

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 11 December 2012

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 11 December 2012 commencing at 6.31 pm**

Present

Mayor	M Saliba
Deputy Mayor	P Rankin
Councillor	K Marsh
Councillor	D Boyle
Councillor	H Stewart
Councillor	J Murray
Councillor	P Moran

In attendance

General Manager	M Willis
Director City Outcomes	C McIntyre
Director Corporate Policy	L Furness
Director Shellharbour Enterprises	B Green
Executive Manager / Public Officer	F MastroDomenico
Group Manager Community Connections	K Baget-Juleff
Group Manager Finance	T Gearon
Acting Group Manager Information & Customer Services	N Campbell
Group Manager Infrastructure Services	M Boenisch
Group Manager City Development	G Meredith
Manager Property & Recreation	D Flanagan
Acting Manager Environment	A Williams
Senior Strategic Planner	C Lappin
Team Leader Planning	C Bern
Crime Prevention Coordinator	M Martinez
Media Officer	C Lewis
Senior Executive Assistant	L Davey
Council Liaison Officer	J Frasca

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1. Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting and pays its respects to Elders past and present.

Webcasting Statement

The Mayor read the usual advice regarding the webcasting of the meetings of the Council.

2. Confirmation of Minutes

2.1 Ordinary Meeting 27 November 2012

347 RESOLVED: Rankin/Boyle

That the Minutes of the Ordinary Council Meeting held on 27 November 2012 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

3. Apologies / Leave of Absence

Nil

4. Confidential Business (Committee of the Whole)

Nil

5. Pecuniary Interest and Conflict of Interest Declarations

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

Councillor Rankin: Item 11.2.1 DA No 174/2012 - Lot 623, DP 1164000, Pioneer Drive, Flinders - IGA Supermarket & Liquor Outlet

Nature of Interest: Councillor Rankin declared a non pecuniary interest as he has signed a petition against the development and a submission to the NSW Office of Liquor, Gaming & Racing. Councillor Rankin

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advised he would absent himself from the meeting during discussion and voting on the matter.

Councillor Marsh: Item 11.2.1 DA No 174/2012 - Lot 623, DP 1164000, Pioneer Drive, Flinders - IGA Supermarket & Liquor Outlet

Nature of Interest: Councillor Marsh declared a non pecuniary interest as she is a customer of the IGA Supermarket Barrack Heights, the IGA previously sponsored Cr Marsh's sons' AFL club, and she met with the applicant and council staff while Mayor before the development application was lodged. Councillor Marsh advised that she will remain in the room and debate and vote on the matter.

6. Condolences

The Council acknowledged the following deaths in the Local Government area.

Mrs Aileen Mary Foran	of	Albion Park
Mr Kevin Byrne	of	Albion Park
Mr Martin Andrew Eastham	formerly of	Albion Park
Mrs Kerry Owen	of	Albion Park Rail
Mr Martin Meeuwissen	of	Albion Park Rail
Mrs Joyce Bolland	formerly of	Lake Illawarra
Mr William Rennick Tracey	of	Oak Flats
Mrs Coral Whatman	of	Oak Flats
Mrs Hilda Hooper	of	Warilla
Mrs Judith Anne Goodman	of	Warilla

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

7. Addresses to Council

Note: Councillor Rankin declared an interest in Item 11.2.1 and left the Chamber at 6.36pm whilst Addresses to Council were being considered on this Item.

Note: Councillor Marsh declared a non pecuniary interest for Item 11.2.1 and remained in the Chamber.

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Agenda Item No & Title	Name
11.2.1 DA No. 174/2012 - Lot 623, DP 1164000, Pioneer Drive, Flinders - IGA Supermarket & Liquor Outlet (9825527)	Louise Hakkenbrock Mick Borg Mark Sweeney Paul Randle
11.2.5 Establishment of Barrack Heights Alcohol-Free Zones and Prohibited Zones (Alcohol) (9824506)	Acting Insp Matthew Brophey (police representative from Lake Illawarra Area Command)
13.2 Responses to Questions on Notice submitted by Councillor Peter Moran (9830603)	Sonya McKay

349 RESOLVED: Stewart/Marsh

That Mr Paul Randle be given an extension of time to conclude his Address to Council on Item 11.2.1.

CARRIED UNANIMOUSLY

Councillor Rankin returned to the Chamber at 6.51pm following Addresses to Council on Item 11.2.1.

350 RESOLVED: Marsh/Moran

That Ms Sonya McKay be given an extension of time to conclude her Address to Council on Item 13.2.

CARRIED 4/3

FOR VOTE - Cr Boyle, Cr Marsh, Cr Moran, Cr Stewart
AGAINST VOTE - Cr Rankin, Cr Murray, Cr Saliba

351 RESOLVED: Marsh/Rankin

That standing orders be suspended in order for Items 11.2.1, 11.2.5 and 13.2, the subject of Addresses to Council, to be considered here in the agenda.

CARRIED UNANIMOUSLY

11.2.1 DA No. 174/2012 - Lot 623, DP 1164000, Pioneer Drive, Flinders - IGA Supermarket & Liquor Outlet (9825527)

Note: Councillor Rankin declared an interest in Item 11.2.1 and left the Chamber at 7.06pm whilst this matter was being considered.

Note: Councillor Marsh declared a non pecuniary interest for Item 11.2.1 and remained in the Chamber.

MOTION: Murray/Boyle

That the Council refuse Development Application No. 174/2012 for a supermarket with a liquor outlet at Lot 623, DP 1164000, Pioneer Drive, Flinders under Section 80 of the *Environmental Planning & Assessment Act 1979* for the following reasons.

1. Pursuant to Section 79C(1)(a) (i) of the *Environmental Planning & Assessment Act 1979*, the development proposal is not consistent with the aims of *Shellharbour Local Environmental Plan 2000* namely 'to ensure that land uses in the Local Government Area of Shellharbour City are compatible with each other and suitably located' (clause 2(a)).
2. Pursuant to Section 79C(1)(a) (i) of the *Environmental Planning & Assessment Act 1979*, the development proposal is not consistent with clause 25 of *Shellharbour Local Environmental Plan 2000*. The proposal does not promote the commercial hierarchy for the Shellharbour Local Government Area as presented in Schedule 4 of *Shellharbour Local Environmental Plan 2000*.
3. Pursuant to Section 79C(1)(a) (ii) of the *Environmental Planning & Assessment Act 1979*, the development proposal is not consistent with the exhibited *Draft Shellharbour Local Environmental Plan 2011*. The subject site is not included as part of the commercial / business zoned lands in the Shellharbour Local Government Area.
4. Pursuant to Section 79C(1)(a) (iii) of the *Environmental Planning & Assessment Act 1979*, the development proposal is not consistent with *Shellharbour City Council's Woodlands Estate Development Control Plan*. The subject site is identified for low density residential development.
5. Pursuant to section 79C(1)(a) (iii) of the *Environmental Planning & Assessment Act 1979*, the development proposal is not consistent with the *Shellharbour City Council's Commercial Development Control Plan*.
6. Pursuant to Section 76C(1)(b) of the *Environmental Planning & Assessment Act 1979*, the development proposal is unsatisfactory with regard to the impact on the neighbourhood amenity and safety.

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7. Pursuant to Section 79C(1)(c) of the *Environmental Planning & Assessment Act 1979*, the development proposal is unsatisfactory with regard to site suitability.
8. The development proposal is contrary to the *Shellharbour Retail & Commercial Centres Study 2008* prepared for Shellharbour City Council by Hill PDA. The Study does not identify the need for additional retail and commercial development in this locality as reflected in the recommended retail and commercial centres hierarchy for the Shellharbour Local Government Area.
9. Pursuant to Schedule 1 of the *Environment Planning and Assessment Regulation 2000*, insufficient information has been submitted to enable the full and proper assessment of the development proposal.
10. Pursuant to Section 79C(1)(e) of the *Environmental Planning & Assessment Act 1979*, the development proposal is contrary to the public interest for the reasons listed above.

Councillor Moran FORESHADOWED a MOTION that should the Motion be LOST he will be moving that the Development Application be approved with the appropriate conditions of consent.

Councillor Marsh FORESHADOWED a further MOTION that should the Motion and the Foreshadowed Motion be LOST she will be moving that this item be deferred to a future meeting of Council.

352 The MOTION on being PUT to the meeting was CARRIED 4/2

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Stewart
AGAINST VOTE - Cr Moran, Cr Marsh
ABSENT. DID NOT VOTE - Cr Rankin

Councillor Rankin returned to the Chamber at 7.35pm.

11.2.5 Establishment of Barrack Heights Alcohol-Free Zones and Prohibited Zones (Alcohol) (9824506)

353 RESOLVED: Marsh/Stewart

1. That Council advertise the proposal in the *Lake Times*, on Council's website and within Council's Administration building and libraries for a period of 30 days

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2. That Council establish an Alcohol-Free Zone and Prohibited Zone as shown in Attachment 1 of the report for four years, subject to objection
3. That Council publish a declaration of its establishment in the *Lake Times*, effective seven days after the public exhibition has closed
4. That Council erect notices prohibiting the consumption of alcohol in the above mentioned reserve.

CARRIED UNANIMOUSLY

13.2 Responses to Questions on Notice submitted by Councillor Peter Moran (9830603)

354 RESOLVED: Murray/Moran

That Council receive and note this report

CARRIED UNANIMOUSLY

Meeting adjourned at 7.39 pm

Meeting resumed at 7.46 pm

355 RESOLVED: Rankin/Murray

That Standing orders be resumed

CARRIED UNANIMOUSLY

8. Mayor's Statements / Reports / Presentations

The Mayor outlined the recent events and meetings she has attended since the last Ordinary Council Meeting.

Business Arising

The Mayor referred to the Independent Local Government Review Panel's consultation paper "The Case for Sustainable Change" and requested the General Manager prepare a submission for Council's consideration bearing in mind Shellharbour Council's opposition to forced amalgamations.

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9. Councillors' Reports

9.1 NSW Local Government Aboriginal Network Conference, 15 - 17 August 2012 (9831145)

MOTION: Saliba/Stewart

That Council:

1. Receive and note this report.
2. Support two community representatives of the Shellharbour City Aboriginal Advisory Committee to attend NSW Local Government Aboriginal Network Conferences.

Councillor Moran proposed the following addition to the MOTION which was not accepted by the Mover:

3. That such an arrangement be in place for one year only.
4. That the two community representatives give a report to a meeting of the Council following the conference indicating the benefits that they gained from it.
5. That Council then determine whether this arrangement should be extended.

356 RESOLVED: Saliba/Stewart

That Council:

1. Receive and note this report.
2. Support two community representatives of the Shellharbour City Aboriginal Advisory Committee to attend NSW Local Government Aboriginal Network Conferences.

CARRIED 5/2

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin, Cr Stewart
AGAINST VOTE - Cr Moran, Cr Marsh

10. Mayoral Minutes

Nil

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11. Reports

11.1 General Manager

Nil

11.2 City Outcomes Directorate

11.2.1 DA No. 174/2012 - Lot 623, DP 1164000, Pioneer Drive, Flinders - IGA Supermarket & Liquor Outlet (9825527)

This item was considered following Addresses to Council (refer to Resolution No 352).

11.2.2 Small Environmental Projects Fund 2012/2013 (9825812)

Councillor Stewart asked if the unsuccessful applicants have received feedback from Council to assist them with any future applications. The Director City Outcomes took the Question on Notice.

357 RESOLVED: Marsh/Boyle

1. That the Council approve the following four grant applications and amend the budget accordingly.
 - Shellharbour Anglican College - Rainwater Tank for Community Veggie Garden \$3,000
 - Shellharbour Public School - Illawarra Subtropical Rainforest Feature Area \$2,500
 - Corpus Christi Catholic High School - School Garden \$2,200
 - Saint Pauls Catholic Primary School - Water Warriors \$2,110
2. That the Council decline applications from All Saints Preschool, Albion Park, Healthy Cities Illawarra Child Friendly by Design 2528 Project, Shell Cove Public School and Southern Illawarra Church of Christ. These projects received lower assessment scores and after funding the four highest scoring applications there is insufficient funds remaining to fund these applications.

CARRIED UNANIMOUSLY

11.2.3 Office of Environment & Heritage: Coastal Management Program - Grant Funding Offers (9824622)

358 RESOLVED: Murray/Marsh

1. That the Council resolve to accept the grant funding of \$15,000 from the NSW Office of Environment & Heritage for Warilla Beach Dune and Habitat Rehabilitation Project and \$14,325 for northern foreshore rehabilitation works at Elliott Lake.
2. That the Council allocate \$15,000 matching funding from Council's existing Beach Maintenance Program allocation for Warilla Beach Dune and Habitat Rehabilitation Project.
3. That the Council allocate \$14,325 matching funding from Council's existing Asset Improvement Program for the northern foreshore rehabilitation works at Elliott Lake.
4. That the budget be amended accordingly.

CARRIED UNANIMOUSLY

11.2.4 Renewal of Alcohol-Free Zones and Prohibited Zones (Alcohol) (9824574)

359 RESOLVED: Moran/Marsh

1. That Council advertise the proposals in the *Lake Times*, on Council's website and within Council's Administration building and libraries for a period of 28 days.
2. That Council renew the Alcohol-Free Zones and Prohibited Zones as shown in Attachment 1 and 2 of the report for four years, subject to objection.
3. That Council publish a declaration of their renewal in the *Lake Times*, effective seven days after the close of public exhibition.
4. That Council update notices prohibiting the consumption of alcohol in the above mentioned parks and reserves.
5. That the plaza area identified on Attachment 2 Map 1 shall be an alcohol free zone as long as there is no lease to the Hotel during the time there is an alcohol free zone.

CARRIED UNANIMOUSLY

11.2.5 Establishment of Barrack Heights Alcohol-Free Zones and Prohibited Zones (Alcohol) (9824506)

This item was considered following Addresses to Council (refer to Resolution No 353).

11.3 Corporate Policy Directorate

11.3.1 Tender 2012/39 - Supply & Install Liners & Leachate Collection System to Cell 2, Dunmore Recycling and Waste Disposal Depot (9827842)

360 RESOLVED: Rankin/Murray

That Council, in accordance with Section 178(1)(b) & (3)(b) of the *Local Government (General) Regulation (2005)*, resolve to:

1. decline to accept any of the tenders received for Tender 2012/39; and
2. invite, in accordance with clause 167 (open tenders) fresh tenders based on the same or different details.

CARRIED UNANIMOUSLY

11.3.2 Extension of Contract 2007/36: Collection of Waste and Recoverable Resources and the Processing of Recyclables (10042020)

Councillor Rankin asked how close the end of the one year extension period is to the completion of the organics processing facility. The General Manager took the Question on Notice.

361 RESOLVED: Marsh/Stewart

That the Council extend the term of Contract 2007/36 - Collection of Waste and Recoverable Resources and Processing of Recyclables for the Second Extension Period, being from the 1 July 2013 to 30 June 2014.

CARRIED UNANIMOUSLY

11.3.3 Proposed Licence Agreement with Kim Lacey Trading as Oak Flats Gymnasium Club (9825965)

Councillor Moran MOVED a POINT of ORDER that Councillor Boyle should be seeking to amend the motion and not the Mayor. The Mayor clarified that she was not seeking to amend the Motion but was only bringing a matter to the attention of Councillor Boyle.

362 RESOLVED: Boyle/Marsh

1. That Council commence the formal process of advertising the terms of the proposed Licence Agreement for a period of twenty-eight (28) days subject to Consent of the Development Application.
2. After the twenty-eight (28) days should no objections be received, Council enter into a Licence Agreement with Kim Lacey trading as Oak Flats Gymnasium Club for a term of ten (10) years for the permitted use of the Pavilion located at Albion Park Showground, Tongarra Road Albion Park.
3. That the current rental amount of \$60 per week plus GST be capped for the first two years of the licence agreement in consideration for the required works to be undertaken by the Oak Flats Gymnasium Club on commencement of the licence agreement.
4. That the annual rental at the end of year 2 will be for an amount of \$15,500 per annum plus GST with annual increases by CPI yearly with a rent review after 5 years.
5. That the Mayor and General Manager or his delegated officer be authorised to execute documentation related to this licence agreement under Council Seal.

CARRIED UNANIMOUSLY

11.3.4 NSW Local Infrastructure Renewal Scheme - Round Two (981421)

Councillor Moran MOVED a POINT of ORDER at Councillor Murray taking his right of reply and indicated that during his address he had not indicated whether he was speaking for or against the recommendation. The Mayor ruled that the Mover and Seconder were entitled to a right of reply regardless of whether speakers had indicated whether they were speaking for or against the recommendation.

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363 RESOLVED: Murray/Rankin
That Council receive and note this report.

CARRIED 6/1

FOR VOTE - Cr Boyle, Cr Saliba, Cr Moran, Cr Murray, Cr Rankin, Cr Stewart
AGAINST VOTE - Cr Marsh

11.4 Shellharbour Enterprises Directorate

Nil

12. Committee Recommendations

12.1 Recommendations from the Disabilities Services Advisory Committee Meeting held 28 November 2012 recommended for adoption.

364 RESOLVED: Saliba/Stewart

That the Recommendations from the Disabilities Services Advisory Committee Meeting held of 28 November 2012 be adopted.

CARRIED UNANIMOUSLY

13. Items for Information

13.1 Lake Illawarra Authority Review (9829609)

365 RESOLVED: Stewart/Boyle

That Council receive and note this report.

CARRIED UNANIMOUSLY

13.2 Responses to Questions on Notice submitted by Councillor Peter Moran (9830603)

This item was considered following Addresses to Council (refer to Resolution No 354).

14. Notices of Rescission/Alteration Motions

Nil

15. Notices of Motion

15.1 Notice of Motion submitted by Cr Moran: Donations by Shell Cove Project (9831208)

Councillor Murray MOVED a POINT of ORDER during Councillor Moran's address disputing comments Councillor Moran had suggested he stated during his address. Councillor Murray clarified the comments he had made and the Mayor asked Councillor Moran to continue his address.

366 RESOLVED: Moran/Marsh

1. That Councils members of the Shell Cove Management Committee do not agree to any donations to be made by the Shell Cove Project.
2. That any equipment/facilities provided by the Project as marketing not be agreed to by Councils representatives on the Shell Cove Management Committee unless such equipment/facilities are clearly and permanently branded as being provided by the Shell Cove Project.

CARRIED 4/3

FOR VOTE - Cr Moran, Cr Rankin, Cr Stewart, Cr Marsh
AGAINST VOTE - Cr Boyle, Cr Saliba, Cr Murray

15.2 Notice of Motion submitted by Cr Moran: Donations (9831217)

Councillor Rankin asked if the Unanderra Hearts and the Thirroul Life Saving Club held events at The Links Shell Cove. The Director Shellharbour Enterprises took the Question on Notice.

Councillor Stewart MOVED a POINT of ORDER during Councillor Moran's right of reply that he should be talking to the Motion. Councillor Moran clarified his comments and the Mayor asked Councillor Moran to continue his address.

MOTION: Moran/Marsh

That Council officers do not authorise any donations to, or sponsorship of, any organisation without such donations or sponsorships first being considered by the Donations Working Party.

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- 367 The MOTION on being PUT to the Meeting was LOST 2/5
FOR VOTE - Cr Moran, Cr Marsh
AGAINST VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin, Cr Stewart

16. Questions on Notice (must be submitted in writing)

Nil

17. Urgent Business

Nil

18. Committee of the Whole in Closed Session: Adjournment

Nil

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

Nil

20. Consideration of Motions to Declassify Reports Considered in Closed Session

Nil

The Mayor, on behalf of Council, wished everyone a Merry Christmas and a safe holiday period.

Meeting closed 9.08 pm