

**Minutes of the Ordinary Meeting  
of Shellharbour City Council**

**held at the Council Administration Centre, Shellharbour City Centre  
on Tuesday 21 October 2008 commencing at 7.15 pm**

**Present**

Administrator

Mr D Jesson

**In attendance**

General Manager

Director of Operations & Services

Director of Community Planning & Strategies

Director Shell Cove Business Unit

Manager Executive Offices

Manager Media & Communications

Executive Assistant

B A Weir

A Webster

P O'Rourke

P Woodcock

F MastroDomenico

N East

J Frasca



## SHELLHARBOUR CITY COUNCIL

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Mr John Adeline Kemp	of	Albion Park
Mr John Norfolk	of	Albion Park Rail
Mrs Cvetanka Acevska	of	Barrack Heights
Mrs Bessie Kelly	of	Flinders
Mrs Barbara Jane Weston	of	Mt Warrigal
Mr James Archibald Sharpe	of	Mt Warrigal
Mr Don Lewis	of	Oak Flats
Mr Graham Thomas Caseley	of	Oak Flats
Mrs Betty Windram	of	Warilla
Mrs Evelyn Dorothy Stallard	of	Warilla
Mr John Edward Lewis	of	Warilla
Mr Ned Alaban	of	Warilla
Mr Robert Wyburd	of	Warilla
Mr Stephen Hill	of	Warilla
Mrs Sylvia Cansdell	of	Warilla

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

### 6. Administrator's Minutes

#### 6.1 Management Agreement: Council and Australand - Public Release of Related Documents (8997380)

323 RESOLVED:

That the Tripartite Deed between the Council, Walker Corporation and the Westpac Bank be publicly released on the same basis as the Management Agreement was publicly released by resolution of the Council on 30 September 2008.

**6.2 Code of Conduct Matters (9001097)**

324 RESOLVED:

1. In relation to Conduct Committee matters which were current at the time of the dismissal of the Council and which are set out in the schedule to the report regarding this Minute be addressed and finalised in the following manner:
  - (a) That the following complaints/allegations made, be dismissed:
    - Cr Don Briggs (Items 5 and 13 - Attachment 1 Part 1);
    - Cr John Leedham (Item 6 - Attachment 1 Part 1);
    - Cr Tim Hore (Item 8 - Attachment 1 Part 1);
    - Cr Michele Greig (Item 11 - Attachment 1 Part 1);
    - Cr Geoff Rose (Item 12 - Attachment 1 part 1); and
    - Mr Brian Weir (Item 1 - Attachment 1 Part 2).
  - (b) That no further action be taken regarding complaints/allegations made in relation to:
    - Cr Christine Jeffreys (Items 1, 2, 3 and 4 - Attachment 1 Part 1);
    - Cr Leedham (Item 7 - Attachment 1 Part 1);
    - Cr Geoff Rose (Item 9 - Attachment 1 Part 1); and
    - Cr David Hamilton (Item 10 - Attachment 1 Part 1).
2. That no further action be taken in relation to the six matters, relating to former councillors which had not been determined by the Conduct Committee at the time of the dismissal of the Council and which are referred to separately in Attachment 2 of the report accompanying this Minute to the Council on 21 October 2008 (Attachment 2)
3. That as a matter of urgency the Sub Committee of the Conduct Committee comprising Mr G Barry Hall QC, Mr Warwick Shanks and Mr Michael Mantei finalise its consideration of the allegation of misconduct against the General Manager, Mr Brian Weir.
4. That in the event of the Sub Committee referring this complaint to the Conduct Committee for further investigation, that the matter of composition of the Conduct Committee be the subject of a report to the Council.
5. That in the event of the Sub Committee concluding and recommending that the complaint be dismissed, or that no further action be taken, that its finding be referred to the Administrator for further report to the Council.

**6.3 Mr Bernie Payne and Mr Peter Moran: Apology (9000552)**

325 RESOLVED:

1. That Council extend and record this apology made under section 69 of the Civil Liability Act 2002 to Mr Bernie Payne and Mr Peter Moran for their prevention from attending the Council Meeting held on 26 February 2008.
2. That an appropriate letter be forwarded to both Mr Payne and Mr Moran advising them of the Council's action.
3. That a media release be prepared and forwarded to media outlets in the normal way advising of Council's decision and action in these matters.

**7. General Manager's Office**

Nil

**8. Operations & Services Division**

**8.1 DA No. 10/2007 - Lot 3, DP 717776, Riverside Drive, Dunmore - Designated Integrated Development, Equestrian Stables, Sheds & Exercise Yards (8993446)**

326 RESOLVED:

- A. That Council refuse Development Application No. 10/2007 for a Designated Integrated Development comprising equestrian stables, sheds and exercise yards at Lot 3, DP 717776, Riverside Drive, Dunmore under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the following reasons:
1. The development is considered inconsistent with the aims/objectives of *State Environmental Planning Policy 71*, *State Environmental Planning Policy 14* and zone objectives of *Shellharbour Rural Local Environmental Plan 2004*.
  2. The site is unsuitable for the development, noting that the site is flood prone, environmentally sensitive and insufficient in size noting also the area of suitably zoned land available.
  3. The development is considered to have potentially adverse impacts on the environment with particular reference to the *State Environmental Planning Policy 14 Wetland*, noting the over-reliance upon various management practices, for which sufficient detail has not been provided and an insufficient 'buffer zone'.

4. The development is considered an over development of the site given the limited area of appropriately zoned land.
  5. The cumulative impact of this development noting existing development on the site is unacceptable.
  6. The Vegetation Management Plan is considered inadequate.
  7. The issues of European heritage and potential impacts on the landscape and 'Dunmore House' have not been properly explored.
  8. The proposal is contrary to the *Floodplain Risk Management Development Control Plan*.
  9. Impacts on the two existing Morton Bay Fig trees as a result of excavations, potential compaction and inadequate protection have not been addressed.
  10. The development is considered to be contrary to the public interest for the reason outlined in 1 - 9 above.
- B. That Council officers obtain legal advice and investigate options in order to achieve decommissioning or removal of the tunnel constructed without development consent.

**8.2 Tender 2008/06 - Myimbarr Community Park, Construction Of Amenities & Associated Landscaping (8991650)**

327 RESOLVED:

1. Shellharbour City Council, as Principal, engage Wideform Constructions Pty Ltd to carry out the construction of the Amenities Buildings A and C for the sum of \$1,966,415 exclusive of GST.
2. Shellharbour City Council delegate to the General Manager, the authority to sign the *Letter of Award* to the contractor for and on behalf of Shellharbour City Council.

**8.3 Fee Proposal for the Recovery of Waste Mattresses and Mattress Bases (8993476)**

328 RESOLVED:

That Council publicly exhibit for a period of 28 days separate fees of \$20.00 (inc GST) for each mattress and \$20.00 (inc GST) for each mattress base received at the Dunmore Recycling and Waste Disposal Depot. These rates will apply to mattresses and mattress bases presented for collection by our on-call clean up service.

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

Nil

### **10. Shell Cove Business Division**

Nil

### **11. Committee Recommendations**

#### **11.1 Recommendations from the Traffic Committee Meeting held 1 October 2008 recommended for adoption.**

329 RESOLVED:

That the Recommendations from the Traffic Committee Meeting held 1 October 2008 be adopted.

### **12. Items for Information**

#### **12.1 Investments (8998194)**

330 RESOLVED:

That the Items for Information be formally noted.

### **13. Urgent Business (as introduced by the Administrator)**

Nil.

**Meeting closed 8.00 pm**

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 11 November 2008.

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General Manager

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Chairperson