

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 24/09/20 AT 9.00 AM**

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**Attendance**

Crs David Wright (Mayor - in the chair), Phillip Meehan (via Zoom), Jeff Johnson, Sharon Parry (via Zoom, joined at 12.02 pm), Eoin Johnston, Stephen McCarthy, Nathan Willis (via Zoom), Keith Williams, Sharon Cadwallader and Ben Smith.

Paul Hickey (General Manager), John Truman (Director, Civil Services Division), Matthew Wood (Director, Planning and Environmental Health Division), Kelly Brown (Director, Corporate and Community Division) and Sandra Bailey (Secretary) were in attendance.

There were three people in the gallery at this time.

**1. Australian National Anthem**

The National Anthem was played.

**2. Acknowledgement of Country**

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

**3. Apologies**

An apology was received from Cr Sharon Parry.

**240920/1        RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That such apology be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

**4. Confirmation of Minutes**

**240920/2        RESOLVED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 27 August 2020.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

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

- **Cr David Wright** – declared an interest in Item 11.1 – Rescission Motion – DA 2019/694 – 841 Fernleigh Road, Brooklet. (Nature of Interest: non significant, non pecuniary – due to a perception of a personal relationship with an objector). He will be departing the meeting while the matter is discussed.
- **Cr David Wright** – declared an interest in Item 8.6 – Policy (Review) – Developer Contributions Incentive – Outdoor Spaces Activation. (Nature of Interest: non significant, non pecuniary – he is a regular customer of Smokin’ Barrell). He will be departing the meeting while the matter is discussed.
- **Cr Ben Smith** – declared an interest in Items 8.9 and 14.1 – Swimming Pool Compliance – Seahorse Place, Ballina. (Nature of Interest: non significant, non pecuniary – the property is adjacent to his mother in law’s property). He will be departing the meeting while the matters are discussed.

**6. Deputations**

- **Lyn Walker, Lake Ainsworth Interest Group** – spoke in favour of Item 8.1 – Lennox Head Community Market.

Cr David Wright declared an interest in Item 11.1 and left the meeting at 9:10 am. Cr Eoin Johnston, Deputy Mayor, assumed the Chair.

- **Perry Smith** – spoke in opposition to Item 11.1 – Rescission Motion – DA 2019/694 – 841 Fernleigh Road, Brooklet.

Cr David Wright returned to the meeting at 9:14 am and resumed the Chair.

- **Simon van Kempen** (via Zoom) – spoke in favour of Item 9.4 – Operational Land – 26 Endeavour Close, Ballina.
- **Bill Payne, Ardill Payne & Partners and Jason Fox, TTM Consulting, on behalf of the Catholic Church** (via Zoom) - spoke in opposition to Item 8.4 - LEP Amendment Request – Mitchell Close, Cumbalum.
- **Robyn Gibbes** (via Zoom) – spoke in favour of Item 9.5 – Alstonville Cultural Centre – Licence Proposal.

**7. Mayoral Minutes**

Nil items.

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**8. Planning and Environmental Health Division Reports**

**8.1 Lennox Head Community Market**

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

That Council discuss with the owners of the land around Byron Bay Road and Ross Lane, or other Council owned land in the proximity of Lennox Head, the possibility of having the Lennox Head market located on that land.

Cr Phillip Meehan moved that the Motion be put to the vote.

The **Motion** to put the Motion to the vote was **LOST**.

FOR VOTE - Cr Phillip Meehan and Cr Nathan Willis

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Keith Williams, Cr Sharon Cadwallader and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Parry

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

FOR VOTE - Cr Sharon Cadwallader and Cr Ben Smith

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis and Cr Keith Williams

ABSENT. DID NOT VOTE - Cr Sharon Parry

**240920/3            RESOLVED**

(Cr Jeff Johnson/Cr Keith Williams)

1. That Council proceed with an expression of interest process for the management of the Lennox Head Community Market at Williams Reserve.
2. That following the appointment of a market manager for the Lennox Head Community Market at Williams Reserve, that Council proceed to prepare and lodge a development application for the operation of the market on the land to enable the market outcome endorsed through the expression of interest process.
3. That, following the expression of interest process and appointment of a market manager, Council enables the use of Williams Reserve for a small scale market under the terms of SEPP (Exempt and Complying Development Codes) 2008.

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

AGAINST VOTE - Cr Sharon Cadwallader and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr Sharon Parry

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Cr David Wright declared an interest in Item 11.1 and left the meeting at 10:04 am. Cr Eoin Johnston, Deputy Mayor assumed the Chair.

**11.1 Rescission Motion - DA 2019/694 - 841 Fernleigh Road, Brooklet**

**240920/4            RESOLVED**

(Cr Jeff Johnson/Cr Keith Williams)

That Resolution 270820/4, as follows, be rescinded:

**DA 2019/694 - 841 Fernleigh Road, Brooklet**

*That DA 2019/694 for the Tourist and Visitor Accommodation comprising eight holiday cabins, Communal Recreation Building and an Information and Education Facility for the purposes of a Cooking School at Lot 17 DP 1031242, No. 841 Fernleigh Road, Brooklet be **APPROVED** subject to conditions contained in Attachment 8.*

FOR VOTE - Cr Jeff Johnson, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

AGAINST VOTE - Cr Phillip Meehan, Cr Eoin Johnston and Cr Ben Smith

ABSENT. DID NOT VOTE - Cr David Wright and Cr Sharon Parry

**240920/5            RESOLVED**

(Cr Sharon Cadwallader/Cr Jeff Johnson)

*That DA 2019/694 for the Tourist and Visitor Accommodation comprising eight holiday cabins, Communal Recreation Building and an Information and Education Facility for the purposes of a Cooking School at Lot 17 DP 1031242, No. 841 Fernleigh Road, Brooklet be **APPROVED** subject to the conditions contained in Attachment 8 of the report to the 27 August 2020 Ordinary meeting, with draft condition 27 being amended to require the internal access driveway from Fernleigh Road property boundary through to the car parking spaces proposed for the tourist cabin facilities and cooking classes, to be constructed of all weather, sealed construction, at a minimum 4.0m wide.*

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr David Wright and Cr Sharon Parry

**Adjournment**

The Deputy Mayor declared the meeting adjourned at 10.39 am

The meeting resumed at 10.58 am

Cr David Wright, Mayor returned to the meeting at this stage and resumed the Chair.

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**9.4 Operational Land - 26 Endeavour Close Ballina**

**240920/6            RESOLVED**

(Cr Nathan Willis/Cr Ben Smith)

That Council continue with a month to month lease for a period of six months to receive a report on the use of the land for the benefit of the entire community.

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

AGAINST VOTE - Cr Sharon Cadwallader

ABSENT. DID NOT VOTE - Cr Sharon Parry

**8.4 LEP Amendment Request - Mitchell Close, Cumbalum**

**240920/7            RESOLVED**

(Cr Keith Williams/Cr Ben Smith)

That Council declines the proposed LEP amendment to apply an R3 Medium Density Residential zone under the Ballina Local Environmental Plan 2012 to part of Lot 1 DP 1077982 Cumbalum (being land currently zoned RU2 Rural Landscape) due to traffic noise impacts.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry

**9.5 Alstonville Cultural Centre - Licence Proposal**

**A Motion** was moved by Cr Phillip Meehan and seconded by Cr Sharon Cadwallader

1. That Council notes the contents of this report and approves a licence agreement at Alstonville Cultural Centre, based on the terms and conditions as approved by Council. The licence will be for the entire building, excluding the library space.
2. That Council authorises the General Manager to attach the Council seal to all relevant documentation.
3. That Council staff consult with Richmond Tweed Regional Library and investigate alternative locations for the Alstonville Library and that a further report be provided to Council once alternative options are identified.
4. That Council facilitate negotiations between the community users and the proposed lessee for use of the facility.

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An **Amendment** was moved by Cr Nathan Willis

That Council notes the contents of the report and determines to not support a licence agreement with Byron Studios at this facility.

The **Amendment LAPSED**.

Cr Sharon Parry joined the meeting via Zoom at 12:02 pm.

**240920/8           RESOLVED**

(Cr Nathan Willis/Cr Eoin Johnston)

That Cr Ben Smith be granted an extension of time for his speech.

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

AGAINST VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams and Cr Sharon Cadwallader

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

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

AGAINST VOTE - Cr Sharon Parry, Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

**240920/9           RESOLVED**

(Cr Phillip Meehan/Cr Sharon Cadwallader)

1. That Council notes the contents of this report and approves a licence agreement at Alstonville Cultural Centre, based on terms and conditions as approved by Council. The licence will be for the entire building, excluding the library space.
2. That Council authorises the General Manager to attach the Council seal to all relevant documentation.
3. That Council staff consult with Richmond Tweed Regional Library and investigate alternative locations for the Alstonville Library and that a further report be provided to Council once alternative options are identified.
4. That Council facilitate negotiations between the community users and the proposed lessee for use of the facility.

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

AGAINST VOTE - Cr Sharon Parry, Cr Eoin Johnston, Cr Nathan Willis and Cr Ben Smith

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**9.3 Deputy Mayor – Election**

**240920/10      RESOLVED**

(Cr Ben Smith/Cr Eoin Johnston)

1. That Council elect a Deputy Mayor for the period to September 2021.
2. That the method of voting for the election of Deputy Mayor be by way of ordinary (secret) ballot.
3. That the number of votes at the ballot be revealed at the meeting and that the General Manager, following the meeting, destroy the ballot papers.

FOR VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Jeff Johnson, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith

AGAINST VOTE - Cr David Wright, Cr Eoin Johnston and Cr Sharon Cadwallader

Paul Hickey, General Manager as Returning Officer, advised that nominations had been received for Cr Sharon Cadwallader, Cr Phillip Meehan and Cr Jeff Johnson.

Following the secret ballot, the General Manager declared Cr Sharon Cadwallader elected as Deputy Mayor to September 2021, having received six votes, with Crs Jeff Johnson and Phillip Meehan receiving two votes each.

**Public Question Time**

There were no members of the public present for Public Question Time.

**8.2 LEP Amendment Request - No.6-20 Fitzroy Street, Wardell**

**240920/11      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 20/002 – No. 6-20 Fitzroy Street, Wardell) contained within Attachment 1 for submission to the Department of Planning, Industry and Environment for Gateway determination.
2. That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.

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3. That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken including public exhibition.
4. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

FOR VOTE - All Councillors voted unanimously.

**8.3 LEP Amendment Request - Teven Road, Teven**

**240920/12      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 20/001 – Teven Road, Teven) contained in Attachment 1 for submission to the Department of Planning, Industry and Environment for Gateway determination.
2. That the Department of Planning, Industry and Environment be advised that Council wishes to exercise its delegated plan making functions for this LEP amendment.
3. That upon an affirmative Gateway determination being received from the Department of Planning, Industry and Environment, the procedural steps associated with progression of the planning proposal be undertaken, including public exhibition.
4. That Council receive a further report on the matter following the completion of the public exhibition of the planning proposal.

FOR VOTE - All Councillors voted unanimously.

**8.5 Ballina Shire Development Control Plan 2012 - Amendment No. 13A**

**240920/13      RESOLVED**

(Cr Ben Smith/Cr Nathan Willis)

1. That Council adopts the draft amendments to the Ballina Shire Development Control Plan 2012 as exhibited for public comment, inclusive of the following changes:
  - Chapter 2 General and Environmental Considerations, Part 3.16 Public Art - rewording of development control (vii).
  - Chapter 6a Commercial Development Ballina Town Centre, Part 5 Car Parking - amendment of the definition of accessible parking.



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2. That Council provide a copy of Ballina Shire Development Control Plan 2012, once amended, to the NSW Department of Planning, Industry and Environment as required by the Environmental Planning and Assessment Regulation.
3. That Council provide public notice of the adoption of the amended Ballina Shire Development Control Plan 2012, with the amended DCP provisions to take effect from 12 October 2020.

FOR VOTE - All Councillors voted unanimously.

Cr David Wright declared an interest in Item 8.6 and left the meeting at 12:54 pm. Cr Sharon Cadwallader, Deputy Mayor, assumed the Chair.

**8.6 Policy (Review) - Developer Contributions Incentive - Outdoor Spaces Activation**

**240920/14      RESOLVED**

(Cr Eoin Johnston/Cr Jeff Johnson)

1. That Council adopts the amendment to the Developer Contributions Investment Incentive Policy, as detailed within this report.
2. That Council place the amended 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.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr David Wright

**Adjournment**

The Deputy Mayor declared the meeting adjourned at 12.59 pm

The meeting resumed at 1.46 pm

Cr David Wright returned to the meeting at 1.46 pm and resumed the Chair.

Cr Sharon Parry was not in attendance at this stage.

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**8.7 Policy (Review) - 4WD Beach Access - Seven Mile Beach (4WD Beach Permit)**

A **Motion** was moved by Cr Ben Smith and seconded by Cr Eoin Johnston

1. That Council thank the people who made submissions and acknowledge that the preferred approach to reviewing 4WD access to Seven Mile Beach is through the scheduled review of the Ballina Coastal Reserve Plan of Management.
2. That Council adopts the 4WD Beach Access – Seven Mile Beach (4WD Beach Permit) policy, as exhibited, as per Attachment 1 to this report.
3. That the price point for issuing of permits be examined with the review of the Ballina Coastal Reserve Plan of Management.

An **Amendment** was moved by Cr Jeff Johnson and seconded by Cr Nathan Willis

1. That Council thank the people who made submissions and acknowledge that the preferred approach to reviewing 4WD access to Seven Mile Beach is through the scheduled review of the Ballina Coastal Reserve Plan of Management.
2. That Council adopts the 4WD Beach Access – Seven Mile Beach (4WD Beach Permit) policy, as exhibited, as per Attachment 1 to this report.
3. That Council restrict the 4WD permits to 12 month permits only and remove the shorter term permits.
4. That the current shorter term permits be honoured.

Cr Sharon Parry rejoined the meeting via Zoom at 01:54 pm

The **Amendment** 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

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

FOR VOTE - All Councillors voted unanimously.

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**240920/15      RESOLVED**

(Cr Ben Smith/Cr Eoin Johnston)

1. That Council thank the people who made submissions and acknowledge that the preferred approach to reviewing 4WD access to Seven Mile Beach is through the scheduled review of the Ballina Coastal Reserve Plan of Management.
2. That Council adopts the 4WD Beach Access – Seven Mile Beach (4WD Beach Permit) policy, as exhibited, as per Attachment 1 to this report.
3. That the price point for issuing of permits be examined with the review of the Ballina Coastal Reserve Plan of Management.

FOR VOTE - All Councillors voted unanimously.

**8.8      Policy (Review) - Community Property Leasing and Licensing**

**240920/16      RESOLVED**

(Cr Keith Williams/Cr Ben Smith)

That Council adopts the Community Property Leasing and Licensing policy, as per Attachment 1 to this report, subject to the deletion of 26 Endeavour Close Ballina.

FOR VOTE - All Councillors voted unanimously.

Cr Ben Smith declared an interest in Item 8.9 and left the meeting at 2:18 pm.  
Cr Jeff Johnson left the meeting at 2:19 pm.

**8.9      Swimming Pool Compliance - Seahorse Place, Ballina**

**240920/17      RESOLVED**

(Cr Sharon Cadwallader/Cr Sharon Parry)

That Council notes the contents of this report regarding swimming pool barrier compliance at 16 Seahorse Place, Ballina.

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

Cr Ben Smith returned to the meeting at 02:19 pm.

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**8.10 Development Applications - Works in Progress - September 2020**

**240920/18      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

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

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

**9. Corporate and Community Division Reports**

**9.1 Use of Council Seal**

**240920/19      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council affix the Common Seal to the following documents.

US/21	Ballina Shire Council lease to The Australian Steel Company (Operations) Pty Limited for Lot 871 DP 1158234, No. 2-6 Cessna Crescent, Ballina for a period of three years with a three year option at market rent.
US/22	Subdivision plan administration sheet and any other documents required for the subdivision of Lot 2 DP 620838, being 9 Byron Bay Road, Lennox Head. This subdivision creates a road reserve for the Hutley Drive northern extension.  The residue land remains as a single lot owned by Council.

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

**9.2 Investment Summary - August 2020**

**240920/20      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the record of banking and investments for August 2020.

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

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**10. Civil Services Division Reports**

Nil Items

**11. Notices of Motion**

**11.2 Notice of Motion - Amendment to Ballina LEP 2012**

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

1. That Council prepare a planning proposal to amend the Ballina Local Environmental Plan 2012 to prohibit information and education facilities in the RU1 Primary Production and RU2 Rural Landscape zones.
2. That the planning proposal be submitted to the Department of Planning, Industry and Environment for Gateway determination.
3. Where a Gateway determination is received enabling the planning proposal to progress, that staff proceed to undertake public exhibition of the planning proposal in line with the requirements of the Gateway determination.
4. That Council receive a further report on the planning proposal following completion of the public exhibition.
5. That Council advises the Department of Planning Industry and Environment that it wishes to exercise its plan making delegation in relation to the planning proposal.

Cr Jeff Johnson returned to the meeting at 02:28 pm.

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

**11.3 Notice of Motion - Tree Planting**

**240920/21      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That the review of the Hampton Park Plan of Management, scheduled for 2020/21, also consider tree planting options in the adjoining streets to improve the overall amenity in this location.
2. That Council ensure that the recurrent road and car park reconstruction program also examine opportunities to align Council's street tree planting program with the planned road works to assist in minimising the cost of planting trees and to maximise the opportunity to enhance the overall street tree amenity in the shire.

FOR VOTE - All Councillors voted unanimously.

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**11.4 Notice of Motion - Lennox Head Car Parking**

**240920/22      RESOLVED**

(Cr Stephen McCarthy/Cr Jeff Johnson)

1. That as part of the Operational Plan action to Review the Planning Framework for Lennox Head (2020/21 and 2021/22) that Council examine options for additional car parking peripheral to the village centre (including an examination of multi-storey and / or underground car parking at the Lennox Head Cultural Centre car park). The outcomes from this review will also assist with the preparation of a new Developer Contributions Car Parking Plan for Lennox Head, with the spaces in the existing plan having been fully allocated.
2. That the area of land at Byron Bay Road and the Coast Road be investigated as a park and ride site.

FOR VOTE - All Councillors voted unanimously.

**12. Advisory Committee Minutes**

Nil Items

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

**13.1 Mayoral Meetings**

**240920/23      RESOLVED**

(Cr Sharon Cadwallader/Cr Sharon Parry)

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

Cr Jeff Johnson left the meeting at 03:08 pm.

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

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**14. Confidential Session**

**240920/24 RESOLVED**

(Cr Sharon Cadwallader/Cr Stephen McCarthy)

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.

**14.1 Swimming Pool Compliance - Seahorse Place, Ballina**

**Reason for Confidentiality**

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

- e) information that would, if disclosed, prejudice the maintenance of law; 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 this may compromise any legal action taken by Council..

**9.5 Alstonville Cultural Centre – Licence Proposal**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(e) (g) 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 as this may compromise any negotiations undertaken by Council.

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

(The Council moved into Confidential Session at 3.11 pm).

Cr Ben Smith, declared an interest in Item 14.1 and left the meeting at 3.11 pm and returned during the Confidential Session for Item 9.5.

Cr Jeff Johnson returned to the meeting at 3.20 pm after Item 14.1 of the Confidential Session.

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Paul Tsikleas, Manager Commercial Services, was in attendance for the Confidential Session.

**Open Council**

**240920/25      RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

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 4.01 pm).

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

**14.1    Swimming Pool Compliance - Seahorse Place, Ballina**

**CF240920/1      RECOMMENDED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council issue further correspondence to the landowners of 16 Seahorse Place, Ballina in line with Council's legal advice as outlined in this report.
2. Where compliance with the applicable legislation is not suitably demonstrated, that Council commence proceedings in the NSW Land and Environment Court to seek compliance.

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

**9.5    Alstonville Cultural Centre - Licence Proposal**

**CF240920/2      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

That the General Manager be authorised to finalise negotiations with Byron Studios based on the following terms of agreement.



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1.	Agreement	Licence agreement with a reasonable entity
2.	Licensor	Ballina Shire Council
3.	Licensee	Byron Studios (or entity to be nominated)
4.	Premises	Alstonville Cultural Centre (see layout plan attached)
5.	Term	1 + 1 years.
6.	Commencement Date	TBA
7.	Rental	<p>Two tier rental structure:</p> <p>a) Active rate of \$750 per week whilst ever the premises are occupied and or the contract for a movie is in progress.</p> <p>b) Passive rate of \$375 per week whilst the premises are not in use.</p> <p>The rental shall be reviewed upon exercise of the option to renew the licence. The review shall take into account the forward bookings secured by the licensee. GST is payable in addition to the figures noted.</p> <p>Bonus payments Year 1 – the licensee would pay back to Council the rent free period amount. Year 2 is a rental review based on the results of the Feasibility Study, including the possibility of a turnover rent.</p>
8.	Rent Free Period	A rent free period of three months from the date of the execution of the licence agreement
9.	Signage	The Licensee shall be entitled to erect signage subject to being approved by Council.
10.	Cleaning	The Licensee will be responsible for cleaning the premises on a regular basis.
11.	Insurances	The Licensee shall have public liability insurance to the value of \$20m
12.	Consumption Charges	The Licensee shall be responsible for all consumption charges including electricity, water, sewer, waste water, garbage removal.
13.	Condition of Premises	The Licensee accepts the condition of the Premises "as is".
14.	Make Good	Upon vacating the premises the Licensee leave the Premises in a clean and tidy state and make good any damage to the building to the satisfaction of the Lessor.
15.	Permitted Use	Production of movies, television programs and related visual arts productions
16.	Bond	\$10,000
17.	Licence Preparation Costs	Each party shall be responsible for their own costs in preparing and executing licence documentation.
18.	Local Content Charter	<p>A local content charter will be developed with Byron Studios so that every reasonable endeavour will be made use local businesses for services such as catering, transport, trades services, accommodation, etc.</p> <p>Byron Studios also propose to reach out to the local indigenous community and educational institutions to get young people involved in understanding working in the industry as well.</p>
20.	Shared Use	Allows for relocation for planned events.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 24/09/20 AT 9.00 AM**

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

**Adoption of Recommendations from Confidential Session**

**240920/26      RESOLVED**

(Cr Keith Williams/Cr Stephen McCarthy)

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

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

**MEETING CLOSURE**

4.02 pm

The Minutes of the Ordinary Meeting held on 24/09/20 were submitted for confirmation by council on 22 October 2020 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 22 October 2020.