

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 19 March 2013

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 19 March 2013 commencing at 6.30 pm**

Present

Mayor	M Saliba
Deputy Mayor	P Rankin
Councillor	K Marsh
Councillor	D Boyle
Councillor	H Stewart
Councillor	J Murray
Councillor	P Moran

In attendance

General Manager	M Willis
Director City Outcomes	C McIntyre
Director Corporate Policy	L Furness
Director Shellharbour Enterprises	B Green
Group Manager Finance	T Gearon
Group Manager Infrastructure Services	M Boenisch
Group Manager City Development	G Meredith
Manager Assets & Projects	G Standen
Team Leader Planning	C Bern
Manager Property & Recreation	D Flanagan
Executive Manager / Public Officer	F MastroDomenico
Media Officer	C Lewis
Senior Executive Assistant	L Davey
Council Liaison Officer	J Frasca

1. Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting and pays its respects to Elders past and present.

Webcasting Statement

The Mayor read the usual advice regarding the webcasting of the meetings of the Council.

2. Confirmation of Minutes

2.1 Ordinary Meeting 26 February 2013

56 RESOLVED: Stewart/Rankin.

That the Minutes of the Ordinary Council Meeting held on 26 February 2013 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

3. Apologies / Leave of Absence

Ordinary Council Meeting

Nil

4. Confidential Business (Committee of the Whole)

Nil

5. Pecuniary Interest and Conflict of Interest Declarations

Note: Councillors and staff who declare a Pecuniary Interest at the Council Meeting are also required to complete a Pecuniary Interest Declaration form.

Councillor Marsh: Item 11.3.3 - Renewal of Lease with Illawarra Light Railway Museum Society Limited

Nature of Interest: Councillor Marsh declared a non pecuniary interest as she is a volunteer at the Light Railway Museum.

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 19 March 2013

6. Condolences

The Council acknowledged the following deaths in the Local Government area.

Mrs Mandy Lorraine Sullivan		of	Albion Park
Mr Robin Talbert		of	Albion Park Rail
Mrs Mabel Rose Thompson		of	Albion Park Rail
Mrs Eliza Cowan Simpson		of	Albion Park Rail
Mrs Cecilia Shaw		of	Barrack Heights
Mr James Joseph Mangan		of	Blackbutt
Mr John Flemming		of	Lake Illawarra
Mr Paul Gregory Edye		of	Mt Warrigal
Mrs Marjorie Slatcher	formerly	of	Mt Warrigal
Mrs Agnes Mushet		of	Shellharbour
Mrs Phyllis McIlquham	formerly	of	Shellharbour
Mr Aaron Hart		of	Warilla
Mr Norman Harriman		of	Warilla
Mrs Rita Woodhouse		of	Warilla

- 57 A Motion of condolence was passed by all present standing for one minute's silence.

7. Addresses to Council

Agenda Item No & Title	Name
11.2.2 Development Application No. 398/2012 - Wings Over the Illawarra (9887658)	Samantha Garcia Jim Hughes John Martin Bob Delahunty Sonya McKay Andrew Musgrave

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 19 March 2013

11.3.2 Tender 2012/41 - Request for Tender - Project Management Services for Shellharbour City Hub Stage 1 (9880887)	Sonya McKay
--	-------------

Cr Marsh moved a MOTION that Ms McKay be given an extension of time to conclude her Address to Council on Item 11.2.2.

The Motion lapsed for want of a seconder

58 RESOLVED: Marsh/Murray

That standing orders be suspended in order for Items 11.2.2 and 11.3.2, the subject of Addresses to Council, to be considered here in the agenda.

CARRIED UNANIMOUSLY

11.2.2 Development Application No. 398/2012 - Wings Over the Illawarra (9887658)

Councillor Moran asked whether there will be other aircraft that weigh more than 22.5 tonne using the runway on the day and will Council be seeking any assurances from those people that any damage done to the runway during the course of the event be repaired at no cost to the community. The General Manager took the question on notice.

MOTION: Murray/Marsh

That the Council approve Development Application No. 398/2012 for Wings Over the Illawarra at Airport Road, Albion Park Rail, under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the conditions outlined in the report.

Councillor Moran proposed the following AMENDMENT to the MOTION which was not accepted by the Mover:

That the grandstand referred to in condition of consent A8 be certified by council staff.

59 RESOLVED: Murray/Marsh

That the Council approve Development Application No. 398/2012 for Wings Over the Illawarra at Airport Road, Albion Park Rail, under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the conditions outlined in the report.

CARRIED UNANIMOUSLY

11.3.2 Tender 2012/31 - Request for Tender - Project Management Services for Shellharbour City Council Hub Stage 1 (9889887)

MOTION: Murray/Stewart

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, Council resolves to enter into a contract (Contract 2012_38) with Savills Project Management for the tender sum of \$ 648,848.00 excluding GST in accordance with Tender Document 2012/41.
2. That the General Manager, or his nominated delegate, be authorised to sign the Letter of Award.

Cr Marsh MOVED a POINT of ORDER in relation to the Mayor's comments that Cr Rankin was not speaking to the item being debated and disagreed with the Mayor.

The Mayor did not uphold the POINT of ORDER and requested that Cr Rankin speak to the item.

Councillor Rankin FORESHADOWED a MOTION that

1. All expenditure and work on the city hub cease.
2. A report be put to council on the costs of an alternative plan whether it is a museum and central library or a different site of construction and that we put Savills and everything else on hold.

Councillor Moran FORESHADOWED a further MOTION that

If this MOTION fails Council seek to quarantine the \$750k saving and put it to better use elsewhere.

60 RESOLVED: Murray/Stewart

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, Council resolves to enter into a contract (Contract 2012_38) with Savills Project Management for the tender sum of \$ 648,848.00 excluding GST in accordance with Tender Document 2012/41.
2. That the General Manager, or his nominated delegate, be authorised to sign the Letter of Award.

CARRIED 4/3

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Stewart
AGAINST VOTE - Cr Moran, Cr Rankin, Cr Marsh

8. Mayor's Statements / Reports / Presentations

The Mayor outlined the events she has attended since the last council meeting.

The Mayor congratulated staff Ms Aileen Gleeson and Ms Nicole Collins for their contribution to the success of International Women's Day.

9. Councillors' Reports

Councillor Rankin outlined the events he has attended on behalf of the Mayor since the last council meeting.

10. Mayoral Minutes

10.1 Local Government Amendment (Early Intervention) Bill 2013 (10125375) (Attachment 1)

61 RESOLVED: Mayor Saliba

1. That Council write as a matter of urgency to the Minister for Local Government requesting the proposed Local Government Amendment (Early Intervention) Bill 2013 be withdrawn or deferred to enable public consultation to determine appropriate and just measures for effective and democratic local government.
2. That Council advise the Local Government NSW of Council's position.

CARRIED 5/2

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Stewart, Cr Moran,
AGAINST VOTE - Cr Rankin, Cr Marsh

11. Reports

11.1 General Manager

11.1.1 National General Assembly of Local Government 16-19 June 2013 (9878609)

62 RESOLVED: Marsh/Stewart

1. That any Councillor wishing to attend the National General Assembly of Local Government advise the Executive Services office by no later than 12 April 2013.

2. That any Councillor with a proposed motion to the National General Assembly of Local Government, submit this to the General Manager by no later than 26 March 2013, to allow time for Council staff to investigate the matter, prepare the motion and report back to the 9 April Council Meeting.

CARRIED UNANIMOUSLY

11.2 City Outcomes Directorate

11.2.1 Development Application No. 462/2011 - Section 94 Works In Kind Agreement (Tullimbar Village) (9882095)

63 RESOLVED: Marsh/Murray

1. That Council acknowledge points 1, 2 and 3 of the existing WIKA of 15 March 2005 being:
 - '1. That Miltonbrook be granted approval to undertake the construction of the trunk drainage works for the Tullimbar Village subdivision as works-in-kind
 2. That Miltonbrook be granted approval to undertake the construction of the roundabout on the Illawarra Highway at the entrance to the estate as works-in-kind
 3. That the requirements for the payment of the cash contributions for Benefit Areas 8 & 9 be offset against the cost of the construction of the drainage works and roundabout.'
2. That Council applies point 3 to DA 462/11 to enable the applicant to lodge a Section 96 modification to the existing development consent. To include a WIKA to deliver Plan item C5.03 Albion Park Drainage - Cooback Creek and Plan item C3.18 Illawarra Highway/Broughton Avenue Intersection. This agreement relates to Stage 1 of DA 741/2002.

CARRIED UNANIMOUSLY

11.2.2 Development Application No. 398/2012 - Wings Over the Illawarra (9887658)

This item was considered following Addresses to Council (refer to resolution no. 59)

11.2.3 Submission to the Department of Planning & Infrastructure regarding the Proposed Modification to Development Consent for Extractive Industry - Dunmore Quarry (9881766)

64 RESOLVED: Saliba/Marsh

That the Council receive and note the comments made by Council's Officers to the Department of Planning & Infrastructure regarding the proposed modification for extractive industry at Dunmore Quarry.

CARRIED UNANIMOUSLY

11.3 Corporate Policy Directorate

11.3.1 Naming of Council Assets after Individuals (9878667)

65 RESOLVED: Murray/Marsh

That the Draft Policy on Naming of Council Assets after individuals be exhibited for a period of 28 days.

CARRIED UNANIMOUSLY

11.3.2 Tender 2012/41 - Request for Tender - Project Management Services for Shellharbour City Hub Stage 1 (9880887)

This item was considered following Addresses to Council (refer to resolution no. 60)

11.3.3 Renewal of Lease with Illawarra Light Railway Museum Society Limited (9880563)

Cr Marsh declared a non pecuniary interest in Item 11.3.3 and remained in the Chamber.

66 RESOLVED: Marsh/Murray

1. That Council renew the Lease with Illawarra Light Railway Museum Society Limited for the occupation of Part of Lot 10 DP 1157377 Tongarra Road, Albion Park Rail for a further five (5) years at a commencement rental of \$1,848.00 Exclusive of GST, and increased annually by CPI.

2. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the Lease under Council Seal.

CARRIED UNANIMOUSLY

11.3.4 Boundary Adjustment and Land Transfer Part of 50 Central Avenue, Oak Flats (9880584)

67 RESOLVED: Stewart/Boyle

1. That Council acquire a portion of land from 50 Central Ave, Oak Flats for an amount of \$50,000 GST Exclusive.
2. That the Mayor and General Manager or his nominated delegate be authorised to sign the relevant documentation under Council Seal.

CARRIED UNANIMOUSLY

11.3.5 Acquisition of Part of Lot 580 DP 238404 59 Cuthbert Drive Mount Warrigal (9880532)

68 RESOLVED: Stewart/Marsh

1. That Council acquire the required portion of land being approximately 31.79m², subject to final survey for the amount of \$9,205 Exclusive of GST.
2. That the Mayor and General Manager, or his nominated delegate, be authorised to sign the associated documentation under Council Seal.

CARRIED UNANIMOUSLY

11.3.6 Renewal of Licence Agreement with AML Fitness Pty Ltd trading as Anytime Fitness (Shellharbour NSW) (9880558)

69 RESOLVED: Rankin/Boyle

1. That Council commence the formal process, including advertising and public exhibition, to renew the Licence agreement with AML Fitness Pty Ltd trading as Anytime Fitness (Shellharbour, NSW) for a period of twelve (12) Months.
2. That provided no objections are received, Council enter into a 12 month Licence Agreement with AML Fitness Pty Limited trading as Anytime Fitness (Shellharbour, NSW) for the use and occupation of the approved

section of Harrison Park to conduct commercial fitness training activities, for an annual amount of \$2,200 plus GST.

3. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the Licence Agreement under Council Seal.

CARRIED UNANIMOUSLY

11.3.7 Renewal Licence Agreement between Shellharbour City Council and Claude Outdoor Pty Ltd (9880544)

70 RESOLVED: Murray/Stewart

1. That Council enter into a Licence Agreement with Claude Group Pty Limited for a further period of five (5) years, at an annual fee of \$344.44 Plus GST for each Static Illuminated Device and that the licence fee be increased annually by Consumer Price Index.
2. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the Licence Agreement under Council Seal.

CARRIED UNANIMOUSLY

11.3.8 Extension of Contract 2011/49 Operation of Resource Recovery Centre at Dunmore Recycling and Waste Disposal Depot (9880255)

Councillor Moran asked if Council have any way of comparing Mission Australia's resource recovery rates to that of Warrigal Employment when they were in charge of the facility. The General Manager took the question on notice.

71 RESOLVED: Murray/Marsh

That Council extend the term of the Contract 2011/49 - Operation of the Resource Recovery Centre at Dunmore Recycling and Waste Disposal Depot for the First Extension Period being 1 July 2013 to 30 June 2014.

CARRIED UNANIMOUSLY

11.3.9 Proposed Licence Agreement with Illawarra Hockey Incorporated for Part of Lot 7 DP 1038941 Croom Regional Sporting Complex, Croom Road Croom (9880516)

72 RESOLVED: Murray/Boyle

1. That Council commence the formal process including advertising and public exhibition to enter into a Licence Agreement with Illawarra Hockey Inc. for a period of twelve (12) months
2. That provided no objections are received, Council enter into a Licence Agreement for a period of twelve (12) months with Illawarra Hockey Incorporated for the use and occupation of the hockey fields, canteen and associated facilities located on Part Lot 7 DP1038941, Croom Regional Sporting Complex, Croome Road Croom for the amount of \$500.00 per month.
3. That the Mayor and General Manager, or his nominated delegate, be authorised to sign the Licence Agreement under Council Seal.

CARRIED UNANIMOUSLY

11.4 Shellharbour Enterprises Directorate

Nil

12. Committee Recommendations

12.1 Recommendations from the Disabilities Services Advisory Committee Meeting held 27 February 2013 recommended for adoption.

73 RESOLVED: Saliba/Stewart

That the Recommendations from the Disabilities Services Advisory Committee Meeting held 27 February 2013 be adopted.

CARRIED UNANIMOUSLY

12.2 Recommendations from the Shellharbour Traffic Committee Meeting held 6 March 2013 recommended for adoption.

74 RESOLVED: Stewart/Boyle

That the Recommendations from the Shellharbour Traffic Committee Meeting held 6 March 2013 be adopted.

CARRIED UNANIMOUSLY

13. Items for Information

13.1 Response to Question on Notice submitted by Councillor Moran: Wetlands (9881999)

The item for information was formally noted.

13.2 Response to Question on Notice submitted by Councillor Moran - Albion Park Town Centre Study (9878188)

The Item for Information was formally noted.

14. Notices of Rescission/Alteration Motions

Nil

15. Notices of Motion

Nil

16. Questions on Notice (must be submitted in writing)

17. Urgent Business

Nil

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 19 March 2013

18. **Committee of the Whole in Closed Session: Adjournment**

19. **Committee of the Whole: Consideration of Adoption of Decisions Reached in Closed Session**

20. **Consideration of Motions to Declassify Reports Considered in Closed Session**

Meeting closed 8.24 pm

Attachment 1 - Mayoral Minute

10.1 Local Government Amendment (Early Intervention) Bill 2013

Subject Local Government Amendment (Early Intervention) Bill 2013

To my fellow Councillors

Mayoral Minute

Summary

The Minister for Local Government is proposing to introduce the Early Intervention Bill 2013, which is before Parliament and could pass into law within days.

Under the guise of addressing poor performance by councils, the Bill will increase the power of the Minister for Local Government to intervene in Councils, including suspending them for up to six months without a publicly accountable process.

This legislation will enable the Minister to issue a Council with a “performance improvement order”. If the Council does not comply, the Minister can suspend it for up to three months and appoint a temporary administrator. The Minister can suspend the Council for a further three months without notice.

The Bill has no definition of “poor performance” and leaves it with what the Minister “reasonably considers” is needed (proposed new section 438A). While there is a 21 day “consultation period”, it can be waived if the Minister considers the issue is “urgent” or if notice would serve “no useful purpose”.

There are no avenues of appeal or review.

A further amendment to Chapter 13 of the *Local Government Act* will **make Councils accountable to the Minister**. Currently, the Minister has a “supervisory role” and Councils are solely accountable to their residents and ratepayers.

This will create conflicts for Councils, particularly those seeking to advocate against State Government proposals on behalf of their residents and ratepayers. The legislation can be a tool against Councils that disagree with the State Government.

Background

Currently if serious breakdowns occur in council operations, the Local Government Act 1993 provides two significant intervention mechanisms—section 430 investigations and section 740 public inquiries.

Under section 430, the Chief Executive, Local Government has the power to carry out investigations into council operations. This power is generally only used if the consequences of a council’s conduct are having a serious impact on the local community.

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 19 March 2013

Under section 740, the Minister for Local Government has the power to appoint a commissioner to conduct a public inquiry into a council. This is a necessary step before a council can be dismissed. The Minister may order a section 740 inquiry at any time or as a result of a recommendation in a section 430 investigation.

Conclusion

As a Council that has endured the pain of dismissal, we know the impact of such decisions on local government. To place it in the hands of a Minister with no recourse to independent assessment is an affront to local government and to local democracy. I would urge my colleagues to support the recommendations below.

Recommendation

- 1. That Council write as a matter of urgency to the Minister for Local Government requesting the proposed Local Government Amendment (Early Intervention) Bill 2013 be withdrawn or deferred to enable public consultation to determine appropriate and just measures for effective and democratic local government.**
- 2. That Council advise the Local Government NSW of Council's position.**

Approved for Council's consideration: _____



Attachments

Nil