

**MINUTES OF THE COMMERCIAL SERVICES COMMITTEE MEETING
OF THE BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET, BALLINA,
ON 4/12/18 AT 4.00 PM**

Attendance

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

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Steve Barnier (Strategic and Community Facilities Group Manager), Paul Tsikleas (Manager Commercial Services), Leanne Harding (Coordinator Property and Airport Administration) and Sandra Bailey (Secretary) were in attendance.

Clarissa Huegill, from CH Law was also in attendance

There was one staff member in the gallery at this time.

1. Apologies

Apologies were received from Cr Sharon Parry, Cr Ben Smith and Cr Jeff Johnson.

RECOMMENDATION

(Cr Keith Williams/Cr Sharon Cadwallader)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

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

2. Declarations of Interest

Nil

3. Deputations

Nil

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4. Committee Reports

4.1 Community Gallery - Use of Former Ballina Fire Station

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council endorses the retention of the former Ballina Fire Station as part of the NRCG facilities to operate as 'Ignite Studios @ NRCG'.
2. That Council notes the situation relating to the land title of the former Ballina Fire Station and supports the General Manager to continue to take all steps necessary to have the NSW Government rectify the anomaly.

FOR VOTE - All Councillors voted unanimously.

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

4.2 Former Tintenbar Council Chambers - Sublease of Area 2

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report in regards to a new sub-lease for Tenancy Area 2, Former Tintenbar Council Chambers, 2 High Street, Alstonville.

FOR VOTE - All Councillors voted unanimously.

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

4.3 54 North Creek Road, Ballina - Sale Contract Amendment

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report regarding a sale contract amendment for 54 North Creek Road, Ballina.

FOR VOTE - All Councillors voted unanimously.

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

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4.4 North Creek Road Lennox Head - Proposal to Lease Community Land

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council authorises the General Manager to undertake the relevant process for granting a long term commercial lease or licence to Telstra over a portion of Lot 11 DP 627149, North Creek Road, Lennox Head. This would include undertaking community consultation for the proposed lease of community land under Section 47 of the *Local Government Act 1993*.
2. At the conclusion of the community consultation process the matter be reported back to Council.

FOR VOTE - All Councillors voted unanimously.

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

4.5 Ballina Byron Gateway Airport - Retail Lease Proposal

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report in regards to a proposed new retail lease for the Ballina Byron Gateway Airport Terminal.

FOR VOTE - All Councillors voted unanimously.

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

4.6 Kentwell Community Centre, Ballina - Leasing Proposals

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report on the leasing of the Kentwell Community Centre.

FOR VOTE - All Councillors voted unanimously.

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

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4.7 Shellys on the Beach - Lease Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council notes the contents of this report in respect to an update on the Shellys on the Beach lease.

FOR VOTE - All Councillors voted unanimously.

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

5. Confidential Session

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

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.

5.2 54 North Creek Road, Ballina - Sale Contract Amendment

Reason for Confidentiality

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

- 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

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 the open meeting discussion could prejudice Council's commercial negotiations.

5.3 North Creek Road Lennox Head - Proposal to Lease Community Land

Reason for Confidentiality

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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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 due to the ongoing commercial negotiations and the release of any information that could prejudice those negotiations.

5.4 Ballina Byron Gateway Airport - Retail Lease Proposal

Reason for Confidentiality

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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 due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

5.5 Kentwell Community Centre - Leasing Proposals

Reason for Confidentiality

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

- c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business

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 due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

5.6 Shellys on the Beach - Leasing Update

Reason for Confidentiality

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

- 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

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 commercial leasing matters and confidential legal advice are to be discussed.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

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(The Council moved into Confidential Session at 4.17 pm).

Open Council

RECOMMENDATION

(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 Sharon Parry, Cr Jeff Johnson and Cr Ben Smith

(The Council moved into Open Council at 4.59 pm).

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

5.6 Shellys on the Beach - Leasing Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That consistent with Council's legal advice, the General Manager is authorised to terminate registered lease number AF808187Y to Fishheads@Byron Pty Ltd over Lot 3 DP 1205999 in accordance with Section 36 (1)(c) of the NSW Retail Leases Act 1994, and to affix the Council seal to all relevant documentation.
2. Upon finalisation of termination of the lease with Fishheads@Byron Pty Ltd, the Council is to call for expression of interests from experienced operators to lease Lot 3 DP 1205999 and construct and operate a café.

FOR VOTE - All Councillors voted unanimously.

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

5.1 Former Tintenbar Council Chambers - Sublease of Area 2 - Details

RECOMMENDATION

(Cr Nathan Willis/Cr Keith Williams)

1. That Council adopts option one and grants a sublease to Charmonne Pty Ltd for Tenancy Area 2 in the former Tintenbar Council Chambers, 2 High Street, Alstonville based upon the terms and conditions outlined in this report.

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2. That Council authorises the General Manger to finalise negotiations and execute all relevant sublease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

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

5.2 54 North Creek Road, Ballina - Sale Contract Amendment

RECOMMENDATION

(Cr Keith Williams/Cr Nathan Willis)

1. That Council adopts option one and rescinds the sales contract for Lot 4 to RJ and JM Pidcock and reissues it in the names of Paul Richmond Pidcock and Liza Gai Pidcock on the same terms and conditions as outlined in this report.
2. That Council authorises the Council seal to be attached to the sale contracts as per point one.

FOR VOTE - All Councillors voted unanimously.

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

5.3 North Creek Road Lennox Head - Proposal to Lease Community Land

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council notes the contents of this report and confirms that the latest offer from Telstra is below Council's market value based on similar leases.
2. That Council authorises the General Manager to continue negotiations for an increased lease rental, with any agreement subject to Council approval, and the outcomes of the community land consultation process.

FOR VOTE - All Councillors voted unanimously.

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

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5.4 Ballina Byron Gateway Airport - Retail Lease Proposal

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council accepts the leasing proposal negotiated with Lagadere Retail (Newslink Pty Ltd) for the new retail tenancy in the Ballina Byron Gateway Airport terminal, as detailed in this report.
2. The General Manager is authorised to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

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

5.5 Kentwell Community Centre - Leasing Proposals

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Phillip Meehan

1. That Council accepts the leasing proposal from The Family Centre.
2. That the proposed lease be publically notified in accordance with the requirements of Section 47 and/or 47A of the Community Land Provisions of the Local Government Act 1993.
3. That should no written objections be received during the notification period, the General Manager be authorized to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same in accordance with the terms of the Local Government Act 1993 and associated Regulation.
4. That Council receive a report on expanding the Kentwell Centre to facilitate more community groups.

The **Motion** was **LOST**.

FOR VOTE - Cr Phillip Meehan, Cr Stephen McCarthy and Cr Sharon Cadwallader

AGAINST VOTE - Cr David Wright, Cr Eoin Johnston, Cr Nathan Willis and Cr Keith Williams

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

RECOMMENDATION

(Cr Nathan Willis/Cr Keith Williams)

1. That to maximise the range of services offered from the Kentwell Community Centre, Council accepts the leasing proposals from Tweed Byron Ballina Community Transport and CPL as outlined in this report.

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2. That the proposed leases to Tweed Byron Ballina Community Transport and CPL be publically notified in accordance with the requirements of Section 47 and/or 47A of the Community Land Provisions of the Local Government Act 1993.
3. That should no written objections be received during the notification period, the General Manager be authorized to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same in accordance with the terms of the Local Government Act 1993 and associated Regulation.
4. That Council call for expressions of interest for the space to be vacated by Tweed Byron Ballina Community Transport once their new lease commences.

FOR VOTE - Cr David Wright, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr Phillip Meehan and Cr Sharon Cadwallader

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

Adoption of Recommendations from Confidential Session

RECOMMENDATION

(Cr Keith Williams/Cr Nathan Willis)

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

FOR VOTE - All Councillors voted unanimously.

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

MEETING CLOSURE

5.01 PM