

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
CNR CHERRY & TAMAR STREETS, BALLINA,  
ON 26/07/12 AT 9.00 AM**

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**Attendance**

Crs Phillip Silver (Mayor - in the chair), Sharon Cadwallader, Ben Smith, Keith Johnson, Peter Moore, David Wright, Jeff Johnson, Alan Brown and Susan Meehan.

Paul Hickey (General Manager), John Truman (Civil Services Group Manager), Rod Willis (Regulatory Services Group Manager), Steve Barnier (Strategic & Community Services Group Manager) and Sandra Bailey (Secretary) were in attendance.

There were 27 people in the gallery at this time.

**1. Australian National Anthem**

The National Anthem was performed by St Francis Xavier 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 Robyn Hordern.

**260712/1        RESOLVED**

(Cr David Wright/Cr Ben Smith)

That such apology be accepted.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**4. Confirmation of Minutes**

**260712/2        RESOLVED**

(Cr Ben Smith/Cr Keith Johnson)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 June 2012.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

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

There were no declarations of interest or reportable political donations.

**6. Deputations**

- **Eva Ramsey/Liz Ellis** - spoke in favour of Item 14.2 - Facilities Committee Minutes - 18 July 2012 and in particular Item 4.1 - Ballina sports and Events Centre - Options.
- **Karina Vikstrom, Newton Denny Chapelle** - spoke in opposition to Item 9.1 - Ballina Shire Growth Management Strategy.
- **Fiona Folan, Ballina Environment Society** - spoke in favour of Item 9.1 - Ballina Shire Growth Management Strategy.
- **Colin Beddoes** - spoke in opposition to Item 14.1 - Environmental & Sustainability Committee Minutes - 17 July 2012 and in particular in opposition to Item 4.1 - Cumbalum Precinct A Planning Proposal.
- **Dayne Mearns** - spoke in opposition to Item 14.1 - Environmental & Sustainability Committee Minutes - 17 July 2012 and in particular in opposition to Item 4.2 - Cumbalum Precinct B Planning Proposal.
- **Kath Robb** - spoke in opposition to Item 9.5 - Koala Plan of Management.
- **Tony Puglisi** - spoke in favour of Item 13.2 - Rescission Motion - NOROC - Structural Reform.
- **Effie Ablett** - spoke in favour of Item 9.5 - Koala Plan of Management.
- **Tim Fitzroy** - spoke in favour of Item 8.1 - DA 2012/171 No. 32 Stanley Park Road, Wollongbar.
- **Ralph Moss** - spoke in opposition to Item 10.4 - Caretaker Provisions - Local Government Elections.
- **Chris Pratt** - spoke in favour of Item 14.1 - Environmental & Sustainability Committee Minutes - 17 July 2012 and in particular in favour of Item 4.2 - Cumbalum Precinct B Planning Proposal.
- **Bill Payne** - spoke in favour of Item 14.1 - Environmental & Sustainability Committee Minutes - 17 July 2012 and in particular in favour of Item 4.1 - Cumbalum Precinct A Planning Proposal.

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- **Nadia Elliott-Burgess, Ballina Chamber of Commerce & Industry** - spoke in opposition to Item 14.2 - Facilities Committee Minutes - 18 July 2012 and in particular Item 4.1 - Ballina sports and Events Centre - Options.
- **Gail Duncan** - spoke in favour of Item 13.3 - Notice of Motion - Pop Up Galleries.

**14.1 Environmental & Sustainability Committee Minutes - 17 July 2012**

**260712/3        RESOLVED**

(Cr Alan Brown/Cr Sharon Cadwallader)

That Council confirms the minutes of the Environmental & Sustainability Committee meeting held 17 July 2012.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**Cumbalum Precinct A Planning Proposal**

**260712/4        RESOLVED**

(Cr Susan Meehan/Cr Sharon Cadwallader)

1. That Council proceed to finalise the Cumbalum Precinct A Planning Proposal, subject to the following:
  - a) The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations; and
  - b) Council's Civil Services Group advising that a stormwater management system can be designed that is capable of servicing the subject land, without having an adverse impact on downstream private properties and ecology.
2. That where items 1(a) and 1(b) are not resolved in a period of three months, the matter be reported to Council for further consideration.
3. That Council pursue the relevant State Government agency regarding the renewal of the maintenance regime of the drainage system within the Ballina Nature Reserve.

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr David Wright, Cr Alan Brown and Cr Susan Meehan

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**Cumbalum Precinct B Planning Proposal**

A **Motion** was moved by Cr David Wright and seconded by Cr Alan Brown

1. That Council proceed to finalise the Cumbalum Precinct B Planning Proposal, subject to the following:
  - a) The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations and that ensures a minimum contribution in the case that Ross Lane is realigned; and
  - b) Council's Civil Services Group advising that it is satisfied that a stormwater management system can be designed that is capable of servicing the subject land, without having an unreasonable adverse impact on downstream private properties and ecology.
2. That where items 1(a) and 1(b) are not resolved in a period of three months, the matter be reported to Council for further consideration.
3. That Council amend the planning proposal in accordance with the table of minor amendments contained in this report.
4. That Council receive a further report regarding the urban suitability of the land identified in the Precinct B Planning Proposal as being affected by Road Noise, located to the south of Ross Lane. The report is to consider the advantages and disadvantages of preparing a separate planning proposal to facilitate urban development of the land.
5. That Council receive a report on the long term upgrade options for Ross Lane, along with funding options.

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

That Council defer a decision on the Precinct B Planning Proposal until information is provided on the upgrade of Ross Lane.

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

FOR VOTE - Cr Jeff Johnson and Cr Susan Meehan

AGAINST VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr David Wright and Cr Alan Brown

ABSENT. DID NOT VOTE - Cr Robyn Hordern

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

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr David Wright and Cr Alan Brown

AGAINST VOTE - Cr Jeff Johnson and Cr Susan Meehan

ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**260712/5      RESOLVED**

(Cr David Wright/Cr Alan Brown)

1. That Council proceed to finalise the Cumbalum Precinct B Planning Proposal, subject to the following:
  - a) The proponents providing a signed Voluntary Planning Agreement (or agreement is reached on a suitable alternative mechanism) that satisfies the Council's requirements with respect to securing future infrastructure delivery obligations and that ensures a minimum contribution in the case that Ross Lane is realigned; and
  - b) Council's Civil Services Group advising that it is satisfied that a stormwater management system can be designed that is capable of servicing the subject land, without having an unreasonable adverse impact on downstream private properties and ecology.
2. That where items 1(a) and 1(b) are not resolved in a period of three months, the matter be reported to Council for further consideration.
3. That Council amend the planning proposal in accordance with the table of minor amendments contained in this report.
4. That Council receive a further report regarding the urban suitability of the land identified in the Precinct B Planning Proposal as being affected by Road Noise, located to the south of Ross Lane. The report is to consider the advantages and disadvantages of preparing a separate planning proposal to facilitate urban development of the land.
5. That Council receive a report on the long term upgrade options for Ross Lane, along with funding options.

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr David Wright and Cr Alan Brown  
AGAINST VOTE - Cr Jeff Johnson and Cr Susan Meehan  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**Adjournment**

The Mayor declared the meeting adjourned at 11.27 am

The meeting resumed at 11.51 am

**7. Mayoral Minutes**

Nil items.

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**8. Regulatory Services Group Report**

**8.1 DA 2012/171 No. 32 Stanley Park Road, Wollongbar**

**A Motion was moved by** Cr David Wright and seconded by Cr Keith Johnson

1. That development application 2012/171 to Undertake a Two Lot Torrens Title Subdivision to create 1 x 1797m<sup>2</sup> and 1 x 2830m<sup>2</sup> allotments and the Construction of a Dual Occupancy on each Proposed Lot, Removal of Native Vegetation and associated works on the subject land be **APPROVED** subject to planning, environmental and engineering conditions applicable to such development.
2. That the 12 koala trees be replaced on the block and an offset compensatory planting at the ratio of 3:1 at a publicly owned off site location.

An **Amendment** was moved Cr Sharon Cadwallader  
That the application be deferred, so that the applicant can modify the design.

The **Amendment LAPSED**.

The **Motion was CARRIED**.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**260712/6 RESOLVED**

(Cr David Wright/Cr Keith Johnson)

1. That development application 2012/171 to Undertake a Two Lot Torrens Title Subdivision to create 1 x 1797m<sup>2</sup> and 1 x 2830m<sup>2</sup> allotments and the Construction of a Dual Occupancy on each Proposed Lot, Removal of Native Vegetation and associated works on the subject land be **APPROVED** subject to planning, environmental and engineering conditions applicable to such development.
2. That the 12 koala trees be replaced on the block and an offset compensatory planting at the ratio of 3:1 at a publicly owned off site location.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**9.1 Ballina Shire Growth Management Strategy**

**260712/7          RESOLVED**

(Cr Ben Smith/Cr Keith Johnson)

1. That Council adopt the Ballina Shire Growth Management Strategy incorporating the following amendments:
  - That text regarding the significance of agricultural production be inserted into section and map identifying the distribution of State and regional farmland be included in section 5.6 (Natural Resources)
  - That a statement recognising the significance of agricultural resources be included under the 'key issues' sections of the Wollongbar locality strategy
  - That a shire-wide action be included relating to the ongoing protection, through the Local Environmental Plan, of agricultural production opportunities
  - That a statement be inserted into the strategy, in the section relating to climate change policy, that notes the potential increase in the severity of bush fires as a result of climate change
  - That a shire-wide action be inserted relating to the investigation of the long-term demands for extractive resources to support development within existing urban areas and to accommodate future growth.
  - That a strategic action be inserted relating to investigating the concept of allowing semi rural allotments on the edges of greenfield development areas.
2. That Council forward the strategy to the NSW Department of Planning and Infrastructure having regard for the requirements of the State Government's Far North Coast Regional Strategy.

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr David Wright, Cr Alan Brown and Cr Susan Meehan

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**9.5 Koala Plan of Management**

**260712/8            RESOLVED**

(Cr Jeff Johnson/Cr Susan Meehan)

That Council endorse the preparation of a Comprehensive Koala Plan of Management for Ballina Shire based on the provision of funding support from the NSW Office of Environment and Heritage.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Robyn Hordern

**13.2 Rescission Motion - NOROC - Structural Reform**

**260712/9            RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

That Resolution 280612/29, as follows, be rescinded:

That Council notes the recommendation from the University of Technology, Sydney and refers the report to the Minister for Local Government.

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore and Cr Susan Meehan

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson and Cr Alan Brown

ABSENT. DID NOT VOTE - Cr Robyn Hordern

**260712/10          RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

1. That Council confirms its desire to have a single entity responsible for the Natural Resource Management issues of the Richmond river and its Catchment.

2. That the UTS report be referred to the Minister for Local Government and that Council records its support for Option 7.

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore and Cr Susan Meehan

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson and Cr Alan Brown

ABSENT. DID NOT VOTE - Cr Robyn Hordern



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**12. Public Question Time**

**12.1 Terry Prendergast - Growth Management Strategy**

Terry Prendergast – why hasn't Cascade Falls (or Tosha Falls) been addressed in the Growth Management Strategy?

Paul Hickey advised that he would take the question on notice and respond to Mr Prendergast.

**14.2 Facilities Committee Minutes - 18 July 2012**

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr David Wright

That Council confirms the minutes of the Facilities Committee meeting held 18 July 2012 and that the recommendations contained within the minutes be adopted.

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

FOR VOTE - Cr Sharon Cadwallader, Cr David Wright and Cr Jeff Johnson  
AGAINST VOTE - Cr Phillip Silver, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr Alan Brown and Cr Susan Meehan  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**260712/11 RESOLVED**

(Cr Susan Meehan/Cr Ben Smith)

1. That Council confirms the minutes of the Facilities Committee meeting held 18 July 2012 and that the preferred recommendation in the minutes be superseded as follows.
2. That this current Council confirms that its preferred concept for the proposed Ballina Sports and Events Centre is the construction of a new facility at Kingsford Smith Oval integrated with the Ballina Seagulls Rugby League Club House.
3. The preferred concept design for this facility, based on likely construction costs and Council's limited funding sources, is the two court design (option 2B in the PDT report), with the design allowing for the addition of one or two more courts.
4. That prior to PDT commencing the master plan design work for the Kingsford Smith Precinct, as approved by Council at the June Ordinary meeting, that Council staff facilitate an engagement with the Councillors elected following the September 2012 elections, that will confirm the major capital projects, along with possible funding sources, for that term of Council. This engagement will then allow the newly elected Council to confirm their priorities for the 2012 to 2016 term.

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5. That Council conduct preliminary site investigations, such as soil testing, on the suitability of the old depot site for community and / or recreational facilities. A budget of \$15,000 is to be allocated to this work, with that funding sourced from Council's waste reserves, as the old depot site was originally used for waste disposal purposes.

FOR VOTE - Cr Phillip Silver, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr David Wright, Cr Alan Brown and Cr Susan Meehan  
AGAINST VOTE - Cr Sharon Cadwallader and Cr Jeff Johnson  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**Adjournment**

The Mayor declared the meeting adjourned at 1.28 pm

The meeting resumed at 2.22 pm

**9.8 Men's Shed - Site Option**

**Deputation**

Graeme Egging made a deputation to Council.

**260712/12      RESOLVED**

(Cr Sharon Cadwallader/Cr David Wright)

1. That Council notes the contents of this report regarding the establishment of a Men's Shed as a community project by the Ballina Baptist Church.
2. That Council advise the Ballina Men's Shed proponents that it is prepared to offer property at No. 44 Fishery Creek Road, West Ballina as a site for the proposed facility
3. That Council authorise the General Manager to negotiate this arrangement with the proponents on the basis of a maximum lease term of 20 years, with nominal rental (i.e. \$1). Further, that the lease not be executed unless and until development consent has been granted in respect of the construction and operation of the proposed facility on this site.
4. That Council approves the Council seal to be attached to the above lease.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**Policy - Allocation of Public Land to Community Groups**

**260712/13      RESOLVED**

(Cr Ben Smith/Cr Jeff Johnson)

That Council receive a report on policy options regarding allocation of public land to community groups.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**13.1      Rescission Motion - LEP Amendment No. 90 - Stewart Farm**

**260712/14      RESOLVED**

(Cr Alan Brown/Cr Peter Moore)

That Resolution 240512/7 of the 24 May 2012 Ordinary meeting, as follows, be rescinded:

1.      *That Council re-affirm the resolution of December 2011 concerning LEP Amendment No 90.*
2.      *That the General Manager continue discussion with Dr and Mrs Stewart concerning the proposed dedication as per 1(d) of the December 2011 resolution and convey to them that Council is prepared to accept conditional dedication of said land that requires Council to not, at any time, undertake development on the land that is inconsistent with the present 7 (f) zoning.*
3.      *That Council not progress any further work on this rezoning until point two is resolved to the satisfaction of Council. If agreement cannot be reached on point two Council accepts that the rezoning will cease.*
4.      *That legal advice be sought on the means to limit future development on the eastern side of the Coast Road.*

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Peter Moore and Cr Alan Brown

AGAINST VOTE - Cr Keith Johnson, Cr David Wright, Cr Jeff Johnson and Cr Susan Meehan

ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**260712/15      RESOLVED**

(Cr Alan Brown/Cr Peter Moore)

1. That Council endorse the concept of a dedication of the land on the eastern side of The Coast Road, in the vicinity of the Sharpes Beach car park that is the subject of lease arrangements between Council and the Stewart family, at a maximum period of approximately 20 years after the rezoning of the land.
2. That subject to point one being agreed with the proponents and landowners, Council endorses the finalisation of the environmental study associated with Draft Ballina LEP Amendment No.90 - Stewart Farm.
3. That the outcomes of points one and two be reported to the Council for consideration with respect to the potential public exhibition of Draft Ballina LEP Amendment No.90.
4. That in respect to point one that the previous conditions as reported to Council be retained as Council's minimum conditions for a Voluntary Planning Agreement.

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Peter Moore and Cr Alan Brown

AGAINST VOTE - Cr Keith Johnson, Cr David Wright, Cr Jeff Johnson and Cr Susan Meehan

ABSENT. DID NOT VOTE - Cr Robyn Hordern

**8.2      Policy (New) - Liquor Licence Applications**

**260712/16      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council approves the exhibition of the draft policy titled "Liquor Licence Application", as attached to this report, for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then no further action is required and the policy is considered to be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**8.3 Policy (Review) - Management of Contaminated Land**

**260712/17      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopt the amended Management of Contaminated Land 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 the revised policy will be implemented pending release of the State Government's amended State Policy.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**8.4 Development Applications - Works in Progress - July 2012**

**260712/18      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of the report on the status of outstanding development applications for July 2012.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**8.5 Development Consent Statistics - June 2012**

**260712/19      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of the report on development consent statistics for 1 June 2012 to 30 June 2012.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**9. Strategic & Community Services Group Reports**

**9.2 Draft Ballina Shire Development Control Plan 2012**

**260712/20 RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council proceed to undertake the public exhibition of the Draft Ballina Shire Development Control Plan 2012, in accordance with the terms of the *Environmental Planning and Assessment Act* and the associated Regulation.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**9.3 LEP Amendment - Bulky Goods Retailing Precinct**

**260712/21 RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

1. That Council proceed with the referral of the planning proposal for the Southern Cross Industrial Estate Bulky Goods Precinct, based on the application of a B5 Business Development zone to the subject land, to the Department of Planning & Infrastructure for gateway determination.
2. That in the event that the gateway determination enables the planning proposal to proceed, the planning proposal be placed on public exhibition in accordance with the requirements of the gateway determination.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**9.4 LEP Amendment - Southern Cross Precinct Expansion**

**260712/22 RESOLVED**

(Cr David Wright/Cr Keith Johnson)

1. That Council proceed to prepare a planning proposal to enable urban land uses focussed on employment based activities on land between the existing extent of the Southern Cross Industrial Estate, Corks Lane and the Ballina Byron Gateway Airport.
2. That the type and extent of land use zoning under the planning proposal be determined having regard for both employment and environmental outcomes and following the provision and consideration of further information from the applicant in relation to the land uses proposed and the characteristics of the site.

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3. That the planning proposal be reported to Council for consideration prior to referral to the Department of Planning & Infrastructure for gateway determination.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**9.6 Policy (Review) - Public Art**

**260712/23      RESOLVED**

(Cr Susan Meehan/Cr Sharon Cadwallader)

That Council place the draft Public Art policy, as attached to this report, on exhibition for public comment, with any submissions received to be resubmitted back to Council. If no submissions are received then the policy is considered to be adopted.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**9.7 Northern Rivers Catchment Action Plan - Update**

**260712/24      RESOLVED**

(Cr Susan Meehan/Cr Ben Smith)

That Council endorse the attached submission to the Northern Rivers Catchment Action Plan 2 process.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

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

**10.1 Use of Council Seal**

**260712/25      RESOLVED**

(Cr Ben Smith/Cr David Wright)

That Council affix the Common Seal to the following document.

US12/21	<p>Henderson Farm Voluntary Planning Agreement</p> <p>Explanation: Council has been advised that the processing of the Henderson Farm LEP Amendment by the Department is nearing finalisation. Consequently Council is invited to apply the Council Seal to a Voluntary Planning Agreement prepared to support the rezoning. The Agreement relates to obligations of the developer to undertake certain environmental rehabilitations works and archival recording of certain heritage items in association with the future development of the land.</p>
US12/22	<p>Deed of Consent and Assignment of Lease: Shop 1 Wigmore Arcade, Julie Anne Bartlett trading as 'Addiction Boutique' to Annette May Hudson (proposed trading name: Girl Fridays Boutique).</p> <p>Explanation: The retail fashion business of 'Addiction Boutique' is in the process of being sold by Mrs Bartlett to Mrs Hudson. If approval is granted, the Common Seal of Ballina Shire Council will be affixed to the Deed of Consent and Assignment of Lease at time of execution.</p>
US12/23	<p>Council to Newcastle Permanent Building Society Limited re Wigmore Arcade property at 137 River Street, Ballina. Retail Lease Agreement 5 year option period from 1 January 2013 to 31 December 2017.</p> <p>Explanation: Newcastle Permanent Building Society Limited entered into a 4 years + 6 months Retail Lease Agreement with Council for the period 1 July 2008 to 31 December 2012. The lease includes an option for a 5 year period that commences 1 January 2013. The tenant has now exercised their right of option in accordance with the lease conditions.</p>

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern



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**10.2 Investment Summary**

**260712/26      RESOLVED**

(Cr Ben Smith/Cr David Wright)

That Council notes the record of banking and investments for June 2012.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**10.3 Building Better Regional Cities Program - Grant**

**260712/27      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council confirms its acceptance of the \$4.5 million grant from the Federal Government's Building Better Regional Cities Program for the construction of the Wollongbar Sports Fields as detailed within this report.
2. That Council supports, in principle, the majority of the waiver of the developer contributions being apportioned to water and sewer charges, as these services are not subject to rate pegging limitations. The General Manager is also authorised to write to Rous Council asking for Rous to support the waiver of their development contribution, for eligible purchasers, as an acknowledgement of their support for this project.
3. That Council confirms that the Commercial Opportunities Reserve is to finance any shortfall between the grant funding and the development costs for the Wollongbar Sports Fields, with the revenue from the future sale of the existing Wollongbar Tennis Courts land to be allocated back to this Reserve, to help offset the acquisition and development costs funded by the Reserve.
4. That consistent with point three, Council adopts the revised cash flow for the Commercial Opportunities Reserve, as detailed in table six of this report, for future financial planning purposes.
5. That Council receive a further report confirming the definition of eligible property purchasers, along with the eligibility criteria and guidelines surrounding each purchase.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**10.4 Caretaker Provisions – Local Government Elections**

**260712/28      RESOLVED**

(Cr Susan Meehan/Cr Ben Smith)

That Council authorises the General Manager to write to the Minister for Local Government to seek his approval, if needed, for an exemption under the caretaker provisions that will allow Council to determine the following matters at the August 2012 Ordinary meeting:

- a) Tender – Ballina Surf Club
- b) Tender – Airport Apron Extension
- c) Development Application – Woolworths River Street, Ballina
- d) Development Application – Thai Restaurant, 45-49 Ballina Street, Lennox Head

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr David Wright, Cr Alan Brown and Cr Susan Meehan

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Robyn Hordern

**10.5 Policy (Review) - Councillor Expenses and Facilities**

**260712/29      RESOLVED**

(Cr Alan Brown/Cr Sharon Cadwallader)

That Council adopt the existing Councillor Expenses and Facilities Policy, as attached, without change.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Robyn Hordern

**10.6 Land Classification**

**260712/30      RESOLVED**

(Cr David Wright/Cr Susan Meehan)

That Council classify the 3.286 hectare parcel of land formerly described as part Lot 2 DP 788088 and now consolidated within Lot 244 DP 1175317 as operational land under the provision of the Local Government Act 1993.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**10.7 Donations - 2012/13 Rates and Charges**

**260712/31      RESOLVED**

(Cr Sharon Cadwallader/Cr Susan Meehan)

That Council approves the donation of the 2012/13 rates and charges, as detailed within tables one and two of this report, which includes future water consumption and sewer usage charges not yet known, but estimated, pursuant to section 356 of the NSW Local Government Act 1993.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Robyn Hordern

**10.8 Donations - Community and Public Halls**

**260712/32      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts the Donation Working Party's recommendations for the allocation of the community and public halls donations budget for 2012/13, as outlined in tables one and two of this report.
2. That Council approves a transfer of \$5,000 from the Community Infrastructure Reserve to assist in funding the \$20,000 donation to the Ballina Tennis Club, as outlined in table one.
3. That Council not approve the donation request from the Lennox Head Chamber of Commerce to waive fees at the Lennox Head Community Centre for a meet the candidates night.
4. That Council defer an allocation and seeks further information on the request from the Mental Health Group for a contribution towards insurance.
5. That Council notes the comments in this report in respect to the significant value of in-kind donations provided across the shire.
6. That Council notes the comments in this report in respect to the management of donations to schools and acknowledges that applications will continue to be assessed on a case by case basis.
7. That Council approves an amendment to the Donations – Community Halls – Capital Works Assistance Policy, that allows for another category of public hall, where halls are not owned or controlled by Council.
8. That Council not approve the donation request from Ballina Citizens and Ratepayers for the hire of the Richmond Room for a meet the candidates session.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Robyn Hordern

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**10.9 Ferry Fees for Bicycles - Operating Arrangements**

**260712/33      RESOLVED**

(Cr Alan Brown/Cr David Wright)

That Council not charge for bicycles on the Burns Point Ferry.

FOR VOTE - Cr Ben Smith, Cr David Wright, Cr Jeff Johnson and Cr Alan Brown, Cr Peter Moore

AGAINST VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Keith Johnson and Cr Susan Meehan

ABSENT. DID NOT VOTE - Cr Robyn Hordern

**10.10 Delivery Program and Operational Plan - 30 June Review**

**260712/34      RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

That Council notes the contents of the 30 June 2012 review of the Delivery Program and Operational Plan.

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr Peter Moore, Cr David Wright, Cr Alan Brown and Cr Susan Meehan

AGAINST VOTE - Cr Jeff Johnson

ABSENT. DID NOT VOTE - Cr Robyn Hordern

**11. Civil Services Group Reports**

**11.1 Urban Stormwater Management Plan**

**260712/35      RESOLVED**

(Cr Ben Smith/Cr David Wright)

1. That Council approves the exhibition of the draft Urban Stormwater Management Plan for public comment.

2. That the Council notes that in adopting the Urban Stormwater Management Plan, based on current budget allocations, it is not able to fund all of the recommended actions at this time. Therefore the plan will be used to inform future reviews of the Council budgets and to access grant opportunities as they arise. As there are financial constraints it will also be necessary for staff to provide regular updates to Council in respect of the delivery of the plan against the actions.

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3. That in the event of submissions being received in response to the public exhibition a further report is to be presented to Council. If no submissions are received, the plan will be adopted by this resolution, without further action.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**11.2 Waste Water Treatment Plants Upgrade - Update**

**260712/36      RESOLVED**

(Cr Susan Meehan/Cr Ben Smith)

That Council notes the contents of the progress report on the upgrade of the Ballina and Lennox Head Waste Water Treatment Plants.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**13. Notices of Motion**

**13.3 Notice of Motion - Pop Up Galleries**

**260712/37      RESOLVED**

(Cr Jeff Johnson/Cr Peter Moore)

That Council seek expressions of interest (EOI) from local artists or artist groups (BACCI) to establish a 'pop up gallery/studio space' in one or more of the Council owned shops in the Wigmore Arcade.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

**13.4 Notice of Motion - Ageing Strategy**

**260712/38      RESOLVED**

(Cr Susan Meehan/Cr Peter Moore)

That Council receive a report outlining the steps proposed to prepare the shire wide ageing strategy, which is a key outcome in our 2012/13 Operational Plan. This report should canvass issues such as the formation of a committee to assist in the preparation of that strategy, along with comments on actions taken by other councils to promote a positive approach to ageing.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Robyn Hordern

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Cr Peter Moore left the meeting at 04:40 pm.

**14. Advisory Committee Minutes**

**14.3 Commercial Services Committee Minutes - 23 July 2012**

**260712/39 RESOLVED**

(Cr David Wright/Cr Ben Smith)

That Council confirms the minutes of the Commercial Services Committee meeting held 23 July 2012 and that the recommendations contained within the minutes be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Peter Moore and Cr Robyn Hordern

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

**15.1 Mayoral Meetings**

**260712/40 RESOLVED**

(Cr Phillip Silver/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 Peter Moore and Cr Robyn Hordern

**16. Questions Without Notice**

**16.1 Cr Susan Meehan - Potholes outside East Ballina Shopping Centre**

**Cr Susan Meehan** - potholes need attention outside East Ballina shopping centre.

**16.2 Cr Alan Brown - Potholes**

**Cr Alan Brown** - thanked John Truman for his response to his request for potholes to be repaired around the town.

**16.3 Cr Alan Brown -**

**Cr Alan Brown** - is it possible to get more metal dust spread over the Missingham Bridge markets area?

When is work due to start on the pathway?

John Truman advised that with the pathway that he was working out how to bring the pathway construction forward in the works program.

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**16.4 Cr Alan Brown - Street Trees**

**Cr Alan Brown** - what is the cost of putting root barriers around the trees in the main Street of Ballina? Cr Brown would like to see suitable trees planted so that root barriers were not necessary.

John Truman will respond to all Councillors.

**16.5 Cr David Wright - Alstonville Seats**

**Cr David Wright** - thanked Rod Willis for following up a C Ward Committee matter relating to the whereabouts of seats which were built by students, which are now to be placed in parks.

**16.6 Cr Jeff Johnson - Pathway at Missingham Bridge**

**Cr Jeff Johnson** - what has Council decided to do with the pathway around Missingham Park?

John Truman advised that Council had allocated \$50,000 for the path to be replaced in concrete, so that in cases where sand needed to be swept that the concrete could withstand the weight of the machinery.

**16.7 Cr Sharon Cadwallader - Country Week**

**Cr Sharon Cadwallader** - will Council be represented at Country Week in August in Rous Hill, Sydney. She believed it would be a good opportunity to promote our land for sale.

Paul Hickey advised that Council would not be represented.

**16.8 Cr Sharon Cadwallader - Potholes**

**Cr Sharon Cadwallader** -potholes need repairing around 830 Pimlico Road.

John Truman to follow up.

**16.9 Cr Ben Smith - Mobile Application for Tracking Potholes**

**Cr Ben Smith** - do we have a mobile application for tracking potholes.

Paul Hickey advised that Blinkmobile made a presentation to staff yesterday.

**16.10 Cr Keith Johnson - Insurance Enquiry**

**Cr Keith Johnson** - are people covered by Council's insurance for damage to tyres through potholes?

John Truman advised that it is normally a road user beware situation and claims will be denied.

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- 16.11 Cr Phillip Silver - Boardwalk between Fawcett Park and Ramada**  
**Cr Phillip Silver** - was the boardwalk around Pelican Moorings closed because of falling balcony glass?

Rod Willis advised that it was closed due to broken glass falling from the balconies. Emergency orders have been issued on the buildings. The timber boardwalk is structurally sound.

- 16.12 Cr Susan Meehan - Ballina Public School Drop Off Zone**  
**Cr Susan Meehan** - Ballina Public School are very happy about having gravel placed on the school drop off zone area.

**17. Confidential Session**

**260712/41      RESOLVED**

(Cr Sharon Cadwallader/Cr David Wright)

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.

**17.1 Legal Action - Failure to Comply with Development Consent**

**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:-

- 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 the report canvasses alternative legal options for the Council to take.

**17.2 General Manager - Performance Review**

**Reason for Confidentiality**

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

- a) personnel matters concerning particular individuals (other than councillors)



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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 as discussion may involve specific details of the employee's performance.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Peter Moore and Cr Robyn Hordern

(The Council moved into Confidential Session at 4.57 pm).

All staff left the meeting at 5.03 pm during the Confidential Session after Item 17.1.

**Open Council**

**260712/42      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Johnson)

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

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Peter Moore and Cr Robyn Hordern

(The Council moved into Open Council at 5.15 pm)

Steve Barnier and Sandra Bailey returned to the meeting at this stage.

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

**17.1    Legal Action - Failure to Comply with Development Consent**

**CF260712/1      RECOMMENDED**

(Cr Alan Brown/Cr Keith Johnson)

That Council issue a total of six Penalty Infringement Notices to SEE Civil Pty Ltd for the offences of the over extraction of materials from Eaton's and Monti's Quarries for the 2009, 2010 and 2011 calendar years.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Peter Moore and Cr Robyn Hordern

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**17.2 General Manager - Performance Review**

**CF260712/2 RECOMMENDED**

(Cr David Wright/Cr Keith Johnson)

That Council adopts the General Manager's Performance Review Committee's evaluation for the General Manager's twelve month performance review for 2011/12 and endorses the Part Two objects for 2012/13.

FOR VOTE - Cr Phillip Silver, Cr Sharon Cadwallader, Cr Ben Smith, Cr Keith Johnson, Cr David Wright, Cr Alan Brown and Cr Susan Meehan  
AGAINST VOTE - Cr Jeff Johnson  
ABSENT. DID NOT VOTE - Cr Peter Moore and Cr Robyn Hordern

**Adoption of Recommendations from Confidential Session**

**260712/43 RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Johnson)

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

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Peter Moore and Cr Robyn Hordern

**MEETING CLOSURE**

5.20 pm

The Minutes of the Ordinary Meeting held on 26/07/12 were submitted for confirmation by council on 23 August 2012 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 23 August 2012.