

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Warilla
on Tuesday 24 July 2007 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
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 Development & Tech Services	M Boenisch
Group Manager Corporate Planning	P Masterson
Group Manager Organisational Development	B Rose
Group Manager Planning Services	G Hoynes
Manager Development Services	G Mitchell
Manager Executive Offices/Executive Assistant	F MastroDomenico
Manager Media & Communications	B Parker
Executive Assistant	L Davey

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.
An apology was tendered on behalf of Councillor Briggs.

331 RESOLVED: Leedham/Hawker. 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 3 July 2007

332 RESOLVED: Hawker/Gillett That the Minutes of the Ordinary Council Meeting held on 3 July 2007 be confirmed as a correct record of proceedings.

4.2 Confirmation of Minutes of the Committee of the Whole (Confidential) 3 July 2007

4.3 Confirmation of Minutes of the Committee of the Whole (Confidential) 22 May 2007

4.4 Confirmation of Minutes of the Committee of the Whole (Confidential) 12 June 2007

333 RESOLVED: Hawker/Jeffreys That Items 4.2, 4.3 and 4.4 be considered in Confidential session after Questions Without Notice later in the agenda (see Minute No 381).

5. Pecuniary Interest

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

Councillor Hawker: Item 11.9 Community Land Plans of Management

Nature of Interest: Councillor Hawker is the auditor of Warilla/Barrack Point Surf Lifesaving Club

Councillor Hawker: Item 11.10 Proposal to Advertise Lease for Warilla/Barrack Point Surf Club

Nature of Interest: Councillor Hawker is the auditor of Warilla/Barrack Point Surf Lifesaving Club

Councillor Rose: Item 16.1 Notice of Motion Submitted by Councillor Hawker

Nature of Interest: Councillor Rose is involved in pending legal action.

Councillor Stewart: Item 16.1 Notice of Motion Submitted by Councillor Hawker

Nature of Interest: Councillor Stewart is involved in pending legal action.

6. Condolences

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

Mr Bert Harris	of	Albion Park
Mr Eric Reitzer	of	Albion Park
Mrs Lynette (Lyn) Sawtell	of	Albion Park
Mrs Barbara Duncan	formerly of	Albion Park
Mr Slavko Sekulovski	of	Balarang
Mrs Kathleen Margaret Beer	of	Barrack Heights
Mr John Russell	of	Barrack Heights
Mr Ryszard (Dick) Kostrubiec	of	Barrack Heights
Mr Radovan Tomanoski	of	Blackbutt
Mrs Verona Mavis Grennan	of	Flinders
Mr Neville (Nifty) Torney	of	Lake Illawarra
Mrs Maria Gai	of	Lake South

Mrs Nadezda (Nada) Bjelanovic	of	Mt Warrigal
Mrs Theodora Ierodiconou	of	Oak Flats
Mrs Luise Lukmann	of	Oak Flats
Mr Peter Markovic	of	Oak Flats
Mrs Patricia (Pat) Moore	formerly of	Oak Flats
Mr Kevin (Farra) Faricy	of	Warilla
Mr Robert (Bob) Hannan	of	Warilla
Mr Gregory Edward Potts	of	Warilla
Mrs Christine Smyth	of	Warilla
Mrs Beverley Waters	of	Warilla

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

7. Presentations

Presentation by Council's Youth Services Manager of IMB Community Foundation Project Plaque relating to funds received from the Foundation for purchase of a performance marquee for use by Council's Youth Services section.

8. Mayoral Minute (Late Report attached)

8.1 Footpath Tree - Ocean Beach Drive, Blackbutt (8762472)

335 RESOLVED: Mifsud/Hore

That, on compassionate grounds, Council remove the Lilly Pilly trees on the footpath in front of 74 Ocean Beach Drive, Shellharbour and replace them with appropriate trees.

CARRIED UNANIMOUSLY

9. Councillors' Reports

Nil

10. General Manager's Office

**10.1 Local Government Association Annual Conference - Coffs Harbour
- 20-24 October 2007 (8752979)**

336 RESOLVED: Bailey/Hawker

1. That Council nominate its four (4) voting delegates to the 2007 Local Government Annual Conference.
2. That Council endorse the attendance of those Councillors wishing to attend the 2007 Local Government Annual Conference as observers.
3. That the General Manager authorise the attendance of appropriate Council Officers to attend the 2007 Local Government Annual Conference.

CARRIED UNANIMOUSLY

337 RESOLVED: Hawker/Bird

That the Mayor and Councillors Bird, Gillett and Hawker be Council's voting delegates to the 2007 Local Government Annual Conference.

CARRIED UNANIMOUSLY

**10.2 Local Government Aboriginal Network Conference 5-7 September
2007, Coffs Harbour (8752538)**

Councillor Hawker asked the General Manager if he could investigate funds being allocated to Council's budget in order to allow for Council Officers from the relevant departments to attend major conferences with Councillors in future as a policy matter.

During the debate Councillor Rose MOVED a POINT of ORDER that Councillor Hawker was asking a question rather than discussing his motion as the mover. The Mayor requested that Councillor Hawker speak to the motion rather than asking questions first.

Councillor Hawker made a comment about the Mayor's ruling and said he was acting like ex-Mayor Glenholmes. The Mayor ordered Councillor Hawker to withdraw his remarks and Councillor Hawker did so.

338 RESOLVED: Hawker/Hore

1. That Council resolve to approve attendance at the Local Government Aboriginal Network Conference in Coffs Harbour from 5-7 September 2007 by any interested Councillor.
2. That any Councillor wishing to attend advise the Executive Offices by 30 July 2007 in order to meet the Early Bird deadline for registrations.

3. That the General Manager authorise the attendance of appropriate Council Officers to attend the Local Government Aboriginal Network Conference.

CARRIED UNANIMOUSLY

339 RESOLVED: Hawker/Bird

That the Mayor and Cr Bird be Council's delegates to the Local Government Aboriginal Network Conference.

CARRIED UNANIMOUSLY

10.3 Sixteenth Annual NSW Coastal Conference, Yamba - 7-9 November 2007 (8752967)

340 RESOLVED: Hawker/Hore

1. That Council approve the attendance at the 16th Annual NSW Coastal Conference being held at Yamba from 7-9 November 2007 by any interested Councillor.
2. That any Councillor wishing to attend advise the Executive offices by Friday 31 August 2007 in order to meet the Early Bird registration deadline.
3. That the General Manager authorise the attendance of appropriate Council Officers to attend the 16th Annual NSW Coastal Conference.

CARRIED UNANIMOUSLY

11. Operations & Services Division

11.1 Proposed Demolition of Shower Block - Bucknell Street, Warilla (8759369)

341 RESOLVED: Rose/Mifsud

1. That the Council demolish the existing change rooms and provide external showers, subject to development approval being granted and Council allocating \$10,000 from the 2007/2008 asset maintenance program and amend the budget accordingly
2. That the existing toilet block be retained and enhanced.

CARRIED UNANIMOUSLY

11.2 DA No. 285/2006 - Lot 5, DP 1089622, Falcon Street, Blackbutt - Proposed Five Lot Residential Subdivision (8749513)

342 RESOLVED: Bird/Bailey

That the Council approve Development Application No. 285/2006 for a five lot residential subdivision at Lot 5, DP 1089622, Falcon Street, Blackbutt under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the 21 conditions following the conclusion of this report.

FOR VOTE - Cr Hamilton, Cr Hawker, Cr Bailey, Cr Rose, Cr Gillett, Cr Bird, Cr Hore, Cr Leedham, Cr Jeffreys, Cr Stewart
AGAINST VOTE - Cr Mifsud

11.3 Request for Release of a Section 88B Restriction on the Use of Land at Lots 7 - 12 & 14, DP 270094, 108D Industrial Road, Oak Flats (8758316)

MOTION: Rose/Leedham

That the Council agree to the release of the Restriction secondly referred to in the Section 88B Instrument accompanying Lot 14 in DP 806451 and as it now affects Lots 7 – 12 & 14, DP 270094, subject to all costs, including any cost incurred by Shellharbour City Council being borne by the registered proprietors of the subject lots.

Councillor Jeffreys FORESHADOWED a MOTION that this item be deferred to allow consultation with Corpus Christi High School.

343 The MOTION on being PUT to the Meeting was CARRIED 8/3

FOR VOTE - Cr Hamilton, Cr Hawker, Cr Mifsud, Cr Rose, Cr Gillett, Cr Bird, Cr Hore, Cr Leedham
AGAINST VOTE - Cr Bailey, Cr Jeffreys, Cr Stewart

Councillor Mifsud sought a 2 minute recess.

344 RESOLVED: Hawker /Leedham That the meeting recess for 2 minutes.

Meeting adjourned at 7.58 pm

Meeting resumed at 8.03 am

11.4 DA No. 77/2007 - Lot 3, DP 786327 and Lot 100, DP 849384, 152 New Lake Entrance Road, Oak Flats - Mixed Use Development (Containing Fast Food Outlet, Bulky Goods/Office Building and Car Wash) (8735060)

345 RESOLVED: Stewart/Rose

That this item be deferred to enable a site inspection by Councillors and Council staff only.

CARRIED UNANIMOUSLY

11.5 Drainage and Kerb & Gutter - Princes Highway, Albion Park Rail (8759803)

346 RESOLVED: Gillett/Bird

1. That the Council allocates \$9,000 from 'Ward F Works' for the work.
2. That the Council allocates \$13,462 from 'Citywide Grant Matching Funds' for the work.
3. That the Council allocate an additional \$29,825 towards the project using the existing allocation in the Capital Works Program for the Glider Avenue/Parma Way roundabout.
4. That the budget be amended accordingly.

CARRIED UNANIMOUSLY

11.6 Stores & Material Stocktake (8756862)

347 RESOLVED: Stewart/Bailey

That the appropriate journal entries be prepared to record in the Stores & Materials Ledger and the General Ledgers the net write-off of stock of \$3,409.27.

CARRIED UNANIMOUSLY

11.7 Stores LTA Stocktake (8756861)

348 RESOLVED: Stewart/Jeffreys

That the appropriate journal entries be prepared to record in the Stores LTA Ledger and General Ledgers the write-off of stock to the value of \$454.72.

CARRIED UNANIMOUSLY

11.8 Renewal of Lease for Shellharbour Country Kitchen Cafe (8756983)

349 RESOLVED: Rose/Mifsud

1. That Council renew the lease agreement with Carol Lee Testa and Lindsey Anne Crofts for the occupation of part Lot 1 DP 745795 Addison Street, Shellharbour for a further three (3) years at a rental amount of \$25,000.00 plus GST per annum.
2. That the Seal of Council be affixed to the lease agreement with Carol Lee Testa and Lindsey Anne Crofts for the occupation of part Lot 1 DP 745795 Addison Street, Shellharbour.

CARRIED UNANIMOUSLY

11.9 Community Land Plans of Management - Lot 2 DP 224845, Warilla Surf Life Saving Club (8757744)

Note: Councillor Hawker declared an interest in Item 11.9 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

Councillor Hore noted that in the report it refers to the area being a Class "C" Recreation Area and asked for the meaning of this and details of the other classes. The Director of Operations & Services advised that he would take this question on notice.

350 RESOLVED: Leedham/Jeffreys

1. That in accordance with the *Local Government Act 1993*, (s38), the draft Plan of Management for Community Land described as Lot 2 DP 224845, part Lot 78 DP 553511 and part Lot 76 DP 238866 Osborne Parade, Warilla, 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 plan is 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 Plan of Management for Community Land for Lot 2 DP 224845, Lot 78 DP 553511 and Lot 76 DP 238866 Osborne Parade, Warilla.

CARRIED UNANIMOUSLY

11.10 Proposal to advertise lease for Warilla / Barrack Point Surf Club Inc (8758644)

Note: Councillor Hawker declared an interest in Item 11.10 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

351 RESOLVED: Jeffreys/Leedham

That Council grant approval to proceed with public consultation as detailed in Section 47 of the *Local Government Act 1993*, for the proposal to grant an a lease for a term of twenty one (21) years with the Warilla Barrack Point Surf Club Inc for the occupation of Lot 2 DP 224845, Part Lot 78 DP 553511 and Part Lot 76 DP 238866, Osborne Parade, Warilla.

That the matter be reported back to Council at the conclusion of the public consultation stage.

CARRIED UNANIMOUSLY

Councillor Hawker here returned to the Chamber.

11.11 National General Assembly of Local Government - November 2007 - Notices of Motion (8756964)

The Mayor requested permission from the Council to speak from the Chair. The Council granted permission for the Mayor to speak. The Mayor advised that the issue of cost shifting had been discussed at the last Southern Councils Group meeting and that they were supportive of Councils presenting a motion to the conference on this issue.

352 RESOLVED: Hawker/Bailey

1. That Council receive and note the information in this report.
2. That the General Manager frame suitable motions, if any, and supporting statements for consideration at the forthcoming National General Assembly of Local Government and report these to the next meeting of Council for information.

FOR VOTE - Cr Hamilton, Cr Hawker, Cr Bailey, Cr Rose, Cr Gillett, Cr Bird, Cr Hore, Cr Leedham, Cr Jeffreys, Cr Stewart

AGAINST VOTE - Cr Mifsud

11.12 Consideration of Tenders for Appointment of Internal Auditors - Tender 2007/10 (8757530)

353 RESOLVED: Hawker/Gillett

1. That Council consider the tenders received as tender 2007/10 for Internal Audit services and decline to accept any tender, due to budgetary considerations.
2. That the two tenderers be advised of Council's decision and thanked for their participation in the Internal Audit tender process.
3. That the General Manager investigate the possibility of cost sharing an internal auditor with a neighbouring council.

CARRIED UNANIMOUSLY

11.13 Request by Bankstown Council for assistance with legal costs (8754669)

MOTION: Hore/Leedham

That the request by Bankstown Council for assistance with legal costs be refused due to budgetary constraints.

Councillor Jeffreys FORESHADOWED a MOTION that Council contribute 50% of the amount being requested by Bankstown Council.

354 The MOTION on being PUT to the Meeting was CARRIED 6/5

FOR VOTE - Cr Hamilton, Cr Hawker, Cr Gillett, Cr Bird, Cr Hore, Cr Leedham
AGAINST VOTE - Cr Bailey, Cr Mifsud, Cr Rose, Cr Jeffreys, Cr Stewart

11.14 Motions to the Local Government Association Annual Conference Coffs Harbour 20-24 October 2007 (8756637)

355 RESOLVED: Hawker/Bird

1. That Council submit the following motion to the Local Government Association Annual Conference:

"That the Associations seek the commitment of both State and Federal Governments, to provide for an increase in the pensioners' rate rebate under S575 of the *NSW Local Government Act 1993*, by increasing the proportions of the rebate paid by State and Federal governments to Local government, in such a way that the benefit to eligible pensioners is increased, but that the maximum Council contribution remains at the current level of \$112.50 (45% of \$250).

That the maximum rebate allowed as indicated by S575(3)(a) of the *NSW Local Government Act 1993*, be increased annually by indexation in line with the Sydney all groups CPI, so that the proportions of the rebate paid by State and Federal governments to Local government are increased, in such a way that the benefit to eligible pensioners is increased, but that the maximum Council contribution remains at the current level of \$112.50 (45% of \$250)."

2. That the motions being prepared for the National General Assembly (see Minute No. 352) also be submitted to the 2007 Local Government Association Annual Conference.
3. That the General Manager frame suitable motions and supporting statements for consideration at the forthcoming Local Government Conference in regard to waste disposal and fire levies and report these to the next meeting of Council for information.

CARRIED UNANIMOUSLY

12. Community Planning & Strategies Division

12.1 IMB Foundation grant (8755569)

Council acknowledged the work undertaken by Mr Nick Higgins, Manager of Youth Services & Development and his Youth Services team.

356 RESOLVED: Jeffreys/Bailey

1. That Council accept the grant of \$20,000 from the IMB Community Foundation and the budget be adjusted to reflect this grant.
2. That a letter of thanks be forwarded to the IMB Community Foundation.

CARRIED UNANIMOUSLY

12.2 Affix Seal to DoCs Service Specifications (8756077)

357 RESOLVED: Jeffreys/Hawker

That Council resolve to affix the Seal of Council to the Service Specifications for NSW Department of Community Services Salary Subsidies under the Community Services Grant Program.

CARRIED UNANIMOUSLY

13. Shell Cove Business Division

13.1 Shell Cove Report (8756864)

During the debate Councillor Bailey MOVED a POINT of ORDER against Cr Hawker in relation to comments he made about previous Independent Councillors being opposed to the Marina and stated that the current Council should not be compared to previous councillors. The Mayor overruled the POINT of ORDER and stated that Councillor Hawker was referring to previous Independent Councillors only and confirmed that all current Councillors are supportive of the Marina.

358 RESOLVED: Rose/Hore

1. That Council resolves to adopt the 2006 Feasibility Study for the Shell Cove Project, as amended by the 2007 modifications, submitted by Australand Corporation (NSW) Pty Ltd.
2. That Council resolves to endorse the sale of lots within the Boatharbour Precinct in the manner outlined in this report and in conformity with the Management Agreement.
3. That Council resolves to amend the Management Agreement to reflect the changes outlined in this report.
4. That Council resolves to affix the Seal of Council on the amending deed to the Management Agreement and associated documents.

CARRIED UNANIMOUSLY

14. Committee Recommendations

14.1 Recommendations from the Economic Development Advisory Committee Meeting held 27 June 2007 recommended for adoption.

359 RESOLVED: Hawker/Gillett

That the Recommendations from the Economic Development Advisory Committee Meeting held 27 June 2007 be adopted.

CARRIED UNANIMOUSLY

14.2 Recommendations from the Traffic Committee Meeting held 4 July 2007 recommended for adoption.

360 RESOLVED: Gillett/Bird

That the Recommendations from the Traffic Committee Meeting held 4 July 2007 be adopted.

CARRIED UNANIMOUSLY

15. Notices of Rescission Motion

Nil

16. Notices of Motion

16.1 Notice of Motion submitted by Councillor Hawker (8735816)

Note: Councillor Rose and Councillor Stewart declared an interest in Item 16.1 and left the Chamber whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

361 RESOLVED: Hawker/Leedham

That a quarterly report on legal expenses, similar to the report provided to Port Stephens Council, be included in the Quarterly Management Report to Council.

CARRIED UNANIMOUSLY

Councillor Rose and Councillor Stewart here returned to the Chamber.

16.2 Notice of Motion submitted by Councillor Greig (8760076)

The General Manager advised that Councillor Greig had telephoned the Manager Executive Offices this afternoon to formally request that the Notice of Motion submitted to Council be withdrawn.

17. Items for Information

17.1 Killalea State Park Trust Council Information Reports for June and July 2007 (5759964)

17.3 Investments (8759646)

362 RESOLVED: Hawker/Jeffreys

1. That Council receive and note items 17.1 and 17.3.
2. That the Mayor, Councillors and Council Officers submit to the General Manager any questions relating to the Killalea State Park Trust to enable Councillor Bird to submit them to the Killalea State Park Trust to be answered.

CARRIED UNANIMOUSLY

**17.2 NSW Electoral Commission Estimates of Cost of Election 2008
(8753540)**

363 RESOLVED: Rose/Hawker

1. That Council write to the NSW Electoral Commission strongly objecting to these costs.
2. That a copy of this correspondence be provided to the Local Government & Shires Association of New South Wales and the Southern Councils Group.

CARRIED UNANIMOUSLY

18. Questions without Notice

- 364 Councillor Stewart** asked the General Manager if he was aware of the seminar “Keeping Sensitive Information Confidential” being held on 20 September 2007 by the Local Government Learning Solutions and asked if this seminar had come about as a result of this Council’s current court proceedings in the Land and Environment Court.

The General Manager responded that he was not aware of the conference and had not been contacted by the organisers.

- 365 Councillor Stewart** advised that residents along Lake Entrance Road have asked her to convey their thanks to Council staff for work done to beautify this section of the road.

- 366 Councillor Jeffreys** asked if it would be possible to mulch some passive open areas throughout the city, for example median strips, in order to save water and decrease greenhouse emissions.

The Director of Operations & Services advised that Council has a strong mulching program at this time of year in Council’s passive reserves but was not sure about the practicality of mulching median strips of roads.

- 367 Councillor Leedham** asked why bark chips were placed on the roundabout at Glider Avenue and College Avenue, Blackbutt as it becomes very untidy in high wind?

- 368 Councillor Hore** asked that a roof be installed on the bus stop across the road from Warilla Grove, as it has been missing for quite some time.

- 369 Councillor Gillett** informed Councillors that recently hazardous waste was left at Albion Park Rail Community Centre and that Council responded promptly to have the hazardous waste removed. Councillor Gillett thanked Council staff for their efforts.

- 370 Councillor Rose** asked if a rake can be borrowed for the purposes of raking Little Park Beach in Shellharbour.

The Director of Operations & Services advised that in the past a rake had been borrowed from Kiama Council but this would be investigated as he was not sure if they still had the rake.

- 371 Councillor Rose** advised that the recently erected fence at Bardsley Park is blocking the sign.

- 372 Councillor Rose** questioned Council policy when sporting grounds are closed due to wet weather and asked if the decision to close council grounds is based on the status of one or two grounds only. Councillor Rose also asked if a copy of Council's policy on the closure of sporting grounds be made available to the public.

The Director of Operations & Services advised that Council try to inform the media as to ground status as early as possible. He advised that it was not possible to check every ground in the area as to whether they are playable but a select number of grounds are chosen which are indicative. He believes Council would receive more complaints if some grounds remained open while others were closed.

- 373 Councillor Mifsud** advised that residents had contacted him to complain about the speeding cars in Wollongong Street, Shellharbour and Little Lake Crescent, Warilla and asked that the police be requested to patrol this area more often.

- 374 Councillor Mifsud** requested that the 40 km speed signs with warning lights be installed at all schools in the area and asked if this could be looked at as a priority.

The Mayor informed Cr Mifsud that this was a Roads & Traffic Authority matter.

- 375 Councillor Bailey** asked the General Manager for the Council policy relating to the induction of sports people into the City's Hall of Fame.

The General Manager responded that there was a policy on this issue and he would follow it up.

- 376 Councillor Jeffreys** asked that a copy of the policy in relation to the induction of sports people into the City's Hall of Fame be provided to all Councillors.

- 377 Councillor Hawker** advised that a car had damaged the fence along the new median strip in Tongarra Road, Albion Park recently and asked that it be fixed. Also, that a sign be erected to show the direction of traffic to avoid driver confusion.

- 378 Councillor Hawker** asked that the streetscape for Ward A be deferred until business owners have been contacted and a meeting arranged with Ward A Councillors and the Mayor for a decision to be reached.

- 379 Councillor Hawker** asked that the open drain in front of the vacant block of land in Tongarra Road, Albion Park be cleaned and the rubbish removed.

- 380 Councillor Stewart** referred to her previous request relating to in-house courses and asked the General Manager if it would be feasible for the Local Government Learning Solutions seminar "Financial Issues in Local Government" to take place in this area for all interested parties from each local council to attend.

19. Confirmation of Minutes of Committee of the Whole Council Meetings (in Confidential Session).

In accordance with the *Local Government Act 1993*, and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

Set out below is Section 10A(2) of the Local Government Act 1993, in relation to Confidential Business:

10A(2) Which parts of a meeting can be closed to the public? The matters and information are the following:

- (a) personnel matters concerning particular individuals;
- (b) the personal hardship of any resident or ratepayer;
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law;
- (f) matters affecting the security of the council, councillors, council staff or council property;
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

CONFIDENTIAL ITEMS

4.1 Confirmation of Minutes of the Committee of the Whole (Confidential) 3 July 2007

4.2 Confirmation of Minutes of the Committee of the Whole (Confidential) 22 May 2007

4.3 Confirmation of Minutes of the Committee of the Whole (Confidential) 12 June 2007

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(a)-(g) of the *Local Government Act 1993*, which permits the meeting to be closed to the public for business relating to the following:

- (a) personnel matters concerning particular individuals (other than councillors)
- (b) the personal hardship of any resident or ratepayer
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business
- (d) commercial information of a confidential nature that would if disclosed:
 - (i) prejudice the commercial position of the person who supplied it
 - (ii) confer a commercial advantage on a competitor of the council
 - (iii) reveal a trade secret
- (e) information that would, if disclosed, prejudice the maintenance of law
- (f) matters affecting the security of the council, councillors, council staff or council property

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- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

This report may not be considered in open Council and would on balance be contrary to the public interest in that it details matters which concern individuals and could result in further investigative action and legal action in relation to persons alleged to have breached the *Local Government Act 1993*. Council therefore must be mindful of procedural fairness.

381 RESOLVED: Rose/Mifsud

1. That Council resolve into Committee of the Whole (in Confidential Session) to consider Items 4.1, 4.2 and 4.3 as resolved (see Minute No. 333).
2. That pursuant to Section 10A(1-3) of the *Local Government Act*, the press and public be excluded from the proceedings on the basis that the business to be considered is classified confidential under the provisions of Sections 10A(2)(a)-(g) of the Act as outlined above.
3. That the correspondence and reports relevant to the subject business be withheld from access to the press and public in accordance with Section 11(2) of the *Local Government Act 1993*.

CARRIED UNANIMOUSLY

Meeting adjourned at 9.35 pm

Meeting resumed at 9.56 pm

20. Recommendations from the Committee of the Whole Council Meeting (in Confidential Session)

The following Recommendations to Council from the Committee of the Whole Council Meeting (Confidential) were read to the Meeting by the General Manager.

4.2 Confirmation of Minutes Committee of the Whole (Confidential) 3 July 2007

That the Minutes of the Committee of the Whole Meeting of 3 July 2007 be confirmed as a correct record of proceedings.

4.3 Confirmation of Minutes Committee of the Whole (Confidential) 22 May 2007

That the Minutes of the Committee of the Whole Meeting of 22 May 2007 be confirmed as a correct record of proceedings with the following amendment:

- Page 3, last paragraph, add the words, at the end of the penultimate sentence, "in regards to the comments he made about previous Councillors who had died as he was being disrespectful and making a joke".

4.4 Confirmation of Minutes Committee of the Whole (Confidential) 12 June 2007

That the Minutes of the Committee of the Whole Meeting of 12 June 2007 be confirmed as a correct record of proceedings with the following amendments:

- Page 2, second last paragraph, add "Cr Jeffreys stated that she supported Cr Hore's decision to leave the room whilst Mr Moran is speaking."
- Page 4, immediately after Item 2.2 add "carried unanimously" immediately preceding where the Minutes show "Councillor Greig here returned to the Chamber".

382 RESOLVED: Mifsud/Hawker

That Council adopt the recommendation from the Committee of the Whole as read to the Meeting by the General Manager.

CARRIED UNANIMOUSLY

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

Meeting closed 9.58 pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 14 August 2007

General Manager

Chairperson

Attachment to 8.1

Subject 8.1 Footpath tree - Ocean Beach Drive, Blackbutt (8762472)

To my fellow Councillors

Mayoral Minute

Summary

A resident has requested Council staff to remove a tree that is located on Council's footpath in front of the resident's property. Council staff are unable to support the removal of the tree, as no justifiable reason has been provided which could support this action and comply with Council's Tree Management Order.

Recommendation

That on compassionate grounds, Council remove the Lilly Pilly tree on the footpath in front of 74 Ocean Beach Drive, Shellharbour and replace it with an appropriate tree.

Background

The property owner of 74 Ocean Beach Drive has complained on numerous occasions about berries dropping from a Lilly Pilly tree, which is located on the footpath in front of his property. The resident, who has a very well maintained garden and lawn, picks up the berries, as they create litter, which creates an untidy appearance. Unfortunately this person is now suffering from a serious illness and is finding it increasingly difficult to remove this litter. He has provided a doctor's certificate confirming his illness.

Council staff responsible for administering Council's Tree Management Order, have not approved the removal of this tree, as the tree litter is not a justifiable reason under the Tree Management Order.

I sympathise with the resident because of the circumstances which significantly restricts him from maintaining his lawn to the standard he has kept and enjoyed. As a compromise, Council may replace this tree with a more appropriate tree.

Approved for Council's consideration:



Attachments

1. Nil