

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 24/05/18 AT 9.00 AM**

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**Attendance**

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

Paul Hickey (General Manager), John Truman (Group Manager Civil Services), Matthew Wood (Group Manager Development and Environmental Health), Steve Barnier (Group Manager Strategic and Community Facilities) and Sandra Bailey (Secretary) were in attendance.

There were 10 people in the gallery at this time.

**1. Australian National Anthem**

The National Anthem was performed by Councillors and staff.

**2. Acknowledgement of Country**

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

**3. Apologies**

Nil

**4. Confirmation of Minutes**

**240518/1      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 26 April 2018.
2. That Council confirms the Minutes of the Extraordinary Meeting of Ballina Shire Council held on Tuesday 15 May 2018.

FOR VOTE - All Councillors voted unanimously.

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

- **Cr Sharon Cadwallader** – declared an interest in Item 9.4 – Land Classification – Lot 4 DP 1239938 Hutley Drive, Lennox Head. (Nature of Interest: pecuniary – her Superannuation fund has investments in Clarence Property). She will be departing the meeting while the matter is discussed.
- **Cr Eoin Johnston** – declared an interest in Item 8.1 – DA 2017/575 – Review of Determination – 3 Suncrest Avenue. (Nature of Interest: non significant, non pecuniary – he has known the applicant casually for a long period of time and has known one of the neighbours and their family for a long time). He will be remaining in the meeting while the matter is discussed and voting on the matter.
- **Cr Sharon Cadwallader** – later in the meeting declared an interest in Item 13.2 – Notice of Motion – Master Plan – Shaws Bay Park area. (Nature of Interest: non significant, non pecuniary – she lives in the general vicinity). She remained in the meeting while the matter was discussed and voted on the matter.

There were no reportable political donations.

**6. Deputations**

- **Mark Vanem** – spoke in opposition to Item 8.1 – DA 2017/575 – Review of Determination – 3 Suncrest Avenue.
- **Damian Chapelle** – spoke in support of Item 8.1 – DA 2017/575 – Review of Determination – 3 Suncrest Avenue.
- **Chris Mulder** – spoke in opposition to Item 11.1 – Dwellings in Rural Areas – Flood Mitigation Options.
- **John Thompson** – spoke in opposition to Item 13.3 – Notice of Motion – Shark Mitigation.

**7. Mayoral Minutes**

Nil items.

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**8. Development and Environmental Health Group Reports**

**8.1 DA 2017/575 - Review of Determination - 3 Suncrest Avenue**

**240518/2          RESOLVED**

(Cr Phillip Meehan/Cr Keith Williams)

That Development Application 2017/575 for a Secondary Dwelling on Lot 73 DP 240225 at 3 Suncrest Avenue, Alstonville be **APPROVED** subject to the application of standard planning, building and engineering conditions and specific conditions identified within this report.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith and the casting vote of the Mayor

AGAINST VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Sharon Cadwallader

**11. Civil Services Group Reports**

**11.1 Dwellings in Rural Areas - Flood Mitigation Options**

A **Motion** was moved by Cr Phillip Meehan and seconded by Cr Jeff Johnson

That Council, in response to the specialist risk planning, best practice floodplain mitigation planning, NSW State Emergency Service and the NSW Office of Environment and Heritage advice, as outlined in this report, confirms the retention of the existing planning controls set out in the Ballina Floodplain Risk Management Study and Plan, and the related Development Control Plan, for the management of rural dwellings in the floodplain.

An **Amendment** was moved by Cr Keith Williams and seconded by Cr Nathan Willis

1. That Council, in response to the specialist risk planning, best practice floodplain mitigation planning, NSW State Emergency Service and the NSW Office of Environment and Heritage advice, as outlined in this report, confirms the retention of the existing planning controls set out in the Ballina Floodplain Risk Management Study and Plan, and the related Development Control Plan, for the management of rural dwellings in the floodplain.

2. That Council reconsider this matter following the completion of the review of the flood mitigation options for Ballina.

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

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FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

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

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry and Cr Jeff Johnson

AGAINST VOTE - Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

A **Motion** was moved by Cr Ben Smith and seconded by Cr Sharon Cadwallader

That Council receives a report on the costs involved in including a review and update of the BFRMS&P and DCP in Council's forward planning.

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

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

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

**240518/3        RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council receives a report on the costs involved in including a review and update of the BFRMS&P and DCP in Council's forward planning.

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

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

**13.3    Notice of Motion - Shark Mitigation**

A **Motion** was moved by Cr Keith Williams and seconded by Cr Nathan Willis

1. That Council make a submission NSW DPI Community Consultation on the North Coast Shark Meshing Trial.
2. That the submission thank the NSW DPI for their efforts to develop new and innovative responses to shark mitigation in the Ballina Shire, and pledge our continued support and cooperation for research and deployment of non-lethal shark mitigation measures such as increased capability of drone technology, SMART drumlines, research tagging, shield devices, spotting technologies and non-lethal barriers.
3. That the submission also requests the Minister to advise Council of the results of the community consultation currently being undertaken by DPI before any further consideration or decision is taken in respect of deploying nets for a third time.

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An **Amendment** was moved by Cr Phillip Meehan and seconded by Cr Ben Smith

That Council thanks the NSW DPI for its continued work on the North Coast Shark Mitigation Program including the community consultation. Council acknowledges that the DPI will provide a briefing to Council on the consultation results as soon as they are available.

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

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson and Cr Ben Smith

AGAINST VOTE - Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

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

FOR VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Nathan Willis and Cr Keith Williams

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Sharon Cadwallader and Cr Ben Smith

**Adjournment**

The Mayor declared the meeting adjourned at 10.55 am

The meeting resumed at 11.17 am

**8.2 Development Applications – Variation to Development Standards**

**240518/4        RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes that there have been Nil applications approved under delegation for variations to development standards less than 10% for April 2018.

FOR VOTE - All Councillors voted unanimously.

**8.3 Development Applications - Works in Progress - May 2018**

**240518/5        RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of the report on the status of outstanding development applications for May 2018.

FOR VOTE - All Councillors voted unanimously.

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**9. Strategic and Community Facilities Group Reports**

**9.1 DCP and Amended Planning Proposal - Burns Point Ferry Road**

**240518/6      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That the planning proposal as it relates to Lot 4 DP 537419, Burns Point Ferry Road, West Ballina, be amended generally as detailed in Table 1 to this report and an altered Gateway determination be sought from the Department of Planning and Environment.
  
2. That the Department of Planning and Environment be advised that at this stage of the process it is Council's intention to exercise its delegated plan making functions.
  
3. That upon an altered Gateway determination being received from the Department of Planning and Environment, the amended planning proposal and the draft amendments to Chapters 3 and 4 of the Ballina Shire Development Control Plan 2012 (as contained in Attachments 2 and 3), be publically exhibited in accordance with the terms of the *Environmental Planning and Assessment Act* and the associated Regulation.
  
4. That a further report be submitted to the Council following the public exhibition of the amended planning proposal and the draft amendments to Chapters 3 and 4 of the Ballina Shire Development Control Plan 2012.

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

AGAINST VOTE - Cr Phillip Meehan and Cr Jeff Johnson

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**9.2 Planning Proposal - Roadside Stalls - Finalisation**

**240518/7            RESOLVED**

(Cr Eoin Johnston/Cr Jeff Johnson)

1. That Council endorses the finalisation of planning proposal BSCPP 17/013 Roadside Stalls to enable certain roadside stalls as exempt development under the Ballina Local Environmental Plan 2012 subject to the following amendment:
  - Remove land located adjacent to classified roads from eligibility for exempt development for the purpose of low impact roadside stalls.
2. That Council approves the public notice of a new fee (being a s138 *Roads Act* approval application fee of \$80 for 2018/19) in accordance with Section 610F of the *Local Government Act* and the inclusion of the fee in Council's Fees and Charges document for the 2018/19 financial year.
3. That Council include a clause in any approvals that it reserves the right to revoke the approval.
4. On approval, the applicant is provided with a fact sheet on their duties and responsibilities regarding the safe operation of the roadside stall.

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

AGAINST VOTE - Cr Phillip Meehan

Cr Cadwallader declared an interest in Item 9.4 – Land Classification – Lot 4 DP 1239938 Hutley Drive, Lennox Head and left the meeting at 11:41 am.

**9.3 Planning Proposal - Housekeeping Amendments - Finalisation**

**240518/8            RESOLVED**

(Cr Ben Smith/Cr Keith Williams)

1. That Council endorses the proposed amendments to the Ballina Local Environmental Plan 2012 as outlined in the planning proposal (BSCPP 17/011 Housekeeping Amendment 2017) contained in Attachment 1.
2. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP 17/011 under delegated authority.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

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**9.4 Land Classification - Lot 4 DP 1239938 Hutley Drive, Lennox Head**

**240518/9            RESOLVED**

(Cr Ben Smith/Cr Keith Williams)

That Council classify the land identified as Lot 4 DP 1239938, corner of Hutley Drive and Snapper Drive, Lennox Head as operational land under the provisions of the *Local Government Act* 1993 and that this classification takes effect upon the land being transferred into Council's ownership.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

**9.5 Land Classification - Lot 1 DP 1237215 Uralba Road, Uralba**

**240518/10          RESOLVED**

(Cr Ben Smith/Cr Keith Williams)

That Council classify the land identified as Lot 1 DP 1237215, Uralba Road, Uralba, 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 Sharon Cadwallader

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

**10.1 Investment Summary - April 2018**

**240518/11          RESOLVED**

(Cr Nathan Willis/Cr Jeff Johnson)

That Council notes the record of banking and investments for April 2018.

Cr Sharon Cadwallader returned to the meeting at 11:43 am.

FOR VOTE - All Councillors voted unanimously.



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**10.2 Policy (Review) - University Scholarship**

**240518/12      RESOLVED**

(Cr Sharon Parry/Cr Jeff Johnson)

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

FOR VOTE - All Councillors voted unanimously.

**10.3 Joint Regional Planning Panel - Election of Alternate Delegate**

**240518/13      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council confirms its alternate delegate representation on the Northern Joint Regional Planning Panel is Cr Eoin Johnston with one other Councillor, as elected by the Council, being Cr Sharon Cadwallader.

FOR VOTE - All Councillors voted unanimously.

**10.4 Legal Matters - Update**

This matter was deferred to the end of the meeting.

**10.5 Financial Review - 31 March 2018**

**240518/14      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of the March 2018 Quarterly Budget Review and approves the changes identified within this report.

FOR VOTE - All Councillors voted unanimously.

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**11.2 Ballina Roads Contribution Plan - Review**

**240518/15      RESOLVED**

(Cr Keith Williams/Cr Ben Smith)

That the *Draft Ballina Shire Roads Contribution Plan Version 4.1*, included as an attachment to this report, be placed on public exhibition, in accordance with Clause 28 of the Environmental Planning and Assessment Regulation 2000 for a period of not less than 28 days.

FOR VOTE - All Councillors voted unanimously.

**13. Notices of Motion**

**13.1 Notice of Motion - NBN Rollout - Ballina Shire**

**240518/16      RESOLVED**

(Cr Ben Smith/Cr Jeff Johnson)

That Council meet with NBN Co to provide an update on rollout status within the Ballina Shire.

FOR VOTE - All Councillors voted unanimously.

Cr Sharon Cadwallader – at this point declared an interest in Item 13.2 – (Nature of Interest: non significant, non pecuniary – she lives in the general vicinity). She will be remaining the meeting while the matter is discussed and voting on the matter.

**13.2 Notice of Motion - Master Plan - Shaws Bay Park area**

**240518/17      RESOLVED**

(Cr Phillip Meehan/Cr Ben Smith)

1. That Council develop a master plan for the Serpentine area / Pioneer Park area (and associated car park) / Shaws Bay area (east of Missingham Bridge).
2. That Council receive a report outlining a more holistic overview of locations, along with a recommended yearly program, where the preparation of contemporary plan(s) of management or masterplan(s) would be of benefit from a community engagement, strategic planning and financial planning perspective.

FOR VOTE - All Councillors voted unanimously.

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**14. Advisory Committee Minutes**

**14.1 Commercial Services Committee Minutes - 1 May 2018**

**240518/18      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council confirms the minutes of the Commercial Services Committee meeting held 1 May 2018 and that the recommendations contained within the minutes be adopted.

FOR VOTE - All Councillors voted unanimously.

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

**15.1 Mayoral Meetings**

**240518/19      RESOLVED**

(Cr Ben Smith/Cr Jeff Johnson)

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

FOR VOTE - All Councillors voted unanimously.

**16. Confidential Session**

**240518/20      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

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

**Item 10.4 – Legal Matters – Update**

**Reason for Confidentiality**

In accordance with Section 10A2(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 grounds 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 release of this information may impact the outcomes of the legal proceedings.

FOR VOTE - All Councillors voted unanimously.

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(The Council moved into Confidential Session at 12.36 pm).

Cr Keith Williams left the meeting at 12:36 pm.

**Open Council**

**240518/21      RESOLVED**

(Cr Nathan Willis/Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Keith Williams

(The Council moved into Open Council at 12.49 pm).

Cr Keith Williams returned to the meeting at 12.49 pm.

**10.4    Legal Matters - Update**

**240518/22      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of the legal matters update report.

FOR VOTE - All Councillors voted unanimously.

**12.    Public Question Time**

Nil

**MEETING CLOSURE**

12.50 pm

The Minutes of the Ordinary Meeting held on 24/05/18 were submitted for confirmation by council on 28 June 2018 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 28 June 2018.