

**MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS
40 CHERRY STREET, BALLINA,
ON 26/10/23 AT 9.00AM**

Attendance

Crs Sharon Cadwallader (Mayor - in the chair), Kiri Dicker (arrived at 9.06 am), Simon Chate, Jeff Johnson, Eoin Johnston, Stephen McCarthy, Nigel Buchanan (via Zoom), Eva Ramsey, Phillip Meehan and Rodney Bruem.

Paul Hickey (General Manager), John Truman (Director, Civil Services Division), Matthew Wood (Director, Planning and Environmental Health Division), Caroline Klose (Acting Director, Corporate and Community Division) and Nikki Glassop (Administration Officer, Corporate and Community) were in attendance.

There were 30 people in the gallery at this time.

1. Australian National Anthem

The National Anthem was performed by the Ballina Shire Meals on Wheels Singing for Fun group.

2. Acknowledgement of Country

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

3. Apologies

Nil.

4. Confirmation of Minutes

261023/1 RESOLVED

(Cr Rodney Bruem/Cr Stephen McCarthy)

That Council confirms the Minutes of the Ordinary Meeting of Ballina Shire Council held on Thursday 28 September 2023.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Kiri Dicker

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5. Declarations of Interest and Reportable Political Donations

Cr Simon Chate – declared an interest in Item 10.1 Flooding and Drainage – Investigations Update – Alstonville Stormwater Investigations Study. (Nature of interest: significant, pecuniary – he lives in Mellis Circuit, Alstonville). He will depart the meeting while the matter is discussed.

There were no reportable political donations.

Cr Kiri Dicker arrived at the meeting at 9.06 am.

6. Deputations

- **Kate Flindall and Maria Matthes** – spoke in opposition to Item 11.1 Rescission Motion – Deferred Matters Conservation Zones.

Extension of Time

261023/2 RESOLVED

(Cr Eva Ramsey/Cr Rodney Bruem)

That an extension of time be granted to Kate Flindall and Maria Matthes for their deputation.

FOR VOTE - All Councillors voted unanimously.

- **Rob Sands** – spoke in favour of Item 9.6 Local Government Elections – Ward Boundaries, option 2 – adopt the boundaries as exhibited in September/October.
- **Samantha McConnell, President of Wardell and District Tennis Club** – spoke in favour of Item 8.2 Wardell Tennis Courts – Management Options.
- **Ralph Moss** – spoke in opposition to Item - 10.1 Flooding and Drainage – Investigations Update.

Change in Order of Business

261023/3 RESOLVED

(Cr Simon Chate/Cr Eoin Johnston)

That Council change the order of business to deal with the items in the order in which the Deputations were received.

FOR VOTE - All Councillors voted unanimously.

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11.1 Rescission Motion - Deferred Matters Conservation Zones

A **Motion** was moved by Cr Johnson and seconded by Cr Dicker.

That Resolution 280923/7, as follows, be rescinded:

Notice of Motion - Deferred Matters - Conservation Zones

1. *That in respect to the Deferred Matters Review (BSCPP 21/004), as it relates to conservation zones, Council adopts a policy position to include conservation zones on private property only where a written request from a landholder is submitted to and accepted by Council.*
2. *That land subject to owner objection, or where landholders have not given written consent to a proposed zone change to C1 or C2 be instead zoned the most appropriate equivalent zone to its current Ballina LEP 1987 zone.*
3. *That Council provide a report on how landholders who undertake Conservation and biodiversity improvements could be better supported.*

Adjournment

The Mayor declared the meeting adjourned at 10.45 am.

The meeting resumed at 11.01 am.

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

FOR VOTE - Cr Kiri Dicker, Cr Jeff Johnson, Cr Simon Chate, Cr Stephen McCarthy and Cr Phillip Meehan

AGAINST VOTE - Cr Sharon Cadwallader, Cr Eoin Johnston, Cr Nigel Buchanan, Cr Eva Ramsey and Cr Rodney Bruem

9.6 Local Government Elections - Ward Boundaries

261023/4 RESOLVED

(Cr Rodney Bruem/Cr Stephen McCarthy)

That Council adopts the amended Ward Boundaries, as exhibited during September / October 2023, which includes relocating the areas, as per the following dot points, for forwarding to the NSW Electoral Commission.

- North Ballina moved from B Ward to A Ward
- All areas in the Newrybar locality west of the Pacific Motorway moving from B Ward to C Ward
- Ballina Heights (Cumbalum) moving from B Ward to A Ward
- Areas of East Ballina, north and north-east of the Richmond River move from A Ward to B Ward.

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

FOR VOTE - Cr Sharon Cadwallader, Cr Stephen McCarthy, Cr Nigel Buchanan, Cr Eva Ramsey and Cr Rodney Bruem

AGAINST VOTE - Cr Kiri Dicker, Cr Jeff Johnson, Cr Simon Chate, Cr Eoin Johnston and Cr Phillip Meehan

Adjournment

The Mayor declared the meeting adjourned at 11.35 am.

The meeting resumed at 11.48 am.

Cr Jeff Johnson did not return to the meeting at 11.48 am.

Cr Rodney Bruem did not return to the meeting at 11.48 am and was an apology for the balance of the meeting.

9.8 Annual Financial Statements - 2022/23

Colin Wight (ARIC Chair) provided the Council with a presentation of the Annual Financial Statements.

261023/5 RESOLVED

(Cr Eoin Johnston/Cr Eva Ramsey)

1. That Council authorises the exhibition of the Annual Financial Statements and Auditor's Reports for the year ended 30 June 2023, as per Attachment 1 to this report, for public comment.
2. That Council approves the signing of the statements that confirm the Annual Financial Statements are fair and accurate, as per Attachment 2 to this report, by the Mayor, a Councillor, the General Manager and the Responsible Accounting Officer.
3. That Council notes the annual report from the Chairperson of the Audit, Risk and Improvement Committee, as per Attachment 3 to this report.
4. That Council notes the Internal Audit and Risk Management Attestation Statement from the General Manager, as per Attachment 4 to this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

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8.2 Wardell Tennis Courts - Management Options

261023/6 RESOLVED

(Cr Nigel Buchanan/Cr Eva Ramsey)

1. That Council, in accordance with the relevant provisions of the Local Government Act 1993, enters a two year lease of both the building and courts at Fitzroy Park Wardell (being part of Lot 18 DP 1129974, located at 32 Bridge Drive, Wardell), to Wardell and District Tennis Club Incorporated, at a rent equal to the statutory minimum rent charged by Crown Lands (currently \$579 plus GST per annum).
2. That Council authorises the General Manager to affix the seal to the lease in point one.
3. That prior to points one and two being actioned, statutory public notification relating to the proposed lease of community land be undertaken, with a report to be presented to Council if an objection of a substantive nature is received to the grant of the proposed lease.
4. That Council endorses the Wardell and District Tennis Club Incorporated to undertake interim management of the courts until formal tenure is in place.
5. That the lease in point one includes a clause that provides for non-competition tennis on Tuesday evenings from 6-10pm for both courts, with bookings to be confirmed one week in advance.
6. That a key be left at one of the two businesses at Wardell for community access until the key pads are installed.

Cr Jeff Johnson returned to the meeting at 12.29 pm.

FOR VOTE - Cr Sharon Cadwallader, Cr Kiri Dicker, Cr Jeff Johnson, Cr Simon Chate, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nigel Buchanan and Cr Eva Ramsey

AGAINST VOTE - Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Rodney Bruem

Cr Kiri Dicker left the meeting at 12.41 pm.

Cr Simon Chate left the meeting at 12.42 pm.

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10.1 Flooding and Drainage - Investigations Update

261023/7 RESOLVED

(Cr Stephen McCarthy/Cr Eva Ramsey)

That Council adopts the schedule of stormwater upgrades, as per Attachment 1 to this report, based on the level of funding currently available for these infrastructure works.

Cr Kiri Dicker left the meeting at 12.41 pm.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Kiri Dicker, Cr Simon Chate and Cr Rodney Bruem

Cr Kiri Dicker returned to the meeting at 12.43 pm.

Cr Simon Chate returned to the meeting at 12.43 pm.

7. Mayoral Minutes

7.1 Mayoral Minute - Parliamentary Inquiry into Crime, Law and Order in Regional NSW

A **Motion** was moved by Cr Cadwallader

That Council endorse the following recommendations listed in the Country Mayors Association of NSW report into Crime, Law and Order and call on the Hon Tamara Smith MP to support the establishment of a Parliamentary Inquiry with the suggested terms of reference in the document.

1. That, Council calls on all members of the NSW Parliament to commit to bipartisan support to establish a Parliamentary Inquiry into and report on the rate of crime in all categories reported on by the Bureau of Crime Statistical and Research (BOCSAR) in Regional, Rural and Remote New South Wales, specifically focussing on the inequity between Metro and Regional Local Government areas.
2. That Council calls on all members of the NSW Parliament to commit to bipartisan support to increase spending on the NSW police force to increase front line policing numbers in Regional, Rural and Remote regions most at need.
3. That Council calls on the NSW Government to commit to the minimum staffing agreements (known in the NSW Police Force as First Response Agreements) for non-24 hour police stations, all of which are in Regional, Rural and Remote Local Government areas.

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4. That Council calls on the NSW Government to review the current formula used to assess staffing levels including the universally agreed outdated current model for those Local Government areas that do have a First Response Agreement in place.

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

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

261023/8 RESOLVED

(Cr Sharon Cadwallader)

That Council endorse the following recommendations listed in the Country Mayors Association of NSW report into Crime, Law and Order and call on the Hon Tamara Smith MP to support the establishment of a Parliamentary Inquiry with the suggested terms of reference in the document.

1. That, Council calls on all members of the NSW Parliament to commit to bipartisan support to establish a Parliamentary Inquiry into and report on the rate of crime in all categories reported on by the Bureau of Crime Statistical and Research (BOCSAR) in Regional, Rural and Remote New South Wales, specifically focussing on the inequity between Metro and Regional Local Government areas.
2. That Council calls on all members of the NSW Parliament to commit to bipartisan support to increase spending on the NSW police force to increase front line policing numbers in Regional, Rural and Remote regions most at need.
3. That Council calls on the NSW Government to commit to the minimum staffing agreements (known in the NSW Police Force as First Response Agreements) for non-24 hour police stations, all of which are in Regional, Rural and Remote Local Government areas.
4. That Council calls on the NSW Government to review the current formula used to assess staffing levels including the universally agreed outdated current model for those Local Government areas that do have a First Response Agreement in place.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

Public Question Time

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

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8. Planning and Environmental Health Division Reports

8.1 Lennox Head Strategic Plan 2023-2043 - Finalisation

261023/9 RESOLVED

(Cr Jeff Johnson/Cr Eva Ramsey)

1. That Council adopts the Lennox Head Planning and Environmental Study, as per Attachment 1 to this report.
2. That Council adopts the Lennox Head Strategic Plan 2023 – 2043, as per Attachment 2 to this report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

8.3 Community Land Licence - Chickiba Park, Ballina - Submissions

261023/10 RESOLVED

(Cr Eoin Johnston/Cr Stephen McCarthy)

1. That Council enters a one year licence for storage areas on the land for three shipping containers and a one year licence for use of parts of the existing building with Ballina Little Athletics Incorporated, at a combined licence fee equal to the statutory minimum charged by Crown Lands (currently \$579 per annum plus GST)
2. That Council authorises the General Manager to affix the seal to the licences in point one.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

8.4 Crown Land - Boomerang Park Classification and Categorisation

261023/11 RESOLVED

(Cr Eoin Johnston/Cr Stephen McCarthy)

1. That Council requests appointment as Crown Land Manager over Crown Reserve R75925.
2. That Council endorses the classification of Boomerang Park as community land with a categorisation of Park to be applied in the event Council is appointed as Crown Land Manager.

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3. The General Manager is authorised to seek classification and categorisation of the land as set out in point 2.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

8.5 Planning Proposal and DCP Amendment - Wollongbar Dual Occupancy

261023/12 RESOLVED

(Cr Stephen McCarthy/Cr Eva Ramsey)

1. That Council authorises the General Manager to proceed to finalise and implement Planning Proposal BSCPP22/010 – Dual Occupancy (attached) Wollongbar, under delegated plan making authority.
2. The finalisation of the planning proposal is to include a special clause with the objective of addressing the concerns raised by the NSW Rural Fire Service generally as detailed in the exhibited planning proposal.
3. That the proposed amendments to Ballina Shire Development Control Plan 2012 (DCP) as contained in Appendix Seven of the exhibited planning proposal (Attachment 1) be adopted.
4. That Council provide public notice of the adoption of the DCP amendments, with the amended DCP provisions to take effect from the date of publication on Council's web site.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

8.6 LEP Amendments and Planning Proposals - Status

261023/13 RESOLVED

(Cr Simon Chate/Cr Stephen McCarthy)

That Council notes the contents of this report on current LEP amendments and planning proposals.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

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8.7 Policy (Review) - Commercial Activities on Public Land

261023/14 RESOLVED

(Cr Phillip Meehan/Cr Eoin Johnston)

1. That Council adopts the amended Commercial Activities on Public Land Policy, as per Attachment 3 to this report.
2. That Council adopts the amended Commercial Activities on Public Land Specifications, as per Attachment 4 to this report.
3. That Council place the Policy and Specifications on exhibition for public comment, with any submissions resubmitted back to Council. If no submissions are received, then no further action is required.
4. That Council proceeds with a public tender process for five surf school sub-licences, six elite surf coaching sub-licences and three stand up paddle board coaching sub-licences, for a sub-licence period of three years commencing 1 May 2024.
5. That the public tender include a fixed price for the sub-licences as set out in Table 3 of this report.
6. That the public tender be based on the criteria and weightings set out in Table 4 of this report.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

8.8 Development Applications – Variation to Development Standards

261023/15 RESOLVED

(Cr Simon Chate/Cr Stephen McCarthy)

That Council notes that there has been one application approved under delegation for variations to development standards of 10% or less for the period 1 July 2023 to 30 September 2023.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Rodney Bruem

Adjournment

The Mayor declared the meeting adjourned at 1.22 pm.

Cr Jeff Johnson advised an apology for the balance of the meeting.

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The meeting resumed at 2.00 pm.

Cr Simon Chate did not return to the meeting at 2.00pm.

9. Corporate and Community Division Reports

9.1 Use of Council Seal

261023/16 RESOLVED

(Cr Stephen McCarthy/Cr Eoin Johnston)

That Council affix the Common Seal to the following documents.

US2023/17	Ballina Shire Council Sublease to Sophie Fleming for Lots 321 DP 755745 and Lot 7003 DP 92641 being the old Tintenbar Council Chambers (Area 1), for a three-year sublease with a two-year option at market rent.
US2023/18	That Council as Crown Land Manager affix the Common Seal to the following documents: 1. 12-month licence agreements between Council as Crown Land Manager of Reserve R82927 and Lennox Combined Sports Association for part Lot 473 in DP 729088, at a statutory minimum rental (\$579) 2. 12-month licence agreements between Council as Crown Land Manager of Reserve D540004 and Ballina Bowling and Recreation Club for occupation of land for Croquet Lawns and Clubhouse (Part Lot 561 DP119965), at a statutory minimum rental (\$579).

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Simon Chate, Cr Jeff Johnson and Cr Rodney Bruem

Cr Simon Chate returned to the meeting at 2.01 pm.

9.2 Investments Summary - September 2023

261023/17 RESOLVED

(Cr Stephen McCarthy/Cr Simon Chate)

That Council notes the report of banking and investments for September 2023.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

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9.3 Disclosure of Interest Returns

261023/18 RESOLVED

(Cr Eoin Johnston/Cr Stephen McCarthy)

That Council notes the contents of the report on the disclosure of interest returns for the period 1 July 2022 to 30 June 2023.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

9.4 Ordinary Meeting Date - April 2024

261023/19 RESOLVED

(Cr Eoin Johnston/Cr Stephen McCarthy)

That Council's Ordinary meeting for April 2024 be held on Wednesday 24 April 2024.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

9.5 Flat Rock Tent Park - Fees and Charges 2024/25

261023/20 RESOLVED

(Cr Eva Ramsey/Cr Simon Chate)

That Council adopts the draft 2024/25 fees and charges and booking/cancellation policy for the Flat Rock Tent Park, as exhibited, and as per Attachment 1 to this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

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9.7 Privacy Management Plan - Review

261023/21 RESOLVED

(Cr Eva Ramsey/Cr Stephen McCarthy)

1. That Council adopts the Privacy Management Plan, as attached to this report.
2. That Council places this Plan 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 Jeff Johnson and Cr Rodney Bruem

9.9 Delivery Program and Operational Plan - 30 September 2023 Review

261023/22 RESOLVED

(Cr Stephen McCarthy/Cr Eoin Johnston)

That Council notes the contents of this report on the first quarterly review of the implementation of the 2023/24 to 2026/27 Delivery Program and 2023/24 Operational Plan.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

9.10 Capital Expenditure - 30 September 2023 Review

261023/23 RESOLVED

(Cr Kiri Dicker/Cr Stephen McCarthy)

1. That Council notes the contents of this report regarding the 2023/24 capital expenditure review for the period ending 30 September 2023.
2. That Council approves the budget variations, as per Table 1 of this report.
3. That Council notes that due to the estimated cost of \$60,000 to embellish Walsh Park for community use, the priority is to complete a low key master plan this financial year, which can then assist in determining funding priorities for the 2024/25 Delivery Program and Operational Plan.

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4. That Council receive a report on a bulk return and earn facility for Ballina Shire.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

10. Civil Services Division Reports

10.2 Legal Dispute - Ferngrove Estate Easement

261023/24 RESOLVED

(Cr Phillip Meehan/Cr Simon Chate)

That Council notes the contents of this report regarding a legal dispute in respect of the acquisition of an easement at the Ferngrove Estate, Ballina.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

11. Notices of Motion

11.2 Notice of Motion - Aircraft Noise

261023/25 RESOLVED

(Cr Simon Chate/Cr Kiri Dicker)

1. That in relation to the request for information pertaining to the impacts of aircraft noise pollution on our residents, the staff comments for this NOM be considered a report.

2. That this report be noted.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

12. Advisory Committee Minutes

Nil items.

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

13.1 Mayoral Meetings

261023/26 RESOLVED

(Cr Sharon Cadwallader/Cr Stephen McCarthy)

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

Noting that the Mayor did not attend the 18 October Wardell Progress Association Meeting, however did attend the 24 October Ballina Scope Club Annual Quiet Achievers Award.

Cr Simon Chate left the meeting at 2.39 pm.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE - Cr Simon Chate, Cr Jeff Johnson and Cr Rodney Bruem

14. Confidential Session

261023/27 RESOLVED

(Cr Stephen McCarthy/Cr Eva Ramsey)

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 Legal Dispute - Ferngrove Estate Easement

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 because the matter involves litigation that has commenced.

FOR VOTE - All Councillors voted unanimously.
ABSENT. DID NOT VOTE – Cr Simon Chate, Cr Jeff Johnson and Cr Rodney Bruem

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(The Council moved into Confidential Session at 2.39 pm).

Cr Simon Chate returned to the meeting during the Confidential Session at 2.41 pm.

Open Council

261023/28 RESOLVED

(Cr Eva Ramsey/Cr Simon Chate)

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 2.45 pm).

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

14.1 Legal Dispute - Ferngrove Estate Easement

CF261023/29 RECOMMENDED

(Cr Eva Ramsey/Cr Simon Chate)

1. That Council notes the contents of this report in respect to the legal and commercial matters relating to the Ferngrove Estate Easement dispute.
2. That in respect to this dispute, Council provides delegated authority to the General Manager, based on the contents of this report.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

Adoption of Recommendations from Confidential Session

261023/30 RESOLVED

(Cr Eva Ramsey/Cr Simon Chate)

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

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Jeff Johnson and Cr Rodney Bruem

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MEETING CLOSURE

The meeting was closed at 2.46 pm.

The Minutes of the Ordinary Meeting held on 26/10/23 were submitted for confirmation by council on 23 November 2023 and amendments (if any) are contained in the confirming resolution. Such Minutes were signed by the Mayor at the meeting on 23 November 2023.