiently

CSP Strategy: 5.1.1 Public funds are managed in accordance with Financial Management Standards and the Local Government Act.

Delivery Program: 5.1.1.1 Improved financial reporting and legislative compliance through reporting, scrutiny oversight and processes

Summary

Council is in a procurement process for the receipt and processing of co-mingled recyclate material collected from yellow lid bins in the Kiama LGA as the current contract is approaching end of term.

The procurement process has been impacted by a variety of issues and as a result the end of the assessment process may fall between programmed council meetings and create a risk of there being no contract in operation for a period of time.

The receipt and processing of recyclate is a critical service and the absence of a contract is an unacceptable risk. To manage this risk, this report recommends that the delegations to the Chief Executive Officer (CEO) be varied to allow the acceptance of the recommended tender for this contract.

Financial implication

The draft 2024/25 budget allows for this contract as does the Domestic Waste Charge that funds the budget.

There are no direct financial implications for this report.

Risk implication

The potential absence of a contract for receipt and processing recyclate presents an unacceptable risk to this essential service. Providing a temporary change to the CEO delegations appropriately manages this risk and enables the acceptance of a tender between Council meetings if required.

Policy

The Local Government Act 1993 (the Act).

The existing delegations to the CEO as per Resolution 21/135OC of 15 June 2021.

Procurement Policy

Consultation (internal)

Chief Executive Officer

Communication/Community engagement

Not applicable

Report of the Director Infrastructure and Liveability

8.1 Temporary change to the Chief Executive Officer's delegations for accepting a tender (cont)

Attachments

Nil

Enclosures

Nil

Item 8.1

RECOMMENDATION

That Council:

1. Delegates to the Chief Executive Officer the authority to accept the tender for the comingled recyclate receipt and processing contract.
2. Delegate to the Chief Executive Officer and/or Mayor authorisation to sign and execute all documentation in relation to the contract including the application of the seal of Council if required.

Background

The receipt and processing of recyclate is a critical part of Council's 3 bin waste service (Red – waste, Yellow – comingled recyclate, Green – Food Organics Garden Organics) to the community and needs to be maintained to continue achieving the ~70% waste diversion from land fill and manage Council's costs of providing waste collection and disposal service as disposal to land fill incurs a higher cost and has an undesirable environmental impact.

The receipt and processing of recyclate (collection from the kerbside and transport to the processor is managed by Council directly) is currently undertaken under a service contract to Council. This contract is approaching the end of its term, 30 June 2024, and the current contractor has advised that it is not interested in a short-term extension of the contract term.

The procurement process for engaging a new contract is underway; however, a range of issues have resulted in delays to the project with the contingency or float time being reduced. It is possible that the tender assessment process will be completed after the last available meeting to form a new contract before the end of the current contract. Tender documents are currently being finalised to be released to the market in the coming weeks which will result in the assessment process being undertaken in mid-June and the recommendation to accept potentially not being available for the council meeting of 18 June 2024.

The proposed contract will have a term of 3 years with an option of 2 x 1-year extensions and has an expected cost that will exceed the value requiring tenders under the Act i.e. exceeding \$250,000.

Under the current delegations, tenders required under s55 of the Act with an estimated expenditure in excess of \$250,000 are accepted by Council.

Report of the Director Infrastructure and Liveability

8.1 Temporary change to the Chief Executive Officer's delegations for accepting a tender (cont)

In order to manage the risk of not having a contract for some period of time, it is proposed that Council delegates to the CEO the authority to accept the tender for the comingled recyclate receipt and processing.

The new contract will be a relatively constrained contract for the service of receiving Council's comingled recyclate, within the stipulated quality ranges, and processing the material for re-use or disposal as necessary with ownership and hence responsibility for the material being transferred to the contractor.

9 CONFIDENTIAL SUMMARY

CONFIDENTIAL COMMITTEE OF THE WHOLE

Submitted to the Ordinary Meeting of Council held on 27 May 2024

PROCEDURE

- Recommendation to go into Closed Committee.
- Mayoral call for Public Representations.
- Consideration of Representations and issues to be removed from Closed Committee.
- Recommendation to exclude Press and Public if required.
- Closed Committee discussions if required.

9.1 Exclusion Of Press And Public:

RECOMMENDATION

That in accordance with Sections 10 and 10A of the Local Government Act, 1993 as amended, Council close the meeting of the Confidential Committee of the Whole to the Press and Public on the grounds detailed under the report headings as detailed below.

9 CONFIDENTIAL REPORT PARAMETERS FOR CONTRACT DRAFTING - BLUE HAVEN BONAIRA

Reason for Confidentiality: This matter deals with information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business as per Section 10A(2)(c) of the Local Government Act. .

10 CONFIDENTIAL REPORTS

10.1 Parameters for Contract Drafting - Blue Haven Bonaira

CSP Objective: Outcome 5.1: Public funds and assets are managed strategically, transparently, and efficiently

CSP Strategy: 5.1.4 Commercial investments are managed to maximise their value; and in accordance with legislative obligations.

Delivery Program: 5.1.4.2 Continue to implement Council Resolution 22/1040C for Blue Haven and Resolution 23/053OC

REASON FOR CONFIDENTIALITY

This item is classified CONFIDENTIAL under the provisions of Section 10A(2) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

11 CLOSURE

Item 9
CONFIDENTIAL REPORT
CONFIDENTIAL