

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

Attendance

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

Paul Hickey (General Manager), John Truman (Director, Civil Services Division – via video link), Matthew Wood (Director, Planning and Environmental Health Division), and Sandra Bailey (Secretary) were in attendance.

There were no 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

280520/1 RESOLVED

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 23 April 2020.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

5. Declarations of Interest and Reportable Political Donations

- **Paul Hickey, General Manager** – declared an interest in Items 8.1 (DA 2019/123 – 74 Ballina Street, Lennox Head) and 8.2 (DA 2020/23 – Wollongbar District Park). (Nature of Interest: non-pecuniary, non-significant – he has currently engaged Damian Chapelle to complete a planning application. Damian is a partner in Newton, Denny, Chapelle being the applicant for these development applications). He will be remaining in the meeting while these matters are discussed, as he has taken no part in the assessment process and taken no part in the decision making.
- **Cr Ben Smith** – declared an interest in Item 8.5 – DA 2019/223 – Northcott Crescent, Alstonville – Waste Transfer Station. (Nature of Interest: non significant, non pecuniary – as a business owner he has engaged the services of the applicant to carry out some work for him). He will be remaining in the meeting while the matter is discussed and voting on the matter.
- **Cr David Wright** – later in the meeting during discussion on the item he declared an interest in Item 8.2 - DA 2020/23 – Wollongbar District Park. (Nature of Interest: non significant, non pecuniary – he worked at the former Summerland Drive-in for the last six years of its operation). He remained in the meeting while the matter was discussed and voted on the matter.

There were no reportable political donations.

6. Deputations

Ron Birch, Wollongbar Progress Association – provided an email in opposition to Item 8.5 – DA 2019/223 – Northcott Crescent, Alstonville – Waste Transfer Station. A copy of the email (document 20/38311) has been distributed to Councillors.

Tim Fitzroy – provided an email in favour of Item 8.5 – DA 2019/223 – Northcott Crescent, Alstonville – Waste Transfer Station. A copy of the email (document 20/37795) has been distributed to Councillors.

Bianca Urbina – spoke via video link in favour of Item 8.2 – DA 2020/23 – Wollongbar District Park.

Dwayne Roberts – spoke via video link in opposition to the recommendation in Item 8.6 – DA 2018/432 – 10 Old Pacific Highway Newrybar – Determination Review.

Graham Shaw – spoke via video link in favour of Item 8.10 – Lennox Village Vision – Draft Concept Plan.

7. Mayoral Minutes

Nil items.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

8. Planning and Environmental Health Division Reports

**8.5 DA 2019/223 - Northcott Crescent, Alstonville - Waste Transfer Station
280520/2 RESOLVED**

(Cr Sharon Parry/Cr Sharon Cadwallader)

That Development Application 2019/223 for the expansion of the existing solid waste transfer station with a processing capacity of up to 28,000 tonnes per annum at Lot 890 DP 845412, 2-4 Northcott Crescent Alstonville be **APPROVED** subject to conditions contained in Attachment 6, and the General Terms of Approval issued by the EPA and conditions reinforcing a requirement for dust suppression and ongoing dust monitoring.

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

**8.2 DA 2020/23 - Wollongbar District Park
280520/3 RESOLVED**

(Cr Keith Williams/Cr Sharon Cadwallader)

That Development Application 2020/23 for the establishment of the Wollongbar District Park, involving the construction of public amenities and facilities and the construction of a skate park within approved Lot 32 (as approved via DA 2018/753) at Lot 6 DP 1161720 and Lots 39 & 45 DP 1242246, being No. 93 Rifle Range Road and No. 55 Avalon Avenue, Wollongbar be **APPROVED** subject to application of conditions referred to within this report and standard planning, building, environmental health and engineering conditions.

FOR VOTE - All Councillors voted unanimously.

During the debate on this matter, the subject of the concrete columns remaining on the site from the former Summerland Drive-in site was discussed. At that point the Mayor, Cr David Wright declared an interest in the item. (Nature of Interest: non significant, non pecuniary – he worked at the former Summerland Drive-in for the last six years of its operation). He remained in the meeting while the matter was discussed and voted on the matter.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

Adjournment

The Mayor declared the meeting adjourned at 10.33 am

The meeting resumed at 10.56 am

**8.6 DA 2018/432 - 10 Old Pacific Highway Newrybar - Determination Review
280520/4 RESOLVED**

(Cr Sharon Cadwallader/Cr Nathan Willis)

That Council maintains the **REFUSAL** of Development Application 2018/432 as determined by Council staff under Delegated Authority on 12 November 2019 on the basis of the original reasons for refusal per Attachment 3 to this report and the review application has not adequately demonstrated that there are sufficient environmental planning grounds to support the proposed development.

FOR VOTE - All Councillors voted unanimously.

**8.10 Lennox Village Vision - Draft Concept Plan
280520/5 RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council proceed with the implementation of the Lennox Village Vision (LVV) project following the timeline outlined in Figure 3 of this report, inclusive of the option of commencing construction works on the Ross Park component of the LVV design prior to April 2021.
2. That Council endorses the Lennox Village Vision Draft Concept Plan as contained in Attachment 1 for public exhibition.
3. That a Councillor briefing be held towards the end of or following the public exhibition of the draft concept plan.
4. That Council receive a further report on the LVV Draft Concept Plan following completion of the public exhibition period.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

8.1 DA 2019/123 - 74 Ballina Street, Lennox Head

280520/6 RESOLVED

(Cr Sharon Cadwallader/Cr Ben Smith)

1. That approval be granted to vary the 9.0m height of building standard by 700mm in accordance with cl. 4,6 of the Ballina LEP 2012.
2. That Development Application 2019/123 for a mixed use development comprising the erection and Strata Title subdivision of a three storey 9.7m high building (above the 9.0m height of buildings development standard) including food and drink premises and retail premises at ground and second floors, business premises at second floor and shop top housing consisting of two residential dwellings on the third floor, on-site car parking, vegetation removal and demolition of all structures on-site on Lot 24 DP Sec 2 DP 11687 No.74 Ballina Street Lennox Head be **APPROVED**, subject to standard planning, engineering and building related conditions and specific conditions as noted in this report.
3. That Council authorises the General Manager to complete the execution of the voluntary planning agreement accompanying DA 2019/123 including the application of the Common Seal.

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

AGAINST VOTE - Cr Stephen McCarthy

8.3 DA 2019/702 - 81 Teven Road, Alstonville

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

1. That Development Application 2019/702 for a Torrens Title subdivision to create four residential allotments and installation/extension of public infrastructure service at Lot 4 DP 879770, 81 Teven Road, Alstonville be **APPROVED** subject to the application of standard planning, building and engineering conditions and specific conditions identified within this report.
2. That Council release the Restrictions on Use (E), (F) and (G) over the subject land.

An **Amendment** was moved by Cr Jeff Johnson and seconded by Cr Keith Williams

That this DA be deferred in order for Council to seek legal advice on matters of the application of the Restrictions on Use of the land.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

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

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

AGAINST VOTE - Cr David Wright, Cr Phillip Meehan, Cr Sharon Parry, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Ben Smith

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

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Ben Smith and the casting vote of the Mayor

AGAINST VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

280520/7 RESOLVED

(Cr Ben Smith/Cr Eoin Johnston)

1. That Development Application 2019/702 for a Torrens Title subdivision to create four residential allotments and installation/extension of public infrastructure service at Lot 4 DP 879770, 81 Teven Road, Alstonville be **APPROVED** subject to the application of standard planning, building and engineering conditions and specific conditions identified within this report.
2. That Council release the Restrictions on Use (E), (F) and (G) over the subject land.

FOR VOTE - Cr David Wright, Cr Phillip Meehan, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Ben Smith and the casting vote of the Mayor

AGAINST VOTE - Cr Sharon Parry, Cr Jeff Johnson, Cr Nathan Willis, Cr Keith Williams and Cr Sharon Cadwallader

8.4 DA 2017/509 - Lennox Head Public School Modification

280520/8 RESOLVED

(Cr Keith Williams/Cr Ben Smith)

1. That the modification application to Development Application 2017/509 for 'Alterations and Additions to Lennox Head Public School at Lot 1 DP 603799 and Lot 1 DP 435547, 25 Byron Street, Lennox Head be **APPROVED** in the manner set out in Attachment 6.
2. That Council make enquiries of the Department of Education in relation to planning for schools generally in the Shire.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

8.7 Building Information Certificate - 135 Riverside Drive, West Ballina

280520/9 RESOLVED

(Cr Eoin Johnston/Cr Sharon Cadwallader)

1. That the Building Information Certificate Application for a retaining wall along the Quays canal frontage at 135 Riverside Drive, West Ballina be **APPROVED**.
2. That Council undertake a review of the development controls for retaining walls along canal frontages under the Ballina Shire Development Control Plan 2012.

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

8.8 Development Applications - Works in Progress - May 2020

280520/10 RESOLVED

(Cr Nathan Willis/Cr Sharon Cadwallader)

1. That Council notes the contents of the report on the status of outstanding development applications for May 2020.
2. That Council receive a Councillor briefing on DA 2020/192.

FOR VOTE - All Councillors voted unanimously.

8.9 Ballina Shire Local Strategic Planning Statement

280520/11 RESOLVED

(Cr Nathan Willis/Cr Sharon Cadwallader)

1. That Council adopts the Ballina Shire Local Strategic Planning Statement (LSPS), as included as Attachment 1 to this report.
2. That Council thanks those who made submissions to the draft LSPS.
3. That Council forwards the adopted LSPS to the Department of Planning Industry and Environment to invite the Department's endorsement.
4. That delete all references to the words "elephant in the room" from the document.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

8.11 Planning Proposal - Southern Cross Expansion - Gateway Amendment

280520/12 RESOLVED

(Cr Keith Williams/Cr Ben Smith)

1. That Council seek to amend the Gateway Determination for the Southern Cross Precinct Expansion planning proposal BSCPP 13/005 to apply to stage one (lots 1-5) as outlined in this report.
2. That a new planning proposal be presented to Council addressing the balance of the Southern Cross Precinct Expansion area once the required technical studies are complete.

FOR VOTE - All Councillors voted unanimously.

8.12 Planning Proposal - Rural Industry Definition Change

280520/13 RESOLVED

(Cr Eoin Johnston/Cr Sharon Cadwallader)

1. That Council authorises the General Manager to finalise and implement Planning Proposal BSCPP 19/005 - Rural Industry Definition Change in relation to the Ballina Local Environmental Plan 1987 as detailed in Attachment 1, under delegated authority.
2. 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.

8.13 Ballina Shire Development Control Plan 2012 - Draft Amendment No.13

280520/14 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council undertake the public exhibition of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012 (as contained in Attachments 1 and 2), in accordance with the terms of the *Environmental Planning and Assessment Act* 1979 and the associated Regulation.
2. That a further report be submitted to Council following the public exhibition of Draft Amendment No.13 to the Ballina Shire Development Control Plan 2012.

FOR VOTE - All Councillors voted unanimously.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

**8.14 Land Classification - Lot 84 DP 1262196, 6 Riberry Grove, Wollongbar
280520/15 RESOLVED**

(Cr Nathan Willis/Cr Sharon Cadwallader)

That Council classifies the land identified as Lot 84 DP 1262196, being land having frontage to Riberry Grove in Wollongbar, 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.

**8.15 Policy (Review) - Public Art
280520/16 RESOLVED**

(Cr Nathan Willis/Cr Sharon Parry)

1. That Council adopts the amended Public Art Policy, as attached to this report.

3. That Council place this policy on exhibition for public comment, with any submissions received, addressing substantive changes to the policy, to be resubmitted back to Council. If no such submissions are received then further action is not required and the amended policy will be considered adopted.

4. That Council's Policy include recognition that public art may further Aboriginal reconciliation.

FOR VOTE - All Councillors voted unanimously.

Adjournment

The Mayor declared the meeting adjourned at 1.06 pm

The meeting resumed at 1.46 pm

Cr Nathan Willis left the meeting during the adjournment break at 01:06 pm.

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

9. Corporate and Community Division Reports

9.1 Use of Council Seal

280520/17 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council affix the Common Seal to the following documents.

US/10	Ballina Shire Council Lease to Northcott Disability Services for 64 Crane Street Ballina for a term of three years with a three year option at current market rent + outgoings + GST.
US/11	Ballina Shire Council Agreement for Lease and Lease Documentation to Shelly Beach Café Ballina Pty Ltd for Lot 3 DP 1205999, Shelly Beach Road, East Ballina.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.2 Investment Summary - April 2020

RECOMMENDATION

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

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.3 Tender - Alstonville Aquatic Centre Amenities Upgrade

280520/18 RESOLVED

(Cr Sharon Parry/Cr Eoin Johnston)

1. That Council accepts the tender from Stinson Projects Pty Ltd t/a Blaze Projects (ABN 44 605 224 673) for the refurbishment of the amenities at the Alstonville Aquatic Centre for the amount of \$402,592.39 (incl GST).
2. That Council authorises the Council seal to be applied to the contract documents.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

9.4 Legal Matters - Update

280520/19 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

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

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

9.5 Financial Review - 31 March 2020

280520/20 RESOLVED

(Cr Sharon Cadwallader/Cr Keith Williams)

1. That Council notes the contents of the March 2020 Quarterly Budget Review and approves the changes identified within this report.
2. That Council approves the reallocation of \$100,000 from the National Bushfire Recovery Agency fund from the Richmond Room to the Indigenous Protected Area (IPA) repairs based on feedback from the JALI Aboriginal Land Council and a recognition that the IPA represents the most impacted area of the Ballina Shire from the 2019 bushfires.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

10. Civil Services Division Reports

10.1 Community Property Licence - Lennox Community Gardens

280520/21 RESOLVED

(Cr Keith Williams/Cr Sharon Cadwallader)

That Council agrees to enter into the licence to Lennox Community Gardens Inc for the three year term, at a licence fee in accordance with the Community Property and Leasing Policy, as per the contents of this report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Nathan Willis

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

10.2 Policy (Review) - 4WD Beach Access - Seven Mile Beach Lennox Head

280520/22 RESOLVED

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council adopts the amended 4WD Beach Access – Seven Mile Beach Lennox Head 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.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Nathan Willis

10.3 Policy (Review) - Cemetery Management Policy

280520/23 RESOLVED

(Cr Sharon Parry/Cr Sharon Cadwallader)

1. That Council adopts the Cemetery Management Policy, as exhibited, as per Attachment 2 to this report.
2. That Council write to Mr Wilson expressing regret that Council is not able to amend the policy as requested and invite Mr Wilson to continue to discuss with staff policy compliant options that will suit his circumstances and preferences.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Nathan Willis

11. Notices of Motion

11.1 Notice of Motion - Wollongbar Sports Fields Drainage

280520/24 RESOLVED

(Cr Ben Smith/Cr Keith Williams)

That Council receive a report on the background and remediation options for the road drainage at the Wollongbar Sports Fields.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Nathan Willis

12. Advisory Committee Minutes

Nil Items

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET BALLINA,
ON 28/05/20 AT 9.00 AM**

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

13.1 Mayoral Meetings

280520/25 RESOLVED

(Cr Sharon Cadwallader/Cr Stephen McCarthy)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Nathan Willis

14. Confidential Session

Nil items.

MEETING CLOSURE

2.26 pm

The Minutes of the Ordinary Meeting held on 28/05/20 were submitted for confirmation by council on 25 June 2020 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 25 June 2020.