



Notice of Extraordinary Meeting

An Extraordinary Meeting of Ballina Shire Council will be held in the Ballina Shire Council Chambers, 40 Cherry Street Ballina on **Monday 18 November 2019 commencing at 4.00 pm.**

Business

1. Acknowledgement of Country
2. Apologies
3. Declarations of Interest and Reportable Political Donations
4. Deputations
5. Reports
6. Confidential Session

A handwritten signature in black ink, appearing to read 'Paul Hickey', with a horizontal line underneath.

Paul Hickey
General Manager

Deputations to Council – Guidelines

- Deputations by members of the public may be made at Council meetings on matters included in the business paper.
- Deputations are limited to one speaker in the affirmative and one speaker in opposition.
- Deputations, per person, will be limited to a maximum of two items on the agenda.
- Requests to speak must be lodged in writing or by phone with the General Manager by noon on the day preceding the meeting.
- Deputations are given five minutes to address Council.
- Deputations on the same matter will be listed together with the opposition first and the speaker in affirmative second.
- Members of the public are advised that any documents tabled or given to Councillors during the meeting become Council documents and access may be given to members of the public in accordance with the requirements of the Government Information (Public Access) Act 2009.
- The use of powerpoint presentations and overhead projectors is permitted as part of the deputation, provided that the speaker has made prior arrangements with the General Manager's Office at the time of booking their deputation. The setup time for equipment is to be included in the total time of five minutes allocated for the deputation.
- To avoid conflicts of interest, real or perceived, deputations will not be accepted from:
 - Tenderers during a public tender or request for quotation
 - Persons or representatives from organisations seeking financial support from Council that involves an expression of interest
 - Consultants who are engaged by Council on the matter the subject of the deputation.

The non-confidential parts of Council's meetings are broadcast live to the web and are recorded for future reference. Recordings are made available on Council's website. In accordance with our Code of Meeting Practice, the recording or taking of photos by other people during the meeting is not permitted unless permission has been granted from the meeting.

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1. Acknowledgement of Country
 2. Apologies
 3. Declarations of Interest & Reportable Political Donations
 4. Deputations
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1. Acknowledgement of Country

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

2. Apologies

3. Declarations of Interest and Reportable Political Donations

4. Deputations

5.1 DA 2017/707 - 5 Rayner Lane, Lennox Head - Legal Proceedings

5. Planning and Environmental Health Division Reports

5.1 DA 2017/707 - 5 Rayner Lane, Lennox Head - Legal Proceedings

Delivery Program Building Services

Objective To provide Council with an update regarding Land and Environment Court proceedings relating to DA 2017/707.

Background

DA 2017/707 involves a proposal for the demolition of an existing dwelling and the erection of a new dwelling, which contains two storeys above ground, a basement storey for car parking and storage and a swimming pool on land at 5 Rayner Lane Lennox Head.

Council determined the application by way of refusal on 23 August 2018.

The applicant subsequently lodged an appeal against Council's decision in the Land and Environment Court.

The purpose of this report is to provide Council with an update on the proceedings with an associated confidential report providing further details on the key matters associated with the Court appeal.

Key Issues

- Progress of Land and Environment Court proceedings

Information

Key contentions relating to the proposed development raised by Council in submissions to the Court include overshadowing and solar access impacts, bulk and scale and view loss.

The Court proceedings have progressed with a site inspection and conciliation taking place on 12 and 13 September 2019.

The parties to the proceedings were not able to reach a resolution on the matter at the conciliation phase and the matter is listed for a Court hearing on 13 December 2019.

The confidential report associated with this open report provides further information about the status of the proceedings.

Sustainability Considerations

- **Environment**
The assessment of DA 2012/707 has included consideration of environmental, social and economic matters in accordance with the requirements of the *Environmental Planning and Assessment Act*.

- **Social**
As above
- **Economic**
As above

Legal / Resource / Financial Implications

Legal implications associated with this matter are the subject of a confidential report.

Consultation

Council's legal representatives have been consulted in relation to this matter.

Options

The purpose of this report is to provide an open Council overview of the basis of the associated confidential report. The recommendation is for Council to note this report.

RECOMMENDATION

That Council notes the contents of this report in respect to the legal proceedings associated with DA 2017/707.

Attachment(s)

Nil

6. Confidential Session

In accordance with Section 9 (2A) of the Local Government Act 1993, the General Manager is of the opinion that the matters included in the Confidential Business Paper, and detailed below are likely to be considered when the meeting is closed to the public.

Section 10A(4) of the Local Government Act, 1993 provides that members of the public are allowed to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

A brief summary of each of the reports recommended for consideration in confidential session follows:

6.1 DA 2017/707 - 5 Rayner Lane, Lennox Head - Legal Proceedings

This report contains information relating to as the matter is subject to legal proceedings and the advice provided is subject to legal privilege.

RECOMMENDATION

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.

6.1 DA 2017/707 - 5 Rayner Lane, Lennox Head - Legal Proceedings

Reason for Confidentiality

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

- g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as the matter is subject to legal proceedings and the advice provided is subject to legal privilege.