

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 25/03/21 AT 9.00AM**

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**Attendance**

Crs David Wright (Mayor - in the chair), Phillip Meehan (via Zoom), Jeff Johnson (via Zoom), Eoin Johnston, Stephen McCarthy, Keith Williams (arrived at 9.10am), 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 six 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**

Apologies were received from Cr Nathan Willis and Cr Sharon Parry.

**250321/1            RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That such apologies be accepted and leave of absence granted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Nathan Willis and Cr Keith Williams

**4. Confirmation of Minutes**

**250321/2            RESOLVED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 25 February 2021.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Nathan Willis and Cr Keith Williams

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

Nil

There were no reportable political donations.

**6. Deputations**

- **Graham Shaw** – spoke in favour of Item 8.3 – Policy (New) – Climate Change.

Cr Keith Williams arrived at the meeting at 9:10am.

- **Denis Magnay** – spoke in favour of Item 10.1 – Barlows Road Option – Traffic Modelling.
- **Brian Douglas** – spoke in favour of Item 11.1 – Notice of Motion – Rous County Council.
- **Brad Pollard** (via Zoom) – spoke in favour of Item 11.3 – Notice of Motion – Retaining Wall, Ballina Street, Lennox Head.

**7. Mayoral Minutes**

Nil items.

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

**8.3 Policy (New) - Climate Change**

**250321/3          RESOLVED**

(Cr Jeff Johnson/Cr Keith Williams)

1. That Council endorses the public exhibition of the draft Climate Change Policy, as per Attachment 1 to this report.
2. That Council, in principle, endorses the delivery of the Climate Change Policy based on the approach set out in method 3 as outlined in this report, subject to funding being provided in the Long Term Financial Plan, with the approach to the implementation of the policy to be confirmed following consideration of the outcomes of the public exhibition of the draft policy. This is to assist the community in understanding the implications of the draft policy.
3. The community engagement is to include the option of expanding the policy to incorporate a greater address of community emissions and consideration of cost implications associated with that, based on additional revenue.

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4. That Council examine the incorporation of a part-time position to support the implementation of the Climate Change Policy and associated plans and actions through the workforce planning process.

FOR VOTE - Cr David Wright, Cr Jeff Johnson, Cr Keith Williams, Cr Ben Smith and the casting vote of the Mayor

AGAINST VOTE - Cr Phillip Meehan, Cr Eoin Johnston, Cr Stephen McCarthy and Cr Cadwallader

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**10.1 Barlows Road Option - Traffic Modelling**

A **Motion** was moved by Cr Stephen McCarthy and seconded by Cr Eoin Johnston

That Council progress the Barlows Road option project to a preconstruction phase including:

1. Preparation of an amendment to the Ballina Road Contributions Plan and associated public consultation with the aim of including the Barlows Road Option.
2. Subject to the Barlows Road option being included in an amended Ballina Shire Road Contributions Plan, an allocation of \$200,000 be included in the draft 2021/22 Delivery Program / Operational Plan to progress preconstruction activities for this project, including concept design / estimates, environmental assessment, planning assessment / approval and preliminary land acquisition valuations / survey / negotiations.

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

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**250321/4            RESOLVED**

(Cr Stephen McCarthy/Cr Eoin Johnston)

That Council progress the Barlows Road option project to a preconstruction phase including:

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1. Preparation of an amendment to the Ballina Road Contributions Plan and associated public consultation with the aim of including the Barlows Road Option.
2. Subject to the Barlows Road option being included in an amended Ballina Shire Road Contributions Plan, an allocation of \$200,000 be included in the draft 2021/22 Delivery Program / Operational Plan to progress preconstruction activities for this project, including concept design / estimates, environmental assessment, planning assessment / approval and preliminary land acquisition valuations / survey / negotiations.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**11.1 Notice of Motion - Rous County Council**

**250321/5          RESOLVED**

(Cr Eoin Johnston/Cr Keith Williams)

That Council invite senior technical representatives of Rous County Council to provide a briefing to Councillors on the ramifications of using the Alstonville Aquifer as a major source of water supply to the region for the next forty years.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**Adjournment**

The Mayor declared the meeting adjourned at 10.56 am. The meeting resumed at 11.15 am.

**8.2 LEP Amendment Request - Ballina Heights Commercial Centre**

**250321/6          RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council prepare a planning proposal to apply the R3 Medium Density Residential zone to parts of Lot 497 DP 1261230 as outlined in the Council report.
2. That Council authorises the General Manager to negotiate the terms of a voluntary planning agreement with Vixsun Pty Ltd to achieve public interest outcomes associated with the development of the land (including the delivery of commercial land use outcomes to service the Ballina Heights locality), as outlined in this report.
3. That Council receive a report on the draft planning proposal and voluntary planning agreement prior to submission of the documentation to the Department of Planning, Industry and Environment for Gateway determination.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

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**8.1 DA 2020/242 - Medium Density Residential Development - Aureus**

**250321/7            RESOLVED**

(Cr Ben Smith/Cr Stephen McCarthy)

That Development Application 2020/242 for the construction of a two-storey multi dwelling housing development comprising the erection and Strata Title subdivision of 44 dwellings at Lot 234 DP 1266854 be **APPROVED** subject to standard planning, engineering, environmental health and building conditions for this type of development, and the Bushfire Safety Authority issued by the NSW Rural Fire Service.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**11.3 Notice of Motion - Retaining Wall, Ballina Street, Lennox Head**

**250321/8            RESOLVED**

(Cr Sharon Cadwallader/Cr Jeff Johnson)

That Council considers including funding for the construction of a continuous retaining wall at Ballina Street, Lennox Head (between Byron Bay Road/North Creek Road roundabout and Allens Parade), in the draft 2021/22 Operational Plan.

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

AGAINST VOTE - Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**8.4 Development Applications - Works in Progress - March 2021**

**250321/9            RESOLVED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council notes the contents of the report on the status of outstanding development applications for March 2021.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

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**9. Corporate and Community Division Reports**

**9.1 Investment Summary - February 2021**

**250321/10 RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

That Council notes the record of banking and investments for February 2021.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**9.2 Disclosure of Interest Returns**

**250321/11 RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

That Council notes the contents of this report on the disclosure of interest return submitted in accordance with clause 4.21(c) of the Code of Conduct.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**9.3 Tender - Surf School Licences**

**250321/12 RESOLVED**

(Cr Eoin Johnston/Cr Keith Williams)

1. That Council in accordance with the *Local Government (General) Regulation 2005 Section 178(1)(a)*, accepts the tenders and awards the licences as follows based on the adopted licence fees:

**Surf Schools**

- The Trustee for Milwac Trust - T/A Lets Go Surfing Pty Ltd (ABN 79 356 198 835)
- Mojosurf Pty Ltd (ABN 80 100 382 134)
- The Trustee for the Riley Family Trust - T/A Soul Surf School Pty Ltd (ABN 532 409 817 64)
- Terence Hannon Patrick – T/A Kool Katz Surf School) (ABN 53 805 354 783)
- Women that Surf Pty Ltd – T/A Surf Getaways (ABN 16 633 002 623)

**Elite Surf Coaching**

- Ability Surf Pty Ltd (ABN 85 623 570 169)
- David Hubert Rutter –T/A Ballina Surf School (ABN 80 529 876 270)

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- Jennifer Ann Boggis (ABN 80 852 120 967)
- The Trustee for Milwac Trust - T/A Lets Go Surfing Pty Ltd (ABN 79 356 198 835)
- Mojosurf Pty Ltd (ABN 80 100 382 134)
- Women that Surf Pty Ltd – T/A Surf Getaways (ABN 16 633 002 623)

**Stand Up Paddle Board Coaching**

- The Trustee for Milwac Trust - T/A Lets Go Surfing Pty Ltd (ABN 79 356 198 835)
2. That Council authorises the General Manager to affix the Common seal to the licence agreements.

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

**9.4 Council Meetings - Transitioning Back to In-Person**

**250321/13      RESOLVED**

(Cr Ben Smith/Cr Sharon Cadwallader)

1. That Council notes that the Office of Local Government is proposing to extend the existing prescribed amendments to permit an individual councillor (but not all) to attend meetings by audio-visual link from the currently expiry date of 25 March 2021 to 31 December 2021, with further information on the extension yet to be released.
2. That Council make a submission to the Office of Local Government's Remote Attendance by Councillors at Council Meetings consultation paper, supporting greater flexibility for Councillors to attend Council or Committee meetings by audio-visual link, subject to the current proposed limit of three meetings per annum.
3. The submission to also focus on creating more flexible opportunities for Councillors.
4. That Council forward copies of our submission to our local members of Parliament and the relevant Minister.

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

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**9.5 Use of Council Seal**

**250321/14      RESOLVED**

(Cr Sharon Cadwallader/Cr Keith Williams)

That Council affix the Common Seal to the following documents.

US/03	Variation to Lease – Newcastle Permanent Building Society Limited – Shop 137 River Street Ballina to amend trading hours.				
US/04	That Council as appointed Crown Land Manager, affix the Common Seal to the following documents:				
	Doc No.	Crown Reserve No.	Occupant (Lessee)	Folio Identifier	Renewed Tenure
	1	R97839	Lennox Head Community Preschool	Lot 466 DP 729058	Four year lease at statutory minimum rental.
	2	R83963	Fripp Oval Sports Club	Lot 1 DP 1153430	Four year lease at statutory minimum rental.
	3	R83963	Ballina Sports Club Incorporated	Lot 495 DP 729297	Four year lease at statutory minimum rental.
	5	R97786	Ballina Naval & Maritime Museum	Lot 502 DP 729388	Four year lease at statutory minimum rental.
	6	R97786	Richmond-Tweed Historical Society Incorporated	Lot 502 DP 729388	Four year lease at statutory minimum rental.
	7	D540004	Ballina Tennis Club	Lot 441 DP 45984 and Part Lot 561 DP 1119965	Four year lease at statutory minimum rental.
	8	R87280	Richmond River Sailing and Rowing Club Incorporated	Lot 1 DP 1051004	Four year lease at statutory minimum rental.
	9	R54223	Tintenbar Tennis Incorporated	Lot 371 DP 729061	12 month short-term licence at statutory minimum rental.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis



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**10. Civil Services Division Reports**

**10.2 Wollongbar Sports Fields - Elvery Lane Stormwater Upgrade**

**250321/15      RESOLVED**

(Cr Keith Williams/Cr Sharon Cadwallader)

1. That in accordance with Section 67 (Private Works) of the Local Government Act, Council approves the undertaking of gully and channel reshaping works as shown on Drawing D01-2008-02/CD (attached to this report) which are works associated with the Every Lane stormwater and drainage project at no charge to the landowner.
2. That Council record the cost of the private work from point one is estimated to be \$5,000 and reasons for not charging the landowner include the agreement with the adjoining landowner facilitates the implementation of the preferred technical option for this project and it achieves significant costs savings to Council as this option is the least expensive of the alternative options.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**10.3 Contract Dispute - Ballina Waste Water Treatment Plant**

**250321/16      RESOLVED**

(Cr Eoin Johnston/Cr Sharon Cadwallader)

1. That Council notes the contents of this report on the contract dispute for the Ballina Waste Water Treatment Plant and that a deed of settlement has been agreed with the contractor (Haslin), which includes the termination of the current dispute.
2. The finalisation of that deed is subject to Council confirming agreement to the proposed terms, based on the contents of the confidential report included in this agenda.

Cr Keith Williams left the meeting at 12:11 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry, Cr Nathan Willis and Cr Keith Williams

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**11. Notices of Motion**

Cr Keith Williams returned to the meeting at 12:12 pm.

**11.2 Notice of Motion - Police Numbers in Ballina**

**250321/17      RESOLVED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council write to the NSW Minister for Police seeking support for the following:

- Review of Police numbers assigned to the Police Stations in the Ballina Shire to assist in the ever increasing need for local officers to deal with not only crime, but also with mental health issues.
- Clarification regarding future planning for a new Police Station at Lennox Head based on current and forecast population growth for this township
- That Council acknowledges and thanks the Police Officers in the Richmond Command for the excellent service that they provide to our community.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**11.4 Notice of Motion - Old Depot Site, Tamarind Drive, Ballina**

**250321/18      RESOLVED**

(Cr Sharon Cadwallader/Cr Jeff Johnson)

That Council make representations to the Minister for Crown Lands, the Hon Melinda Pavey, to support the transfer of the old Depot Site at Tamarind Drive, Ballina to Council, at a nominal value, to encourage greater usage of the site.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

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**12. Advisory Committee Minutes**

**12.1 Finance Committee Minutes - 16 March 2021**

**250321/19      RESOLVED**

(Cr Keith Williams/Cr Ben Smith)

That Council confirms the minutes of the Finance Committee meeting held 16 March 2021 and that the recommendations contained within the minutes be adopted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

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

**13.1 Mayoral Meetings**

**250321/20      RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**Adjournment for Public Question**

The Mayor declared the meeting adjourned at 12.46pm

The meeting resumed at 12.51 pm

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**14. Confidential Session**

**250321/21 RESOLVED**

(Cr Eoin Johnston/Cr Ben Smith)

That Council moves into committee of the whole with the meeting closed to the public, to consider the following item in accordance with Section 10A (2) of the Local Government Act 1993.

**14.1 Contract Dispute - Ballina Wastewater Treatment Plant**

**Reason for Confidentiality**

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

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

and in accordance with 10D(2)(c), on balance, the discussion of the matter in an open meeting is not considered to be in the public interest as it may adversely prejudice the Council's position.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

(The Council moved into Confidential Session at 12.52pm).

**Open Council**

**250321/22 RESOLVED**

(Cr Sharon Cadwallader/Cr Ben Smith)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

(The Council moved into Open Council at 1.10pm).

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

**14.1 Contract Dispute - Ballina Wastewater Treatment Plant**

**CF250321/1 RECOMMENDED**

(Cr Sharon Cadwallader/Cr Eoin Johnston)

That Council authorises the General Manager to execute the Deed of Settlement and Release, as per Attachment 1 to this report incorporating amendments received on 24 March 2021 relating to access to documents etc.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**Adoption of Recommendation from Confidential Session**

**250321/23 RESOLVED**

(Cr Eoin Johnston/Cr Keith Williams)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Parry and Cr Nathan Willis

**MEETING CLOSURE**

1.11 pm

The Minutes of the Ordinary Meeting held on 25/03/21 were submitted for confirmation by council on 22 April 2021 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 22 April 2021.