

**MINUTES OF THE COMMERCIAL SERVICES COMMITTEE MEETING  
OF THE BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET, BALLINA,  
ON 18/09/18 AT 4.00 PM**

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**Attendance**

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

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

There were three people in the gallery at this time.

**1. Apologies**

An apology was received from Cr Nathan Willis, Cr Eoin Johnston and Cr Ben Smith

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Sharon Parry)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

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

**2. Declarations of Interest**

**Steve Barnier, Strategic and Community Facilities Group Manager** - declared an interest in Items 4.5 and 5.4 – 54 North Creek Road, Ballina – Industrial Land Subdivision (Nature of Interest: non-significant, non-pecuniary – a close friend is employed by a company with an interest in one of the allotments). He will be departing the meeting while the matter is discussed.

**3. Deputations**

Nil.

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**4. Committee Reports**

**4.1 Communications Tower - Russellton Industrial Estate - Licence**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council advise the NSW Telco Authority that a proposed commencing rent of \$6,000 p.a. + GST with a rent review of 3.0% for a term not exceeding 8 February 2022 and an additional term of 9 February 2022 to 8 February 2027 at the indexed rental and rent review of 3.0% annually is considered reasonable at Part Lot 2 DP 1169153 (31.5m2 site area).
2. If agreed, Council authorises the General Manager to sign the licence agreement and attach the Council seal.

FOR VOTE - All Councillors voted unanimously.

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

**4.2 139 River Street, Ballina - Lease Variation**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Sharon Parry)

That Council notes the contents of this report in respect to the variation request for the lease of 139 River Street, Ballina.

FOR VOTE - All Councillors voted unanimously.

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

**4.3 153 Kays Road, Wardell - Lease**

**RECOMMENDATION**

(Cr Jeff Johnson/Cr Sharon Cadwallader)

That Council notes the contents of this report in respect to leasing 153 Kays Road, Wardell.

FOR VOTE - All Councillors voted unanimously.

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

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**4.4 Former Tintenbar Council Chambers - Sublease of Area 1**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Jeff Johnson)

That Council notes the contents of this report on the proposal to sublease Area 1 of the former Tintenbar Council Chambers, 2 High Street, Alstonville.

FOR VOTE - All Councillors voted unanimously.

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

**4.5 54 North Creek Road, Ballina - Industrial Land Subdivision - Update**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Jeff Johnson)

That Council notes the contents of this report in respect to the update on the 54 North Creek Road, Industrial Land Subdivision.

FOR VOTE - All Councillors voted unanimously.

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

**4.6 Wollongbar Residential Estate - Stage 3 - Roadworks**

**RECOMMENDATION**

(Cr Phillip Meehan/Cr Jeff Johnson)

That in accordance with Section 55 (3) (i) of the Local Government Act, 1993, Council resolves not to invite tenders for the construction of roadworks for the Wollongbar Residential Estate - Stage 3 as detailed in this report, due to the following extenuating circumstances:

- a) The economies of scale and timing benefits of the joint infrastructure being delivered with another party, being the developers of the adjoining residential estate.
- b) That in respect of value for money, an independent assessment of the costs has been undertaken to ensure a satisfactory market result is achieved without the need to call tenders, as detailed in the confidential report later in this agenda.

FOR VOTE - All Councillors voted unanimously.

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

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**5. Confidential Session**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Keith Williams)

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

**5.1 139 River Street, Ballina - Lease Variation - Details**

**Reason for Confidentiality**

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

**5.2 153 Kays Road, Wardell - Lease - Details**

**Reason for Confidentiality**

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

**5.3 Former Tintenbar Council Chambers - Sublease of Area 1 - Details**

**Reason for Confidentiality**

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest due to the ongoing commercial negotiations and the release of any information could prejudice those negotiations.

**5.4 54 North Creek Road, Ballina - Industrial Land Subdivision - Details**

**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 matters relating to construction, tender, prices and sale contracts will be discussed and the release of this information could prejudice on-going negotiations.

**5.5 Wollongbar Residential Estate - Stage 3 - Roadworks - Details**

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 matters relating to construction, tender prices and sales contract will be discussed.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

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(The Council moved into Confidential Session at 4.04 pm).

Steve Barnier left the meeting at 4.06 pm.

**Open Council**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Sharon Parry)

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

FOR VOTE - All Councillors voted unanimously.

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

(The Council moved into Open Council at 5.00 pm).

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

**5.1 139 River Street, Ballina - Lease Variation - Details**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts option one as detailed within this report and accepts the variation to lease agreement terms and conditions negotiated with Messrs G Hickey and C Watson for an additional five year option at 139 River Street Ballina based on the terms and conditions outlined.
2. That Council authorises the General Manager to finalise negotiations and execute all relevant lease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

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

**5.2 153 Kays Road, Wardell - Lease – Details**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts Option One and offers Mr R MacDonald a new lease over 15 Kays Road Wardell (Lots 2 and 3 DP 854149, and Lot 1 DP 865860) based upon the terms and conditions outlined in this report.
2. That Council authorises the General Manger to finalise negotiations and execute all relevant lease documentation and attach the Council seal to

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same.

FOR VOTE - All Councillors voted unanimously.

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

**5.3 Former Tintenbar Council Chambers - Sublease of Area 1 - Details**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Sharon Parry)

1. That Council adopts option one as detailed within this report and offers Ms S Fleming a sublease over Area 1 of the former Tintenbar Council Chambers, 2 High Street, Alstonville based upon the terms and conditions outlined.
2. That Council authorises the General Manger to finalise negotiations and execute all relevant sublease documentation and attach the Council seal to same.

FOR VOTE - All Councillors voted unanimously.

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

**5.4 54 North Creek Road, Ballina - Industrial Land Subdivision - Details**

A **Motion** was moved by Cr Phillip Meehan and seconded by Cr Steve McCarthy)

1. That Council authorises the General Manager to finalise negotiations for the sale of lots 1, 2, 3 and 4 for the 54 North Creek Road, Industrial Land subdivision based on option four as detailed within this report.
2. That Council authorises the Council seal to be attached to the sale contracts as per point one.
3. That Council authorises the transfer (sale) of the proposed Lot 7 from the General Fund to the Sewer with the transfer price to be determined by an independent valuation, subject to the approval of the General Manager.

FOR VOTE - Cr David Wright and Cr Phillip Meehan

AGAINST VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Stephen McCarthy, Cr Keith Williams and Cr Sharon Cadwallader

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

The Motion was **LOST**

A **Motion** was moved by Cr Jeff Johnson and seconded by Cr Sharon Cadwallader

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1. That Council amend all four contracts with a revised sunset date of no earlier than 30 June 2019.
2. That Council authorises the Council seal to be attached to the sale contracts as per point one.
3. That Council authorises the transfer (sale) of the proposed Lot 7 from the General Fund to the Sewer with the transfer price to be determined by an independent valuation, subject to the approval of the General Manager.

FOR VOTE - Cr Jeff Johnson and Cr Sharon Cadwallader

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Stephen McCarthy and Cr Keith Williams

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

The Motion was **LOST**

**RECOMMENDATION**

(Cr Keith Williams/Cr Sharon Parry)

1. That Council advise all four buyers that the market has moved up and that Council has incurred significant additional costs and that if they wish to proceed with their respective purchases, the purchase price will be increased based upon CPI movements and a resultant sale rate of \$269/m<sup>2</sup> plus GST.
2. That Council authorises the Council seal to be attached to the sale contracts as per point one.
3. That Council authorises the transfer (sale) of the proposed Lot 7 from the General Fund to the Sewer with the transfer price to be determined by an independent valuation, subject to the approval of the General Manager.

FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Stephen McCarthy and Cr Keith Williams

AGAINST VOTE - Cr Phillip Meehan, Cr Jeff Johnson and Cr Sharon Cadwallader

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

**5.5 Wollongbar Residential Estate - Stage 3 - Roadworks - Details**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Jeff Johnson)

1. That Council adopts options one and two as outlined in this report, along with the cost estimate of \$235,065 + GST for Council's share of the construction of Avalon Avenue as the cost estimate has been independently reviewed by Newton, Denny and Chapelle and is



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considered fair and reasonable in the current market, and authorises the General Manager to finalise negotiations including payment, execute all relevant documentation and affix the Council seal to same.

2. That Council notes that this expenditure, estimated at approximately \$451,000 plus GST, will be funded from short term loan borrowings that are financing the Wollongbar Residential Estate – Stage 3 works. The General Manager is authorised to obtain that loan funding and affix the Council seal to the same.

FOR VOTE - All Councillors voted unanimously.

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

**Adoption of Recommendations from Confidential Session**

**RECOMMENDATION**

(Cr Sharon Cadwallader/Cr Keith Williams)

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

FOR VOTE - All Councillors voted unanimously.

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

**MEETING CLOSURE**

5.01 pm