

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

**held at the Council Administration Centre, Shellharbour City Centre
on Tuesday 04 August 2009 commencing at 6.00 pm**

Present

Administrator

Mr D Jesson

In attendance

Acting General Manager/Director of Operations & Services	A Webster
Director of Community Planning & Strategies	P O'Rourke
Group Manager Corporate Services	T Gearon
Group Manager Development & Technical Services	M Boenisch
Corporate Solicitor	B McCann
Shell Cove Commercial Manager	K James
Manager Executive Services	F MastroDomenico
Manager Media & Communications	N East
Acting Manager Development Services	C Bern
Senior Development Assessment Officer	G Meredith
Executive Assistant	L Davey

1. Acknowledgement to Country

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

2. Confirmation of Minutes**2.1 Ordinary Meeting 14 July 2009**

128 That the Minutes of the Ordinary Council Meeting held on 14 July 2009 as circulated be taken as read and confirmed as a correct record of proceedings.

3. Apologies / Leave of Absence

Nil

4. Confidential Business (Committee of the Whole)

Nil

5. Pecuniary Interest and Conflict of Interest Declarations

Nil

6. Condolences

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

Mr John William Jenkins	formerly of	Albion Park
Mr Lindsay (Toohey) Boyle	formerly of	Albion Park
Mr Bruno Mielke	of	Albion Park
Mrs Jane Mack	of	Albion Park
Mr Bill Jowers	of	Albion Park Rail
Mr Sid Uren	of	Albion Park Rail
Mrs Sandra Lynn Parkinson	of	Barrack Point

Mrs Barbara Alison (Babs) Barnett	of	Mt Warrigal
Mrs Milka Sirijovska	of	Mt Warrigal
Mr Edwin (Ed, Rob) Robinson	of	Oak Flats
Mrs Catherine (Cath) Paterson	formerly of	Oak Flats
Mr Henry William (Harry) Hamburger	formerly of	Oak Flats
Mrs Nola Edith Tooth	formerly of	Shellharbour
Mr Edward Robert (Ted) Colville	formerly of	Warilla
Mrs Evelyn McCarthy	of	Warilla
Mr Robert Maul	of	Warilla
Mr Walter (Wal) George Burge	of	Warilla

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

7. Addresses to Council

The Administrator informed the meeting that he had received a request for a deferral from the applicant in relation to Item 12.2.2 but indicated he would not be granting that request. He informed the registered speakers on that item that he intended to adopt the resolution as recommended in the absence of any Address to the Council. He said that he would adjourn the meeting for 5 minutes to allow them to discuss between themselves whether they still wished to speak. The Administrator indicated if the registered speakers still wished to speak he would defer the item in keeping with the Council's Code of Meeting Practice.

130 RESOLVED:

That the meeting be adjourned for 5 minutes.

Meeting adjourned at 6.07 pm

Meeting resumed at 6.12 pm

On resumption of the meeting a representative of the registered speakers, Ms Diane Quinlin, informed the Administrator that all registered speakers on Item 12.2.2 wished to withdraw their Address to the Council.

Agenda Item No & Title	Name
12.2.1 DA No. 73/2009 – Lot 2, DP 630517, 445 – 449 Shellharbour Road, Shellharbour – Stage 1: Use of Lot 2 for Temporary Storage of Buses – Stage 2: Construction of a Structure for the Permanent Parking of Buses	Geoff Rose Frank Vergan Warwick Colbrun
12.2.4 Swimming Pools: Amended Fees and Charges	James Egan Peter O’Driscoll Joan Vinton Sonya McKay Helen Stewart
12.2.6 Internal Audit Function: Establishment	Bernie Payne

As a result of offensive comments made by Mr Payne towards the General Manager at the conclusion of his address, the Administrator ruled the comments as being out of order and to be disorderly conduct. He advised Mr Payne to withdraw the comments and to apologise for them without reservation. Mr Payne refused to take the advice and the Administrator formally ruled that his comments were out of order and as his behaviour was likely to bring the chamber into disrepute he resolved that Mr Payne be expelled from the meeting.

131 RESOLVED:

That Mr Bernie Payne be expelled from the Meeting.

As Mr Payne refused to leave, the Administrator indicated that he would adjourn the meeting for 15 minutes to allow Mr Payne time to vacate the chamber and explain to other members of the gallery why they were being inconvenienced as a direct result of his behaviour.

132 RESOLVED:

That the meeting be adjourned for 15 minutes.

Meeting adjourned at 6.58 pm

Meeting resumed at 7.16 pm

On resumption of the meeting, the Administrator noted that Mr Payne was not in attendance, apologised to all present for any inconvenience and requested that Addresses to Council continue.

Agenda Item No & Title	Name
12.3.2 Tom Strong Reserve, Warilla Beach: Implementation of Prohibited Zone (Alcohol) and Alcohol-Free Zone	Diane Quinlin Stephen Krinks

8. Adjournment – Consideration of Addresses to Council

Meeting adjourned at 7.23 pm

Meeting resumed at 7.45 pm

9. Administrator's Statements / Reports / Presentations

The Administrator outlined the functions he had attended since the last Council Meeting.

10. Councillors' Reports (not applicable at this time)

Nil

11. Administrator's Minutes

Nil

12. Reports**12.1 General Manager's Office****12.1.1 Positive Working Relationships and Acceptable Workplace Behaviour Draft Policy; and proposed additions to the Code of Conduct (9137205)**

133 RESOLVED:

1. That the draft Positive Working Relationships and Acceptable Workplace Behaviour Policy be publicly exhibited for a period of 28 days.
2. That the following additions to the Code of Conduct be publicly exhibited for a period of 28 days and promoted in accordance with Council's Community Engagement Policy:

- a) The following second paragraph be added to Clause 6.7

"Further provisions relating to bullying, harassment and acceptable workplace behaviour are provided for in Clause 9.9 of this Code."

- b) The following heading be inserted after Clause 9.8

"Positive Working Relationships and Acceptable Workplace Behaviour Policy"

And the following clause be inserted after this heading:

"9.9 On [date] Council adopted the Positive Working Relationships and Acceptable Workplace Behaviour Policy.

The purpose of this policy is to provide information and set boundaries for employees, Councillors/Administrators, consultants and volunteers on appropriate and acceptable behaviour in the workplace.

This policy applies to the Mayor, Councillors, and all employees of Council. As well, the policy applies to contractors and volunteers working for and on behalf of Council in any capacity."

- c) A new clause be inserted in front of the current Clause 11.7, being numbered as 11.7 and the following clauses renumbered as 11.8 to 11.10 accordingly:

"11.7 Staff making complaints under the Code of Conduct should follow the Internal Complaints Procedure."

- d) The following second paragraph be added to Clause 12.3:

"Where a complaint is made by a member of staff the Internal Complaints Procedure will apply. "

3. That the public notice of the *Positive Working Relationships and Acceptable Workplace Behaviour* Draft Policy and the proposed additions to the *Code of Conduct* specify a period of 42 days after the date on which the draft policy and proposed additions are placed on public exhibition during which submissions may be made to the Council.
4. That following the end of the period during which submissions may be made to the Council a report be presented to the Council detailing any submissions received for consideration.

12.2 Operations & Services Division

12.2.1 DA No. 73/2009 - Lot 2, DP 630517, 445 - 449 Shellharbour Road, Shellharbour - Stage 1: Use of Lot 2 for Temporary Storage of Buses - Stage 2: Construction of a Structure for the Permanent Parking of Buses (9136039)

134 RESOLVED:

That this Item be deferred to the next scheduled meeting of Council for further report.

12.2.2 DA No. 96/2009 - Lot 78, DP 553511, Osborne Parade, Lake Illawarra - Use of Land for Parachute Landing (9135978)

135 RESOLVED:

That the Council refuse Development Application No. 96/2009 for 'intermittent utilisation of a section of Warilla Beach for a landing area in conjunction with skydiving activities' at Lot 78, DP 553511, Osborne Parade, Lake Illawarra under Section 80 of the *Environmental Planning & Assessment Act, 1979*, as amended, subject to the reasons below:

1. The proposed development is inconsistent with the Plan of Management for the reserve created under the provisions of the *Local Government Act, 1993* as it does not satisfy the objectives of the Plan.
2. The enforcement of any licence agreement potentially created under the *Local Government Act, 1993* is likely to be problematic being difficult to monitor and enforce.

3. The proposed development is inconsistent with Section 79C(1)(a)(i) of the *Environmental Planning & Assessment Act, 1979* in that it is contrary to the aims of *State Environmental Planning Policy No. 71 – Coastal Protection* in that it does not retain and improve public access to the beach and is therefore unsuitable development given its type, location, design and relationship with the surrounding area.
4. The proposed development is inconsistent with Section 79C(1)(a)(i) of the *Environmental Planning & Assessment Act, 1979* in that it is inconsistent with the objectives of the 6(a) Public Open Space Zone, Clause 43(2) contained in the *Shellharbour Local Environmental Plan 2000* in that the development does not enhance the use of the beach by the general community.
5. The proposed development is inconsistent with Section 79C(1)(a)(iv) of the *Environmental Planning & Assessment Act, 1979* - the regulations namely the *Coastal Policy* in that it is contrary to the provisions of *State Environmental Planning Policy No. 71 – Coastal Protection* for the reasons outlined in 3 above.
6. The proposed development is inconsistent with Section 79C(1)(e) in that it is not in the public interest for the reasons above and public safety whilst also having regard to the content and nature of public submissions considered under Section 79C(1)(d).

12.2.3 Department of Environment & Climate Change: Coastal & Estuary Management Program - Grant Funding Offers (9115963)

136 RESOLVED:

1. That the Council resolve to accept the additional funding totalling \$14,500 from the NSW Department of Environment & Climate Change.
2. That the Council allocate its 50% matching funding as follows:
 - a. Elliott Lake Bank Stabilisation – \$7,000 as in kind contributions from existing allocations, and
 - b. Warilla Beach Sea Wall Improvements - \$7,500 from Council's existing Beach Maintenance Program allocation
3. That the budget be amended accordingly.

12.2.4 Swimming Pools: Amended Fees and Charges (9140854)

137 RESOLVED:

That Council publicly exhibit for a period of 28 days the following amended fees and charges for public swimming pools:

1. Oak Flats Heated Pool
 - a. Family passes be reintroduced at \$305 for a three month pass and \$426 for a six month pass.
 - b. All family passes to allow entry of a family as defined by Medicare card.
 - c. A \$1 entry fee for Pensioners who reside in the Shellharbour City area.
2. General admission charge be introduced for Warilla, Albion Park and Oak Flats cold water pools:
 - a. Adults \$2
 - b. Children/Concession (includes pensioners from outside the LGA) \$1
 - c. Pensioners who reside in the Shellharbour City area \$1
3. Fee for exclusive use of Warilla, Albion Park and Oak Flats cold water pools for swimming club point score - \$70 per hour.
4. Fee for carnivals including swimming clubs and schools at Warilla, Albion Park and Oak Flats cold water pools:
 - a. Monday – Friday in normal operating hours - \$70 per hour
 - b. Saturday - \$87.50 per hour
 - c. Sundays and Public Holidays - \$105 per hour
5. Swimming season for Warilla an Albion Park cold water pools to be amended to open 1 November 2009 and operate until 31 March 2010.
6. A review of operating budget be conducted in June 2010. If the operating budget for pools is better than forecast, consideration be given to the installation of hot showers at the pools.
7. That Council proceed in accordance with its Community Engagement Policy and that a report on the community responses be presented to Council.

12.2.5 Roads To Recovery Grant Offer and Program for 2009/2010 (9135495)

138 RESOLVED:

1. That the Council formally accept the Federal Government's grant offer of \$1,948,299 over five years under the Roads to Recovery Program.
2. That the Council confirms the 2009/2010 Roads to Recovery Program as detailed in this report.
3. That authority be given for the Administrator and General Manager to execute all necessary documents under Council's Seal as appropriate in relation to this program.
4. That the budget be amended accordingly.

12.2.6 Internal Audit Function: Establishment (9129755)

139 RESOLVED:

1. That Council implement an Internal Audit function at SCC, with establishment of an Internal Audit Committee, formation of an Audit Charter and an Internal Audit and Compliance Work Plan, compatible with Department of Local Government guidelines as outlined in Departmental Circular 2008 / 64.
2. That Council, in accordance with the Department of Local Government guidelines (Clause 4.3), form an Internal Audit Committee of five members in total, with two positions being reserved for councillors (when elected – or one member – the Administrator in the meantime) and three being “independent” members, at least one with financial expertise and with an “independent” person to be the Chair.
3. That Council retain Internal Audit consultancy Inconsult, in particular the company Principal Mr Tony Harb, to meet with Council to advise on implementation of an Internal Audit function, based on best practice alignment of risk management and internal audit functions.
4. That Council adopt the attached draft Internal Audit Charter as adapted from the DLG Internal Audit Guidelines, Appendix 2.
5. That Council continue to explore with Kiama Municipal Council and other regional Councils, possibilities for resource sharing associated with the formation of an independent Audit Committee.

12.2.7 Stockland Shellharbour Shopping Centre: Proposed Disabled Carparking Area Agreement, Lot 4001 DP 809913 (9140112)

140 RESOLVED:

1. That Council rescind its previous resolution of 12 August 2008 (resolution number 282).
2. That Council enter into a new disabled carparking area agreement with Stockland Shellharbour for the identification of free disabled carparking spaces over Lot 4001, DP 809913 and the erection of notices pursuant to Section 650 (2)(c) of the *Local Government Act 1993* - parking space availability for persons with a disability.
3. That the General Manager and Administrator be authorised to execute the disabled carparking area agreement.

12.3 Community Planning & Strategies Division**12.3.1 City Centre and Albion Park: Renewal of Alcohol-Free Zones and Establishment of Prohibited Zone (Alcohol) (9142109)**

141 RESOLVED:

That Council renew the Alcohol-Free Zones and Prohibited Zones (Shellharbour City Centre, and Albion Park) as described in this report and its attachments, following:

1. Consultation to the extent necessary as provided for in Council's Community Engagement Policy
2. Advertisement of the proposals in the "Lake Times", on Council's website and within Council's Administration building and libraries, and
3. Declaration of their establishment in the Lake Times, effective seven days after the declaration is advertised, subject to objection that may arise from Recommendations (1) and (2) above, and
4. That Council erect notices prohibiting the consumption of alcohol in the above mentioned parks and reserves when the required declaration of their establishment can be made.

12.3.2 Tom Strong Reserve, Warilla Beach: Implementation of Prohibited Zone (Alcohol) and Alcohol-Free Zone (9141783)

142 RESOLVED:

- A. That Council establish the implementation of Prohibited Zone (Alcohol) and Alcohol-Free Zone AFZ at Tom Strong Reserve, Warilla, following:
1. Consultation to the extent necessary as provided for in Council's Community Engagement Policy, and
 2. Advertisement of the proposal in the Lake Times, on Council's website, and within Council's Administration Building and Libraries, and
 3. Declaration of its establishment in the Lake Times, effective seven days after the Declaration is advertised, subject to objection that may arise from recommendations 1 and 2 above, and
 4. That Council erect notices prohibiting the consumption of alcohol, in accordance with the proposal as described in this report, when the required Declaration of the establishment of the AFZ and Prohibited Zone can be made.
- B. That staff investigate and report on the public reserve system in relation to the AFZ to the north of the proposed AFZ in consultation with the Police and the NSW Office of Liquor, Gaming and Racing.

12.3.3 Southern Council's Group (Wind Power Concept Report) (9142027)

143 RESOLVED:

1. That Council support the progression by SCG of the Wind Power Concept Study Report to the State Government and other appropriate sources seeking financial support for a pre-feasibility study.
2. That Council continue to support sustainable energy initiatives in co-operation with other SCG member councils.
3. That SCG be advised of Council's resolution at the earliest opportunity.

12.4 Shell Cove Business Division

Nil

13. Committee Recommendations

13.1 Recommendations from the Aboriginal Advisory Committee Meeting held 30 June 2009 recommended for adoption.

144 RESOLVED:

That the Recommendations from the Aboriginal Advisory Committee Meeting held 30 June 2009 be adopted.

14. Items for Information

14.1 Investments (9142318)

145 RESOLVED:

That the Items for Information be formally noted.

15. Notices of Rescission/Alteration Motions

Nil

16. Notices of Motion

Nil

17. Questions without Notice

Nil

18. Questions on Notice

Nil

19. Urgent Business

Nil

20. Committee of the Whole in Closed Session: Adjournment

Nil

21. Committee of the Whole: Consideration of Adoption of Decisions Reached in Closed Session

Nil

22. Committee of the Whole: Consideration of Declassification of Reports

Nil

Meeting closed 8.05 pm