

**MINUTES OF THE COMMERCIAL SERVICES COMMITTEE MEETING
OF THE BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET, BALLINA,
ON 15/05/19 AT 4.00 PM, RESUMED ON THURSDAY 23/05/19 AT 8.30 AM
RESUMED ON THURSDAY 23/05/19 AT 3.30 PM**

Attendance

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

Paul Hickey (General Manager), Matthew Wood (Director, Planning and Environmental Health Division), Kelly Brown (Director, Corporate and Community Division), Leanne Harding (Acting Property Manager) and Sandra Bailey (Secretary) were in attendance.

There were two people in the gallery at this time.

1. Apologies

Apologies were received from Cr Jeff Johnson and Cr Phillip Meehan.

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Jeff Johnson

2. Declarations of Interest

Cr Ben Smith – declared an interest in Item 4.3 – Kentwell Community Centre – Leasing Update. (Nature of Interest: non significant, non pecuniary – one of the lessees mentioned in the report is a client of his business). He will be departing the meeting while the matter is discussed.

Cr Keith Williams – declared an interest in Item 4.4 – Expression of Interest – Shelly Beach Café Site and Item 5.1 of the Confidential Session – Expression of Interest – Shelly Beach Café Site Proposals. (Nature of Interest: non significant, non pecuniary – he is the owner/operator of a café in the Shire which is a competing business). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Paul Hickey, General Manager –declared an interest in Item 5.1 of the Confidential Session – Expression of Interest – Shelly Beach Café Site Proposals. (Nature of Interest: non significant, non pecuniary - a good friend is mentioned in the submissions as assisting one of the proponents). He will be departing the meeting while the matter is discussed.

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3. Deputations

- **Lindsay Clarke, Director of Lennox Head Community Sports Club** – spoke in favour of Item 4.1 – Lennox Head Community Sports Club – King Street Lease.

4. Committee Reports

4.1 Lennox Head Community Sports Club - King Street Lease

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council authorises the General Manager to offer a new lease for the Lennox Head Community Sports Club for a portion of road reserve in King Street, Lennox Head, as per Attachments 1 and 2 to this report, with this lease to expire in line with the lease over 10 Stewart Street, Lennox Head (being the main clubhouse building site) on 31 December 2024.
2. That Council authorises the Council seal to be attached to all leasing documentation.
3. That in response to concerns raised by adjoining residents, Council confirms its commitment to:
 - a) ensuring that all appropriate planning consent conditions are in place for the operation of events at the Lennox Head Community Sports Club and
 - b) working with Liquor and Gaming NSW to monitor the operation of the Club and
 - c) monitoring the level of compliance by Club Lennox with the lease conditions and planning consent, with the level of compliance to form part of Council's evaluation for any future lease(s) renewal.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Jeff Johnson

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4.2 Policy (Review) - Mobile Vending on Public Land

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council adopts the amendment of the Mobile Vending on Public Land Policy and Guidelines as contained within Attachment 2 including references to the Sharpes Beach Site for fixed mobile vending purposes. Final locations for vending at Sharpes Beach are to be determined through an expression of interest process.
2. That Council place the amended Mobile Vending on Public Land Policy and Guidelines on exhibition for public comment, with any submissions received to be resubmitted back to the Council. If no submissions are received then no further action on the content of the policy is required.
3. That Council commences an expression of interest process for all fixed mobile food vending sites subject to point 4.
4. That the expression of interest process for Sharpes Beach be made available to potential vendors after Council has confirmed a timeframe for The Coast Road construction works to be undertaken and Council has made a decision on the scope of works and timing for the Sharpes Beach car parking area upgrade.
5. That no further permits be issued for fixed mobile food vending at Sharpes Beach until the expression of interest process is complete.
6. That Council engages with the landholder of the car park lease area in relation to the making of provision for fixed mobile food vending sites within the lease area.
7. That Council applies a fee of \$2,500 for fixed mobile food vending sites for the 2019/20 year (being the fee that will apply to any permits not issued through an expression of interest process).
8. That public notice of the fee set out in point 7 be provided in accordance with Section 610F of the *Local Government Act* and be included in Council's fees and charges document for 2019/20.
9. That existing Mobile Vending on Public Land Permit holders be advised of the exhibition of the amended policy and be invited to make comment.

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

AGAINST VOTE - Cr Stephen McCarthy

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Jeff Johnson

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Cr Ben Smith declared an interest in Item 4.3 and left the meeting at 04:43 pm.

4.3 Kentwell Community Centre - Leasing Update

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Eoin Johnston)

1. That Council authorises the General Manager to accept the leasing proposal from the Family Centre for the office space at the Kentwell Community Centre.
2. That Council authorises the General Manager to offer St Andrews a new three plus two-year lease for Activities Room 2 at the Kentwell Community Centre. The proposed lease to St Andrews is to be notified in accordance with the requirements of Section 47 and 47A of the Community Land Provisions of the Local Government Act 1993. Should no written objections be received the General Manager is authorized to finalise negotiations.
3. The Council seal is authorised to be attached to all relevant documentation as per points one and two.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan, Cr Jeff Johnson and Cr Ben Smith

Cr Ben Smith returned to the meeting at 04:43 pm.

4.4 Expression of Interest - Shelly Beach Cafe Site

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Sharon Parry)

That Council notes the contents of this report in respect to the expression of interest process for the Shelly Beach Café site.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Jeff Johnson

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5. Confidential Session

RECOMMENDATION

(Cr Eoin Johnston/Cr Sharon Parry)

That the Committee 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.

5.1 Expression of Interest - Shelly Beach Cafe Site Proposals

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 inclusion of personal and private information relating to the proponents.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Phillip Meehan and Cr Jeff Johnson

(The Committee moved into Confidential Session at 4.46 pm).

Paul Hickey declared an interest in Item 5.1 and left the meeting at 4.46 pm prior to the Confidential Session.

Cr Keith Williams left the meeting during the Confidential Session at 5:47 pm.

Open Council

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.

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

(The Committee moved into Open Council at 6.07 pm).

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

5.1 Expression of Interest - Shelly Beach Cafe Site Proposals

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council adjourn this meeting and reconvene at 8.30 am on Thursday 23 May 2019 in a closed briefing to hear the deferred presentation from proponent number one.

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

AGAINST VOTE - Cr Nathan Willis

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

Adoption of Recommendation from Confidential Session

RECOMMENDATION

(Cr Ben Smith/Cr Sharon Cadwallader)

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

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

AGAINST VOTE - Cr Nathan Willis

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

Adjournment

The Mayor declared the meeting adjourned at 6.09 pm on Wednesday 15 May 2019.

The meeting resumed at 8.30 am on Thursday 23 May 2019.

Paul Hickey, General Manager had declared an interest in Item 5.1 and was not in attendance at this stage.

Cr Jeff Johnson and Cr Keith Williams were not in attendance at this stage.

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Attendance

Crs David Wright (Mayor - in the chair), Phillip Meehan, Sharon Parry, Jeff Johnson (arrived at 8.35 am), Eoin Johnston, Stephen McCarthy, Nathan Willis, Keith Williams (arrived at 8.40 am), Sharon Cadwallader and Ben Smith.

Matthew Wood (Director, Planning and Environmental Health Division), Kelly Brown (Director, Corporate and Community Division), Leanne Harding (Acting Property Manager) and Sandra Bailey (Secretary) were in attendance.

There were no people in the gallery at this time.

5. Confidential Session

RECOMMENDATION

(Cr Eoin Johnston/Cr Sharon Cadwallader)

That the Committee 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.

5.1 Expression of Interest - Shelly Beach Cafe Site Proposals

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 inclusion of personal and private information relating to the proponents.

FOR VOTE - All Councillors voted unanimously.

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

(The Committee moved into Confidential Session at 8.31 am).

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Open Council

RECOMMENDATION

(Cr Nathan Willis/Cr Sharon Parry)

That Committee 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 Williams

(The Committee moved into Open Council at 8.53 am).

Adjournment

The Mayor declared the meeting adjourned at 8.54 am

The meeting resumed at 3.30 pm

5. Confidential Session

RECOMMENDATION

(Cr Nathan Willis/Cr Keith Williams)

That the Committee 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.

5.1 Expression of Interest - Shelly Beach Cafe Site Proposals

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 inclusion of personal and private information relating to the proponents.

FOR VOTE - All Councillors voted unanimously.

(The Committee moved into Confidential Session at 3.31 pm).

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Paul Hickey declared an interest in Item 5.1 of the Confidential Session and left the meeting at 3.32 pm.

Cr Jeff Johnson left the meeting at 3.32 pm.

Open Council

RECOMMENDATION

(Cr Nathan Willis/Cr Ben Smith)

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

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

(The Committee moved into Open Council at 3.47 pm).

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

5.1 Expression of Interest - Shelly Beach Cafe Site Proposals

RECOMMENDATION

(Cr Keith Williams/Cr Phillip Meehan)

1. That Council confirms, based on the Council vision for this iconic site, that the preferred submission for the lease of the Shelly Beach Café site, is as per proponent number three.
2. That Council authorises the General Manager to finalise the negotiations for the lease based on the submission, with the Council seal authorised to be attached to any contract and lease documentation.

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

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Adoption of Recommendation from Confidential Session

RECOMMENDATION

(Cr Sharon Cadwallader/Cr Nathan Willis)

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

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

MEETING CLOSURE

3.48 PM