

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 26/10/17 AT 9.00 AM**

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**Attendance**

Crs David Wright (Mayor - in the chair), Phillip Meehan, Sharon Parry, Jeff Johnson, Eoin Johnston, Stephen McCarthy, Nathan Willis, Keith Williams and Sharon Cadwallader.

Paul Hickey (General Manager), John Truman (Group Manager Civil Services), Andrew Smith (Acting Group Manager Development and Environmental Health), Steve Barnier (Group Manager Strategic and Community Facilities) and Sandra Bailey (Secretary) were in attendance.

There were 12 people in the gallery at this time.

**1. Australian National Anthem**

The National Anthem was performed by Rous Public School.

**2. Acknowledgement of Country**

In opening the meeting the Mayor provided an Acknowledgement of Country by reading the following statement on behalf of Council:

I would like to respectfully acknowledge past and present Bundjalung peoples who are the traditional custodians of the land on which this meeting takes place.

**3. Apologies**

An apology was received from Cr Ben Smith.

**261017/1 RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

That such apology be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

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**4. Confirmation of Minutes**

**261017/2        RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 September 2017.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**5. Declarations of Interest and Reportable Political Donations**

- **Cr Nathan Willis** – declared an interest in Item 9.1 – Alstonville Strategic Plan 2017 – 2037 – Project Completion. (Nature of Interest: significant pecuniary - concerns rezoning of his property in Wardell Road, Alstonville). He will be departing the meeting while the matter is discussed.
- **Paul Hickey, General Manager** – declared an interest in Item 9.6 – LEP Amendment Request – Skennars Head Expansion Area. (Nature of Interest: significant non pecuniary – a personal friend has been engaged by Intrapac). He will be remaining in the meeting for the deputation and departing the meeting while the matter is discussed.
- **Cr Stephen McCarthy** – declared an interest in Item 13.5 – Notice of Motion – Management of Indoor Sports Centre. (Nature of Interest: non significant, non pecuniary – he is a possible tenant of the indoor sports centre).
- **Cr Phillip Meehan** – declared an interest in Item 10.5 – Ballina Cup – Holiday Arrangements. (Nature of Interest: non significant, non pecuniary – he is a member of the Ballina Jockey Club). He will be remaining in the meeting while the matter is discussed and voting on the matter.
- **Cr Jeff Johnson** – later in the meeting declared an interest in Item 9.3 – Ballina and Alstonville Swimming Pools Redevelopment – Update. (Nature of Interest: significant, non pecuniary – particularly in relation to the discussion of solar – he is a solar system provider). He departed the meeting while the matter was discussed.

There were no reportable political donations.

**6. Deputations**

- **Sally Prendergast** – spoke in opposition to Item 9.1 – Alstonville Strategic Plan 2017-2037 Project Completion
- **Tony Phiffer** – spoke in favour of Item 13.5 – Notice of Motion – Management of Indoor Sports Centre.
- **David Bester** – spoke in favour of Item 9.2 – Killen Falls Management Plan – Finalisation and Adoption.

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- **Tony Hart, Intrapac Properties** – spoke in favour of Item 9.6 – LEP Amendment Request – Skennars Head Expansion Area.
- **Yvonne Haines** – spoke in opposition to Item 13.5 – Notice of Motion – Management of Indoor Sports Centre.
- **Marilyn Perkins** - spoke in favour of Item 9.1 – Alstonville Strategic Plan 2017-2037 Project Completion.
- **Rob Berry** – spoke in opposition to Item 8.2 – DA 2006/148 – Section 96AB review – 31-35 Cherry Street, Ballina.

**7. Mayoral Minutes**

Nil items.

Cr Nathan Willis declared an interest in Item 9.1 and left the meeting at 09:36 am.

**9.1 Alstonville Strategic Plan 2017 - 2037 Project Completion**

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Keith Williams

1. That Council adopts the Alstonville Planning and Environmental Study, as contained in Attachment 1.
2. That Council adopts the Alstonville Strategic Plan 2017 – 2037 with amendments as contained in Attachment 2.

An **Amendment** was moved by Cr Eoin Johnston and seconded by Cr Sharon Parry

1. That Council adopts the Alstonville Planning and Environmental Study, as contained in Attachment 1.
2. That Council adopts the Alstonville Strategic Plan 2017 - 2037, with the attachments as contained in Attachment 2, but providing:
  - (a) that residential density only be increased after the development of tighter planning controls on appropriate development within the Alstonville Village;
  - (b) that the town square be removed from the proposal;
  - (c) that further consideration be given to urban growth in appropriate areas such as along Teven Road, and other greenfield landholdings, which would increase the amenity and economic development of all residents without compromising the existing visual amenity; and that
  - (d) that strategic planning for the area concerning the Quarry and potential residential land adjacent to it be initiated without delay.

The Mayor advised that he could not accept the Amendment as he believed that points (a) to (d) were in direct contradiction to the adoption of the Plan in Point 1.

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A **Motion of Dissent** was moved by Cr Phillip Meehan and seconded by Cr Sharon Parry from the ruling of the Mayor, in not allowing what they believed to be a valid Amendment.

The **Motion of Dissent** was **LOST** on the casting vote of the Mayor

FOR VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Eoin Johnston and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson, Cr Stephen McCarthy and Cr Sharon Cadwallader and the casting vote of the Mayor

ABSENT. DID NOT VOTE - Cr Nathan Willis and Cr Ben Smith

The Amendment was not debated based on the ruling of the Mayor.

An **Amendment** was moved by Cr Eoin Johnston and seconded by Cr Stephen McCarthy

That the Alstonville Strategic Plan 2017-2037 be deferred.

The **Amendment** was **CARRIED**.

FOR VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Nathan Willis and Cr Ben Smith

The **Amendment** then became the **Motion** and was **CARRIED**.

FOR VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Nathan Willis and Cr Ben Smith

**261017/3            RESOLVED**

(Cr Eoin Johnston/Cr Stephen McCarthy)

That the Alstonville Strategic Plan 2017-2037 be deferred.

FOR VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Nathan Willis and Cr Ben Smith

Cr Nathan Willis returned to the meeting at 10:11 am.

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**13.5 Notice of Motion - Management of Indoor Sports Centre**

**261017/4          RESOLVED**

(Cr Jeff Johnson/Cr Sharon Parry)

That Council authorises the General Manager to undertake discussions with the NSW Police Citizens Youth Club and any other interested parties in respect to the potential management of the Ballina Indoor Sports Centre, and other Council facilities with the aim being to:

- Increase the range of programs available to the community
- Decrease operating costs for Council
- Decrease capital costs of the new Indoor Sports Centre for Council
- Minimise cost to users

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams  
AGAINST VOTE - Cr Stephen McCarthy and Cr Sharon Cadwallader  
ABSENT. DID NOT VOTE - Cr Ben Smith

**Adjournment**

The Mayor declared the meeting adjourned at 10.37 am

The meeting resumed at 11.00 am

**9.2 Killen Falls Management Plan - Finalisation and Adoption**

**261017/5          RESOLVED**

(Cr Jeff Johnson/Cr Sharon Parry)

1. That Council adopts the Killen Falls Management Plan as exhibited, subject to incorporation of the following amendments under Section 6 *Management Strategies and Actions*:

- Inclusion of actions addressing the following:
  - Provision of stickers or signage encouraging patrons not to litter (*Priority Action 1*).
  - Installation of bollards as part of landscaping near the front boundary of Lot 3 DP 251994 (*Priority Action 2*).
  - Completion of an updated assessment of the biodiversity values of the Council owned land adjacent to Killen Falls (*Priority Action 2*).
  - Revision of the Killen Falls Vegetation Restoration Plan, 2004 based on the updated assessment of the biodiversity values of the site (*Priority Action 2*).

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- Update of action cost estimates to reflect the information contained within Table 4 of this report.
2. That Council convey letters of appreciation to all key stakeholders for their active participation in the preparation of the draft management plan.
  3. That Council's Long Term Financial Plan be amended to reflect the Financial Plan for the implementation of this Management Plan, as per Table 8 of this report, subject to the public toilet not being constructed until Rous County Council contributes 50% of the cost, with the portable toilets to continue as currently occurs during the November to February period inclusive.
  4. That further consideration be given to a composting toilet.
  5. That the Local Traffic Committee give consideration to regulatory control in respect to the traffic/parking in that location (eg restriction of certain vehicle lengths).

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

Paul Hickey, General Manager, declared an interest in Item 9.6 and left the meeting at 11.23 am

**9.6 LEP Amendment Request - Skennars Head Expansion Area**

**261017/6          RESOLVED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council proceed to prepare a planning proposal relating to Lot 6 DP 1225206, located adjacent to The Coast Road Skennars Head on the basis of the following, and consistent with the details contained within this report:

- Application of the R3 Medium Density zone to parts of the site (excluding the south western most master lot).
- Relocation of the B1 Neighbourhood Centre zone on the site and expansion of its area up to 13,000m<sup>2</sup>, subject to the required information being received.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

Paul Hickey, General Manager, returned to the meeting at 11.27 am

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**8.2     DA 2006/148 - Section 96AB Review - 31-35 Cherry Street, Ballina  
**261017/7           RESOLVED****

(Cr Phillip Meehan/Cr Keith Williams)

That the Section 96AB Request for Review of the Determination of the application to modify development consent 2006/148 via Section 96(2) of the Environmental Planning and Assessment Act 1979 be supported and Council's determination of the Section 96(2) Application be changed to the grant of consent, with the following modifications:

New Condition

- 1.21    A revised plan of management is to be provided for the parking area to ensure satisfactory use and safety of the parking area. This plan is to include signage to advise of the parking area, mirrors to assist with safety exiting the parking area onto the public road, and ensuring access and spaces are allocated and available to the tenancies of the building. The quantum of car parking spaces allocated and available to each tenancy is to adhere to the supply rate calculated per tenancy, in accordance with Table 2.3 within Chapter 2 of the Ballina Shire DCP 2012. Details are to be submitted to and approved by Council prior to the closure of the security gates to the car parking area and payment of the car parking contributions for 17.18 car parking spaces as per condition 2.10 of this amended consent.

Amended Conditions

- 2.10.   Prior to the issue of the Construction Certificate for the development, total payment to Council of non-refundable monetary contributions is to be made towards the provision of public services and amenities, which are required as a result of the development. These contributions are required in accordance with s94 of the Environmental Planning & Assessment Act, 1979 and Council's adopted Contribution Plans.

The current amounts required are:

- \$62,687.00 for the provision of major shire wide road infrastructure, being for 942m<sup>2</sup> of retail floor area plus 1064m<sup>2</sup> of office floor area minus a credit for the existing service station development on site, in accordance with Plan No1: Ballina Road Contribution Plan.

- \$7,961.00 for the provision of planning and administration of section 94 funds, being at the rate of \$6.75 per m<sup>2</sup> of g.f.a minus a credit for the existing service station development on site, in accordance with Plan No.3: Section 94 Planning Studies and Administration.

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The development is also required to make a monetary car parking contribution under the provisions of the Ballina Shire Car Parking Contribution Plan 2014 for the equivalent of **17.18** car parking spaces, in lieu of providing publicly accessible car parking spaces within the car parking area on the second floor of the development. Refer to Schedule 1 within this amended consent for the contribution rates applicable at the time of the issue of this amended consent.

**The payment of the monetary car parking contribution is required to be paid prior to the closure of the security gates on Winton Lane, within a three month timeframe.**

These rates are reviewed periodically by Council and the contribution amounts will be calculated at the rate applicable at the time of payment. Copies of the Contribution Plans may be viewed at the Council Chambers, corner of Cherry and Tamar Streets, Ballina.

5.5. Car parking spaces

A minimum of 50 car parking spaces shall be provided and available at all times for parking purposes for the tenancies within the development.

5.6 Road dedication/Driveway closure - car parking requirement

A total of 65 car parking spaces would ordinarily be required to be provided for the development, however as part of the site was required for road widening purposes and also due to the closure of driveways adjoining the development site, a credit of 17.73 car parking spaces is given.

Deleted Conditions

2.21 A plan of management is to be provided for the parking area to ensure satisfactory use and safety of the parking area. This plan is to include signage to advise of the parking area, mirrors to assist with safety exiting the parking area onto the public road, and ensuring access and spaces are allocated and available to visitors. Details are to be submitted to and approved by Council prior to the issue of the Construction Certificate.

5.7 Parking signposting

Permanent signposting is to be erected in front of the development stating that visitor parking is available on the site. The car parking spaces shall be clearly designated and kept available for such purpose.



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New Schedule

Schedule 1

Contribution	Receipt Code	Contribution Unit	Rate per contribution Unit	Total Contribution Units Payable	TOTAL COST
Ballina CBD Car Parking Contribution 2014	4603	per car park not provided	\$26,793.00	17.1800	\$460,303.74

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams  
AGAINST VOTE - Cr Stephen McCarthy and Cr Sharon Cadwallader  
ABSENT. DID NOT VOTE - Cr Ben Smith

**8. Development and Environmental Health Group Reports**

**8.1 DA 2017/7 - Service Station 413-423 River Street, West Ballina**

**261017/8 RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

That Development Application 2017/7 for the construction of a service station with convenience store, car parking, signage and associated works at Lot 1 DP 543357, 413-423 River Street, West Ballina be **REFUSED** for the following reasons:

1. The proposed development conflicts with the functional area of the future Western Arterial as depicted in the Ballina Shire Roads Contribution Plan 2014.
2. The proposed development does not comply with Clause 8.3 of Chapter 6d of the Ballina DCP 2012 as it involves the provision of more than a single vehicular access point, and as a consequence, the proposed egress point will create a traffic conflict point with the Brampton Avenue merge into River Street and therefore causes a traffic safety and function issue.
3. The extent of impact on the Forest Redgum Endangered Ecological Community located on the development site is not being adequately offset, and therefore the development will have unreasonable environmental impacts.
4. The proposed development will directly impact on the Forest Redgum Endangered Ecological Community located on the neighbouring properties to the east and west, due to the impact on root disturbance resulting from the proposed works.

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5. The proposed stormwater discharge point will result in an unacceptable impact on the adjacent Saltmarsh Endangered Ecological Community habitat and will ultimately cause a decline in the ecological value of the saltmarsh.
6. The design of the development does not incorporate a 10 metre wide vegetated buffer to the eastern property boundary, as required by Section 8.3 of Chapter 6d of the Ballina DCP 2012, and as a consequence results in unreasonable impacts on the adjacent Forest Redgum Endangered Ecological Community.
7. The proposed development does not demonstrate a net environmental benefit or a long term net benefit to the operation and retention of the wildlife corridor. The proposed development therefore does not meet the objectives or satisfy the development controls specified in Section 3.3 Chapter 2 of the Ballina DCP 2012.
8. The proposed development is inconsistent with the aims of SEPP 71 and the matters for consideration set out in Clause 8 of the plan, in relation to the suitability of development given its type, location and design and its relationship with the surrounding area, its impact on the wildlife corridor, adjacent Saltmarsh Endangered Ecological Community habitat, fish habitat, and the Forest Redgum Endangered Ecological Community located on, and adjoining, the site.
9. The proposed development will have an adverse impact on native vegetation, being the Forest Redgum Endangered Ecological Community located on, and adjoining, the site, and the adjacent Saltmarsh Endangered Ecological Community, and is therefore inconsistent with the provision of Clauses 12, 14(1)(a), 14(1)(d), and 15(b) of the Draft Coastal Management SEPP 2016.
10. The proposed development is inconsistent with Clause 5.5(b) of the Ballina Local Environmental Plan 2012 in relation to suitability of development given its type, location and design and its relationship with the surrounding area, its impact on the wildlife corridor, and the Forest Redgum Endangered Ecological Community located on, and adjoining, the site.
11. The proposal is inconsistent with the principles of ecologically sustainable development.
12. The design of the development does not have adequate regard for the constraints of the site, including environmental sensitives and the existing and proposed traffic network.
13. The site attributes are not considered to be conducive to the proposed development.

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14. The cumulative impacts of the proposed development on the environment are considered to be unreasonable, in this instance.

15. For the reasons outlined above, approval of the application is not considered to be in the public interest.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

**8.3 DA 2017/420 - Height Variation - 14 Suvla Street, East Ballina**

**261017/9          RESOLVED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That the application to vary the Ballina Local Environmental Plan 2012 Development Standard Clause 4.3 – Height of Buildings for DA 2017/420 for the proposed building as depicted in the plans prepared by Barker Studio dated 31 May, 2017 as attached to this report be **APPROVED**, for the reasons outlined in this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

**8.4 Development Applications – Variation to Development Standards**

**261017/10        RESOLVED**

(Cr Keith Williams/Cr Sharon Cadwallader)

That Council notes the contents of this report on the development applications approved under delegation for variations to development standards less than 10% for September 2017.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

**8.5 Development Consent and Infrastructure Approvals - September 2017**

**261017/11        RESOLVED**

(Cr Keith Williams/Cr Sharon Cadwallader)

That Council notes the contents of the report on development consent and public infrastructure approvals for 1 September 2017 to 30 September 2017.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

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**8.6 Development Applications - Works in Progress - October 2017**

**261017/12      RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of the report on the status of outstanding development applications for October 2017.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

**9.      Strategic and Community Facilities Group Reports**

Cr Jeff Johnson – at this stage, declared a significant, non pecuniary interest in Item 9.3, particularly when discussing solar. – he is a solar system provider. He left the meeting at 11:51 am.

**9.3 Ballina and Alstonville Swimming Pools Redevelopment - Update**

**261017/13      RESOLVED**

(Cr Eoin Johnston/Cr Sharon Cadwallader)

1. That Council notes the contents of this report on the Ballina and Alstonville Swimming Pools redevelopment.
2. That Council authorises a budget variation of \$520,000 for the essential power upgrades, the inclusion of solar and the other additions and improvements as identified in this report.
3. The funding for these works is to be secured from loan borrowings.
4. That Council receive a report on options to reduce the magnitude of the forecast General Fund working capital deficits as per the Long Term Financial Plan.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Ben Smith

Cr Jeff Johnson returned to the meeting at 12:02 pm.

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**9.4 Economic Development Strategy - Public Exhibition**

**261017/14      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council endorses the Draft Ballina Shire Economic Development Strategy, as attached to this report, for public exhibition.
2. The exhibition material is to include financial information based on Table Two of this report, with that summary to clearly outline which actions in the Strategy can be funded from Council's existing financial resources and which items are aspirational.
3. This is subject to the Investment Prospectus (C4) being brought forward to the current financial year with the General Manager being authorised to fund this from corporate budgets, if possible.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**10.6 Annual Financial Statements - 2016/17**

Kevin Franey from Thomas Noble & Russell, made a presentation to Council.

**261017/15      RESOLVED**

(Cr Nathan Willis/Cr Sharon Parry)

1. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, by the Mayor, one Councillor, the General Manager and the Responsible Accounting Officer.
2. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2017, as attached to this report, for public comment.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

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**9.5 Planning Proposal - Visions Estate, Henderson Drive, Lennox Head**

**261017/16      RESOLVED**

(Cr Sharon Cadwallader/Cr Phillip Meehan)

1. That Council endorses the amendment of the Ballina Local Environmental Plan 2012 to rezone part Lot 7 DP 1216761 and part Lot 1 DP 1217906, Henderson Drive, Lennox Head and part of the adjacent Henderson Drive road reserve to apply an R2 Low Density Residential zone as detailed in Planning Proposal BSCPP 17/007.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 17/007 under delegated authority subject to:
  - confirmation of the agreement of the Secretary of the Department of Planning and Environment with respect to identified inconsistencies with S.117 Ministerial Directions.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**9.7 LEP Amendments and Planning Proposals - Status**

**261017/17      RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council notes the contents of this report concerning the status and approach regarding the current LEP amendment requests and planning proposals that are being processed.
2. That Council write to the NSW Department of Planning and Environment requesting that Planning Proposal BSCPP 16/002 relating to land in the vicinity of Stoneyhurst Drive, Lennox Head be discontinued, based on advice received by Council from the respective landowners' planning consultant.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

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**9.8 Ballina Shire Development Control Plan 2012 - Amendment No. 11**

**261017/18      RESOLVED**

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts Draft Amendment No. 11 to the Ballina Shire Development Control Plan 2012 as exhibited for public comment, inclusive of the following changes to Chapter 7 Rural Living and Activity:
  - a) Clause 3.1.3 Element E – Expanded Dwellings:
    - Rewording of proposed dot point 6 to read “No outbuildings are to contain cooking facilities”.
    - Rewording of proposed dot point 9 to read “No separate driveway is to be provided to service any outbuilding”.
  - b) Clause 3.1.3 Element F – Dual Occupancies:
    - Retention of the existing provisions relating to attached dual occupancy (this means the DCP will include provisions for both attached and detached dual occupancy to address the two forms of dual occupancy development).
    - Inclusion of a note that addresses dual occupancy with respect to the Ballina LEP 2012 and Ballina LEP 1987 for explanatory purposes.
    - Retention of the existing wording in the ‘Notes’ section that refers to the separation measurements between dwellings and structures.
  - c) Clause 3.1.3 Element G – Water Supply:
    - Adjustment of the wording of (ii) to clarify the requirement for provision of an additional water source (or sources) in association with rural dwellings as required under *Planning for Bushfire Protection*.
  - d) That Council provide a copy of Ballina Shire Development Control Plan 2012, once amended, to the NSW Department of Planning and Environment as required by the Environmental Planning and Assessment Regulation.
  - e) That Council provide public notice of the adoption of Ballina Shire Development Control Plan Amendment No. 11, with the amended DCP taking effect on 13 November 2017.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

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**10. General Manager's Group Reports**

**10.1 Use of Council Seal**

**261017/19 RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council affix the Common Seal to the following documents.

US17/22	All Waterways licences issued in accordance with the Private Structures Within Council Owned (Public) Waterways Policy for the Council owned waterways of Quays Canals, Banyanda Lake and Endeavour Lake
US17/23	Assignment of Lease & Variation of Lease – JE's Supermarkets Pty Ltd to LGSS Pty Ltd – Shop 7 Wigmore Arcade Ballina

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**10.2 Investment Summary - September 2017**

**261017/20 RESOLVED**

(Cr Keith Williams/Cr Nathan Willis)

That Council notes the record of banking and investments for September 2017.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**10.3 Disclosure of Interest Returns**

**261017/21 RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2016 to 30 June 2017.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith



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**10.4 Councillor Expenses - Claim**

**261017/22      RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council authorises the \$50 claim for expenses from Cr Parry, in excess of the three month timeframe, as per the contents of this report.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**10.5 Ballina Cup - Holiday Arrangements**

**261017/23      RESOLVED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council confirms its support for the declaration of a Local Event Day throughout the Ballina Shire for Thursday 6 September 2018 and Thursday 5 September 2019 for the Ballina Cup, with the General Manager authorised to make an application to the NSW State Government for this declaration.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**10.7 Delivery Program and Operational Plan - 30 September 2017 Review**

**261017/24      RESOLVED**

(Cr Nathan Willis/Cr Sharon Cadwallader)

That Council notes the content of this report in respect to the implementation of the 2017/18 Delivery Program and Operational Plan.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

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**10.8 Capital Expenditure Program - 30 September 2017 Review**

**261017/25 RESOLVED**

(Cr Keith Williams/Cr Nathan Willis)

1. That Council notes the contents of this status report on the Capital Expenditure Program for the 2017/18 financial year.
2. That Council approves the following budget amendments as outlined in the attachments to this report:

Item	Current Budget	Revised Budget	Variation	Comment
<b>Waste Management</b>				
DWM Vehicles	1,533,000	0	(1,533,000)	Transfer adjustment to 2018/19
Conveyor System/Shed	300,000	0	(300,000)	Transfer budgets to reserve – works under review – subject to further report
Resource Recovery	209,000	0	(209,000)	
Stockpile Processing	56,000	0	(56,000)	
<b>Operations Support</b>				
Depot No 1	278,200	28,200	(250,000)	Transfer to reserve – works under review
Ballina Indoor Sports Centre	3,332,000	1,000,000	(2,332,000)	Transfer adjustment to 2018/19
Quarries – Road Extension	78,800	0	(78,800)	Transfer to reserve until funds required
<b>Property – Commercial</b>				
Airport – Terminal Expansion	6,400,000	3,400,000	(3,000,000)	Transfer adjustment to 2018/19
Southern Cross Industrial Estate	2,500,000	500,000	(2,000,000)	Transfer adjustment to 2018/19
<b>Water</b>				
Main Renewals	634,000	311,600	(332,400)	Budget saving
Reservoir - Ross Lane	500,000	0	(500,000)	Transfer adjustment to 2018/19
Reservoir - Access Upgrades	400,000	200,000	(200,000)	Budget saving
Water Pressure Management Zones	600,000	50,000	(550,000)	Budget saving
Wollongbar - Booster	662,000	362,000	(300,000)	Budget saving
East Ballina – Booster	700,800	1,723,200	1,022,400	Budget increase
Pressure Reduction Valves	150,000	20,000	(130,000)	Transfer adjustment to 2018/19
Pine Avenue Distribution Main	25,000	0	(25,000)	Budget saving
Treatment Plan – Marom Creek	668,000	30,000	(638,000)	Transfer adjustment to 2018/19
<b>Wastewater</b>				
Treatment Plant – Security	10,000	0	(10,000)	Transfer adjustment to 2018/19
Lennox – Decanters	100,000	0	(100,000)	Transfer adjustment to 2018/19
Treatment Plant – Ballina	127,200	27,200	(100,000)	Budget saving
Treatment Plant – Alstonville	315,000	50,000	(265,000)	Budget saving
Trunk Mains – WUEA	110,000	10,000	(100,000)	Budget saving
<b>Engineering Works – Stormwater</b>				
Stormwater Asset Data Collection	61,000	0	(61,000)	Transfer to reserve
Megan Crescent / Dodge Lane	0	22,000	22,000	Transfer from urban lane improvements

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Kerr Street	120,000	20,000	(100,000)	Transfer to reserve
Urban Lane Improvements	22,000	0	(22,000)	Transfer to Megan Crescent
Grant Street (Tamar to River St), Ballina	80,000	20,000	(60,000)	Transfer to reserve
Tidal Gates to Urban Streets	21,000	0	(21,000)	Transfer to reserve
<b>Engineering Works – Roads and Bridges</b>				
Grant Street, Ballina	457,500	426,500	(31,000)	Saving
Airport Boulevard	7,000,000	100,000	(6,900,000)	Transfer adjustment to 2018/19
Lake Ainsworth – Eastern	773,600	53,600	(720,000)	Transfer to reserve until works approved to commence
Lake Ainsworth – Southern	900,000	0	(900,000)	
Hutley Drive, Elevation Estate	239,900	0	(239,900)	Transfer to reserve
Cherry Street, Ballina	250,000	100,000	(150,000)	Transfer adjustment to 2018/19
Northumberland Ave	320,000	5,000	(315,000)	Transfer adjustment to 2018/19
Cumbalum Widening	0	27,400	27,400	Fund from Ballina Bypass reserve
Teven Road	257,300	0	(257,300)	Transfer adjustment to 2018/19
Marom Creek	601,700	566,400	(35,300)	Transfer to Nashua Rd
Nashua Road	0	35,300	35,300	Transfer from Marom Ck
Wardell Road	350,000	0	(350,000)	Transfer adjustment to 2018/19
The Coast Road	0	1,992,000	1,992,000	Grant funded project
Maguires Bridge	45,900	0	(45,900)	Transfer to reserve
<b>Engineering Works – Shared Paths and Footpaths</b>				
Shared Path – Angels to Sharpes	95,900	40,000	(45,900)	Transfer to reserve
Sneaths Road	92,000	112,000	20,000	Transfer from Burnett St
Chickiba Drive – Refuge	25,000	0	(25,000)	Transfer to reserve
Burnett Street	147,000	127,000	(20,000)	Transfer to Sneaths Rd
Wardell Boardwalk	31,000	31,000	31,000	Transfer from reserve

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

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**11. Civil Services Group Reports**

**11.1 Tender - Supply and Delivery of Pre-Mixed Concrete**

**261017/26 RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council accepts the tenders of Nucon Concrete P/L, Holcim (Australia) P/L and Hanson Construction Materials P/L as preferred contractors for the supply of pre-mixed concrete for the revised period to 30 June 2019, with the preferred supplier for each order determined by an assessment undertaken by staff having regard to cost and program requirements applicable at the time of the order.
2. That the contractor performance and market conditions be reviewed after the first two years and a call for fresh tenders to be made if this is determined to be favourable to Council.
3. In the event point two above is not preferred, then in accordance with the revised terms of the Contract, the General Manager is authorised to extend the contract period to 30 June 2020, if that arrangement is to the best advantage of Council.
4. That Council authorises the Council seal to be attached to the contract documents.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

**11.2 Ballina Wastewater Treatment Plant - Contract Update**

**261017/27 RESOLVED**

(Cr Nathan Willis/Cr Eoin Johnston)

That Council notes the contents of this open Council report in respect to the Expert Determination for the West Ballina Wastewater Treatment Plant contract dispute.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

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**12. Public Question Time**

**12.1 Indoor Sporting Complex - Management**

**Kirk Trease, President of Ballina RSL Youth Club** – Will the Council please consider consulting the RSL Youth Club while they consider options for management of the sporting complex. The Club currently employs 30 local youth on a casual basis.

The Mayor advised that the matter had been dealt with earlier in the meeting.

Paul Hickey advised that we will make sure we consult with the Club.

**12.2 Unauthorised Development - 1468 Eltham Road, Tuckombil**

**Monica van den Nieuwenhof** – spoke in relation to unauthorised development at 1468 Eltham Road, Tuckombil and to an event which allegedly occurred the evening before. Why does under Item 8.6 on your agenda today (Development Applications – Works in Progress) not show the outstanding and unresolved development. Why does this development not appear in the section of your agenda today?

Andrew Smith advised that the listing in the agenda relates to current Development Applications under consideration. There is not a current Development Application for the property currently under consideration. In light of the information presented today about an event last night, we will need to investigate.

**Monica van den Nieuwenhof** - Once Council is aware of unlawful activities and in particular to an increase in traffic passing over a bridge, does Council check engineering standards for that bridge? What is Council's duty of care in advising the public that they might not be insured if there is an accident?

Andrew Smith advised that there is no approval for that land for functions or events on that property. Council has been investigating this matter for some time and Council has issued orders in relation to that property. Council hasn't received any further complaints from property owners, except this one from an event last night. The bridge referred to is on a private road, not a public road.

**12.3 Street Sweeper - Wenga Drive**

**Monica van den Nieuwenhof** - How often does Council come to Wenga Drive to sweep the gutters? There is a lot of leaf litter from recent storm activity blocking the drains.

John Truman will take that question on notice.

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**13. Notices of Motion**

**13.1 Notice of Motion - Social Plan**

**261017/28      RESOLVED**

(Cr Nathan Willis/Cr Keith Williams)

1. That Council receive a report on the benefits and estimated costs of preparing an updated Social Plan, or similar document, for the Ballina Shire, as part of the 2018/19 Operational Plan.
2. This report is to include input from government agencies, and other councils where possible, on the merits and options of local government and other levels of government working together through a document / strategy such as a Social Plan to deliver improved social outcomes for the local community.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**13.2 Notice of Motion - Permanent Firefighters for Ballina**

**261017/29      RESOLVED**

(Cr Nathan Willis/Cr Keith Williams)

1. That Council acknowledges the recently received letter from the Minister for Emergency Services ('the Minister') in response to Council's representations for permanent full-time firefighters in Ballina.
2. That Council continues to call on the NSW Government to provide permanent full-time firefighters in addition to the retained firefighters in recognition of the growth in our Shire.
3. That Council seek a meeting with the Minister during the upcoming LGNSW Conference and delegates any interested Councillors in Sydney for the LGNSW Conference to meet with the Minister and advocate the position of Council in relation to this matter, unless a meeting can be arranged locally.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams  
AGAINST VOTE - Cr Stephen McCarthy and Cr Sharon Cadwallader  
ABSENT. DID NOT VOTE - Cr Ben Smith

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**13.3 Notice of Motion - Disposal of Large Marine Animal Carcasses**

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Eoin Johnston

1. That Council write to the NSW Government with a request for the Government to review the procedure to manage marine carcasses on beaches in Ballina.
2. That Council not support burying of carcasses on Ballina Shire beaches and that Council write to Byron and Richmond Valley councils requesting their support for a similar approach.

An **Amendment** was moved by Cr Phillip Meehan and seconded by Cr Jeff Johnson

That Council write to the NSW Government requesting that the burying of marine carcasses not be carried out on beaches in Ballina, Byron and Richmond Valley Shire areas.

The **Amendment** was **LOST**.

FOR VOTE - Cr Phillip Meehan

AGAINST VOTE - Cr David Wright, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Ben Smith

The **Motion** was **CARRIED**.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

**261017/30      RESOLVED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

1. That Council write to the NSW Government with a request for the Government to review the procedure to manage marine carcasses on beaches in Ballina.
2. That Council not support burying of carcasses on Ballina Shire beaches and that Council write to Byron and Richmond Valley councils requesting their support for a similar approach.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

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**13.4 Notice of Motion - North Creek and Shaws Bay Dredging**

**261017/31      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council write to the Minister for Lands requesting a meeting in regards to Council's requests for financial assistance to support the North Creek and Shaws Bay Dredging Project's environmental approval and project feasibility investigations.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**14. Advisory Committee Minutes**

Nil Items

**15. Reports from Councillors on Attendance on Council's behalf**

**15.1 Mayoral Meetings**

**261017/32      RESOLVED**

(Cr Eoin Johnston/Cr Nathan Willis)

That Council notes the contents of the report on Mayoral meetings.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

**16. Confidential Session**

**261017/33      RESOLVED**

(Cr Nathan Willis/Cr Keith Williams)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following items in accordance with Section 10A(2) of the Local Government Act 1993.

**16.1 Ballina Wastewater Treatment Plant - Contract Update**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993. which permits the meeting to be closed to the public for business relating to the following:-



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- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as this report provides advice concerning possible litigation.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

(The Council moved into Confidential Session at 1.36 pm).

**Open Council**

**261017/34      RESOLVED**

(Cr Nathan Willis/Cr Sharon Cadwallader)

That Council move into Open Council and out of Committee of the Whole.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

(The Council moved into Open Council at 1.39 pm).

The General Manager reported to the Open Meeting the recommendation made while in Confidential Session:

**16.1      Ballina Wastewater Treatment Plant - Contract Update**

**CF261017/1      RECOMMENDED**

(Cr Keith Williams/Cr Nathan Willis)

That Council notes the confidential information in respect to the Expert Determination for the West Ballina Wastewater Treatment Plant contract dispute.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Ben Smith

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**Adoption of Recommendation from Confidential Session**

**261017/35      RESOLVED**

(Cr Nathan Willis/Cr Sharon Cadwallader)

That the recommendation made whilst in Confidential Session, be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Ben Smith

**MEETING CLOSURE**

1.42 pm

The Minutes of the Ordinary Meeting held on 26/10/17 were submitted for confirmation by council on 23 November 2017 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 23 November 2017.