

## 20 NOTICE OF MOTION

### 20.1 Notice of motion: Councillor Brown - Local surf clubs including Gerringong

Clr Matt Brown has submitted the following Notice of Motion for consideration:

#### **MOTION**

That Council:

1. Acknowledge and receive the 2025 petition to formally recognise Gerringong Surf Club as the appropriate body to manage the Gerringong Surf Club facility, signed by more than 600 local residents to date;
2. Note that our volunteer surf club members save ratepayers more than \$300,000 a year by providing free patrolled beaches at Jones Beach, Surf Beach and Werri Beach (see Patrol Labour Cost attachment for financial costings);
3. Thank our three surf clubs, Kiama Downs, Kiama and Gerringong ("Our Surf Clubs"), and their members, for preventing thousands of potential rescues each year (figures are documented);
4. Thank Our Surf Clubs, and their brave members, for performing hundreds of rescues each year, potentially saving dozens of lives;
5. Thank Our Surf Clubs, and their generous sponsors, for building and maintaining these vital lifesaving institutions, mostly without any Council funding, which exemplify our Australian volunteer spirit;
6. Recognise the critical role of the area's Surf Life Saving Clubhouses in patrolling, lifesaver training, community engagement, and fundraising and ensure that all clubhouse facilities remain entirely under the control of the Clubs as per normal practice across NSW.
7. Recognise this autonomy is essential for maintaining efficient emergency response, flexible training programs, strong community bonds, and sustainable funding, all of which contribute to coastal safety and local development without Council acting in any way to dilute, diminish or detriment the autonomy of Our Surf Clubs in favour of Council revenue or other vested business interests;
8. Begin the process again to re-classify surf club lands from Community Land to Operational Land to ensure there are minimal barriers to Our Surf Clubs entering into commercial arrangements with third parties;
9. Begin the process again to re-classify surf club lands from Community Land to Operational Land to ensure there are minimal barriers to Our Surf Clubs in seeking government and private grant funding;
10. Authorise the CEO to negotiate a lease with Gerringong Surf Club similar to the lease with Kiama Downs Surf Club and the lease being negotiated with Kiama

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Surf Club and similar to the proposed lease annexed to the Construction Agreement between Gerringong Surf Club, Bluestone and Council; and,

11. Thank the more than 1500 members, and their families of our surf clubs, along with their supporters and sponsors (mostly local business), for their amazing efforts to keep our beaches safe and to support community and to minimise cost to Council.

Signed Councillor Matt Brown

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**Attachments**

- 1 Patrol Labour Cost for Surf Beach, Jones Beach and Werri Beach provided by Councillor Brown [↓](#)

**Councillor information provided**What is the purpose of the motion?

To provide support to our Surf Clubs and their members and supporters by providing direction on the future uses and management of our Surf Clubs, in particular Gerringong Surf Club.

Background to the motion

There have been public comments and suggestions that Council manage and receive revenue from our Surf Clubs as opposed to Council supporting Our Surf Clubs being self-sufficient, as has been the current practice for over 70 years. This is causing concern and uncertainty in the community, and we need to be clear on Council's role in relation to these institutions.

Source of funding

Councillor Brown advises that the motion does not involve expenditure.

**Chief Executive Officer response**

In accord with the Meeting Code of Practice the CEO notes the following pertinent information.

1. The Notice of Motion (NoM) submitted by Councillor Matt Brown met the timing criteria for the Code of Meeting Practice (CoMP) as it was submitted at 10:16am on Monday 12 May 2025, before the midday deadline. Clause 10.2 of CoMP clearly states that "Councillors are to send any proposed draft Notice of motions to the CEO, prior to the council meeting, for advice / comment". The timing did not leave sufficient time to provide advice to the Councillor on the contents of the NoM as is customary, however the CEO called the Councillor and advised that there were some issues with three recommendations which require a CEO response.

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2. After considering the NoM, it is apparent that the NoM does not satisfactorily address the requirements of the adopted CoMP in particular clauses 3.13 and 3.14 and 10.10.
  3. There is no issue with recommendations 1, 2, 3, 4, 5, 6 and 11.
  4. There is concern with recommendations 7, 8, 9 and 10. These have legal, strategic policy concerns and require a funding source as per 3.13 of the CoMP.
  5. Recommendation 7 requires rewording as it cannot be lawfully considered by Council, namely due to the fact that Council's powers under the *Local Government Act 1993* (LG Act) cannot be eroded or curtailed by any resolution of Council. The management of community land, upon which all Kiama LGA Surf Clubs are located, must be done in accordance with the LG Act and the plan of management. It is recommended that the wording be changed to the below, noting the words to be struck out.

*(7) Recognise this autonomy is essential for maintaining efficient emergency response, flexible training programs, strong community bonds, and sustainable funding, all of which contribute to coastal safety and local development without Council acting in any way to dilute, diminish or detriment the autonomy of Our Surf Clubs in favour of Council revenue or other vested business interests;*

6. Recommendation 8 and 9 cannot be lawfully considered by Council. These require amended wording so as not to preempt the outcome of any reclassification process that Council may or may not resolve to undertake. Any motion in relation to a reclassification must not include a predetermined outcome given Council's obligations to consider submissions prior to a determination being made with respect to the reclassification.

Any motion considered by Councillors must ensure that it satisfies Council's obligations pursuant to the LG Act, and in particular the motion must:

- be within the powers of Council and ensure that it considers the limitations on Council's power to delegate pursuant to section 377 of the LG Act;
- ensure that the motion does not pre-determine the outcome with respect to the reclassification in light of Council's obligations pursuant to sections 8A and 34 of the LG Act; and
- be "subject to" the notification and public exhibition requirements in order to ensure that Council is satisfying its obligation to take submissions into account prior to a decision regarding the reclassification of the Site.

It is noted that all three (3) Surf Clubs sites are zoned RE1 Public Recreation under the *Kiama Local Environmental Plan (LEP) 2011*. Commercial uses are prohibited in the RE1 zone and as such rezonings would also need to occur.

Reclassification and rezoning processes take time and require dedicated Officer workload and budget. The DPOP and annual budget for this year and for next year (currently out on display) do not include these funds. Likely costs associated with reclassification may be in the order of \$50K for all three sites.

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In addition, subletting of any KMC facility must be open, competitive and transparent and is usually conducted via either an expression of interest or tender as per the requirements of the *Local Government Act 1993* and KMC's own policies. KMC is not able to avoid or circumnavigate these requirements. It is therefore evident that recommendation 9 can not be considered by Council and should be removed.

7. Recommendation 8 and 9 are further complicated by the fact that the land on which the Surf Clubs are located may require subdivision from the broader parcels of land on which they sit. Both Kiama Downs and Gerringong are located on community land. Kiama is located on Crown Lands and a reclass process for this site would require Ministerial approval prior to any Council resolution. Kiama surf club site will also be subject to the South Coast Native Title claim and any subdivision or reclassification will trigger the activation of this claim.

Subdivision and native title work requires dedicated officer workload and financial allocation to complete. The DPOP and annual budget for this year and for next year (currently out on display) do not include these funds. Likely costs associated with subdivisions (and native title processes) may be in the order of \$50K for three sites.

Therefore, if the recommendations are debated or resolved it is advisable to change the wording of recommendation 8 & 9 to:

- (8) *Undertake to reclassify and rezone the Gerringong Surf Club and Kiama Downs Surf Club (Lot 2 DP 1075959 and part of Lot 1027 DP 232242) from community land to operational land, subject to:*
  - a. *the subdivision of Lot 1027 DP 232242 to excise the Kiama Downs Surf Club for the broader lot which encompasses Jones Beach.*
  - b. *the completion of the required public notice period, and public submissions being received and considered following the notification period, in accordance with section 34 of the Local Government Act 1993 (public notice to classify or reclassify public land).*
  - c. *the subsequent planning proposal process.*
- (9) *Undertake to reclassify and rezone the Kiama Surf Club (part of Lot 2 DP 531612 and part of Lot 7016 DP 1074643) from community land to operational land, subject to:*
  - a. *receipt of approval and concurrence from The Minister for Lands and Property, the Hon. Stephen Kamper MP, to undertake the reclassification and rezoning processes.*
  - b. *the subdivision of Lot 2 DP 531612 and Lot 7016 DP 1074643 to excise the Kiama Surf Club for the Coronation Park Reserve.*
  - c. *the completion of the required public notice period, and public submissions being received and considered following the notification period, in accordance with section 34 of the Local*

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*Government Act 1993 (public notice to classify or reclassify public land).*

*d. the subsequent planning proposal process.*

8. Recommendation 8, 9 and 10 pertain to lands that are in coastal inundation areas and are subject to the endorsed Coastal Management Plan. Kiama is at high risk of coastal inundation and high risk of coastal erosion. In this regard an approval to subdivide may or may not be granted due to coastal impacts. Environmental impacts on all three sites should be taken into consideration, as this would be required to complete any Development Applications to allow for future activation / changes of use.
9. Recommendations 8, 9 and 10 also may carry significant public interest and concern. The loss of community lands will garner a strong reaction, and not all residents will wish to see surf clubs become commercial venues. The loss of community lands also requires the concurrence of the NSW Governor.
- Operational land can be sold. Community land cannot.
- Alternatively, it may be the case that many in the community support any proposal to reclassify or subdivide and allow a more commercial kind of operation at the surf clubs.
- All of these reactions and community discussion are valid and to be listened to, and would need to go through the required planning process, Ministerial approvals and council decision making processes. What is worrisome is that over years Council has worked hard to improve relationships with the surf clubs to support a range of their needs. Proposals, reactions, media and behaviors that erode this relationship are difficult to manage.
10. The Gerringong Surf Club have a licence to occupy for 12 months and no development approval for upstairs use at all. Under the licence agreement the surf club has lodged a dispute with KMC. This is therefore a legal matter is best not discussed on public record until resolved between the parties.
11. Recommendation 10 asks for a lease agreement. It is noted all three surf clubs are currently not under a lease. Kiama has been issued a lease and is awaiting signature. Gerringong Surf Club's lease can only be drafted once a plan of management has been completed.

**Patrol Labour Cost for Surf Beach, Jones Beach and Werri Beach**

		Sat	Sun	PH
Sat 28-Sep		1		
Sun 29-Sep			1	
Sat 05-Oct		1		
Sun 06-Oct			1	
Mon 07-Oct	Labour Day			1
Sat 12-Oct		1		
Sun 13-Oct			1	
Sat 19-Oct		1		
Sun 20-Oct			1	
Sat 26-Oct		1		
Sun 27-Oct			1	
Sat 02-Nov		1		
Sun 03-Nov			1	
Sat 09-Nov		1		
Sun 10-Nov			1	
Sat 16-Nov		1		
Sun 17-Nov			1	
Sat 23-Nov		1		
Sun 24-Nov			1	
Sat 30-Nov		1		
Sun 01-Dec			1	
Sat 07-Dec		1		
Sun 08-Dec			1	
Sat 14-Dec		1		
Sun 15-Dec			1	
Sat 21-Dec		1		
Sun 22-Dec			1	
Wed 25-Dec	Christmas			1
Thu 26-Dec	Boxing			1
Sat 28-Dec		1		
Sun 29-Dec			1	
Wed 01-Jan	New Years			1
Sat 04-Jan		1		
Sun 05-Jan			1	
Sat 11-Jan		1		
Sun 12-Jan			1	
Sat 18-Jan		1		
Sun 19-Jan			1	
Sat 25-Jan		1		
Sun 26-Jan			1	
Mon 27-Jan	Australia Day			1
Sat 01-Feb		1		
Sun 02-Feb			1	
Sat 08-Feb		1		
Sun 09-Feb			1	
Sat 15-Feb		1		

Sun 16-Feb			1	
Sat 22-Feb		1		
Sun 23-Feb			1	
Sat 01-Mar		1		
Sun 02-Mar			1	
Sat 08-Mar		1		
Sun 09-Mar			1	
Sat 15-Mar		1		
Sun 16-Mar			1	
Sat 22-Mar		1		
Sun 23-Mar			1	
Sat 29-Mar		1		
Sun 30-Mar			1	
Sat 05-Apr		1		
Sun 06-Apr			1	
Sat 12-Apr		1		
Sun 13-Apr			1	
Fri 18-Apr	Friday			1
Sat 19-Apr				1
Sun 20-Apr				1
Mon 21-Apr	Monday			1
Fri 25-Apr	ANZAC			1
Sat 26-Apr		1		
Sun 27-Apr			1	
Frequency per season		30	30	10
Hours per lifeguard day (2 people x 8hrs each)		16	16	16
Lifeguard hourly rate	\$42	\$63	\$84	\$105.0
		\$30,240	\$40,320	\$16,800

\$87,360	Lifeguard salary
\$10,483	Super oncosts
\$8,736.0	Other oncosts
\$106,579	Total labour expense per beach
<b>\$319,737.60</b>	<b>Total labour expenses over 3 beaches</b>