

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 26/11/20 AT 9.00 AM**

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**Attendance**

Crs David Wright (Mayor - in the chair), Phillip Meehan, Sharon Parry (via Zoom), Jeff Johnson (via Zoom), Eoin Johnston, Stephen McCarthy, Nathan Willis, Keith Williams (arrived at 9.15 am), Sharon Cadwallader and Ben Smith.

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

There were four 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**

Cr Keith Williams indicated that he would be late to the meeting.

**4. Confirmation of Minutes**

**261120/1            RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 22 October 2020.

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

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

There were no declarations of interest.

There were no reportable political donations.

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**6. Deputations**

**Josh Browne** – spoke (via Zoom) in favour of Item 8.3 – Dog Management – Lennox Head Surf Club Reserve.

**Karin du Plessis** – spoke (via video recording) in opposition to Item 8.1 – DA 2020/446 – Two Storey Dwelling and Earthworks – 28 Mosman Chase.

**Chris Wee** – spoke (via Zoom) in favour of Item 8.1 – DA 2020/446 – Two Storey Dwelling and Earthworks – 28 Mosman Chase.

Cr Keith Williams arrived at the meeting at 9:15 am.

**Bianca Urbina** – spoke in favour of Item 11.2 – Notice of Motion – Unaccounted Water – Program Plan.

**7. Mayoral Minutes**

Nil items.

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

**8.3 Dog Management - Lennox Head Surf Club Reserve**

A **Motion** was moved by Cr Keith Williams and seconded by Cr Phillip Meehan

1. That Council endorses the implementation of the changes to the dog access and management arrangements in the reserve adjacent to the Lennox Head Surf Club as set out in Figure 2.
2. That Council supports on site works to implement the approach in Figure 2 including formalising the beach access through the reserve with an accessible pathway 2.4m wide, a dog water station and measures to highlight the separated areas in the reserve (on leash and dog prohibited areas) by way of signage and in ground markers.
3. That Council supports ongoing community education and compliance action regarding dog related matters in the reserve.
4. That this matter be included in the review of the Companion Animals Management Plan

An **Amendment** was moved by Cr Jeff Johnson

That the existing dog on lead area between the surf club and the toilets remain and that Council removes the conflicting signs presently there, the pathway is formalised to the dog off lead beach and the temporary fencing is removed. An outdoor shower tap is to be placed in the area proposed on the side of the amenities building.

The **Amendment LAPSED.**

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Cr Cadwallader 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 Ben Smith

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

An **Amendment** was moved by Cr Eoin Johnston and seconded by Cr Sharon Cadwallader

That this matter be deferred to the December 2020 Ordinary meeting and that a Councillor Briefing be held prior to the meeting.

The **Amendment** was **CARRIED** on the casting vote of the Mayor

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis and Cr Sharon Cadwallader and the casting vote of the Mayor.

AGAINST VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Stephen McCarthy, Cr Keith Williams and Cr Ben Smith

The **Amendment** then became the **Motion** and was **CARRIED**.

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

AGAINST VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Keith Williams and Cr Ben Smith

**261120/2            RESOLVED**

(Cr Eoin Johnston/Cr Sharon Cadwallader)

That this matter be deferred to the December 2020 Ordinary meeting and that a Councillor Briefing be held prior to the meeting.

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

AGAINST VOTE - Cr Phillip Meehan, Cr Sharon Parry, Cr Keith Williams and Cr Ben Smith

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**11.2 Notice of Motion - Unaccounted Water - Program Plan**

**261120/3            RESOLVED**

(Cr Sharon Cadwallader/Cr Jeff Johnson)

1. That Council prepare a strategic plan to improve the performance of our water supply network in respect of reducing the amount of unaccounted water with progress reported to Council on an annual basis.
2. That staff provide a report on how the Demand Management Areas and Pressure Management Zones are performing. That the report be inclusive of water consumption for each zone in ranking order: pressure reduction performance for each zone, non-revenue water for zone, water main failure history for each zone and the associated scheduled replacement date.
3. That Council support increased efforts in water conservation through the Regional Demand Management Plan.

FOR VOTE - All Councillors voted unanimously.

**Adjournment**

The Mayor declared the meeting adjourned at 11.00 am

The meeting resumed at 11.20 am

**Rous County Council**

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

That Council write to Rous County Council asking them to put a pause on any additional expenditure on the Dunoon Dam project and ask them to invite a range of water experts to our region (from the private sector, Government and the University sector) to hold public meetings and workshops to outline alternative options to secure our long term water supply.

The Mayor advised that he could not accept the motion as the item was not related to the previous Notice of Motion and that Cr Johnson could submit this motion to the next meeting as a Notice of Motion.

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**8.1     DA 2020/446 - Two Storey Dwelling and Earthworks - 28 Mosman Chase  
**261120/4           RESOLVED****

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Development Application 2020/446 to construct a two storey dwelling and undertake earthworks at Lot 20 DP 1250165, 28 Mosman Chase, Lennox Head be **APPROVED** subject to the building height being lowered by changing the roof pitch from 25 degrees to 22.5 degrees, therefore lowering the building by 300mm as well as the standard conditions for this type of development.

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

**8.2     DA 2019/669 - Two Lot Torrens Title Subdivision - 23 Skinner Street  
**261120/5           RESOLVED****

(Cr Eoin Johnston/Cr Sharon Cadwallader)

That Development Application 2019/669 to undertake a two lot Torrens Title Subdivision to create one x 600m<sup>2</sup> allotment and one x 539m<sup>2</sup> allotment and demolition of gazebo, carport and swimming pool, site filling and drainage, infrastructure servicing, vegetation management works and associated works at Lot 1 587542, No. 23 Skinner Street, Ballina be **APPROVED** subject to application of conditions referred to within this report and standard planning, civil engineering and environmental health conditions.

FOR VOTE - All Councillors voted unanimously.

**8.4     Planning Proposal - Wardell Attached Dual Occupancy  
**261120/6           RESOLVED****

(Cr Ben Smith/Cr Keith Williams)

1. That Council amend planning proposal BSCPP 18/003 to re-include the lots at 42-54 Carlisle Street, Wardell to permit attached dual occupancy on this land.
2. That Council forward the revised planning proposal to the Minister for Planning and seek a determination that the amended planning proposal not require further community consultation.
3. That, if required by the Minister, Council re-exhibit the amended planning proposal and then reconsider the proposal after exhibition.

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4. That Council, upon obtaining Ministerial advice that re-exhibition is not required, authorises the General Manager to finalise and implement Planning Proposal BSCPP 18/003 – Wardell Attached Dual Occupancy in relation to the Ballina Local Environmental Plan 2012, under delegated authority.
5. That those persons who made submissions be thanked for their contribution and provided with advice as to Council's decision with respect to this planning proposal.

FOR VOTE - All Councillors voted unanimously.

**8.5 LEP Amendment Request - 12 Gilmore Close, Wollongbar**

**261120/7            RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council declines the request to amend the Ballina Local Environmental Plan 2012 to apply an R3 Medium Density Residential zone and 600m<sup>2</sup> minimum lot size to Lot 18 DP 1046117 and Lot 3 DP 1128207, 12 Gilmore Close Wollongbar for the reasons outlined in this report.
2. That the proponent and the Department of Planning Industry and Environment be advised of Council's decision to decline the LEP amendment request.

FOR VOTE - All Councillors voted unanimously.

**8.6 Development Applications - Works in Progress - November 2020**

**261120/8            RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of the report on the status of outstanding development applications for November 2020.

FOR VOTE - All Councillors voted unanimously.

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**9. Corporate and Community Division Reports**

**9.1 Investment Summary - October 2020**

**261120/9 RESOLVED**

(Cr Nathan Willis/Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.

**9.2 Flat Rock - Tent Park Fees and Charges 2021/22**

**261120/10 RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council authorises the exhibition of the draft Flat Rock Tent Park fees and charges for 1 February 2021 to 31 January 2022, as per Attachment 2 to this report, for public comment.

2. That Council receive a report on the option of reducing the minimum two night stay to a one night stay.

FOR VOTE - All Councillors voted unanimously.

**9.3 Legal Matters - Update**

**261120/11 RESOLVED**

(Cr Eoin Johnston/Cr Keith Williams)

That Council notes the contents of this update on legal matters.

FOR VOTE - All Councillors voted unanimously.

**9.4 Financial Statements - 2019/20**

**261120/12 RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council adopts the annual financial reports and auditor's reports for the financial year ended 30 June 2020, as publicly exhibited.

Cr Keith Williams left the meeting at 11:43 am.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Keith Williams

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**9.5 Financial Review - 30 September 2020**

**261120/13      RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

1. That Council notes the contents of the September 2020 Quarterly Budget Review and approves the changes identified within this report.
2. That Council approves the exhibition of the proposed fee for Kitchen Caddies, as discussed in Section Seven of this report, with any submissions to be reported back to Council. If no submissions are received then no further action is required.

Cr Keith Williams returned to the meeting at 11:44 am.

FOR VOTE - All Councillors voted unanimously.

**9.6 Tender - Wollongbar District Park Construction**

**261120/14      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council in accordance with the Local Government (General) Regulation 2005 Section 178 (1)(b), declines to accept any tenders for the Design and Construction of the Wollongbar District Park as the tenders are in excess of the Council budget for the entire project.
2. That Council, in accordance with Local Government (General) Regulation 2005 Section 178 (3)(e) authorises the General Manager to enter into negotiations with Boyds Bay Landscaping Pty. Ltd, Eureka Landscapes Pty. Ltd., or any other interested party, with a view to enter into a contract for the detailed design and documentation and construction of the Wollongbar District Park.
3. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(a) the reason Council has declined to invite fresh tenders is that the tender process has established sufficient market interest and it is more efficient and timely to negotiate with interested parties than call for new submissions.
4. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(b), Council has determined to negotiate with Boyds Bay Group, Eureka or any person (whether or not the person was a tenderer) with a view to entering into a contract in relation to the subject matter as the market indicated a strong initial interest, however only two formal responses were received. Further cost savings and competitive pricing could be obtained by returning to the interested parties that did and did not submit a tender response.



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5. That Council authorises the General Manager to affix the Council seal to the contract documents.
6. That any shortfall in funding in the Council adopted budget as compared to the agreed contract is to be funded from an additional transfer from the Community Infrastructure Reserve, with that amount to be confirmed in the next Quarterly Capital Works – Status report, scheduled for the January 2021 Ordinary meeting.

FOR VOTE - All Councillors voted unanimously.

**9.7 Tender - Wollongbar Residential Estate Stage 3 Construction**

**261120/15      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That Council in accordance with the Local Government (General) Regulation 2005 Section 178 (1)(b), declines to accept any tenders for the Construction of the Wollongbar Residential Estate – Stage 3 as there are opportunities to review the scope of works based on works currently underway at the site.
2. That Council, in accordance with Local Government (General) Regulation 2005 Section 178 (3)(e) authorises the General Manager to enter into negotiations with SK330 Trust T/A CD Excavations (ABN 25 308 895 106) with a view to enter into a contract for the Construction of the Wollongbar Residential Estate – Stage 3.
3. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(a) the reason Council has declined to invite fresh tenders is that the tender process has established a competitive market and it is more efficient to negotiate with the highest ranked tender than call for new submissions.
4. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(b), Council has determined to enter negotiations with SK330 Trust T/A CD Excavations as they are the preferred tenderer following assessment against the mandatory and weighted evaluation criteria established for the tender.
5. That Council authorises the General Manager to affix the Council seal to the contract and loan documents.

FOR VOTE - All Councillors voted unanimously.

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**9.8 Tender - Body Scanning and Baggage X-Ray Screening Equipment**

**261120/16      RESOLVED**

(Cr Eoin Johnston/Cr Sharon Cadwallader)

1. That Council accepts the tender from Rapiscan Systems Pty. Ltd. for the supply and installation of Passenger Body Scanning Equipment and Baggage X-Ray Screening Equipment at the Ballina Byron Gateway Airport for total amount of amount of \$408,254 (excl GST).
2. That Council authorises the General Manager to affix the Council seal to the contract documents.

FOR VOTE - All Councillors voted unanimously.

**9.9 Tender - Basalt Court Reservoir Access Upgrade**

**261120/17      RESOLVED**

(Cr Keith Williams/Cr Sharon Cadwallader)

1. That Council accepts the tender from Advanced Concrete Engineering Pty Ltd for the access upgrade and roof maintenance works of the Basalt Court Reservoir based on the tendered amount of \$246,561.82 (excl GST and contingencies) (\$271,218 incl GST).
2. That Council authorises the Council seal to be attached to the contract documents.

FOR VOTE - All Councillors voted unanimously.

**9.10 Tender - Ballina WWTP Rectification Works and Gantry Crane Installation**

**261120/18      RESOLVED**

(Cr Ben Smith/Cr Keith Williams)

That Council notes the contents of this report regarding the tender for the Ballina Wastewater Treatment Plant Rectification Works and Gantry Crane Installation, with the tender evaluation and recommendation included in a confidential report later in this agenda due to on-going litigation arising from the original contract.

FOR VOTE - All Councillors voted unanimously.

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**10. Civil Services Division Reports**

**10.1 Ballina SES Headquarters - Site Assessment**

**261120/19      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council provides in principle support for the construction of the proposed Ballina State Emergency Services (SES) Headquarters at the Clark Street Reserve site, subject to:
  - the proposal minimising any impacts on the Clark Street Reserve by reusing as much of the existing SES site as possible, particularly for the car park and hardstand / training areas; and
  - the next stage of the concept plan development is to also examine a two storey building area, located at the eastern end of the Clark Street Reserve, to further minimise environmental impacts.
2. That Council is to receive a further report back with updated concept plans based on point one, along with estimated costs for the relocation of existing utilities and the shared pathway, prior to proceeding to the detail design and planning stage of the project.

FOR VOTE - All Councillors voted unanimously.

**10.2 Pedestrian Crossing - Crane Street, Ballina**

A **Motion** was moved by Cr Sharon Cadwallader and seconded by Cr Stephen McCarthy

1. That, having regard to the noncompliance with the Pedestrian Crossing Warrant as the relevant standard, Council authorises the General Manager to arrange the removal of the marked pedestrian crossing located on Crane Street, east of Martin Street, Ballina.
2. That Council write and thank the members of the community who made a submission to this proposal, with that response to explain the technical reasons for the removal of the marked pedestrian crossing.

The **Motion** was **LOST** on the casting vote of the Mayor.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Stephen McCarthy and Cr Sharon Cadwallader

AGAINST VOTE - Cr Jeff Johnson, Cr Eoin Johnston, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith and the casting vote of the Mayor

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**261120/20      RESOLVED**

(Cr Ben Smith/Cr Nathan Willis)

1. That Council take no further action for removal of this designated pedestrian crossing and continue to monitor the performance of the crossing.
2. That Council write and thank the members of the community who made a submission to this proposal.

FOR VOTE - All Councillors voted unanimously.

**11. Notices of Motion**

**11.1 Notice of Motion - Surveillance Cameras at Lake Ainsworth**

**261120/21      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council receive a report on options to address management issues at Lake Ainsworth including waste management, facility provision, lighting, and use of surveillance.
2. That Council investigate the use of a vacuum machine to suck up broken glass.

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

**Adjournment for Public Question Time**

The Mayor declared the meeting adjourned at 1.09 pm for Public Question Time.

The meeting resumed at 1.12 pm

**12. Advisory Committee Minutes**

Nil Items

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

**13.1 Mayoral Meetings**

**261120/22 RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.

**14. Confidential Session**

**261120/23 RESOLVED**

(Cr Nathan Willis/Cr Sharon Cadwallader)

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 Tender - Ballina WWTP Rectification Works - Legal Components**

**Reason for Confidentiality**

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) (d) (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
- 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 project scope is subject to litigation.

FOR VOTE - All Councillors voted unanimously.

(The Council moved into Confidential Session at 1.13 pm).

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**Open Council**

**261120/24      RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

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

(The Council moved into Open Council at 1.21 pm).

The General Manager reported the recommendations made in Confidential Session:

**14.1    Tender - Ballina WWTP Rectification Works - Legal Components**

**CF261120/1      RECOMMENDED**

(Cr Ben Smith/Cr Nathan Willis)

1. That Council in accordance with the Local Government (General) Regulation 2005 Section 178 (1)(b), declines to accept any tenders for the Ballina WWTP rectification works and gantry crane installation as the scope of works requires further review and the tender amount is in excess of the Council allocated budget.
2. That Council, in accordance with Local Government (General) Regulation 2005 Section 178 (3)(e) authorises the General Manager to enter into negotiations with Hydroflux Epco the preferred tenderer nominated in the report with a view to enter into a contract for the Ballina WWTP rectification works and gantry crane installation.
3. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(a) the reason Council has declined to invite fresh tenders is that the tender process to date has involved an expression of interest process, along with a detailed assessment of the preferred tenderer's submission, with that proposal assessed as being able to meet the technical requirements of this contract, subject to certain variations as identified by an authorised auditor.
4. That in accordance with the Local Government (General) Regulation 2005 Section 178(4)(b), Council has determined to enter negotiations with Hydroflux Epco the preferred tenderer following assessment against the mandatory and weighted evaluation criteria established for the tender.
5. That Council authorises the General Manager to affix the Council seal to the contract documents.
6. That Council is to receive a report on a revised financial plan for the Wastewater Fund once agreement is reached on the subject contract.

FOR VOTE - All Councillors voted unanimously.

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**Adoption of Recommendations from Confidential Session**

**261120/25      RESOLVED**

(Cr Keith Williams/Cr Eoin Johnston)

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

FOR VOTE - All Councillors voted unanimously.

**MEETING CLOSURE**

1.21 pm

The Minutes of the Ordinary Meeting held on 26/11/20 were submitted for confirmation by council on 17 December 2020 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 17 December 2020.