

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Warilla
on Tuesday 05 September 2006 commencing at 7.15 pm**

Present

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| His Worship the Mayor | Councillor D Hamilton |
| A Ward | Councillor M Greig Councillor T Hawker |
| B Ward | Councillor H Stewart |
| 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

| | |
|---|------------------|
| 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 |
| Corporate Solicitor – Manager Legal & Property Services | B McCann |
| Shell Cove Project Engineer | J McAndrew |
| 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

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An apology was tendered on behalf of Councillor Jeffreys

409 RESOLVED: Hore/Gillett. That the apology 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 15 August 2006

410 RESOLVED: Briggs/Bailey That the Minutes of the Ordinary Council Meeting held on 15 August 2006 be confirmed as a correct record of proceedings.

4.2 Committee of the Whole 15 August 2006

411 RESOLVED: Briggs/Bird That the Minutes of the Committee of the Whole Council Meeting held on 15 August 2006 be confirmed as a correct record of proceedings.

5. Pecuniary Interest

Councillor Greig: Item 11.1 DA No. 155/2006 – Lot 4, DP 1072916, Cygnet Avenue, Shellharbour City Centre – Four Storey Mixed Use Building (including Basement Car Par for 38 cars)

Nature of Interest: Councillor Greig owns property in the vicinity of the proposed development.

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Councillor Greig: Item 11.3 DA No. 324/2006 – Lots 6 & 7, DP 738297, 12-14 George Street, Warilla – Above Awning Light Box Sign, Window Signage & Land Use Approval for Two Above Awning Signs.

Nature of Interest: Councillor Greig has an office in this building.

Councillor Bailey: Item 11.3 DA No. 324/2006 – Lots 6 & 7, DP 738297, 12-14 George Street, Warilla – Above Awning Light Box Sign, Window Signage & Land Use Approval for Two Above Awning Signs.

Nature of Interest: Councillor Bailey was supported in the last election by the owner of the building.

412 RESOLVED: Briggs/Hawker

That Items 11.1 and 11.3 be considered one after the other to prevent Councillor Greig having to leave the Chamber twice.

6. Condolences

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

| | | |
|----------------------------|-------------|----------------------|
| Beryl Bott | of | Albion Park |
| Christos Kyriacou | of | Albion Park Rail |
| Doug Kirkpatrick | of | Albion Park Rail |
| Jean McKeown (Mitchell) | formerly of | Albion Park Rail |
| George Hardie | of | Barrack Heights |
| Leslie Neil (Les) Le Fevre | of | Barrack Heights |
| Florence Phillips | of | Barrack Heights |
| Lance Bingham | of | Blackbutt |
| Maria Ivanku | of | Lake Illawarra South |
| James Magee (Jim) Tynan | formerly of | Lake Illawarra South |
| Jessie Ann Jones | of | Mount Warrigal |
| Barry John Fearn | of | Oak Flats |
| Gertrud (Trudy) Galka | formerly of | Oak Flats |
| Joan Graham | of | Oak Flats |

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| Adam Macbeth | of | Oak Flats |
| Doris Simpson | of | Oak Flats |
| Andrew (Andy) Vassiliou | of | Oak Flats |
| Michael Ralph Willis | of | Oak Flats |
| Pauline Ruth Smith | of | Oak Flats |
| Robert Alvarez | formerly of | Warilla |
| Ronald James Bray | of | Warilla |
| Edna Marie Hassan | of | Warilla |
| Hetekia (Joe Senior) Matatahi | of | Warilla |
| Frieda Pavlowski | of | Warilla |

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

7. Presentations

Nil

8. Mayoral Minutes

Nil

9. Councillors' Reports

Nil

10. General Manager's Office

10.1 2005/2006 Annual Financial Reports (8597618)

414 RESOLVED: Hawker/Greig

1. That Council make the Statements (as attached) and approve the application of the signatures by the Mayor, one other Councillor and the General Manager to those statements, as required by Clause 215 of *the Local Government (General) Regulation 2005*.
2. That the Financial Reports be formally referred for audit.

11. Operations & Services Division

11.1 DA No. 155/2006 - Lot 4, DP 1072916, Cygnet Avenue, Shellharbour City Centre - Four Storey Mixed Use Building (Including Basement Car Park for 38 Cars) (8587925)

Note: Councillor Greig 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 the meeting that an amendment is required to the wording of Condition No.56 on page 28 of the business paper for the Ordinary Council Meeting – 5 September 2006.

Councillor Briggs commented on the inadequate parking for the city centre and asked if there was any timing for when a decked car park would be built to address this issue.

The Manager Development Services advised that he would take this question on notice.

In response to a question from Councillor Bird the Manager Development Services added that on p12 of the Business Paper under comments from the Section 94 Planner it states that contributions made by the developer for parking are based on costs for a decked carpark and contributions would be channelled for that purpose.

In response to a question from Councillor Bailey, the Manager Development Services advised that there is no guarantee that in the future, the commercial component of the development could not be changed to accommodate a residential use, however any change would be the subject of a new Development Application.

415 RESOLVED: Bailey/Briggs

That the Council approve Development Application No. 155/2006 for the construction of a four storey mixed use residential commercial building comprising a basement car park of 38 spaces, one level of retail, one level of commercial office space and six residential units at Lot 4, DP 1072916, Cygnet Ave, Shellharbour City Centre under Section 80 of the *Environmental Planning and Assessment Act 1979*, as amended, subject to the 79 conditions following the conclusion with the amendment to the final paragraph of Condition 56 where the reference to 'construction certificate' should read 'occupation certificate'.

Note: Item 11.3 was dealt with before Item 11.2 on the agenda. See Minute Number 412.

11.3 DA No. 324/2006 - Lots 6 & 7, DP 738297, 12-14 George Street, Warilla - Above Awning Light Box Sign, Window Signage & Land Use Approval for Two Above Awning Signs (8599784)

Note: Councillor Bailey declared an interest in Item 11.3 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

Note: Councillor Greig declared an interest in Item 11.3 and remained outside the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

416 RESOLVED: Mifsud/Hore

That the Council approve Development Application No. 324/2006 for the erection of an above awning light box sign and window sign and land use approval for two above awning signs at Lots 6 & 7, DP 738297, 12–14 George Street, Warilla under Section 80 of the *Environmental Planning & Assessment Act 1979*, as amended, subject to appropriate conditions.

Councillor Greig and Councillor Bailey here returned to the Chamber.

11.2 DA No. 664/2005 - Lot 9, DP 1039969, 41 Shandan Circuit, Albion Park Rail - Motor Showroom - Section 82A Review (8597813)

417 RESOLVED: Gillett/Bird

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. 664/2005 for a motor showroom at Lot 9, DP 1039969, 41 Shandan Circuit, Albion Park Rail under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the 60 conditions following the conclusion of this report.

11.4 Regional Roads Repair Program 2006/2007 (8595327)

418 RESOLVED: Greig/Hawker

1. That Council accept the RTA's offer of \$40,000 for the Regional Roads Repair Program 2006/2007 for use on Council's Regional Road, Terry Street.
2. That authority be given to the General Manager to execute all necessary documents under Council's Seal as appropriate in relation to this program.
3. That the budget be amended accordingly.

11.5 Regional Roads Block Grant (8590344)

419 RESOLVED: Greig/Hawker

1. That the Council accept the RTA's offer of \$166,000 for funding the 2006/2007 Regional Roads Block Grant.
2. That the RTA's grant offer of \$41,000 for the Ex 3 x 3 Program be used to accelerate works on Council's Regional Road, Terry Street.
3. That authority be given to the General Manager to execute all necessary documents, including use of the Council Seal as required, in relation to this grant.
4. That Council's budget be amended accordingly.

11.6 Replacement of the Existing Timber Pedestrian Bridge over Horsley Creek, with a Concrete Bridge on the east side of the Princes Highway - Albion Park Rail (8599463)

420 RESOLVED: Bird/Bailey

1. That in order to ensure public safety, Council remove the existing pedestrian bridge on the eastern side of the Princes Highway over Horsley Creek at Albion Park Rail.
2. That the Council construct a new pedestrian bridge on the eastern side of the Princes Highway over Horsley Creek at Albion Park Rail.
3. That the Council allocate an additional \$20,000 towards the project using the existing allocation in the 2006/2007 Capital Works Program for Koona Street Raised Thresholds.

11.7 Regional Waste and Recycling Background Report and Opportunities Paper (8599641)

421 RESOLVED: Gillett/Hore

That Council accept and endorse the 'Regional Waste and Recycling Background Report and Opportunities Paper' prepared for the Southern Councils Group.

11.8 Relocation - Shellharbour Foreshore Gates (8599276)

422 RESOLVED: Rose/Mifsud

That Council:

1. Relocate the gates at the northern end of the foreshore carpark approximately 30m southward to enable car parking at Little Park to remain open 24 hours per day. Further, that \$2,000 be allocated from Ward E Works Funds and the budget be amended accordingly.
2. Install a low timber fence at the eastern end of Wilson Street to stop cars driving down the embankment after the gates have been locked. Further, that \$2,000 be allocated from Ward E Works Funds and the budget be amended accordingly.
3. That the foreshore gates be locked at 9.00pm daily.

11.9 Sport & Recreation Capital Improvements Requests (8599479)

423 RESOLVED: Hawker/Leedham

1. That Council allocate:
 - a. \$3,500 from Ward A Sportsfield Funds for the construction of a weather protection awning on the swimming club's clubhouse at the Albion Park Pool and amend the budget accordingly
 - b. \$1,628 from Ward A Sportsfield Funds for the levelling and reseeding of the equestrian competition area at Terry Reserve and amend the budget accordingly
 - c. \$9,900 from Ward D Sportsfield Funds for the installation of a secure awning/enclosure on the amenities block at Morley Park to prevent on-going vandalism and amend the budget accordingly.
2. That the Council defer consideration of the requests for capital improvements from the Albion Park AH&I Association and the Lake Illawarra South Cricket Club until further discussions are held with the groups to consider alternative ways to achieve the requested improvements.
3. That the Council defer consideration of requests for capital improvements to Council's tennis facilities until an assessment of the current needs and future direction of Tennis in Shellharbour City is determined through further consultation with the tennis community.

11.10 Proposed Street Bin Enclosures to Address Vandalism Concerns at Shellharbour Foreshore (8597741)

424 RESOLVED: Mifsud/Gillett

That the Council endorse the supply and installation of bin enclosures for the area as shown in attachment 1 and that the budget be amended by \$45,450 with funds sourced from domestic waste management restricted assets.

11.11 Public Exhibition of Draft Pesticides Notification Plan (8598023)

425 RESOLVED: Greig/Rose

That the draft Pesticides Notification Plan be placed on public exhibition for a period of 28 days from 13 September 2006 to 11 October 2006.

11.12 Lease to HAN.D Australia Pty Ltd - T/A Zen Massage & Acupuncture - Shop 131 Lamerton House, Shellharbour City Centre (8596769)

426 RESOLVED: Briggs/Bailey

That Council resolve to affix the Seal of Council to the lease agreement with HAN.D Australia Pty Ltd, trading as Zen Massage & Acupuncture, for the occupation of Shop 131, Lamerton House, Shellharbour City Centre for a period of five (5) years at a rental of \$35,040.00 plus GST per annum.

11.13 Disclosure of Interest Returns (8586518)

427 RESOLVED: Stewart/Leedham

1. That the Councillors' names and staff names and positions set out in this report be identified as the designated persons for the lodgement of Disclosure of Interest Forms for Shellharbour City Council for the term 1 July 2005 to 30 June 2006.
2. That Council acknowledge the tabling of the register of returns.

12. Community Planning & Strategies Division

12.1 Adoption of Section 94 Contributions Plan 2005 (Amendment 1) (8598656)

428 RESOLVED: Briggs/Greig

1. That Council adopt the *Section 94 Contributions Plan 2005 (Amendment 1)*; and
2. That a notice be placed in the *Lake Times* advising of the adoption of the plan.

12.2 Rezoning Application to amend Shellharbour Local Environmental Plan 2000 to rezone land at 139 - 141 Tongarra Road Albion Park from 2(a) Residential A to 3(a) Mixed Use Commercial (8597774)

429 RESOLVED: Hawker/Greig

That Council:

- a. prepare a draft local environmental plan to consider the rezoning of Lot 2 DP 378801 and Lot 4 DP 800517, 139-141 Tongarra Road, Albion Park from 2(a) Residential A to 3(a) Mixed Use Commercial in accordance with section 54 of the Environmental Planning and Assessment Act 1979; and
- b. request section 65 delegation from the Director General of the NSW Department of Planning to enable exhibition of the amendment; and
- c. that a further report be submitted to council at the completion of the exhibition.

12.3 Shell Cove - Sportsfields Works in Kind (8599715)

In response to a question from Councillor Bird the Group Manager Planning Services advised that Council has already levied funds from developers for this work. The money will not come from Council but is a reimbursement of developer funds that have already been collected. He added that the final design of the playing fields will be submitted to the consent authority for endorsement and that the reimbursement of funds to Australand will only occur 12 months after completion of the works so that maintenance and subsidence issues can be assessed.

In response to a question from Councillor Bailey the Shell Cove Project Engineer advised that there is a valid consent in place for this proposal. The amendment sought with regard to the boat harbour has nothing to do with the waste cell.

430 RESOLVED: Bird/Briggs

1. That Australand be granted approval to undertake partial Works in Kind in relation to the Shell Cove sportfields. Such partial works will comprise investigation, design, and sportsfields earthworks formation.
2. That Australand be reimbursed the monetary value of the Works in Kind, from Council's S.94 funds, to the amount capped at \$441,912.
3. That delegated authority be granted to the General Manager to enter into a contract with Australand for these works, in accordance with all other respects of Council's Works in Kind Policy.
4. That Council authorise the affixing of Council's Seal to the deed of agreement between Australand and Council for the works in kind.

CARRIED (Councillor Mifsud, Rose, Bailey and Stewart dissenting)

13. Shell Cove Business Division

Nil

14. Committee Recommendations

14.1 Recommendations from the Disabilities Services Advisory Committee Meeting held 23 August recommended for adoption.

431 RESOLVED: Briggs/Gillett

That the Recommendations from the Disabilities Services Advisory Committee Meeting held 23 August 2006 be adopted.

14.2 Recommendations from the Australia Day/Special Promotions Committee Meeting held 23 August recommended for adoption.

432 RESOLVED: Hawker/Leedham

That the Recommendations from the Australia Day/Special Promotions Committee Meeting held 23 August 2006 be adopted.

15. Notices of Rescission Motion

Nil

16. Notices of Motion

Nil

17. Items for Information

17.1 ICAC Guide - Lobbying local government councillors (8600103)

433 RESOLVED: Hawker/Briggs

That Council receive and note the items for information.

18. Questions without Notice

434 Councillor Stewart commented on a letter distributed to all councillors from the Animal Welfare League regarding trapping of unwanted cats in the Shellharbour Council area and requested that Council investigate their request for assistance.

435 Councillor Leedham asked what Council's reaction to the Land and Environment Court decision regarding the DA in Wollongong Street, Shellharbour was?

The Manager Development Services advised that the court is yet to hand down the decision, however the Commissioner presiding at the on-site session of the court advised on the day that he would grant consent on receipt of revised plans which incorporated part of the building being moved back. He set down a timetable for the applicant.

436 Councillor Bird advised that he had previously submitted a requisition about trail bikes illegally using Blackbutt Reserve. He requested that this be followed up.

437 Councillor Rose asked whether Council has a beach rake and requested that if so that it be used in front of Little Park, Shellharbour.

The Director Operations & Services advised that he believed Council has an arrangement to resource share such an item with Kiama Council. He will investigate.

438 Councillor Rose requested that graffiti on playground equipment in McNabb Park be cleaned up.

439 Councillor Mifsud acknowledged Councillor Bailey and Councillor Stewart's work in organising a recent race day which raised in the vicinity of \$10,000 for St Vincent DePaul.

440 Councillor Mifsud asked what advice affected residents had been given regarding the costs and construction of the shared use path at Barrack Point.

The Director Operations & Services advised that the Cycleway Masterplan was placed on exhibition in 1996 for public comment and was later adopted by Council. He commented on the report to Council on 13 June 2006 advising of part funding by the Department of Planning for the project. Council also committed some funds and, as is usual with this kind of development, residents were also required to contribute some funds. Letters were sent to each property owner advising that work was to progress and indicating what their contribution would be.

441 Councillor Mifsud requested that provision of public toilets in Addison Street, Shellharbour be investigated. He suggested that use of the facilities at the Roo Theatre building could be a possibility.

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442 Councillor Mifsud commented that signs promoting Shell Cove appear to be obstructing sight distance for cars exiting Cove Boulevard and Brindabella Drive, Shell Cove. He asked that this be investigated.

443 Councillor Mifsud advised that residents of Hicks Terrace, Shell Cove had raised concerns regarding privacy due to recent construction of the footpath on Shellharbour Road backing onto their properties. He stated that a meeting was held with stakeholders and that the Anglican College had made a commitment to provide privacy screens for these residents. It appears that this has not been actioned with concerns raised that this may not eventuate. He requested that Council investigate.

444 Councillor Bailey asked for advice on what security measures are in place at the Airport.

The Director Operations & Services advised that obviously it would not be appropriate to lay all security measures, in place at the airport, on the table. However he could say that the measures meet requirements of the Department of Transport & Regional Services and that Council does have an approved Security Program in place. He added that a Risk Assessment has been completed in consultation with Police and other relevant personnel and that fencing, surveillance measures and lighting are being installed.

445 Councillor Hawker advised that the edges of Calderwood Road, Albion Park are still rough and requested maintenance on this road.

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

Meeting closed 8.55 pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 26 September 2006

General Manager

Chairperson