

# SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 28 June 2005

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**Minutes of the Ordinary Meeting  
of Shellharbour City Council  
held at the Council Chambers, Warilla  
on Tuesday 28 June 2005 commencing at 7:18 pm**

## Present

His Worship the Mayor	Councillor D Hamilton
A Ward	Councillor M Greig Councillor T Hawker
B Ward	Councillor H Stewart Councillor C Jeffreys
C Ward	Councillor J Bailey Councillor D Briggs
D Ward	Councillor J Leedham Councillor T Hore
E Ward	Councillor C Mifsud Councillor G Rose
F Ward	Councillor B Bird Councillor H Gillett

## In attendance

General Manager	B A Weir
Director of Operations & Services	A Webster
Director of Community Planning & Strategies	P O'Rourke
Director Shell Cove Business Unit	P Woodcock
Group Manager Community Services & Devel.	L Campbell
Group Manager Corporate Services	T Gearon
Group Manager Works & Services	C Watt
Group Manager Customer & Env. Services	G Standen
Group Manager Development & Tech Services	M Boenisch
Group Manager Planning Services	J Tremain
Group Manager Organisational Development	B Rose
Manager Development	G Mitchell
Corporate Solicitor – Manager Legal & Property Services	B McCann
Manager Executive Offices/Executive Assistant	F MastroDomenico
Manager Media & Communications	B Parker
Corporate Meetings Officer	J Larsen

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## Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting.

### 1. Apologies / Leave of Absence

#### Ordinary Council Meeting

Nil

### 2. Confidential Business (Committee of the Whole)

Nil

### 3. Recommendations from Committee of the Whole

Nil

### 4. Confirmation of Minutes

#### 4.1 Ordinary Meeting 7 June 2005

Councillor Rose asked a question of Councillor Bird in relation to Minute No. 809 - Street Names in Tullimbah. Councillor Rose asked whether Councillor Bird was going to get back to the public participant in relation to Aboriginal street names.

Councillor Bird responded by stating that it was not up to him to do it, the Aboriginal Committees and the Names Board consider the names.

843 RESOLVED: Briggs / Gillett That the Minutes of the Ordinary Council Meeting held on 7 June 2005 be confirmed as a correct record of proceedings.

### 5. Pecuniary Interest

**Councillor Bailey:** Item 11.5 Development Application No 726/2004 – Lot 1, SP 776476, 123 Shellharbour Road, Warilla – Demolish Carport & Construct Second Storey Addition to Commercial Building (8365513)

**Nature of Interest:** Perceived Pecuniary Interest as Councillor Bailey was supported in a previous election by the applicant.

**Councillor Greig:** Item 11.8 Caroline Chisholm Park Working Party Nominations (8362609)

**Nature of Interest:** Councillor Greig owns a property next to Caroline Chisholm Park.

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## 6. Condolences

The mayor read details of the following deaths in the Local Government area.

Mr Robert Fisher	of	Albion Park
Mrs Lorna Eunice Brown	of	Albion Park Rail
Mr Tom Edwards	of	Albion Park Rail
Mr David Paterson	of	Albion Park Rail
Mr Frank Street	of	Albion Park Rail
Mr Luigi Renato Truncellito	of	Barrack Heights
Mrs Elsie Reed	of	Barrack Heights
Ms Lenka (Penfold) Kundakcic	of	Barrack Heights
Mrs Gwendoline Turner	of	Barrack Heights
Mrs Hazel Mary Wilkinson	of	Barrack Point
Mrs Mary Davis	of	Barrack Point
Mrs Jewel Sarin-Anderson	of	Blackbutt
Ronald Joseph Green	of	Lake Illawarra
Mr Ken Reid	of	Oak Flats
Mr Satya (Sasha) Prakash	of	Oak Flats
Mrs Bertha King	of	Shellharbour
Mrs Jean Carter	of	Warilla
Mrs Kathleen O'Meara	of	Warilla
Mrs Betty Livermore	of	Warilla
Mrs Gail McFarlane	of	Warilla
Mrs Berta Rauch	formerly of	Warilla
Mr David Smallwood	of	Warilla

844 A Motion of condolence was passed by all present standing in one minutes silence.

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## 7. Presentations

A presentation for Councillors by Telstra regarding the Proposed Telecommunications Facility at Junction Road, Shellharbour was held for Councillors prior to the Ordinary Council Meeting.

Presenters:

Andrew Carrabin – Telstra Mobiles

Cameron Barnes – UrbisJHD

Mick Hampson – Telstra Country Wide

Henry Luszczynski – Telstra Program Manager

## 8. Mayoral Minutes

### 8.1 Meeting with USU - Changes to the Federal Industrial Relations System (8371534) - LATE REPORT

845 RESOLVED: Rose/Hore

That Council support the Workers Rights Resolution and Charter document and authorise its signing.

## 9. Councillors' Reports

Nil

## 10. General Manager's Office

Nil

## 11. Operations & Services Division

### 11.1 Development Application No. 726/2004 - Lot 3754, DP 1036522, Ashburton Drive, Albion Park - Convenience Store, Two Storey Dwelling With Garage & Two Lot Subdivision (8328485)

## PUBLIC PARTICIPATION

### Mr Joe O'Donald

- Is a nearby resident of the proposal.
- Wished to point out errors in the proposal.
- Footpath running west very narrow and light pole in the middle of the footpath – does not allow any pedestrian access.
- Accidents do occur in this location - shareway rebuilt twice in 2002.
- Traffic control measures on Ashburton Drive do not slow traffic down at all.

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- Burdekin Drive is partially closed off making road narrower would not allow for overflow parking.
- Concerned with safety and the speed that cars go through roundabouts.
- Not satisfied with answers given by council officers to submissions.
- Reported incidents at 3.00 am in the morning of pedestrians traversing shareway instead of using footpath because there is no access to footpath.

## Mr Lawson Fredericks

- Representing the applicant of the proposal.
- In favour of application.
- Supports officers responses to concerns. Understand need to improve traffic conditions in that area.
- Development will create an environment which traffic users will respond to positively. Positive outcomes of slowing and controlling traffic.
- One of the reasons developer made application is that when subdivision approved a suggestion was made from the chamber that we install a corner store in that subdivision.
- Felt this was a good idea but not right spot at the time.
- Proposed site is in a suitable position for corner store in centre of a catchment - needs at least 800 dwellings in catchment and be positioned on a busy roadway to attract passers by.
- Benefit economically and environmentally – short distance to shops – drive less distance.

MOTION: Hawker/Greig

That Council approve Development Application No. 726/2004, proposing a convenience store, two storey dwelling with garage and two lot subdivision at Lot 3754, DP 1036522, Ashburton Drive, Albion Park, subject to the 69 conditions following the conclusion of this report.

Councillor Rose FORESHADOWED a MOTION that Council defer consideration of this item for an inspection.

846 The MOTION on being PUT to the Meeting was CARRIED 11/2

(Councillors Rose and Mifsud dissenting)

## **11.2 Development Application No. 7/2005 - Lots 3 & 4 DP 218551, 92 Junction Road, Shellharbour - Telecommunications Facility (8362728)**

The Mayor introduced representatives from Telstra who are in attendance to answer questions.

Councillor Mifsud advised that he has just received a DVD about health concerns and telecommunications towers that he believes councillors need to see. He requested approval from the Mayor to show the DVD prior to this item being considered.

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The Mayor ruled that he would not accept the late submission of the DVD and that he would adhere to the procedures on late submissions as documented in Council's Code of Meeting Practice. He suggested that councillors view the DVD at a more appropriate time.

Councillor Mifsud challenged the Mayor's ruling and the Mayor called for a Motion from the Councillors to consider his ruling.

847 RESOLVED: Bird/Greig

That Councillor Mifsud not be allowed to present the DVD at this time and that consideration of this Item not be deferred.

CARRIED 9/4

## **PUBLIC PARTICIPATION**

### **Mr Harry Gooden**

- Mr Gooden advised that he is against the proposal
- Electromagnetic radiation associated with a number of health risks which occur due to accumulative effect of long term exposure to radiation
- No conclusive studies done but evidence present
- Placement near Sule college, caravan park and residences of concern
- 30 metre high tower visually offensive – would dominate skyline
- Negative impact on tourism
- Shadowing studies not completed
- A number of successful legal challenges have already been undertaken in opposition to mobile phone towers near schools
- Believes there are serious errors in Business Paper – petition numbers inaccurate
- Maximum level of radiation distance inaccurate
- Mounts for future antenna of other carriers a possibility
- Installation may lead to expensive court challenges in the future
- Negotiate a safer more suitable site

### **Mr Cameron Barnes**

- Representing Telstra
- Fair amount of information before Council supporting proposed location as most suitable site.
- Made every attempt to comply and do comply with World Health Organisation standards. Well below compliance requirements.
- Comply with industry standards. Telstra do not set standard but comply with them.
- Suggested alternate location at Blackbutt Forest was found not to be superior to preferred site and would require greater height of tower. Closest residence only 70m away from tower if installed there.
- Preferred option would mean a distance of 170m to caravan park.

848 RESOLVED: Briggs/Jeffreys

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That Council approve Development Application No. 7/2005 for a telecommunications facility at Lots 3 & 4, DP 2178551, 92 Junction Road, Shellharbour under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the 15 conditions immediately following the conclusions of this report.

CARRIED 8/5 (Councillors Bailey, Mifsud, Rose and Stewart dissenting)

## 11.3 Development Application No. 98/2005 - Lot 19, DP 21337, 196 Princes Highway, Albion Park Rail - Proposed Front Fence (8362905)

### PUBLIC PARTICIPATION

#### Mr Michael Duckett

Advised that he was here to answer questions if required.

849 RESOLVED: Gillett/Bird

That Council approve Development Application No. 98/2005 for a front fence at Lot 19, DP 21337, 196 Princes Highway, Albion Park Rail under Section 80 of the *Environmental Planning & Assessment Act 1979*, as amended, subject to the 12 conditions following the conclusion.

## 11.4 Development Application No. 484/2004 (Pt 2) - Lot 2, DP 71677, 29 - 31 Durgadin Drive, Albion Park Rail - Seeking Approval under Section 96 to Retain an Existing Unauthorised Sign (8363213)

### PUBLIC PARTICIPATION

#### Darren & Paula Motbey

- Requested Deletion of Condition 21 – sign tastefully designed. Complement appearance of estate.
- Trees planted will eventually obscure sign – in the mean time sign will help us establish our business
- Not advertising but business identification – believe meets conditions
- Request Council consider best interests of their small business.

#### Mr Peter Moran

- Council makes claim to apply rules equally however inconsistencies exist
- Other signs in area much larger and more prominent – for example the hardware stores
- Not doing area any good – not making it any easier for small business
- Should allow rear signs on other buildings while businesses being established.

850 RESOLVED: Bird/Gillett

1. That Council approve Development Application No. 484/2004 (Pt 2) and allow deletion of Condition No. 21 of the consent and retention of an unauthorised sign at Lot 2, DP 71677,

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29-31 Durgadin Drive, Albion Park under Section 96 of the *Environmental Planning & Assessment Act 1979*, as amended.

2. Further that if other businesses in the Central Business Park whose premises back onto the East/West Link, wish to apply for the erection of signs on the back of their business premises that their Development Applications be assessed individually and considering appropriate size, colour and content of signage.

## **11.5 Development Application No. 762/2004 - Lot 1, DP 776476, 123 Shellharbour Road, Warilla - Demolish Carport & Construct Second Storey Addition to Commercial Building (8365513)**

Note: Councillor Bailey declared an interest in Item 11.5 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

851 RESOLVED: Briggs/Rose

1. That Council approve Development Application No. 762/2004 for the Demolition of Carport & Construction of Second Storey Addition to Commercial Building at Lot 1, DP 776476, 123 Shellharbour Road, Warilla under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the 37 conditions following the conclusion.
2. That due to extenuating circumstances and the nature of the development that the number of car parking spaces required be reduced from 8 new spaces to 4.
3. That should the development change its use to any purpose other than storage that a new Development Application be required.

Councillor Bailey here returned to the Chamber.

## **11.6 Draft Footpath Master Plan - Approval for Public Exhibition (8349833)**

852 RESOLVED: Rose/Gillett

That Council approve the Draft Footpath Master Plan for public exhibition.

## **11.7 Southern Rivers CMA Estuarine Vegetation Protection Grant Program (8363692)**

853 RESOLVED: Jeffreys/Stewart

That Council resolve to accept the grant funds of \$1185 from the Department of Planning, Infrastructure & Natural Resources for the Southern Rivers CMA Estuarine Vegetation Protection Project and amend the budget accordingly.



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## 11.8 Caroline Chisholm Park Working Party Nominations (8362609)

Note: Councillor Greig declared an interest in Item 11.8 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

854 RESOLVED: Hawker/Leedham

That Council nominate 4 Councillor representatives to participate in a Working Party to consider the relocation of the War Memorial from Caroline Chisholm Park to Little Park Shellharbour.

855 RESOLVED: Hawker/Jeffreys

That the councillor representatives be Councillors Hore, Briggs, Mifsud and Rose.

Councillor Greig here returned to the Chamber.

## 11.9 Access to information under Section 12 of the Local Government Act 1993 (8360271)

### PUBLIC PARTICIPATION

#### Peter Moran

- Urge option 2 be adopted to allow access to entire document
- Very wary when things are concealed from the public
- General Manager not best person to decide on this matter
- A person who chooses to complain to the Department should not be criticised
- Openness and transparency encouraged

856 RESOLVED: Hore/Rose

1. That Council consider this report in accordance with the *Local Government Act 1993*.
2. That the General Manager's action in restricting access to information as outlined in this report, be endorsed and remain in force.

## 11.10 Community Land Plans of Management - Mount Warrigal/Oak Flats - Section 36 Local Government Act (8348666)

### PUBLIC PARTICIPATION

#### Peter Moran

- Disturbed to find no plans to significantly change the treatment of lands mentioned in the Plans particularly drainage reserves in Oak Flats
- Drainage reserves form a significant part of open space in Oak Flats
- Not putting effort into assets to make them more useful

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- Only improvements in Oak Flats have been to traffic management

857 RESOLVED: Briggs/Jeffreys

1. That in accordance with the *Local Government Act 1993*, (S 38), the draft Plans of Management for Community Land as listed in this report, be placed on public exhibition for a period of not less than 28 days, but allowing a period of not less than 42 days after the date on which the draft plans are first placed on public exhibition, during which submissions may be made to the Council.
2. That following the public exhibition and submission stage a further report be presented to Council for consideration of any submissions and the adoption or otherwise of the draft Plans of Management for Community Land.

## **11.11 Community Land Plans of Management - Shellharbour/Shellharbour City/Warilla - Section 36 Local Government Act (8349767)**

858 RESOLVED: Leedham/Hore

1. That in accordance with the *Local Government Act 1993*, (S 38), the draft Plans of Management for Community Land as listed in this report, be placed on public exhibition for a period of not less than 28 days, but allowing a period of not less than 42 days after the date on which the draft plans are first placed on public exhibition, during which submissions may be made to the Council.
2. That following the public exhibition and submission stage a further report be presented to Council for consideration of any submissions and the adoption or otherwise of the draft Plans of Management for Community Land.

## **12. Community Planning & Strategies Division**

### **12.1 Elsa Dixon Aboriginal Employment Program (8365798)**

859 RESOLVED: Bird/Jeffreys

1. That Council agree in principle at this stage to the acceptance of the offered funding from the Elsa Dixon Aboriginal Employment Program 2005/2006.
2. That this agreement in principle allow for the necessary position description development, advertising, and recruitment processes to take place in time to meet stipulated grant funding conditions.
3. That following the processes referred to in (2) above a further report be presented to Council outlining what options may be available to finance Council's obligations under the grant offer (permanent employment component), before any final offers of employment are made to prospective applicants.

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4. That Council take immediate steps to attempt to recruit for the two positions offered under the Graduate Work Experience element of the program, without the need for further concurrence from Council. Further that appropriate budgets be amended to the extent necessary.
5. That Council's Aboriginal Advisory Committee be advised of the above recommendations, if adopted by Council.

## **12.2 Accept Additional Funding and Affix Seal NSW DoCS (8365794)**

860 RESOLVED: Hawker/Gillett

That Council resolve to affix the Seal of Council to the Funding Agreement between NSW DoCs and Council for funding for the Youth Leadership Training Project and Youth Workers in Schools Project, (from the Better Futures Program) and Child Safety Restraints, and Transport Brokerage funds (from the Families First Program).

Further, that Council's budget be amended as necessary.

## **12.3 Residential DCP Review (8365795)**

861 RESOLVED: Hawker/Leedham

That Council defer the establishment of a working party and review of the Residential DCP until the impacts of the new controls, introduction of BASIX, and proposed Model LEP can be adequately assessed.

## **12.4 Proposed Adoption of Section 94 Works-In-Kind Policy (8365799)**

862 RESOLVED: Bailey/Jeffreys

1. That Council adopt the *Section 94 Works-in-Kind Policy* ; and
2. That a notice be placed in the Lake Times advising of the adoption of the *Section 94 Works-in-Kind Policy* and stating that this policy will supersede Council's existing *Section 94 Works-in-Kind Policy*.

## **AWARD PRESENTATION FROM THE INTERNATIONAL COUNCIL FOR LOCAL ENVIRONMENTAL INITIATIVES (ICLEI)**

The General Manager informed the meeting that Council has been presented with two awards in recognition for achievement of Milestone 1 of ICLEI's Water Campaign and for committing to participate in the Cities for Climate Protection Program (See Item 17.2).

863 RESOLVED: Hawker/Mifsud

That the Mayor be authorised to send a letter of thanks to ICLEI.

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## **13. Shell Cove Business Division**

Nil

## **14. Committee Recommendations**

### **14.1 Recommendations from the Traffic Committee Meeting held 1 June 2005 recommended for adoption.**

864 RESOLVED: Greig/Gillett

That the Recommendations from the Traffic Committee Meeting held 1 June 2005 be adopted.

CARRIED 12/1 (Councillor Stewart dissenting)

### **14.2 Recommendations from the Aboriginal Advisory Committee Meeting held 14 June 2005 presented for Information.**

865 RESOLVED: Bird/Greig

That the Recommendations from the Aboriginal Advisory Committee Meeting held 14 June 2005 be adopted.

### **14.3 Recommendations from the Disabilities Services Advisory Committee Meeting held 15 June 2005 recommended for adoption.**

866 RESOLVED: Briggs/Gillett

That the Recommendations from the Disabilities Services Advisory Committee Meeting held 15 June 2005 be adopted.

## **15. Notices of Rescission Motion**

Nil

## **16. Notices of Motion**

Nil

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## 17. Items for Information

- 17.1 **Section 339 Local Government Act - Contractual Conditions of Senior Staff**
- 17.2 **ICLEI Awards (8364628)**
- 17.3 **Princes Highway Realignment, Oak Flats to Dunmore (8363061)**
- 17.4 **Upcoming Events (8365803)**
- 17.5 **Investments (8366147)**

867 RESOLVED: Hawker/Leedham

That Council receive and note the Items for Information

## 18. Questions without Notice

868 **Councillor Stewart** asked how many senior staff are on contracts and how many on wages.

The General Manager advised that he is the only senior staff member on a contract.

869 **Councillor Stewart** asked what difference there is in wages for outdoor workers at Shellharbour, Kiama and Wollongong Councils.

The General Manager advised that he did not know wage scales for other Councils

870 **Councillor Stewart** asked where funding comes from for Mayoress's Fun Day and Carols by Candlelight.

871 **Councillor Jeffreys** advised that a gate is not being locked at the park on Park Crescent, Oak Flats.

872 **Councillor Jeffreys** provided information on Keep Australia Beautiful - Clean Beach program and requested Council consider participation.

873 **Councillor Jeffreys** asked whether Council has any activities planned for Local Government Week.

874 **Councillor Leedham** advised that a sign is missing at the school zone at King Street Warilla and requested its replacement.

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- 875 Councillor Bird** requested an update on negotiations regarding the Aboriginal Aquaculture Project at Bass Point.

The Director Shell Cove Business Unit advised that he is undertaking ongoing talks with the Board of the Wollongong Aquaculture Aboriginal Corporation. He has presented a proposal regarding a suggested site and the Corporation representatives are considering this. He stated that the project was looking promising.

- 876 Councillor Bird** advised that he was recently in Manly and was impressed with activities on the foreshore there on a Friday night – food and wine tastings, expo, markets. Could Council staff investigate similar activities for the Shellharbour harbour area as this turns the area into a family friendly area which could discourage anti-social behaviour.

- 877 Councillor Bird** expressed concern with the problem of unauthorised car lots in the city and requested that this be followed up.

- 878 Councillor Gillett** – thanks to Council staff for up coming events information provided to Council regularly.

- 879 Councillor Gillett** asked whether Council has a policy on keeping chickens in residential properties.

The Director Operations & Services advised that there is a policy and that he would provide a copy to Councillor Gillett.

- 880 Councillor Rose** advised he has received a letter from residents regarding the absence of grates in the gutter at Windang Street and Reddall Parade Warilla and requested that they be replaced.

- 881 Councillor Rose** - Toilet block Reddall Reserve – concrete roof is falling down and he requested that this be followed up and repaired.

- 882 Councillor Rose** asked who is paying for costs incurred in relation to the Mayor's AVO.

The General Manager advised that the Mayor has had certain action initiated against him that he is defending. The General Manager sought advice from Council's solicitor as to whether the legal costs could be funded out of Council's budget. Council's solicitor advised that as he was acting as Mayor and responding to a complaint that he was of the view that it was appropriate that the funding come from Council's budget.

- 883 Councillor Rose** asked whether Shellharbour Links contracts have been signed.

The Director Corporate Planning & Strategies advised that the matter is with Shellharbour Links' solicitor

- 884 Councillor Rose** requested a Shell Cove report to the end of the financial year be provided to Councillors.

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**885 Councillor Mifsud** advised that there is a Stop Sign missing on Shellharbour road near golf course and requested immediate attention.

**886 Councillor Mifsud** asked for an update how much income has been received from Shellharbour Links golf club since January 1 this year.

**887 Councillor Briggs** requested that Council look at developing a policy on externally installed air conditioners and noise problems for neighbours. A resident of Addison Street, Shellharbour units near the school has experienced problems from other units next door. Will provide address of person who is complaining to Director Operations & Services to see if any action can be taken.

**888 Councillor Hawker** advised of complaints from residents in vicinity of Croom Sporting Complex regarding trail bikes in the complex.

**889 Councillor Hawker** advised that works on Terry Street kerb and guttering stop before end of one of the streets opposite power station – request for continuance.

**890 Councillor Greig** presented a banner received in appreciation for Council's association with the Macedonian Cultural Association. She advised that she had represented the Mayor at an event held last week by the group.

**891 Councillor Greig** advised that she had accessed information on a media website stating that an Independent Councillor had presented an alternative budget to Council for consideration at tomorrow night's budget Council Meeting. She requested that, if this is the case, that other councillors be provided with a copy.

The General Manager advised that he is aware of an alternative budget proposal but that Council has not received a copy of the proposal.

**892 Councillor Greig** commented on tree planting in Warilla. She stated that she was impressed to see the improvement it has made to the look of the area.

The Director Operations and Services advised that the trees had been planted by a developer in the area and not by Council.

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## **19. Late Items of Business / Urgent Business (as introduced by the Chairperson)**

**Meeting closed 9:55 pm**

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 19 July 2005.

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General Manager

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Chairperson