

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 24/01/19 AT 9.00 AM**

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), Bridget Walker (Acting 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 eight 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

240119/1 RESOLVED

(Cr Nathan Willis/Cr Ben Smith)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 13 December 2018.

FOR VOTE - All Councillors voted unanimously.

5. Declarations of Interest and Reportable Political Donations

Cr Sharon Cadwallader – declared an interest in Item 8.4 – Compliance Work Plan – Half Yearly Update. (Nature of Interest: non significant, non pecuniary – she is a part owner of a business which is subject to annual fire safety statements). She will be remaining in the meeting while the matter is discussed and voting on the matter.

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Cr Nathan Willis – declared an interest in Item 8.4 – Compliance Work Plan – Half Yearly Update. (Nature of Interest: non significant, non pecuniary – his office is subject to an annual fire safety statement). He will be remaining in the meeting while the matter is discussed and voting on the matter.

Cr Jeff Johnson – declared an interest in Item 8.3 – Policy (New) – Private Swimming Pool Barrier Fencing. (Nature of Interest: non significant pecuniary – he is in the final stages of building a home with a pool). He will be departing the meeting while the matter is discussed.

There were no reportable political donations.

6. Deputations

- **Gary Pit** – spoke in favour of Item 13.2 – Notice of Motion – Fuel Prices.
- **Steve Bennett** – spoke in favour of Item 13.4 – Notice of Motion – Road Closing Application.
- **Wayne McDermott** – spoke in opposition to Item 8.1 – DA 2018/421 – 20 Dress Circle Drive, Lennox Head.

Extension to Deputation

240119/2 RESOLVED

(Cr Phillip Meehan/Cr Ben Smith)

That Mr McDermott be granted an extension of time for his deputation.

FOR VOTE - All Councillors voted unanimously.

- **Dwayne Roberts** – spoke in favour of Item 8.1 – DA 2018/421 – 20 Dress Circle Drive, Lennox Head.

7. Mayoral Minutes

Nil items.

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13.2 Notice of Motion - Fuel Prices

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

1. That Council make representation to the Australian Competition and Consumer Commission (ACCC) and the relevant Federal Government Minister to request an enquiry into petrol and fuel prices in Ballina Shire and the Northern Rivers of NSW.
2. That Council make representation to The Northern Rivers Joint Organisation, seeking the support/participation of the Organisation in the call for an enquiry into petrol and fuel prices in the Northern Rivers of NSW.

A **Motion** was moved by Cr Sharon Parry

That the **Motion** be put to the vote.

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

FOR VOTE - All Councillors voted unanimously.

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

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

AGAINST VOTE - Cr Ben Smith

240119/3 RESOLVED

(Cr Phillip Meehan/Cr Ben Smith)

1. That Council make representation to the Australian Competition and Consumer Commission (ACCC) and the relevant Federal Government Minister to request an enquiry into petrol and fuel prices in Ballina Shire and the Northern Rivers of NSW.
2. That Council make representation to The Northern Rivers Joint Organisation, seeking the support/participation of the Organisation in the call for an enquiry into petrol and fuel prices in the Northern Rivers of NSW.

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

AGAINST VOTE - Cr Ben Smith

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13.4 Notice of Motion - Road Closing Application

240119/4 RESOLVED

(Cr Phillip Meehan/Cr Jeff Johnson)

1. That Council abandons its plan to close the section of unconstructed public road adjacent to 5 and 7 Cunningham Street and 13 and 21 Riverside Drive, West Ballina.
2. That Council write to Crown Lands asking that this land, if the opportunity arises, be transferred to Council as community land.

FOR VOTE - All Councillors voted unanimously.

8. Development and Environmental Health Group Reports

8.2 DA 2017/364 - 29 Bullinah Crescent, East Ballina

240119/5 RESOLVED

(Cr Eoin Johnston/Cr Phillip Meehan)

1. That Council consents to the variation to the 88B instrument as proposed within the Draft Deed of Variation prepared by Hosie and Partners Solicitors dated 29 November 2018.
2. The General Manager is authorised to execute the Deed of Variation inclusive of the application of the common seal where required.

FOR VOTE - All Councillors voted unanimously.

Cr Jeff Johnson declared an interest in Item 8.3 and left the meeting at 09:52 am.

8.3 Policy (New) - Private Swimming Pool Barrier Fencing

240119/6 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts the Private Swimming Pool Barrier Fencing Policy, as attached to this report.
2. That Council place this policy 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.
3. That public notice of the fees, as outlined in this report, be provided in accordance with Section 610F of the *Local Government Act* and be included in Council's fees and charges document for 2018/19 onwards.

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

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Cr Jeff Johnson returned to the meeting at 10:05 am.

8.4 Compliance Work Plan - Half Yearly Update

240119/7 RESOLVED

(Cr Ben Smith/Cr Keith Williams)

1. That Council notes the contents of this report on the status of the Compliance Work Plan for 2018/19.
2. That Council consider as part of the preparation of the Delivery Program and Operational Plan consider increasing inspections of swimming pools and OSSM's across the Shire.

FOR VOTE - All Councillors voted unanimously.

8.5 Development Applications – Variation to Development Standards

240119/8 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes that there have been NO applications approved under delegation for variations to development standards of 10% or less for October to December 2018.

FOR VOTE - All Councillors voted unanimously.

8.6 Development Applications - Works in Progress - December 2018

240119/9 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the contents of the report on the status of outstanding development applications for January 2019.

FOR VOTE - All Councillors voted unanimously.

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9. Strategic and Community Facilities Group Reports

9.1 Land Classification - Lot 227 DP 1246539, Teal Street, Ballina

240119/10 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council classifies the land identified as Lot 227 DP 1246539, being land having frontage to Teal Street in Ballina, 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.

10. General Manager's Group Reports

10.1 Use of Council Seal

240119/11 RESOLVED

(Cr Nathan Willis/Cr Sharon Cadwallader)

That Council affix the Common Seal to the following documents.

US 19/01	Council Deed of Agreement assignment from Lennox Developments Pty Ltd to Lennox Rise Pty Ltd
	Assignment of Lease from T Daley to N Alexeeff for premises known as Shop 11 Wigmore Arcade, Ballina.

FOR VOTE - All Councillors voted unanimously.

10.2 Investment Summary - December 2018

240119/12 RESOLVED

(Cr Nathan Willis/Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.

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10.3 Local Government Election 2020 and Associated Matters

240119/13 RESOLVED

(Cr Eoin Johnston/Cr Sharon Parry)

The Ballina Shire Council (“the Council”) resolves:

1. pursuant to s. 296(2) and (3) of the Local Government Act 1993 (NSW) (“the Act”) that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.

FOR VOTE - All Councillors voted unanimously.

240119/14 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council write to the State Electoral Office advising that Council’s preference is to hold pre-poll voting for a period of one week prior to the election.

FOR VOTE - All Councillors voted unanimously.

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

That Council write to the State Electoral Office and LGNSW advising that it is Council’s preference to have how to vote material available in the voting booth only.

A **Motion** was moved by Cr Jeff Johnson

That the **Motion** be put to the vote.

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

FOR VOTE - All Councillors voted unanimously.

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

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Sharon Cadwallader

AGAINST VOTE - Cr Sharon Parry, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith

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240119/15 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council write to the State Electoral Office and LGNSW advising that it is Council's preference to have how to vote material available in the voting booth only.

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

AGAINST VOTE - Cr Keith Williams and Cr Sharon Cadwallader

8.1 DA 2018/421 - 20 Dress Circle Drive Lennox Head

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

That DA 2018/421 for the demolition of existing dwelling and construction of a new two storey strata title dual occupancy (attached) including carport forward of the building line be **REFUSED** for the following reasons.

1. The proposed development does not comply with the Floor Space Ratio provisions of the Ballina Local Environmental Plan 2012.
2. The proposed development does not comply with the building envelope development controls or meet the building envelope planning objectives of the Ballina Shire Development Control Plan 2012.
3. The proposed development does not comply with the vehicular access and parking development controls or meet the vehicular access and parking planning objectives of the Ballina Shire Development Control Plan 2012.
4. The proposed development will have an unreasonable and unnecessary adverse impact on the amenity of other properties in the locality.
5. The proposed development is not in the public interest.

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

That this application be deferred to enable further consideration of the matters raised.

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

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

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

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

240119/16 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That DA 2018/421 for the demolition of existing dwelling and construction of a
new two storey strata title dual occupancy (attached) including carport
forward of the building line be **REFUSED** for the following reasons.

1. The proposed development does not comply with the Floor Space Ratio provisions of the Ballina Local Environmental Plan 2012.
2. The proposed development does not comply with the building envelope development controls or meet the building envelope planning objectives of the Ballina Shire Development Control Plan 2012.
3. The proposed development does not comply with the vehicular access and parking development controls or meet the vehicular access and parking planning objectives of the Ballina Shire Development Control Plan 2012.
4. The proposed development will have an unreasonable and unnecessary adverse impact on the amenity of other properties in the locality.
5. The proposed development is not in the public interest.

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

Adjournment

The Mayor declared the meeting adjourned at 10.58 am

The meeting resumed at 11.18 am.

Cr Phillip Meehan was not in attendance at this stage.

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10.4 Councillor Expenses - Six Monthly Review

240119/17 RESOLVED

(Cr Ben Smith/Cr Keith Williams)

That Council notes the contents of this update on the Councillor expenditure as per the Councillor Expenses and Facilities Policy.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Phillip Meehan

10.5 155 River Street, Ballina - Lease Variation

240119/18 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of this report in respect to the variation request for the lease of 155 River Street, Ballina.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Phillip Meehan

10.6 Policy (Review) - Financial Assistance (Hardship) Rates and Charges

240119/19 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council adopts the revised Financial Assistance (Hardship) Rates and Charges Policy, as attached to this report.
2. That Council place this policy 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.

Cr Phillip Meehan returned to the meeting at 11:19 am.

FOR VOTE - All Councillors voted unanimously.

Cr Phillip Meehan left the meeting at 11:21 am.

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10.7 Policy (Review) - Model Code of Conduct

240119/20 RESOLVED

(Cr Eoin Johnston/Cr Keith Williams)

That Council adopts the Office of Local Government's Model Code of Conduct and Model Procedures, as per Attachment 2 to this report.

Cr Phillip Meehan returned to the meeting at 11:22 am.

FOR VOTE - All Councillors voted unanimously.

10.8 Policy (Review) - Model Code of Meeting Practice

240119/21 RESOLVED

(Cr Ben Smith/Cr Sharon Parry)

That Council approves the public exhibition of the draft Code of Meeting Practice, which is based on the mandatory provisions of the Office of Local Government's Model Code of Meeting Practice, inclusive of the optional amendments as per the contents of this report, and included as Attachment 4 to this report.

FOR VOTE - All Councillors voted unanimously.

10.9 Delivery Program and Operational Plan - 31 December 2018 Review

240119/22 RESOLVED

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council notes the content of this report in respect to the 31 December 2018 review of the implementation of the 2018/19 Delivery Program and Operational Plan.
2. That Council write to the RMS and the Minister to convey our disappointment in the delay in the Town Placement Marker program and ask that Ballina be expedited as a matter of urgency.

FOR VOTE - All Councillors voted unanimously.

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10.10 Capital Expenditure - 31 December 2018 Review

240119/23 RESOLVED

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council notes the contents of this status report on the Capital Expenditure Program for the 2018/19 financial year.
2. That Council approves the following 2018/19 budget amendments as outlined in the attachments to this report:

Item	Current Budget	Revised Budget	Variation	Comment
Open Spaces and Reserves				
Wollongbar Skate Park	465,000	15,000	(450,000)	Transfer to 2019/20 based on uncertainty over project
Killarney Park Playground Equipment	45,000	0	(45,000)	Transfer to Ballina Skate Park
Ballina Skate Park	0	45,000	45,000	Replace failed structures
Community Facilities				
Lennox Head Community Centre (LHCC) – Refurbishment	0	187,400	187,400	Create budget for new scope of project following confirmation of \$1.83m grant. Refer to recommendation three for 2019/20 funding.
LHCC – Roofing	81,100	0	(81,100)	Transfer to refurbishment
LHCC – Cladding	106,300	0	(106,300)	Transfer to refurbishment
ALEC - Improvements	281,000	81,000	(200,000)	Transfer to 2019/20
Operations Support				
Workshop Welders Bay	352,000	52,000	(300,000)	Transfer to 2019/20
OSR Storage Area	100,000	10,000	(90,000)	Transfer to 2019/20.
Commercial Services - Airport				
Airport – Miscellaneous Works	210,000	265,000	55,000	Transfer from airport reserve to finance essential works.
Car Park, Solar and Boom Gates	1,400,000	0	(1,400,000)	Transfer to 2019/20
Commercial Services – Property				
54 North Creek Road	1,371,600	1,441,600	70,000	Transfer from property development reserve to finance revised estimate
WUEA – Stage 2	75,000	15,000	(60,000)	Transfer to property development reserve based on final expenditure
WUEA – Stage 3	2,311,300	511,300	(1,800,000)	Transfer to 2019/20
Water				
Reservoirs – Ross Lane	500,000	0	(500,000)	Transfer to 2019/20
Reservoirs – Access Upgrades	330,000	5,000	(325,000)	Transfer to 2019/20
Pumping Station – Wollongbar Booster	0	40,000	40,000	Transfer from reserve
Trunk Main – Pressure Reduction Valves	150,000	0	(150,000)	Transfer to 2019/20
Treatment Plant – Marom Creek – Secure Yield	10,000	15,000	5,000	Transfer from reserve based on revised estimate
Water Meters – Conversion of New Meters	0	20,000	20,000	Transfer from reserve based on revised estimate
Water Meters – New Connections	219,000	300,000	81,000	Transfer from reserve based on revised estimate

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Wastewater				
Main Renewals	411,000	358,000	(53,000)	Transfer to specific projects as per next two items
Main Renewal – Angels Beach Drive	0	23,000	23,000	Based on works completed
Main Renewal – Seamist	50,000	80,000	30,000	Based on forecast works
Pumping Station – North Ballina	106,000	0	(106,000)	Defer to 2019/20
Pumping Station – Chickiba	88,000	58,000	(30,000)	Saving - Transfer back to reserve
Pumping Station – Swift Street	210,000	192,000	(18,000)	Saving – transfer back to reserve
Pumping Station – Capacity Upgrades	259,000	300,000	41,000	Transfer from reserve based on revised forecast
Treatment Plant – Belt Press	20,000	0	(20,000)	Saving - Transfer back to reserve
Treatment Plant – Ballina	22,000	19,500	(2,500)	Offset for increase in Wardell
Treatment Plant – Lennox Head	22,000	18,000	(4,000)	Offset for increase in Alstonville
Treatment Plant – Alstonville	11,000	15,000	4,000	Increase based on latest forecast
Treatment Plant – Wardell	11,000	13,500	2,500	Increase based on latest forecast
Treatment Plant – Wardell Scada	11,700	146,700	135,000	Increase based on latest forecast
Treatment Plant – Alstonville Scada	439,600	356,000	(83,600)	Saving based on revised forecast
Treatment Plant – Lennox Master Plan	30,000	0	(30,000)	Defer to 2019/20
Trunk Main – Swift Street	60,000	0	(60,000)	Defer to 2019/20
Meters / Service Connections	41,000	80,000	39,000	Increase based on higher expenditure
Engineering Works – Stormwater				
Cooks Lane Culverts	91,500	106,500	15,000	Transfer from Tanamera Drive
Kerr Street	100,000	10,000	(90,000)	Transfer to Wardell Road
Wardell Road	0	90,000	90,000	Transfer from Kerr Street
Tanamera Drive	78,500	63,500	(15,000)	Transfer to Cooks Lane
Engineering Works – Roads and Bridges				
Hutley Drive – Southern Connection	0	85,000	85,000	Funded from developer contributions
Teven Road	180,000	0	(180,000)	Transfer \$82,000 to 2019/20 and \$28,000 to fund increase in Fawcett Lane and \$70,000 to fund increase in Cherry Street
Fawcett Lane, Ballina	94,100	122,100	28,000	Based on actual expenditure
Cherry Street (seg 220-230)	180,000	250,000	70,000	Based on actual expenditure
Gibbon Street (seg 20)	89,000	0	(89,000)	Transfer to 2019/20
Martin Street (seg 150)	125,000	0	(125,000)	Transfer to 2019/20
Carrs Bridge	493,000	43,000	(450,000)	Transfer to 2019/20
Engineering Works – Footpaths and Cycleways				
Coastal Path	1,731,000	731,000	(1,000,000)	Transfer to 2019/20

3. That in respect to the \$1,833,502 grant approved for the Lennox Head Community Centre (LHCC) refurbishment, Council reallocate the following projects included in the adopted 2019/20 Community Facilities Program to the LHCC, to ensure that the Council funds required for the grant are available for expenditure on the centre:

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- Community Centre improvements - \$25,000
- Shelly Beach Surf Club - \$40,000
- Hall Repaints – Reduce by \$13,000

FOR VOTE - All Councillors voted unanimously.

11. Civil Services Group Reports

11.1 Tender - Supply of Hardware to Upgrade to Ethernet Radio

240119/24 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council accepts the tender from SAFEgroup Automation for the provision of telemetry radio hardware over the next two years.
2. That Council authorises the Council seal to be attached to the contract documents.

FOR VOTE - All Councillors voted unanimously.

13. Notices of Motion

13.1 Rescission Motion - Lennox Head Community Sports Club - Rent

240119/25 RESOLVED

(Cr Phillip Meehan/Cr Sharon Cadwallader)

That Resolution 131218/18, as follows, be rescinded:

Lennox Head Community Sports and Recreation Club - Rent Relief

1. *That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited (‘the Club’), for the next five year option period.*
2. *That as an incentive to reduce the number of poker machines in the Ballina Shire and on Council owned community land, Council approves the following lease rental structure for the next five year option period:*
 - a) *50% of the independent market valuation, as per the arrangements for the existing lease rental OR*
 - b) *25% of the independent market valuation if the number of poker machines (and associated licences) at the Club is reduced by 10% (i.e. from the existing 26 to 23 or less) OR*
 - c) *a \$1 peppercorn rent if the Club reduces the number of poker machines (and associated licences) at the Club by 20% (i.e. from the existing 26 to 20 or less)*

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3. *The King Street road reserve lease rental for this site is also to be based on the same methodology as point two.*
4. *The agreed rental figures are to be subject to CPI increases (excluding the \$1 peppercorn) during the five year period, with the lease rental able to be amended during the five year period, if the number of poker machines is reduced as per points 2 (b) and 2(c)*
5. *The Council seal is authorised to be attached to all associated documentation.*
6. *That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.*

FOR VOTE - Cr David Wright, Cr Phillip Meehan, 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 Jeff Johnson

240119/26 RESOLVED

(Cr Phillip Meehan/Cr Nathan Willis)

That Council authorises the General Manager to obtain an independent market valuation for the lease of Lot 1 DP 11905, 10 Stewart Street Lennox Head to the Lennox Head Community Sports and Recreation Club Limited ("the Club"), for the next five year option period.

FOR VOTE - All Councillors voted unanimously.

240119/27 RESOLVED

(Cr Nathan Willis/Cr Keith Williams)

That Council receive a report on measures that councils are applying to reduce the social impacts of poker machines in their local government areas and how those measures could be applied in the Ballina Shire.

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

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13.3 Notice of Motion - Access to Flat Rock Toilet Facilities

240119/28 RESOLVED

(Cr Phillip Meehan/Cr Ben Smith)

That Council investigate the potential for pathway connections and/or signage to be provided from the Flat Rock Carpark and/or the Flat Rock Tent Park adjacent to the roadway as an alternative means of connecting the coastal recreational pathway with the toilet facilities.

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

AGAINST VOTE - Cr Stephen McCarthy and Cr Sharon Cadwallader

13.5 Notice of Motion - Surf Life Saving - Signage

240119/29 RESOLVED

(Cr Eoin Johnston/Cr Keith Williams)

That Council undertake a review of the educational signage for our beaches to ensure that the signage reflects the latest standards particularly with respect to actively informing non-English speaking residents and visitors to our Shire of the dangers of swimming in unpatrolled beaches.

FOR VOTE - All Councillors voted unanimously.

14. Advisory Committee Minutes

Nil Items

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

15.1 Mayoral Meetings

240119/30 RESOLVED

(Cr Keith Williams/Cr Nathan Willis)

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

FOR VOTE - All Councillors voted unanimously.

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40 CHERRY STREET BALLINA,
ON 24/01/19 AT 9.00 AM**

10.11 Shellys on the Beach Cafe - Lease Termination Update

240119/31 RESOLVED

(Cr Eoin Johnston/Cr Sharon Parry)

That this late matter, which is subject to two reports, be dealt with in open Council and the Confidential Session as a matter of urgency due to a decision being required before the February Ordinary meeting.

FOR VOTE - All Councillors voted unanimously.

240119/32 RESOLVED

(Cr Keith Williams/Cr Stephen McCarthy)

That Council notes the contents of this report in respect to the Shellys on the Beach lease update.

FOR VOTE - All Councillors voted unanimously.

12. Public Question Time

12.1 State Government Quota on Fishers

Tony Puglisi – DPI has issued a quota system for the prawn trawler fishers on the North Coast

Does Council support the dumping of tonnes and tonnes of edible fish very close to their beaches, which will happen from 1 May because of this quota system? Would the Council support that?

Cr David Wright advised that he has spoken to DPI Fisheries to investigate.

Paul Hickey advised that Council does not have a position on the matter but the majority of the people in the room would support your concerns.

Paul Hickey advised that we can follow this up with a Mayoral letter to the Minister.

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12.2 Garden Bed on Public Land

Leona Ross – by way of information I am Mr Truman’s next door neighbour and I have been his neighbour for 18 years. Can you please tell me how, what I class as a dangerous footpath obstruction on public land, extending half way down the nature strip to the gutter and painted black, be determined by Council staff as non compliant on 24 September and three months later be then compliant after an inspection by another Council staff member when nothing has changed?

Paul Hickey advised that it was non compliant originally because Council was not aware of the structure. Once it was brought to our attention, our staff followed the matter up and asked the owner of the property to put in an application. That application was assessed by our staff and approved, being consistent with Council’s procedures and protocols. Our Risk section has reviewed it as well. Based on the concerns raised today we can further review the matter. The key point is that it was originally not compliant as we did not know about it and it now has approval and is compliant. That’s the difference in that period of time.

12.3 Intersection of Summerhill Crescent and Deadmans Creek Road

John Bout – My question is to all of the councillors. I received a letter signed by the Group Manager Civil Services which I have taken around to every resident in Summerhill Crescent and we are most concerned that we continue to be fobbed off by adopting minimum design standards. This letter has been given to every Councillor. Are you aware of the vision restriction we are talking about? Have you personally tried to turn right onto Summerhill Crescent before it is mowed by the swing arm mower? If you look at these pictures that is deemed to be minimum requirement complied and OK, however we have a note that says “we can do better by killing the weeds at the bottom of the pole” which I find extremely indicative of the level of intelligence and experience of the person who wrote it. Now I am going to say this I have put up with this for two years.

The Mayor advised that there was not one set of rules for Mr Bout and one for everyone else.

Mr Bout continued his line of questioning and invited A Ward Councillors to a meeting with residents and the Advocate at 4 pm today.

12.4 Code of Meeting Practice

Greg Burgess – can Council ask ratepayers for input or comments on the Code of Meeting Practice. Is it a public application, do you ask for comments, feedback or suggestions?

Paul Hickey advised that with the Code of Meeting Practice item in today’s agenda, Council resolved to exhibit for a period of minimum of 28 days with public submissions and comments being invited for 42 days as per the Local Government Act.

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12.5 Lake Ainsworth - Closure of Eastern Road

Greg Burgess – to the Mayor - are you going to rescind or halt the eastern road closure at Lake Ainsworth?

Paul Hickey – as per the report today in the Capital Works update, the planning consent states that the eastern road closure cannot occur until the Sport and Recreation Centre has their DA determined and I think the consent says until they do their works so it could be a number of months before that DA is determined.

Greg Burgess – the Mayor has a conflict of interest with regard to the voting the closure on 1 September 2018.

Mayor – I don't know what you are talking about sorry.

Greg Burgess – your Code of Conduct – your non declaration of interest in proceedings, in other words, people shouldn't have voted on it but they did. 1 September vote

Mayor – yes but who

Greg Burgess – Cr Cadwallader and Cr Jeff Johnson

Paul Hickey - if someone has a concern about a breach of the Code of Conduct you put a complaint in writing to the General Manager and it will be referred to an independent assessor. From my perspective I do not believe a Councillor would have a pecuniary interest in respect to the road closure as there is no direct financial benefit. As to a non pecuniary interest, I would be surprised in respect to that, how you could draw a connection in respect to a Code of Conduct breach for the closure of the eastern road. I would suggest you put that in writing rather than making unsubstantiated comments in this meeting.

Greg Burgess – I am sorry, I did, at the last meeting in writing, to you people.

Cr David Wright – and you got a response.

Greg Burgess – there was no response, virtually.

Paul Hickey – you also got a response to the November meeting. Council also received a response this week from ICAC who reviewed all your complaints and said they will be taking no further action.

Greg Burgess – yes I know, I got one the other day too and there are other Departments still to reply.

Greg Burgess – I will take up your offer to review some of the past minutes and Council documents. So just letting you know about that one.

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Paul Hickey – yes that’s right. Kelly Brown responded to you. We keep all our meeting records and you can come in at any time.

12.6 Floodgates

Greg Burgess - Why weren’t the floodgates reinstalled on Canal Road? In other words we had the flooding around Tamar Street yesterday and the day before – wouldn’t that have been alleviated by having floodgates on the drains?

They were taken off some years and you have had flooding ever since.

Cr David Wright – my understanding is that we are not sure where some of the drainage goes just yet.

Paul Hickey – not too sure why they haven’t been installed, but Council has recognised the issue with floodgates. There’s \$50,000 in the budget this year for floodgates at Burns Point Ferry Road. I know that Engineering staff are trying a ducted type floodgate and if that works they plan to roll them out in other locations on the Ballina Island. Council is trying to manage the floodgate issue and it’s very complex with works going ahead very shortly in Burns Point Ferry Road.

Greg Burgess – well that’s a start but Burns Point Ferry Road is not going to cover the township.

Paul Hickey – the idea is to see if they work there as it’s one of the key spots, and then roll them out in other locations.

Greg Burgess – well apparently they did work before, and they were removed and never replaced, and you have had the flooding ever since.

Cr David Wright – we have a program now to replace them or looking at replacing them.

12.7 Plateau Skatepark

Greg Burgess – noticed in a Letter to Editor in the Advocate yesterday – you have made a statement and one of the Executive made a statement and they were conflicting statements.

Cr Ben Smith – I chaired the meeting and that definitely wasn’t what was said – he said we were looking at a range of options.

Paul Hickey – Staff are putting a report to Council as soon as possible to review all site options with Councillors to then make a decision as to the preferred direction for this project.

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12.8 Sound Mound - Angels Beach Drive

Leona Ross – people in my area have received notice from the Council about target bush regeneration zones regarding the sound mound and how this group is going to tidy up and part of that says on the bottom - “Keep your garden in your garden – do not extend your garden past your property boundary”. Does that also apply to the Council because where I am we have these massive trees on Council’s sound mound dropping into our garden and it is a full time exercise. I received a letter from Mr Willebrands dated 17 August 2017 and he says the trees appear to be in good health and condition and not overhanging your property. Well they are. They are overhanging the property and secondly “pruning for shade, amenity or leaf drop are non permissible under this policy”. So how does that relate to that and how do we keep all of our backyards half tidy when the trees are overhanging.

Paul Hickey advised that Council does plant trees on its land and we need to be mindful of our neighbours. We can give that feedback to staff that they are dropping as we don’t want to impact on our neighbours. We will follow that up.

Did the sound mound originally have an EIS and a Development Application? Check that approval because Council vehicles just came in and knocked over four bottlebrush.

Paul Hickey advised that there would have been some sort of planning approval.

16. Confidential Session

240119/33 RESOLVED

(Cr Nathan Willis/Cr Ben Smith)

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.

16.1 155 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.

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16.2 Shellys on the Beach Cafe - Lease Termination Update

Reason for Confidentiality

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(d) (g) 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
- 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 discussion of this information in open Council may prejudice Council's on-going commercial negotiations and any potential litigation.

FOR VOTE - All Councillors voted unanimously.

(The Council moved into Confidential Session at 1.00 pm).

Paul Tsikleas and Clarissa Huegill from CH Law were in attendance for the Confidential Session.

Open Council

240119/34 RESOLVED

(Cr Sharon Parry/Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.

(The Council moved into Open Council at 1.33 pm).

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

16.1 155 River Street, Ballina - Lease Variation - Details

CF240119/1 RECOMMENDED

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council adopts option one as detailed within this report and accepts the variation to lease agreement terms and conditions negotiated with Specsavers Pty Ltd for the increase in retail space and additional lease terms for 155 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 provide landowners consent for the Development Application.

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3. That Council approves the use of the Council seal for the lease and associated documentation.

FOR VOTE - All Councillors voted unanimously.

16.2 Shellys on the Beach Cafe - Lease Termination Update

CF240119/2 RECOMMENDED

(Cr Keith Williams/Cr Nathan Willis)

1. That Council rejects the settlement offer.
2. That Council instruct its solicitor to make a counter offer to finalise the proceedings on the basis that the application is withdrawn and each party pays its own costs.

FOR VOTE - All Councillors voted unanimously.

Adoption of Recommendations from Confidential Session

240119/35 RESOLVED

(Cr Sharon Cadwallader/Cr Keith Williams)

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

FOR VOTE - All Councillors voted unanimously.

MEETING CLOSURE

1.34 pm

The Minutes of the Ordinary Meeting held on 24/01/19 were submitted for confirmation by council on 28 February 2019 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 28 February 2019.