

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 26/08/21 AT 9.00AM**

Attendance

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

John Truman (Director, Civil Services Division – via Zoom), Matthew Wood (Director, Planning and Environmental Health Division – via Zoom), Kelly Brown (Director, Corporate and Community Division) and Sandra Bailey (Secretary) were in attendance.

There were no people in the gallery at this time.

1. Australian National Anthem

The National Anthem was played.

2. Acknowledgement of Country

In opening the meeting the Mayor provided an Acknowledgement of Country.

3. Apologies

Apologies were received from Cr Nathan Willis and Paul Hickey, General Manager.

260821/1 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That such apology be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

4. Confirmation of Minutes

260821/2 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 July 2021.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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5. Declarations of Interest and Reportable Political Donations

There were no declarations of interest or reportable political donations.

6. Deputations

- **Rick Coles** (via Zoom) – spoke in opposition to Item 8.1 – Planning Proposal – Reservoir Hill, 20 North Creek Road, Lennox Head.
- **Richard Barry, Urbis** (via Zoom) - spoke in favour of Item 8.1 – Planning Proposal – Reservoir Hill, 20 North Creek Road, Lennox Head.
- **Bianca Urbina** (via Zoom) – spoke in opposition to Item 11.1 – Notice of Motion – All Things Water.
- **Phillip Silver** (via Zoom) – spoke in favour of Item 11.1 – Notice of Motion – All Things Water.
- **Kerren Kernaghan** (via Zoom) – spoke in favour of Item 11.2 – Notice of Motion – Lennox Head Public School.
- **Denis Magnay and Dennis Corrigan, Ballina Shire Southern Beaches Users Club Inc** – provided a letter which was read to the meeting by the Mayor as their deputation in favour of Item 11.5 – Notice of Motion – Software to Monitor 4WD Movements on Beaches.

7. Mayoral Minutes

7.1 Mayoral Minute - Infrastructure Contributions Reforms

260821/3 RESOLVED

(Cr David Wright)

1. That Council calls on the NSW Government to withdraw the Environmental Planning and Assessment Amendment (Infrastructure Contributions) Bill 2021 (the Bill) from the NSW Parliament.
2. That Council calls on the NSW Government to undertake further consultation with the local government sector on any proposed reforms to the infrastructure contributions system.
3. That Council calls on the NSW Government to de-couple the Independent Pricing and Regulatory Tribunal led review of the rate peg to include population growth from the infrastructure contributions reforms.
4. That Council write to the local State Member, the Premier the Hon Gladys Berejiklian MP, Treasurer the Hon Dominic Perrottet MP, Minister for Planning and Public Spaces the Hon Rob Stokes MP and Minister for Local Government the Hon Shelley Hancock MP seeking them to withdraw the Bill.

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5. That Council write to the Shadow Treasurer the Hon Daniel Mookhey MLC, Shadow Minister for Planning and Public Spaces Mr Paul Scully MP, Shadow Minister for Local Government Mr Greg Warren MP, The Greens Mr David Shoebridge MLC, Shooters, Fishers and Farmers Party the Hon Robert Borsak MLC, Pauline Hanson's One Nation the Hon Mark Latham MLC, Animal Justice Party the Hon Emma Hurst MLC, Christian Democratic Party (Fred Nile Group) the Hon Fred Nile MLC, Independent Mr Justin Field, Portfolio Committee Chair The Greens Ms Cate Faehmann, Portfolio Committee Deputy Chair Animal Justice Party the Hon Mark Pearson MLC and Committee members Liberal Party the Hon Catherine Cusack MLC and the Hon Shayne Mallard MLC, The Nationals the Hon Ben Franklin MLC and Australian Labor Party the Hon Rose Jackson MLC and the Hon Adam Searle MLC seeking their support in securing the withdrawal of the Bill from the NSW Parliament and outlining council's concerns with the Bill.

6. That Council affirms its support to LGNSW and requests LGNSW continue advocating on our behalf to protect local government from any amendments to infrastructure contributions which leaves councils and communities exposed to expending ratepayer funds on new infrastructure made necessary by new development, currently the responsibility of developers.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

8. Planning and Environmental Health Division Reports

8.1 Planning Proposal - Reservoir Hill, 20 North Creek Road Lennox Head

260821/4 RESOLVED

(Cr Ben Smith/Cr Phillip Meehan)

1. That Council endorses the amendments to the Ballina Local Environmental Plan 2012 as outlined in Planning Proposal BSCPP 18/004 relating to Lot 1 DP 517111, 20 North Creek Road, Lennox Head, as detailed in Attachment 2 to this report (including the recommended changes as outlined in this report).

2. That Council requests that the NSW Department of Planning, Industry and Environment complete the LEP amendment process.

3. That Council authorises the General Manager to finalise the LEP amendment under delegation, should the Department of Planning, Industry and Environment defer the matter back to Council.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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11.1 Notice of Motion - All Things Water

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

That Council write to the Minister for Water, The Hon Melinda Pavey MP and Deputy Premier The Hon. John Barilaro to highlight the need for an independent scientific research organisation that would examine all aspects relating to water in our Richmond/Wilsons River catchment area, including Water Security, Flood Mitigation, Water Quality and River Health and the potential economic development opportunities and other benefits that would flow from the research.

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

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

Adjournment

The Mayor declared the meeting adjourned at 10.27am

The meeting resumed at 10.45am

11.2 Notice of Motion - Lennox Head Public School

260821/5 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council write to the Minister for Education, The Hon Sarah Mitchell seeking a briefing from the Department of Education in respect to the status of the Lennox Head Public School expansion.
2. That Council also be briefed on the Department's future planning for the Ballina Shire so as to assist Council in the long-term planning based on current and forecast population estimates.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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11.5 Notice of Motion - Software to Monitor 4WD Movements on Beaches

260821/6 RESOLVED

(Cr Stephen McCarthy/Cr Jeff Johnson)

1. That Council write to the Minister for Water, Property and Housing, the Hon Melinda Pavey, the Hon Ben Franklin and the Hon Tamara Smith seeking State Government support to assist in the development of a software application that would monitor 4WD movements on crown reserves and other public land. The development of such an app would then assist in the potential re-opening of areas such as South Ballina Beach to 4WD movements.

2. The application must have ability to:
 - Integrate with individual local council and or managing bodies to be accessed and monitored remotely (live streamed)
 - Integrate with GPS so as the user can be notified of speed and locations of vehicle exclusion zones
 - Control limitations of vehicles via a booking system
 - The application must be capable of collecting fees eg. permits where applicable
 - Deny users for past poor behaviour (eg. If a noted registration had received an infringement notice a booking would be denied for a certain period of time)
 - Integrate with individual local council and or managing bodies so users can educate themselves on rules and regulations of the area.

3. The application would be designed in conjunction with organisations such as Ballina Shire Council, and other local organisations, and a trial period once built could be held on Ballina Shire 4WD accessible beaches.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Nathan Willis

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8.2 Northern Rivers Community Gallery - Creative Action Plan

260821/7 RESOLVED

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts the draft Creative Action Plan, as contained in Attachment 3 to this report.
2. That the broader actions outside the remit of NRCG operations, as identified in this report, be considered as part of the next review of the Ballina Shire Cultural Plan.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

8.3 Policy (Review) - Community Event Signage

260821/8 RESOLVED

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts the amended Community Events Signage Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

8.4 Development Applications - Works in Progress

260821/9 RESOLVED

(Cr Ben Smith/Cr Eoin Johnston)

That Council notes the contents of the report on development applications works in progress for August 2021.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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9. Corporate and Community Division Reports

9.1 Use of Council Seal

260821/10 RESOLVED

(Cr Eoin Johnston/Cr Sharon Cadwallader)

That Council affix the Common Seal to the following documents.

US/14	Deed of variation of Visitor Information Licence between Council and BP Australia Pty Ltd for the operation of the Digital Visitor Information Service at the BP Highway Service Centre for a period of five years from 29 March 2021 – 29 March 2026.
US/15	Ballina Shire Council licence to Ballina & District Equestrian Club Inc (INC9891286) over part of Lot 114 DP755684 , Equestrian Centre at 70 Gallans Road, Ballina for a term of one year, at a licence fee equal to the statutory minimum rent charged by Crown Lands, currently \$516 per annum (plus GST).

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.2 Investment Summary - July 2021

260821/11 RESOLVED

(Cr Ben Smith/Cr Jeff Johnson)

That Council notes the record of banking and investments for July 2021.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.3 Donations - Community

260821/12 RESOLVED

(Cr Sharon Cadwallader/Cr Sharon Parry)

That Council approves a donation of \$1,908 to The Lions Club of Ballina Inc. for Richmond Room venue hire for 2021/22.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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9.4 Local Government Election - Ordinary Meeting December 2021

260821/13 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council approves the cancellation of the December 2021 Ordinary meeting, scheduled for Thursday 16 December 2021, due to the date of the 2021 Local Government election.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.5 Local Government NSW Annual Conference and Board Election

260821/14 RESOLVED

(Cr Sharon Cadwallader/Cr Jeff Johnson)

1. That Council nominate Cr Keith Williams, Cr Eoin Johnston and Cr Sharon Cadwallader to attend and to be Council's voting delegates for the on-line LGNSW Conference on 29 November 2021.
2. That Council nominate the Mayor and Deputy Mayor to be Council's voting delegates at the LGNSW "Special Conference" and LGNSW Board Election in February/March 2022.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.6 Rates and Charges Write Offs - 2020/21

260821/15 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes that rates, charges, and interest totalling \$2,117.85 (as per Tables 3 and 4 of this report) were written off under delegation of the General Manager for the 2020/21 rating year pursuant to clause 131 of the Local Government (General) Regulation 2005.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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9.7 Budgets Carried Forward and Reserve Movements

260821/16 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council notes the contents of this report in respect to the forecast operating results for 2020/21.
2. That Council approves the works and services carried forward, other additional changes to budget and reserve movements, as outlined in Tables 4, 5, 6 and 7 of this report, for inclusion in the Long Term Financial Plan.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.8 Legal Matters - Update

260821/17 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of this Legal Matters – Update report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.9 Policy (Review) - Concealed Water Leaks - Financial Assistance

260821/18 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts the amended Concealed Water Leaks – Financial Assistance Policy, as attached to this report.
2. That Council place this policy on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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9.10 Tender - Water Services Directional Drilling

260821/19 RESOLVED

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council in accordance with the Local Government (General) Regulation 2005 Section 178(1)(b), declines to accept any tenders for the Tender – Water Services Directional Drilling as none of the tenders received are considered suitable based on considerations relating to price, assessed performance capability for this project, risk, and non-conformance with tender provisions in the submissions.
2. That Council, in accordance with Local Government (General) Regulation 2005 Section 178(3)(e) authorises the General Manager to enter into negotiations with any other party (whether or not the person was a tenderer), with a view to enter into a contract for the Tender – Water Services Directional Drilling.
3. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(a) the reason Council has declined to invite fresh tenders is that there is a limited available market of contractors with the capacity to complete this work and is more efficient and timely to negotiate with interested parties than call for new submissions, noting the program preference is to commence this work as soon as possible. This direction also enables Council the opportunity to consider alternate procurement options for the various components of the work.
4. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(b), Council has determined to negotiate with with any party (whether or not the person was a tenderer), with a view to enter into a contract for the Tender – Water Services Directional Drilling with a view to entering into a contract in relation to the subject matter as there is a limited market of contractors with the capacity to provide this service. It is also important, that due the current restrictions, to manage the procurement as expeditiously as possible to minimise any impacts on the project's program.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.11 Airline Agreement Update

260821/20 RESOLVED

(Cr Ben Smith/Cr Sharon Parry)

That Council notes the contents of this preliminary report on airline agreement, with the confidential report included later in this agenda detailing the commercial aspects of one agreement.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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9.12 Land Sale - Lot 2 Boeing Avenue, Ballina - Update

260821/21 RESOLVED

(Cr Keith Williams/Cr Jeff Johnson)

That Council notes the contents of this report in regards to the sale of Lot 2 Boeing Avenue Ballina.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

10. Civil Services Division Reports

10.1 Ainsworth Close/Jameson Avenue Intersection - Road Safety

260821/22 RESOLVED

(Cr Sharon Cadwallader/Cr Stephen McCarthy)

That a No Stopping Zone be implemented at the intersection of Ainsworth Close and Jamison Avenue in accordance with the approved design illustrated in Attachment 2 to this report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

11. Notices of Motion

11.3 Notice of Motion - Affordable Housing Proposal

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Keith Williams

1. That Council write to the NSW Premier, Deputy Premier, Minister for Water, Property and Housing and our Local Members, seeking State Government support to develop an Affordable housing project on Lots 284 and 203 DP7555684 and Lot 491 DP729381 at Ballina, being the Old Depot site.
2. That Council acknowledges that the State Government's Housing 2041: NSW Housing Strategy, has a strong focus on housing supply, diversity, affordability and collaboration and by Council and the State Government working together on this project we can support the strategy outcomes by making a significant difference to the availability of affordable and diverse housing stock in Ballina.

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3. The project objectives will be consistent with the Housing 2041 Strategy for Government Owned Land (page 12 of the Strategy) in that it will:
- Support the supply of suitable housing for essential workers
 - Provide housing assistance for those in crisis
 - Enable people living in social housing to more easily transition into private rental or home ownership
4. This project is to be based on a joint venture model with the State Government, community housing providers and Council financing the development of the site, with the on-going revenue stream generated from the property offsetting the development costs and on-going maintenance and management expenses. This is all subject to a feasibility analysis of the proposal prior to proceeding.

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

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

11.4 Notice of Motion - Risk Assessment for Tamarind Drive

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Keith Williams

That Council complete an independent risk assessment of the intersection of Tamarind Drive and Deadmans Creek Road Cumbalum and the area immediately to the north to assess visibility and drainage at this location.

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

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

12. Advisory Committee Minutes

Nil Items

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13. Reports from Councillors on Attendance on Council's behalf

13.1 Mayoral Meetings

260821/23 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Nathan Willis

14. Confidential Session

260821/24 RESOLVED

(Cr Sharon Parry/Cr Ben Smith)

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.

14.1 Airline Agreement 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 the release of any confidential information could prejudice negotiations.

14.2 Land Sale - Lot 2 Boeing Avenue, Ballina - 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

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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 ongoing discussions and negotiations.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

(The Council moved into Confidential Session at 1.17pm).

Open Council

260821/25 RESOLVED

(Cr Sharon Cadwallader/Cr Keith Williams)

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

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

(The Council moved into Open Council at 1.26pm).

The Director Corporate and Community Division reported to the Open Meeting the recommendations made while in Confidential Session:

14.1 Airline Agreement Update

CF260821/1 RECOMMENDED

(Cr Ben Smith/Cr Keith Williams)

1. That Council adopts option one, as detailed within this report, and authorises the General Manager to finalise the negotiations as per the terms and conditions outlined in this report.
2. Council authorises the Council seal to be placed on the final agreements and execution of same.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

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14.2 Land Sale - Lot 2 Boeing Avenue, Ballina - Update

CF260821/2 RECOMMENDED

(Cr Ben Smith/Cr Eoin Johnston)

That resolves to adopt option one, as detailed within this report, and authorises the General Manager to finalise negotiations for the sale of Lot 2 in proposed subdivision of Lot 952 DP 1165266 and part of Lots 2 – 5 DP 123781 Boeing Avenue, Ballina, and attach the Council seal to, and execute all relevant sale documents.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

Adoption of Recommendations from Confidential Session

260821/28 RESOLVED

(Cr Keith Williams/Cr Jeff Johnson)

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

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

MEETING CLOSURE

1.29pm

The Minutes of the Ordinary Meeting held on 26/08/21 were submitted for confirmation by council on 23 September 2021 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 23 September 2021.