

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET, BALLINA,  
ON 22/11/12 AT 9.00 AM**

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**Attendance**

Crs David Wright (Mayor - in the chair), Sharon Cadwallader, Keith Williams, Susan Meehan, Ken Johnston, Paul Worth, Robyn Hordern and Ben Smith.

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 17 people in the gallery at this time.

**1. Australian National Anthem**

The National Anthem was performed by Lennox Head Public School. An item was also performed by Isabella a cappella.

**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**

Cr Keith Johnson has been granted leave of absence.

An apology was received from Cr Jeff Johnson.

**221112/1        RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That such apology be accepted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

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**4. Confirmation of Minutes**

**221112/2 RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 October 2012.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

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

**John Truman** – declared an interest in Item 8.1 – DA 2012/274 – Alteration to the Ballina Fair Shopping Centre. (Nature of Interest: pecuniary – his wife is employed casually by the Swim n Gym – he will be departing the meeting while the matter is discussed).

**Cr Sharon Cadwallader** – declared an interest in Item 8.3 – Dog Trial at The Serpentine, East Ballina. (Nature of Interest: non significant non pecuniary – she owns a property in the vicinity of The Serpentine – she will be remaining in the meeting while the matter is discussed and voting).

**Cr Ben Smith** – declared an interest in Item 8.1 – DA 2012/274 – Alterations to the Ballina Fair Shopping Centre. (Nature of Interest: non significant non pecuniary – he is a member of Ballina Swim n Gym – he will be remaining in the meeting while the matter is discussed and voting).

**Cr Paul Worth** – declared an interest in Item 10.7 – Policy (Review) – Deferral of Developer Contributions Policy and Item 10.8 – Deferral of Developer Contributions – Ferngrove Estate. (Nature of Interest: a perceived pecuniary interest as he undertakes land development activities in the Shire - he will be departing the meeting while the matters are discussed).

**Cr Paul Worth** – declared an interest in Item 10.9 – BBRC Program – Purchaser and Developer Agreements. (Nature of Interest: pecuniary – he is a landowner – he will be departing the meeting while the matter is discussed).

**Cr Keith Williams** – later in the meeting declared an interest in Item 10.9 – BBRC Program – Purchaser and Developer Agreements. (Nature of Interest: non significant non pecuniary – he is in the process of purchasing land in the Shire – he departed the meeting while the matter was discussed).

**Cr Sharon Cadwallader** – later in the meeting declared an interest in Item 14.1 – Commercial Services Committee Minutes – 19 November 2012 and in particular Item 5.1 of those Minutes – Agreements for Signage and Ancillary Items on Council land. (Nature of Interest: non significant non pecuniary – the matter of a sign erected at Easton Park was raised – she is a property owner in the vicinity – she departed the meeting while the matter was discussed).

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There were no reportable political donations.

**6. Deputations**

- **Ralph Mamome** – spoke in favour of Item 8.2 – DA 2012/348 – Redevelopment of Shelly Beach Café.
- **Paul Snellgrove** – spoke in favour of Item 8.1 – DA 2012/274 – Alteration to the Ballina Fair Shopping Centre.
- **Ralph Moss** – spoke in opposition to Item 9.2 – Planning Proposal – No. 6 Burns Point Ferry Road, West Ballina.
- **Ralph Moss** – spoke in opposition to Item 13.3 – Notice of Motion – Motorised Scooters.

**7. Mayoral Minutes**

Nil items.

John Truman declared an interest in Item 8.1 and left the meeting.

**8. Regulatory Services Group Report**

**8.1 DA 2012/274 - Alterations to the Ballina Fair Shopping Centre**

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

That development application 2012/274 for alterations and additions to the southern end of the Ballina Fair Shopping Centre (Stage 4B) including demolition of existing pool and gym tenancy, relocation of mini major tenancy into the demolished pool and gym space, the creation of a retail mall with access to the Cinemas and construction of a new loading dock in the south-western corner of the site upon Lot 254 DP 755684 & Lot 443 DP 726497, 84 – 100 Kerr Street Ballina be **REFUSED** on the following grounds:

- loss of an established recreational facility
- will cause a negative impact upon the residents of Ballina as it does not provide them with appropriate leisure facilities to ensure a high level of residential amenity

An **Amendment** was moved by Cr Susan Meehan

That the application be deferred until Council receives a report on options and costs for a 25 metre indoor pool at the Ballina Swimming Pool complex.

The **Amendment LAPSED.**

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

FOR VOTE - Cr Sharon Cadwallader, Cr Ken Johnston, Cr Susan Meehan and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Paul Worth, Cr Ben Smith and Cr Robyn Hordern and casting vote of the Mayor

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

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**221112/3      RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

That development application 2012/274 for alterations and additions to the southern end of the Ballina Fair Shopping Centre (Stage 4B) including demolition of existing pool and gym tenancy, relocation of mini major tenancy into the demolished pool and gym space, the creation of a retail mall with access to the Cinemas and construction of a new loading dock in the south-western corner of the site upon Lot 254 DP 755684 & Lot 443 DP 726497, 84 – 100 Kerr Street Ballina be **APPROVED** subject to the imposition of appropriate planning, environmental and engineering conditions.

FOR VOTE - Cr David Wright, Cr Paul Worth, Cr Ben Smith and Cr Robyn Hordern and the casting vote of the Mayor

AGAINST VOTE - Cr Sharon Cadwallader, Cr Ken Johnston, Cr Susan Meehan and Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

A **Motion** was moved by Cr Ben Smith and seconded by Cr Robyn Hordern

That Council commits to prioritising the development of an indoor swimming facility in Ballina.

An **Amendment** was moved by Cr Cadwallader

That Council commits to assisting the development of an indoor swimming facility in Ballina.

The **Amendment LAPSED**.

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**221112/4      RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

That Council commits to prioritising the development of an indoor swimming facility in Ballina.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

John Truman returned to the meeting.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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40 CHERRY STREET, BALLINA,  
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---

**8.2     DA 2012/348 - Redevelopment of Shelly Beach Cafe**

A **Motion** was moved by Cr Ben Smith and seconded by Cr Susan Meehan

That Development Application 2012/348 To Undertake the Redevelopment of Shelly Beach Café with a New 120 Seat Café with Upper Storage Level, Removal of Trees, Compensatory Regeneration and Landscaping on Lot 1 DP 1095427 and Lease Area Part Lot 402 DP 755684, Shelly Beach Road, Ballina be **APPROVED** subject to the applicant first obtaining the necessary landowner's consent and the appropriate planning, environmental and engineering conditions, and subject to the following amendments:

- (a)     the condition relating to the resealing by the applicant of the carpark to be removed, but a condition be included that the applicant re-mark the carpark spaces to contemporary standards
  
- (b)     the relocation of the pandanus trees remain near the site with the applicant having to replace them should they not survive the relocation

An **Amendment** was moved by Cr Sharon Cadwallader

That Development Application 2012/348 To Undertake the Redevelopment of Shelly Beach Café with a New 120 Seat Café with Upper Storage Level, Removal of Trees, Compensatory Regeneration and Landscaping on Lot 1 DP 1095427 and Lease Area Part Lot 402 DP 755684, Shelly Beach Road, Ballina be **APPROVED** subject to the applicant first obtaining the necessary landowner's consent and the appropriate planning, environmental and engineering conditions.

The relocation of the pandanus trees remain near the site with the applicant having to replace them should they not survive the relocation

The **Amendment LAPSED.**

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

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Ken Johnston, Cr Susan Meehan, Cr Ben Smith and Cr Robyn Hordern

AGAINST VOTE - Cr Paul Worth and Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**221112/5         RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

That Development Application 2012/348 To Undertake the Redevelopment of Shelly Beach Café with a New 120 Seat Café with Upper Storage Level, Removal of Trees, Compensatory Regeneration and Landscaping on Lot 1 DP 1095427 and Lease Area Part Lot 402 DP 755684, Shelly Beach Road, Ballina be **APPROVED** subject to the applicant first obtaining the necessary landowner's consent and the appropriate planning, environmental and engineering conditions, and subject to the following amendments:

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ON 22/11/12 AT 9.00 AM**

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- (a) the condition relating to the resealing by the applicant of the carpark to be removed, but a condition be included that the applicant re-mark the carpark spaces to contemporary standards
- (b) the relocation of the pandanus trees remain near the site with the applicant having to replace them should they not survive the relocation

FOR VOTE - - Cr David Wright, Cr Sharon Cadwallader, Cr Ken Johnston, Cr Susan Meehan, Cr Ben Smith and Cr Robyn Hordern  
AGAINST VOTE - Cr Paul Worth and Cr Keith Williams  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**8.3 Dog Trial at The Serpentine, Ballina**

**221112/6        RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council dispense with the the 12 month trail of the dog on-leash area at The Serpentine.
2. That Council continue to provide information to the community on responsible dog ownership and of the importance of migratory and shore bird protection in the Shire.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

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

**221112/7        RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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40 CHERRY STREET, BALLINA,  
ON 22/11/12 AT 9.00 AM**

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**8.5     Development Consent Statistics - October 2012**

**221112/8       RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of the report on development consent statistics for 1 October 2012 to 31 October 2012.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**Adjournment**

The Mayor declared the meeting adjourned at 10.35 am

The meeting resumed at 10.55 am

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

**9.6     Ballina Naval and Maritime Museum - Timber Vessels**

**Deputation**

Ron Creber from the Naval Museum made a deputation on this item.

**221112/9       RESOLVED**

(Cr Sharon Cadwallader/Cr Susan Meehan)

That Council undertake a site inspection of the Ballina Naval and Maritime Museum and hold an associated workshop to discuss the issues and options outlined in this report in relation to the future management of the *Florrie*, *Richmond* and *La Balsa*, the museum and the reserve on which the museum is located.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

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**9.1 Planning Proposal - 160-190 North Creek Road Lennox Head**

**221112/10      RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

1. The Council proceed to finalise the planning proposal relating to properties described as Nos. 160-190 North Creek Road, Lennox Head.
2. That the planning proposal be submitted to the NSW Department of Planning and Infrastructure on the basis of the application of an R3 Medium Density Residential zone and 600m<sup>2</sup> minimum lot size for subdivision to the subject land under the Standard Instrument LEP.
3. That the planning proposal incorporates the application of a 2(b) Village Area zone in the event that the rezoning is finalised under the existing Ballina LEP 1987.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**9.2 Planning Proposal - No. 6 Burns Point Ferry Road, West Ballina**

**221112/11      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council submit the planning proposal relating to Lot 1 DP 522558, No. 6 Burns Point Ferry Road, West Ballina to the NSW Department of Planning & Infrastructure for review and Gateway determination.
2. That upon an affirmative Gateway determination being received from the Department of Planning & Infrastructure, Council staff will carry out the procedural steps associated with the progress of the planning proposal, including public exhibition.
3. That a further report be submitted to Council in relation to this matter following mandatory community consultation.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson



**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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**9.3 Draft Ballina LEP Amendment No.90 - Stewart Farm**

**221112/12      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council nominate Mr Rod Willis as an alternate local member to the Northern Region Joint Regional Planning Panel on a temporary basis in relation to the panel's consideration and determination of Draft Ballina Local Environmental Plan 1987 Amendment No.90 – Stewart Farm.

FOR VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Ken Johnston, Cr Paul Worth, Cr Keith Williams, Cr Ben Smith and Cr Robyn Hordern

AGAINST VOTE - Cr Susan Meehan

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**9.4 Plan Making - Delegation of Functions to Councils**

**221112/13      RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

1. That Council advise the Department of Planning and Infrastructure that it accepts the delegation offered in relation to the processing of certain local environmental plan amendments.
2. That the delegation for the processing of certain local environmental plan amendments be extended only to the elected Council at this time.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**9.5 Classification of Land - Tamar Street Ballina**

**221112/14      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council classify Nos. 74 and 78 Tamar Street, Ballina (Lot 11 DP 238728 and Lot 6 DP 600044) as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect immediately.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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**10. General Manager's Group Reports**

**10.1 Use of Council Seal**

**221112/15 RESOLVED**

(Cr Robyn Hordern/Cr Ben Smith)

That Council affix the Common Seal to the following document.

US12/27	<p>Subdivision Plan and associated documentation for the creation of Proposed Lots 11 and 12 being resubdivision of Lot 1 DP 1154810 and Lot 48 DP 833002.</p> <p>Note: Council acquired a 4.1ha parcel of land adjoining the Skennars Head Sports Field. This land was acquired to increase the area of the sports fields of which 2ha is to be incorporated into the sports fields and the additional land disposed of by way of sale. Council will consider a report on sale options in the near future.</p>
US12/28	<p>1. Ballina Shire Council to J W Walo, D M Launders &amp; J L Shoesmith lease of 155 River Street, Ballina (Spec Savers). 12 month Retail Lease Agreement from 1 January 2013.</p> <p>2. Ballina Shire Council to M B Lynch lease of Shop 11 Wigmore Arcade, Ballina (Tobacco Station). 12 month lease from 1 January 2013.</p> <p>Explanation: The lessees of 155 River Street, Ballina and Shop 11 Wigmore Arcade both have franchised businesses. Staff are advised that it is a requirement of the lessees respective franchise agreements that, when occupying leased premises, a lease agreement must be in place. To assist the two lessees honour their respective franchise agreements, staff have instructed Council's solicitor to draft two short-term (12 month) Retail Lease Agreements that will include a relocation or demolition clause.</p>
US12/29	Funding Agreement – Local Infrastructure Renewal Scheme – Division of Local Government. Backlog – Road Reconstruction Program - \$2.3 million
US12/30	Funding Agreement – Local Infrastructure Renewal Scheme – Division of Local Government – Ballina Byron Gateway Airport – Runway Overlay - \$7.3 million.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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**10.2 Investment Summary - October 2012**

**221112/16      RESOLVED**

(Cr Robyn Hordern/Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**10.3 Ordinary Meeting Date - April 2013**

**221112/17      RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

That Council's Ordinary meeting for April 2013 be held on Wednesday 24 April.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**10.4 Loan Borrowings - 2012/13**

**221112/18      RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

1. The Council authorises the General Manager to select the best rate quoted for the borrowing of \$3.85 million for the financing of the McLeay Culvert and Cumbalum Interchange works.
2. That Council approves a transfer from the Section 94 Roads Contribution Plan to finance any shortfall between the \$3.85 million loan funding and the existing Council budget. This shortfall is currently estimated at \$97,138, with the final amount dependent upon the interest accrual for the \$3.85 million loan as at 30 June 2013.
3. The use of the Council seal is authorised on all loan documentation associated with this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

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---

**10.5 Delegations - Review**

**221112/19      RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

1. That Council delegates to the position of General Manager the functions and authorities as per attachment one to this report.
2. That Council confirms its delegations to the Reserve Trust Committee are as follows, and as resolved at the September 2012, Ordinary meeting:

*"To determine all matters in respect to items where Ballina Shire Council is the Reserve Trust Manager, excluding those not able to be delegated as per Section 377 of the Local Government Act".*

3. That Council notes that there are currently no delegations provided to Lismore City Council in respect to the management of the Richmond Tweed Regional Library Service.
4. That Council notes that the General Manager will also be reviewing all delegations provided by the position of General Manager within 12 months of the election to comply with Section 380 of the Local Government Act.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**10.6 Legal Matters - Update**

**221112/20      RESOLVED**

(Cr Susan Meehan/Cr Ken Johnston)

That Council notes the contents of this legal update report.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

Cr Paul Worth declared an interest in Items 10.7, 10.8 and 10.9 and left the meeting at 11:25 am.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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40 CHERRY STREET, BALLINA,  
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**10.7 Policy (Review) - Deferral of Developer Contributions Policy**

**221112/21      RESOLVED**

(Cr Susan Meehan/Cr Robyn Hordern)

That Council approves the revocation of the “Deferral of Developer Contribution Policy” due to concerns that it may result in Council not treating all developers equally and the existence of such a policy creates an expectation of assistance, and at times, an expectation of assistance above that outlined in the policy.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson and Cr Paul Worth

**10.8 Deferral of Developer Contributions - Ferngrove Estate**

**221112/22      RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

1. That in respect to the existing agreement for the deferral of developer contributions with Rayshield Pty. Ltd. Council approves the following amendments to that agreement:

- a) Increase in the maximum deferral period to three years for any sub-set of the stage 2 approval, subject to part c) below.
- b) Amendment to the interest rate paid to the Reserve Bank cash rate plus 2.5%
- c) Limitation on the maximum term of the amended agreement to five years from the date of commencement of the amended agreement. This maximum term is to ensure that the life of the agreement is limited to five years, which means, for example, that any deferrals after year two of the agreement must be limited to the time remaining till expiry of the agreement (i.e. less than three years).

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson and Cr Paul Worth

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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**10.9 BBRC Program - Purchaser and Developer Agreements**

**221112/23      RESOLVED**

(Cr Susan Meehan/Cr Ben Smith)

1. That in respect to the Building Better Regional Cities (BBRC) program Council notes and confirms that an eligible purchaser(s) must have income levels consistent with the National Rental Affordability Scheme guidelines. This eligibility will be based on the most recent income tax returns and any other documentation deemed necessary by Council. Council also confirms that an eligible purchaser(s) will be a person or persons and not any form of other entity (e.g. corporation, trust etc).
2. That Council confirms that the developer contributions refunded under the BBRC program will be based on 100% of the Council Section 64 water and wastewater contributions, with the balance of the reimbursement to be apportioned evenly across the Council Section 94 contributions.
3. That Council confirms that the agreements with landowners / developers responsible for the sale of land in the Wollongbar Urban Expansion Area (WUEA), who wish to partake in the BBRC program, will require the landowner / developer to pay the Council developer contributions in full prior to the release of the linen plan for the land, with the \$30,000 reimbursement to be paid upon sale of their land to any eligible purchaser(s).
4. That Council authorises the General Manager to write to all eligible landowners / developers in the WUEA advising them of the BBRC program seeking their involvement and assistance in promoting the benefits available to low and moderate income earners.
5. That Council authorises the Council seal to be attached to any agreements deemed necessary to ensure that all participating parties meet their obligations in respect to the BBRC program.
6. That the outcomes of this program be reported back to Council on a regular basis.

Cr Keith Williams declared a non pecuniary interest in this matter as he is currently in the process of purchasing land in the Shire and left the meeting at 11.37 am.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson, Cr Paul Worth and Cr Keith Williams

Cr Paul Worth and Cr Keith Williams returned to the meeting at 11:38 am.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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---

**10.10 Financial Reports 2012**

**221112/24      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That the annual financial reports and auditor's reports for the financial year ended 30 June 2012, as publicly advertised, be adopted and presented to the public.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**10.11 Delivery Program and Operational Plan - 30 September Review**

**221112/25      RESOLVED**

(Cr Ben Smith/Cr Susan Meehan)

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

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**10.12 Financial Review - Quarter Ended 30 September 2012**

A **Motion** was moved by Cr Susan Meehan and seconded by Cr Robyn Hordern

1. That Council notes the contents of the September 2012 Quarterly Budget Review and approves the changes identified within this report.
2. That Council approves an increase of \$25 per tonne to the internal gate fee charged by Council's Landfill Operations to the Domestic Waste Management Service for mixed and green waste as from 1 October 2012.
3. That Council receive a report that assesses the options and costs for the provision for a 25 metre enclosed pool at the Ballina Swimming Facility.
4. That the report provide information on potential grant opportunities, including programs in relation to the enhancement or redevelopment of War Memorial facilities.

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

FOR VOTE - Cr Susan Meehan and Cr Robyn Hordern  
AGAINST VOTE - Cr David Wright, Cr Sharon Cadwallader, Cr Ken Johnston, Cr Paul Worth, Cr Keith Williams and Cr Ben Smith  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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40 CHERRY STREET, BALLINA,  
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---

**221112/26      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

- . That Council notes the contents of the September 2012 Quarterly Budget Review and approves the changes identified within this report.
2. That Council approves an increase of \$25 per tonne to the internal gate fee charged by Council's Landfill Operations to the Domestic Waste Management Service for mixed and green waste as from 1 October 2012.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**10.13    Capital Expenditure - Quarterly Update**

**221112/27      RESOLVED**

(Cr Ben Smith/Cr Keith Williams)

1. That Council notes the contents of the Capital Expenditure - Quarterly Update report for the period ended 31 October 2012.
2. That Council approves the budget changes to the Southern Cross Industrial Estate (\$110,000 saving) and to the Water, Wastewater and Waste operations, as per the column titled "New Variations" in the attachments to this report.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**11.      Civil Services Group Reports**

**11.1    Ballina Biochar and Waste-to-Energy Facility - Funding Agreement**

**221112/28      RESOLVED**

(Cr Ben Smith/Cr Keith Williams)

1. Council authorises the Mayor and General Manager to execute the Regional Development Australia Fund funding agreement for the Ballina Biochar and Waste-to-Energy Facility.
2. Council establish a \$250,000 allocation in the Waste Management program to enable preconstruction activities for the above project to continue, with this funding sourced from existing waste reserves.



**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET, BALLINA,  
ON 22/11/12 AT 9.00 AM**

---

3. That Council workshop the financial scenarios that may result from this project and other waste activities currently underway to assist in ensuring that Councillors and staff are fully appreciative of the possible financial benefits and financial risks associated with this project.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**11.2 Policy (Draft ) - Street Light Shielding**

**221112/29      RESOLVED**

(Cr Robyn Hordern/Cr Susan Meehan)

1. That Council approves the exhibition of the draft policy titled "Street Light Shielding Policy", 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.
2. That Council receive a report on minimising the environmental impacts of street lighting particularly in the coastal zone.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**11.3 Coastal Protection Laws - Sea Level Rise Benchmarks**

**221112/30      RESOLVED**

(Cr Keith Williams/Cr Ben Smith)

That Council confirms, that until local sea level rise benchmarks are determined, Council continue to apply the benchmarks established by the former NSW Government 2009 Sea Level Rise Policy Statement (0.4m by 2050 and 0.9 by 2100) in its plans and strategies.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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40 CHERRY STREET, BALLINA,  
ON 22/11/12 AT 9.00 AM**

---

**11.4 Tender - Recycled Water Distribution and Storage**

**221112/31      RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

1. That Council accepts the tender being RFT / Contract Number 1201101, for Recycled Water Distribution and Storage System Construction submitted by Murphy McCarthy and Associates Pty Ltd for the recommended tender amount of \$11,053,113 including GST.
2. Council authorises the Mayor and General Manager to sign the contracts and attach the Council seal to the documents.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**13. Notices of Motion**

**13.1 Notice of Motion - Shaws Bay Management Plan**

**221112/32      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council considers as part of the 2013/14 budget deliberations strategies to fund a review of the Shaws Bay Management Plan, which is estimated to cost up to \$50,000.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**13.2 Notice of Motion - Foreshore Master Plan**

**221112/33      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council consider as part of the preparation of our 2013/14 Operational Plan the preparation of a detailed foreshore master plan for the crown land precinct from Martin Street to the Ballina Memorial Swimming Pool (inclusive).
2. To allow adequate consideration of this proposal the General Manager is to provide indicative estimates for the preparation of this work, along with advice as to whether the Department of Primary Industries will provide financial support for the project.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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40 CHERRY STREET, BALLINA,  
ON 22/11/12 AT 9.00 AM**

---

**13.3 Notice of Motion - Motorised Scooters**

**221112/34      RESOLVED**

(Cr Robyn Hordern/Cr Susan Meehan)

1. That Council write to the NSW Premier seeking an urgent response from the NSW Government in relation to Council's concerns about motorised wheelchairs and scooters and pedestrian safety, including Council's request to establish a new regulatory arrangement that includes registration, speed limitation, compulsory third party insurance, and health and competency assessments.
2. That Council invite representatives from the State Government to attend Ballina Shire to see first hand the issues within the Shire.
3. That Council write to the local member seeking an update on the progress of the proposed legislation.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**13.4 Notice of Motion - Coastal Country Music Festival**

**221112/35      RESOLVED**

(Cr Robyn Hordern/Cr Ben Smith)

1. That Council approves funding of \$25,000 for the Coastal Country Music Festival from the 2013/14 festivals and events program.
2. This funding commitment will allow the co-ordinators to market and promote the Ballina festival at the January 2013 country music festival in Tamworth, which is the biggest Country music festival in Australia

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET, BALLINA,  
ON 22/11/12 AT 9.00 AM**

---

**12. Public Question Time**

**12.1 Ralph Moss - Tide Markers in Canal Road, Ballina**

Ralph Moss – there was a very high tide recently in Canal Road. Can a tidal height marker be installed on the old railway pylons on Canal Road? Residents can report to Council on the heights.

John Truman will provide a response to Mr Moss.

**12.2 Terry Prendergast - Access to Tosha Falls**

Terry Prendergast – trespassers are entering private land (after crossing Council land) to access Tosha Falls. Can a sign be erected on Council land prohibiting entry to Tosha Falls via Mr Prendergast's property? Similar signs are located at Dalwood Falls and Flat Rock.

The General Manager to follow the matter up.

**14. Advisory Committee Minutes**

**14.1 Commercial Services Committee Minutes - 19 November 2012**

Cr Cadwallader declared a non significant non pecuniary interest in Item 5.1 – Agreements for Signage and Ancillary Items on Council Land – the matter of a sign recently erected at Easton Park was raised – she is a property owner in the vicinity – she departed the meeting at 12.59 pm

**221112/36 RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

That Council confirms the minutes of the Commercial Services Committee meeting held 19 November 2012 and that the recommendations contained within the minutes be adopted with the following change to point two of the recommendation in Item 5.1 – Agreements for Signage and Ancillary Items on Council Land:

That the General Manager implement the necessary actions to either formalise or remove the signage on Council land for the West Tower Tavern. Any licence agreement is to be based on similar conditions to the agreement for the Homestead Motel. The conditions of any licence agreement are to be based on a further report to Council to clarify the terms and conditions.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Sharon Cadwallader and Cr Keith Johnson

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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40 CHERRY STREET, BALLINA,  
ON 22/11/12 AT 9.00 AM**

---

Cr Sharon Cadwallader returned to the meeting at 01:04 pm.

Cr Susan Meehan left the meeting at 1.05 pm

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

**15.1 Mayoral Meetings**

**221112/37 RESOLVED**

(Cr David Wright/Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson, Cr Keith Johnson and Cr Susan Meehan

Cr Susan Meehan returned to the meeting at 1.06 pm

**15.2 Cr Smith - Zero Waste Management Conference, Melbourne**

**221112/38 RESOLVED**

(Cr Ben Smith/Cr Robyn Hordern)

That Council notes the contents of the report from Cr Smith on his attendance at the Zero Waste Management Conference in Melbourne.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**16. Questions Without Notice**

**16.1 Cr Sharon Cadwallader - Sign Erected on Easton Park**

**Cr Sharon Cadwallader** - a sign was erected recently at Easton Park on Crown land advertising the Shaws Bay Caravan Park.

Was this sign approved?

Rod Willis to follow up.

**16.2 Cr Sharon Cadwallader - Hill Street Log Barriers**

**Cr Sharon Cadwallader** – along the Hill Street embankment some log barriers are missing. Are we pulling them all down or replacing them?

John Truman to follow up.

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---

**16.3 Cr Paul Worth - Dead Tree - ALEC**

**Cr Paul Worth** - can a dead and dangerous tree at the approaches to the Alstonville Leisure & Entertainment Centre be removed as soon as possible?

Council will inspect and take the appropriate action.

**16.4 Cr Paul Worth - Free Analogue TV Drop Off at Waste Centre**

**Cr Paul Worth** - can we offer the public a free drop off for old analogue televisions to the Waste Centre free of charge up until the New Year?

The General Manager advised that no expenditure could be made in the questions without notice section of the meeting and that an urgency motion would need to be passed in order to consider this matter.

**221112/39      RESOLVED**

(Cr Paul Worth/Cr Sharon Cadwallader)

That this matter be dealt with as a matter of urgency.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**221112/40      RESOLVED**

(Cr Paul Worth/Cr Sharon Cadwallader)

That Council receive, free of charge at the Ballina Waste Management Centre, any analogue televisions up until 31 December 2012 for Ballina Shire residents only.

FOR VOTE - Cr Sharon Cadwallader, Cr Ken Johnston, Cr Paul Worth, Cr Susan Meehan, Cr Keith Williams and Cr Robyn Hordern

AGAINST VOTE - Cr David Wright and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**16.5 River Street Upgrade**

**Cr Robyn Hordern** – congratulated Council on the upgrade of the second section of River Street.

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---

**17. Confidential Session**

**221112/41 RESOLVED**

(Cr Robyn Hordern/Cr Susan Meehan)

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

**17.1 Tender - Management of Community Centres**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) (d) 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); and
- 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 Council is in the process of negotiating tenders for the provision of management services and part of this evaluation involves the continued employment of Council staff.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

(The Council moved into Confidential Session at 1.22 pm).

**Open Council**

**221112/42 RESOLVED**

(Cr Robyn Hordern/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 Jeff Johnson and Cr Keith Johnson

(The Council moved into Open Council at 1.48 pm).

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
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---

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

**17.1 Tender - Management of Community Centres**

**CF221112/43 RECOMMENDED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council defer a decision on the tender for the management of the Alstonville Leisure & Entertainment Centre subject to a further report to the December meeting clarifying the operating costs for the Centre.
2. That Council not accept any tender for the management of the Lennox Head Cultural and Community Centre, as based on the public tender process conducted, there is considered to be no material benefit in moving to a contract arrangement.

FOR VOTE - Cr Sharon Cadwallader, Cr Ken Johnston, Cr Paul Worth, Cr Susan Meehan, Cr Keith Williams, Cr Ben Smith and Cr Robyn Hordern

AGAINST VOTE - Cr David Wright

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**Adoption of Recommendation from Confidential Session**

**221112/44 RESOLVED**

(Cr Robyn Hordern/Cr Keith Williams)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Keith Johnson

**MEETING CLOSURE**

1.50 pm

The Minutes of the Ordinary Meeting held on 22/11/12 were submitted for confirmation by council on 20 December 2012 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 20 December 2012.