

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Warilla
on Tuesday 15 August 2006 commencing at 7.15 pm**

Present

His Worship the Mayor	Councillor D Hamilton
A Ward	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
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 Corporate Planning	P Masterson
Group Manager Organisational Development	B Rose
Group Manager Planning Services	G Hoynes
Shell Cove Project Engineer	J McAndrew
Corporate Solicitor – Manager Legal & Property Services	B McCann
Manager Financial Services	P Henderson
Manager Development Services	G Mitchell
Manager Executive Offices/Executive Assistant	F MastroDomenico
Manager Media & Communications	B Parker
Corporate Meetings Officer	J Larsen

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

An apology was tendered on behalf of Councillor Greig

369 RESOLVED: Hawker/Briggs. That the apologies as tendered be accepted.

2. Confidential Business (Committee of the Whole)

Nil

3. Recommendations from Committee of the Whole

Nil

4. Confirmation of Minutes

4.1 Ordinary Meeting 25 July 2006

370 RESOLVED: Briggs/Hore That the Minutes of the Ordinary Council Meeting held on 25 July 2006 be confirmed as a correct record of proceedings.

5. Pecuniary Interest

Councillor Bailey: Item 11.1 DA No. 17/2006 – Medical Centre, Pharmacy, Kiosk & Underground Car Park – Lot 503, DP 1054031, 181 Ashburton Drive, Albion Park (8575521)

Nature of Interest: Councillor Bailey's wife works at Mr Terry Public School which is next to the proposed development.

6. Condolences

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

Marcella Condon	of	Albion Park
Evan Jenkins	of	Albion Park
Dorothy Cook	of	Barrack Point
Deslo Bet	of	Oak Flats
Nedeljka Podrebersek	of	Shellharbour
Margaret Regan	of	Warilla
Purl Huertas	of	Warilla
Juan Gutierrez	of	Warilla

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

7. Presentations

Nil

8. Mayoral Minutes

8.1 Planning Strategy For Shellharbour City Centre (8587722)

372 RESOLVED: Briggs/Hawker

That Council:

1. Review the town planning controls applying to Shellharbour City Centre as contained in Shellharbour Local Environmental Plan 2000 and Shellharbour City Centre Master Plan, Development Control Plan and associated Precinct Development Strategies for the land shown in Attachment 1 of this report. Based on the review outcomes:
 - (a) Prepare a Draft Local Environmental Plan in accordance with Section 54 of the Environmental Planning and Assessment Act; and
 - (b) Prepare a new Draft Development Control Plan in accordance with Section 74C of the Environmental Planning and Assessment Act; and

- (c) Prepare a new Draft City Centre Master Plan and new Precinct Development Strategies.
- 2. Submit the Draft Local Environmental Plan, Draft Master Plan, Development Control Plan, Precinct Development Strategies and town planning controls to Council for adoption prior to their public exhibition.

9. Councillors' Reports

Nil

10. General Manager's Office

10.1 Management Plan Review for the Quarter and Year Ended June 30, 2006 (8587973)

373 RESOLVED: Briggs/Hore

That the report be received noted and endorsed.

10.2 June 2006 Quarter Budget Review (8589951)

374 RESOLVED: Hawker/Briggs

That this report be received and noted.

10.3 Promoting Better Practice Review Final Report (8589768)

375 RESOLVED: Briggs/Leedham

- 1. That the Promoting Better Practice Review Report be tabled and noted.
- 2. That the Action Plan be prepared and forwarded to the Department of Local Government.
- 3. That the Department of Local Government review team be thanked for their assistance in reviewing Council's practices and for their recommendations for improvement.

CARRIED (Councillors Rose and Mifsud dissenting).

11. Operations & Services Division

11.1 DA No. 17/2006 - Medical Centre, Pharmacy, Kiosk & Underground Car Park - Lot 503, DP 1054031, 181 Ashburton Drive, Albion Park (8575521)

Note: Councillor Bailey declared an interest in Item 11.1 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

The Mayor advised that he had received a request for this item to be deferred to a later date due to the applicant's inability to attend the meeting. He advised that Council had already been asked to defer this item at the last meeting and he recommended that the item be dealt with tonight.

376 RESOLVED: Hawker/Briggs

That this Item be dealt with at tonight's Council Meeting.

377 RESOLVED: Hawker/Rose

That the Council approve Development Application No. 17/2006 for a medical centre, pharmacy, kiosk and underground car park at Lot 503, DP 1054031, 181 Ashburton Drive, Albion Park under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the 61 conditions following the conclusion.

That a further condition be added that medical/hazardous waste be disposed of in accordance with the guidelines of the appropriate statutory authority

Councillor Bailey here returned to the Chamber.

11.2 DA No. 78/2006 - Lot 1, SP 63631, 1/87 Pur Pur Avenue, Lake Illawarra - Patio Cover - Section 82A Review (8584121)

378 RESOLVED: Hore/Leedham

That the Council determine the application for review under Section 82A of the *Environmental Planning & Assessment Act, 1979*, as amended by approving Development Application No. 78/2006 for a patio cover at Lot 1, SP 63631, 1/87 Pur Pur Avenue, Lake Illawarra under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended subject to the 17 conditions following the conclusion of this report.

Councillor Briggs requested that the adoption of the Recommendations from the Traffic Committee Meeting of 9 August 2006 be brought forward as their adoption impacts on Item 11.3.

379 RESOLVED: Briggs/Gillett

That Item 14.2 Adoption of the Recommendations from the Traffic Committee Meeting held 9 August 2006 be brought forward and dealt with prior to Item 11.3.

14.2 Recommendations from the Traffic Committee Meeting held 9 August 2006 recommended for adoption.

380 RESOLVED: Briggs/Mifsud

That the Recommendations from the Traffic Committee Meeting held 9 August 2006 be adopted.

Councillor Bird requested that the Public Participant who spoke at the Traffic Committee Meeting regarding Item 4.3 of the Traffic Committee Agenda – Proposed Installation of a Roundabout at Station Road and Tongarra Road, Albion Park Rail, be notified in writing of the adoption of the Traffic Committee Recommendations.

The Mayor advised the meeting that the Traffic Committee has asked the RTA to investigate reallocation of the \$40,000 funding budgeted for the proposed roundabout which is no longer required.

11.3 DA No. 648/2005 - Lot 7, DP 1072916, 7 Minga Avenue, Shellharbour City Centre - Proposed Commercial and Residential Development (8587311)

Councillor Bailey questioned whether Public Liability Insurance of \$10 million was adequate for this development.

The Development Manager, in consultation with Council's Solicitor, agreed that for a commercial property of this nature the Public Liability Insurance required should be increased to \$20 million.

In response to a question from Councillor Bailey the Development Manager stated that he was satisfied that the application fully complied with Council policies.

381 RESOLVED: Briggs/Jeffreys

That the Council approve Development Application No 648/2005 for construction of a commercial and residential development at Lot 7, DP 1072916, 7 Minga Avenue, Shellharbour City Centre under Section 80 to the *Environmental Planning & Assessment Act* as amended subject to the 88 conditions following the conclusion of the report.

That Public Liability Insurance cover be increased to \$20 million for this development.

CARRIED (Councillors Bailey and Stewart abstaining).

11.4 Tullimbar Village Building Design Guidelines - Stages 1b(2) - 1b(5) Inclusive (8587853)

382 RESOLVED: Hawker/Briggs

That the Council approve the Tullimbar Village Building Design Guidelines for Stages 1b(2)–1b(5) inclusive.

11.5 Lake Entrance Road, Oak Flats - Improvements to Median (8577940)

383 RESOLVED: Stewart/Jeffreys

1. That the Council adopt option 1a and allocate \$75,000 from Oak Flats Streetscape to landscape and formalise the median on Lake Entrance Road between Lang Street and Theodore Street, Oak Flats.
2. That the budget be amended accordingly.

11.6 Review of Council's decision for restriction of access to documents under Section 12 of the Local Government Act (8583789)

384 RESOLVED: Briggs/Hore

That Council continue to restrict access to the application made under Section 12 of the *Local Government Act*, for access to the specific documents outlined in this report.

11.7 Local Government Association Conference - Draft Motions for consideration (8587376)

With regard to Motion No.2, Councillor Bailey stated that 6% of children may be affected by flashing lights at crossings. He requested that the Mayor take this concern up at the conference.

In response to a request from Councillor Bird the Mayor gave a commitment that any Motions that are submitted after today will be sent to all councillors for their information.

The Mayor read t the Meeting a Motion he was proposing in regard to breaches of confidentiality.

385 RESOLVED: Hawker/Rose

That Shellharbour City Council forward the following motions together with supporting statements to the 2006 Local Government Association Conference:

1. That this Conference seek the assistance of the State Government to co-ordinate Local Government Authorities in a programme of the control and reduction of the population of the Common Indian Myna *Acridotheres tristis*, which represents a significant threat to populations of indigenous species of birds.

2. That this conference acknowledges work being done on improving safety at School zones and requests that the State Government accelerate a programme of replacement of "School Zone" signage with signs equipped with flashing warning lights, to operate to alert motorists during "school zone" hours.
3. That the Minister for Local Government undertake a review of the statutory provisions relating to disclosure and misuse of council information with a view to strengthening the sanctions that may apply where a breach of confidentiality is found to have occurred. In particular, that the Minister consider changes to the legislation to stipulate that such breaches are offences pursuant to Section 664 of the *Local Government Act 1993*, and further consider imposing a mandatory suspension for a stated period, or dismissal from civic office, for a councillor found to have committed such an offence.

In considering the above, that the Minister also endorse a review of councils' powers under the relevant provisions of the *Local Government Act 1993* with a view to increasing a council's powers to gather evidence and otherwise investigate any suspected disclosure or misuse of council information.

4. That the Mayor and General Manager be delegated authority to consider any further motions submitted by any councillor between now and the closing date for motions.

11.8 Tullimbar Village - Proposed relocation of Integral Energy 132kv transmission line easements (8590269)

The Mayor advised that he had received a request from the developer to withdraw this item from tonight's agenda to enable further consultation with Council officers to resolve outstanding issues and Council's Solicitor has recommended this.

386 RESOLVED: Briggs/Rose

That Council defer consideration of this item in order to enable further consultation regarding outstanding issues.

12. Community Planning & Strategies Division

12.1 Shellharbour City Community Safety and Crime Prevention Plan (8582431)

Several Councillors requested that thanks be extended to the staff involved in producing the Plan, in particular Council's Safer City Coordinator, Nicky Sloan.

387 RESOLVED: Jeffreys/Gillett

That Council endorses and adopts the "Shellharbour City Community Safety and Crime Prevention Plan 2007-2010" as submitted.

12.2 Warilla Child Care Centre Review (8589902)

Councillor Bailey thanked the Child Care Centre staff for their work and asked that a thank you letter be sent to Mrs Harrison of Albion Park who has shown support and interest in the Centre for many years.

388 RESOLVED: Leedham/Hore

1. That Council negotiates a five year lease extension, to 2011, with the NSW Department of Housing on the current centre, whilst a longer term strategy is negotiated. (Page 7 of consultant's report).
2. That during the five year lease period, Council works with the NSW Department of Housing, NSW Department of Community Services and Federal Department of Family & Community Services to facilitate construction of a new child care centre, in a Warilla location.
3. That other recommendations in the consultants' report be investigated and reported to a future Council Meeting.
4. That the ongoing need for childcare provision in the Warilla area, and usage levels, and income and expenditure levels at the Warilla Child Care be monitored very closely and be considered as part of the planning for any new facility.

CARRIED UNANIMOUSLY

12.3 Shellharbour Links Golf Precinct – Tourist Accommodation Facility Expression of Interest (8587896)

389 RESOLVED: Bird/Jeffreys

That this matter be deferred to the end of the meeting in order for a related matter which Councillor Bird wished to raise could be discussed in Committee of the Whole.

See Minute No. 407

13. Shell Cove Business Division

13.1 Shell Cove Report to 6 August 2006 (8575853)

390 RESOLVED: Gillett/Bailey

1. That this report be received and noted.
2. That Council agree to the land exchange with Sydney Water in relation to the sewer pump station, as outlined in this report.

3. That proposed Lot 1, purchased under that land exchange, be classified as Operational.
4. That Council affix the Seal of Council on the Subdivision Plan and 88B Instrument for the subdivision of Lot 1126 DP 866483 and Lot 8033 DP 1072187 and on the Transfer for proposed lot 2 (sewer pump station).
5. That Council affix the Seal of Council on the Plan of Restrictions and 88B Instrument over Lot 1207 DP 864021, Lots 4716 and 4717 DP 1061816, Lot 1169 DP 1076113, Lot 2 DP 1098888 and proposed lot 1 (from the subdivision of Lot 1207 DP 864021, Lot 4717 DP 1061816, Lot 1169 DP 1076113 and Lot 3 DP 1098888) for the acoustic criteria determined under the agreement with Hanson Construction Materials Pty Ltd (Stage 6F).
6. That Council affix the Seal of Council on the Plan of Restrictions and 88B Instrument over Lot 1207 DP 864021, Lot 1169 DP 1076113 and Lot 3 DP 1098888 for the acoustic criteria determined under the agreement with Hanson Construction Materials Pty Ltd (Stage 6A).

14. Committee Recommendations

14.1 Recommendations from the Aboriginal Advisory Committee Meeting held 1 August 2006 recommended for adoption.

391 RESOLVED: Bird/Jeffreys

That the Recommendations from the Aboriginal Advisory Committee Meeting held 1 August 2006 be adopted.

14.2 Recommendations from the Traffic Committee Meeting held 9 August 2006 recommended for adoption.

This item was dealt with earlier on the agenda see Minute No. 380

15. Notices of Rescission Motion

Nil

16. Notices of Motion

16.1 Notice of Motion submitted by Councillor Hawker (8588298)

The Notice of Motion was formally MOVED by Councillor Hawker.

1. Council notes the potential impact of the Federal Government Industrial Relations changes in removing access to conciliation and arbitration before the New South Wales Industrial Relations Commission.
2. Council supports the use of Referral Agreements pursuant to Section 146A of the Industrial Relations Amendment Act 2006 (NSW) to ensure ongoing access to the NSW Industrial Relations Commission for the resolution of industrial disputes and unfair dismissal.
3. Council resolves not to introduce or employ individuals on Australian Workplace Agreements (AWA) and/or Individual Contracts, and will continue to engage all employees, other than Senior Management positions as defined by the Local Government Act 1993, under the terms and conditions of Union Collective Agreements and Awards.

In seconding the Motion, Councillor Leedham proposed Clause 4 as follows, and this was accepted by the Mover.

4. That all Councillors receive a briefing following the decision of the high court challenge being handed down.

392 The MOTION on being PUT to the Meeting was CARRIED UNANIMOUSLY

17. Items for Information

17.1 Events & Activities August/September 2006 (8587496)

17.2 2006/2007 Asset Improvement Program (8587472)

17.3 Request for Access to Documents under Section 12 of the Local Government by Mr Peter Moran and Ms Sonya McKay (8587876)

17.4 Investments (8590159)

393 RESOLVED: Hawker/Gillett

That the Items for Information be received and noted

18. Questions without Notice

394 Councillor Stewart requested information regarding a dog attack in Oak Flats last week.

The Director Operations & Services advised that the reported attack was not the first instance of an attack involving these dogs. Police and rangers have been involved. At the direction of the police 4 dogs out of the 6 housed at the premises have now been impounded. Council is investigating how to take the matter forward.

395 Councillor Stewart asked for advice on the purpose of a large hump at the side entrance to Oak Flats heated pool.

The Mayor advised that he believed the "hump" was installed to allow better wheelchair access at that point.

396 Councillor Stewart stated that she was under the impression that Council is paying \$60,000 for upkeep of Shellharbour Links and requested confirmation of this.

397 Councillors Jeffreys asked whether Council is moving ahead with implementation of the Ministry of Transport requirement that by 2010 all public transport must be disabled accessible.

398 Councillor Jeffreys requested that when the Shell Cove report and review has been completed that councillors be given a briefing.

399 Councillor Jeffreys asked whether Council has a limit of the number dogs people can own.

400 Councillor Rose stated that he felt it was irresponsible for any person or newspaper to make assumptions about the cause of death of a body found at Barrack Point when the matter was still in the hands of the coroner. He asked whether Council could do anything to counteract these claims.

401 Councillor Mifsud thanked the Mayor for taking time to inspect Ward E with Councillor Rose and himself to address their concerns. He asked whether Council is conducting a risk assessment around Barrack Point.

The Director Operations & Services advised that Council were allocated some funds for a share-way from Junction Road to the cycleway at Barrack Point. Council is looking at design options and a risk assessment. He advised that there is insufficient funds for the project to proceed beyond Shell Cove Road at this point considering the need to mitigate risks.

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 15 August 2006

- 402 Councillor Mifsud** asked whether Shell Cove harbour commencement would be delayed due to the slow down in the property market.

The General Manager replied that since Council would not allow its land to be used to finance the Project the Project Manager had to use returns from land sales and borrowings. The Project Manager was keen to keep to the timetable and was looking at funding options. Councillors would receive a briefing when the latest Feasibility Study had been independently reviewed.

- 403 Councillor Bailey** asked whether Council has investigated the use of alternative fuel for council vehicles.

The Director Operations & Services advised that Council is under a State Government contract for fuel. He advised that Council has trialled diesel for plant equipment but has had some problems. Other options will be investigated with a cost benefit report to come to council in the future.

- 404 Councillor Bailey** advised that he had received phone calls during the week from elderly residents concerned with the availability of burial sites at Shellharbour Cemetery.

The Mayor advised that he is aware of this problem and the ongoing concerns of residents and is pursuing options for the future. He stated that there is still plenty of room at Albion Park Cemetery at the moment.

- 405 Councillor Hawker** advised that he has received complaints of speeding traffic in Russell Street Albion Park. He asked if there is anything Council can do to restrict speed of traffic at this location.

- 406 Councillor Hawker** advised that log fencing at Croom Sporting Complex near the rugby fields has been removed. He asked that this be investigated and replaced as motor bikes are crossing the fields and damaging them.

Meeting adjourned at 9.10 pm

Meeting resumed at 9.12 pm

- 407 RESOLVED:** Bird/Briggs

That Council resolve into Committee of the Whole to consider a matter relating to Item 12.3 as requested by Councillor Bird.

Meeting adjourned at 9.13 pm

Meeting resumed at 9.15 pm

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 15 August 2006

**12.3 Shellharbour Links Golf Precinct - Tourist Accommodation Facility
Expression of Interest (8587896)**

408 RESOLVED: Briggs/Bird

1. That Council authorise officers to undertake discussions with the proponent submitting interest in a tourist accommodation facility on the site.
2. That officers report back to Council the outcomes of any discussions.

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

Meeting closed 9.18 pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 5 September 2006

General Manager

Chairperson