

# SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting - Tuesday 14 October 2014

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**Minutes of the Ordinary Meeting  
of Shellharbour City Council  
held at the Council Chambers, Council Administration Centre  
Shellharbour City Centre  
on Tuesday 14 October 2014 commencing at 6.36 pm**

## Present

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

## In attendance

General Manager	M Willis
Director City Outcomes	C McIntyre
Director Corporate Policy	L Furness
Director Shellharbour Enterprises	M Youell
Executive Manager / Public Officer	F MastroDomenico
Group Manager City Strategy	G Hoynes
Group Manager Infrastructure Services	M Boenisch
Group Manager Parks, Aquatics, Landfill & Stadium	K Packer
Group Manager City Development	G Meredith
Manager Property & Recreation	D Flanagan
Manager Corporate Procurement & Supplies	T Baldock
Team Leader Waste Management	C Williams
Environment Officer	T Heather
Media Officer	C Lewis
Senior Executive Assistant	L Davey
Council Liaison Officer (Minute Taker)	J Frasca
CBRE	C Stewart (part)
Marsdens	J Thornton (part)

**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 and the emergency plan for Council Meetings.

**2. Confirmation of Minutes**

**2.1 Ordinary Meeting 30 September 2014**

338 RESOLVED: Murray/Marsh

That the Minutes of the Ordinary Council Meeting held on 30 September 2014 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

**2.2 Committee of the Whole 30 September 2014**

339 RESOLVED: Marsh/Murray

That the Minutes of the Committee of the Whole Council Meeting held on 30 September 2014 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

**2.3 Extraordinary Meeting 30 September 2014**

340 RESOLVED: Rankin/Murray

That the Minutes of the Extraordinary Council Meeting held on 30 September 2014 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

**3. Apologies / Leave of Absence**

**Ordinary Council Meeting**

An apology was tendered on behalf of Councillor Moran.

**Committee of the Whole Council Meeting**

An apology was tendered on behalf of Councillor Moran.

341 RESOLVED: Marsh/Stewart

That the apologies as tendered be accepted.

CARRIED UNANIMOUSLY

**4. Confidential Business (Committee of the Whole)**

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 Offer to Purchase Council Land - Lot 522 DP 1168919 Braemar Street Tullimbar (10265563)**

**Reason for Confidentiality**

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

- (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

This item, if discussed in the Open Meeting of Council, would be contrary to the public interest because it is premature at this time. The appropriate time for its full release such that the commercial position of the person who supplied it is not prejudiced, would be when the proposed sale is entered into.

Council will be considering the possible divestment of Lot 522 DP 1168919 Braemar Street Tullimbar. Whilst any decision to sell such assets should be made in the public domain, early consideration of information pertaining to the sale is best conducted in confidential session, to enable candid debate of commercial details, options and strategies and to protect the public interest and the debate, from influence of vested interests at this early stage of consideration.

**5. Pecuniary Interest and Conflict of Interest Declarations**

Nil

**6. Condolences**

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

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Mrs Alice Mabel Flamank	of	Albion Park
Mrs Emeline Alice Eirth	of	Albion Park
Mrs Beryl Nilsen	of	Barrack Heights
Mrs Ludmila Reitzer	of	Barrack Heights
Mr David William Hale	of	Flinders
Mr Hans Matthias	of	Mt Warrigal
Mr Gaetano Faraci	of	Mt Warrigal
Mrs Elizabeth Grace Sladden	of	Oak Flats
Mrs Susan Virginia Hannah	formerly of	Oak Flats
Mr Richard East	formerly of	Shellharbour
Mr Robert Thomas Beattie	of	Shellharbour
Mrs Catherine O'Hanlon	of	Shellharbour
Mr Arthur Shelmerdine	of	Warilla
Mr Manuel Ortiz	of	Warilla
Mr Robert James Harvey	of	Warilla
Ms Milica Ljubojevic	formerly of	Warilla
Mr William Gary Moss	formerly of	Warilla

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

### **7. Addresses to Council**

Please note the following clauses from Council's Code of Meeting Practice:

#### **13.3 Conduct of Addresses**

*13.3.1 The duration of individual addresses is strictly limited to four minutes with no extensions permissible*

*13.3.2 Only the Chairperson is permitted to ask questions of any person addressing the Council.*

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Agenda Item No & Title	Name
11.1. Use of Personal Information (10265687)	Sonya McKay
11.2. Additional Report - Shellharbour Local Environmental Plan 2013 Planning Proposal No. 6 - Adoption of exhibited Planning Proposal for updated Mineral Resource and Transition Area details (10266811)	Glenn Steggles - Dunmore Resources & Recycling Italia Capocchiano (not present)

343 RESOLVED: Murray/Rankin

That Standing Orders be suspended in order for items 11.1.2 and 11.2.1, the subject of Addresses to Council be considered here in the agenda

CARRIED UNANIMOUSLY

### 11.1.2 Use of Personal Information (10265687)

344 RESOLVED: Murray/Rankin

That the information be received and noted.

CARRIED UNANIMOUSLY

### 11.2.1 Additional Report - Shellharbour Local Environmental Plan 2013 Planning Proposal No. 6 - Adoption of exhibited Planning Proposal for updated Mineral Resource and Transition Area details (10266811)

345 RESOLVED: Marsh/Murray

That Council:

1. adopt the maps for Shellharbour Local Environmental Plan 2013 Planning Proposal No 6 as outlined in Attachment 2 of Attachment 1 of this report.
2. adopt the clauses as outlined in Planning Proposal No 6 and as shown in Attachment 3 of Attachment 1 of this report, to amend clauses 6.10 and 6.11 of Shellharbour Local Environmental Plan 2013.
3. authorise the General Manager to forward the revised Planning Proposal as outlined in Attachments 2 and 3 of Attachment 1 of this report to the

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Minister for Planning under section 58(2) of the *Environmental Planning & Assessment Act 1979*.

4. authorise the General Manager to request the Minister for Planning to prepare the Draft Local Environmental Plan and make the Plan under section 59 of the *Environmental Planning & Assessment Act 1979*.
5. delegate to the General Manager the authority to make minor mapping and wording changes if and as required by the Director General of the NSW Department of Planning & Environment or the Parliamentary Counsel's office.

CARRIED UNANIMOUSLY

346 RESOLVED: Murray/Rankin

That Standing Orders be resumed

CARRIED UNANIMOUSLY

### 8. Mayor's Statements / Reports / Presentations

The Mayor outlined the following events she has attended since the last council meeting:

- 1/10/14 - IRT - Toward an Age-Friendly Illawarra: A Cross Council Initiative
- 2/10/14 - Paint Shellharbour REaD: Reading Day Event
- 8/10/14 - Bozhou City delegation visit
- 9/10/14 - Youth & Family Awards Event
- 10/10/14 - Site Visit to Council's Recycling & Waste Disposal Depot and Dunmore Resources & Recycling Facility
- ALGWA Executive Conference Committee and Wollongong City Council ALGWA Conference Committee Meeting
- 13/10/14 - Westpool Board Meeting and AGM

### 9. Councillors' Reports

Nil

**10. Mayoral Minutes**

Nil

**11. Reports**

**11.1 General Manager**

**11.1.1 Sponsorship (10263597)**

347 RESOLVED: Murray/Rankin

1. That Council provide sponsorship to the following groups from the sponsorship budget totalling \$12,000:

Event	Applicant	recommended amount
Sunset Food Markets by the Lake	Lee Cramer	\$1000
Sunset Cinemas	Lee Cramer	\$1000
Shellharbour Sports Assistance Fund	Shellharbour Sports Assistance Fund	\$10,000.00
		\$12,000.00

2. That the sponsored events be added to Council's Calendar of Events as "sponsored events" for the next financial year.

CARRIED UNANIMOUSLY

**11.1.2 Use of Personal Information (10265687)**

This item was considered following Addresses to Council (refer Resolution No. 344)

**11.1.3 Monthly Investment Report - August 2014 (10263456)**

348 RESOLVED: Marsh/Murray

That Council receive and note the attached Investment Portfolio report, as at 31 August 2014.

CARRIED UNANIMOUSLY

**11.2 City Outcomes Directorate**

**11.2.1 Additional Report - Shellharbour Local Environmental Plan 2013 Planning Proposal No. 6 - Adoption of exhibited Planning Proposal for updated Mineral Resource and Transition Area details (10266811)**

This item was considered following Addresses to Council (refer Resolution No.345)

**11.2.2 Refugee Welcome Zone (10262838)**

349 RESOLVED: Marsh/Murray

That Council signs the Refugee Welcome Zone Declaration and commit to the principles outlined in the Declaration.

CARRIED 4/2

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

**11.3 Corporate Policy Directorate**

**11.3.1 NSW Local Government Grants Commission Information (10262651)**

350 RESOLVED: Marsh/Murray

That Council note that no new revenue or expenditure disabilities have been identified in the past year to warrant submission to the Grants Commission.

CARRIED UNANIMOUSLY

**11.3.2 Draft Local Preference Policy and Draft Social Procurement Policy (10251954)**

351 RESOLVED: Rankin/Marsh

1. That Council endorse the proposed Local Preference Policy for the purpose of public exhibition for a period of 28 days
2. That Council endorse the Social Procurement Policy for the purpose of public exhibition for a period of 28 days.
3. That if any submissions are received, a further report be presented to Council outlining the submissions.

4. That if no submissions are received, the Local Preference Policy and Social Procurement Policy be adopted.

CARRIED UNANIMOUSLY

**11.3.3 Community Land Plan of Management - Reddall Parade Mt Warrigal - Boonerah Point Reserve, Boonerah Park and adjoining Public Reserve (10258807)**

MOTION: Marsh/Stewart

That this item be deferred for further clarification and information.

The Mayor FORESHADOWED a MOTION that should the MOTION be LOST that she would move the MOTION as printed in the business paper.

352 The MOTION on being PUT to the Meeting was LOST 1/5

FOR VOTE - Cr Marsh

AGAINST VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin, Cr Stewart

The FORESHADOWED MOTION then became the Motion and was seconded by Councillor Murray, and on being PUT to the Meeting was CARRIED 5/1

353 RESOLVED: Saliba/Murray

1. That in accordance with the *Local Government Act 1993*, (s38), the draft Plan of Management for Community Land for the following lots:

- Lot 248 DP 222964 – Boonerah Park
- Lot 299 DP223828 – Boonerah Point Reserve
- Lot 536 DP 228535, Lot 422 DP223827 and Lot 552 DP238039 – Public Reserve

be placed on public exhibition for a period of 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, public hearing 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 Boonerah Point.

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

**11.3.4 Draft Masterplan Flinders Reserve, Jindabyne Road Flinders (10264507)**

354 RESOLVED: Murray/Marsh

1. That Council commence direct consultation with adjoining land owners within 400m of the facility.
2. Council commence the formal process including advertising and public exhibition of the draft Master plan for Flinders Reserve, Jindabyne Road Flinders.
3. That provided no objections are received, Council adopt the draft Master plan for Flinders Reserve, Jindabyne Road Flinders.

CARRIED UNANIMOUSLY

**11.3.5 Proposed Licence Agreement: Reallife Health & Fitness (10263048)**

355 RESOLVED: Boyle/Rankin

1. Council enter into a 12 month Licence Agreement with Reallife Health and Fitness for the use and occupation of the approved section of Graham Park, Lake Illawarra to conduct commercial fitness training activities, for an annual amount of \$1,700 GST Inclusive.
2. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the Licence Agreement under Council Seal.

CARRIED UNANIMOUSLY

**11.3.6 Proposed Licence Agreement: The Amity College (10264552)**

356 RESOLVED: Marsh/Boyle

1. That Council commence the formal process to enter into a five (5) year Licence agreement with Amity College for Part Lot 2 in Deposited Plan 1091230, Shellharbour Rd Shellharbour, including advertising and exhibition of the proposal;
2. That provided no objections are received, Council enter into a five (5) year Licence agreement with Amity College for the use and occupation of part of Part Lot 2 in Deposited Plan 1091230, at an annual rental of \$2,600 plus GST;

3. That the annual rental of \$2,600 be subsidised by 52% in accordance with Councils Community Halls & Centres Management Policy;
4. That Council note the "in-kind donation" of \$1,352 in Council's aggregate record of donations to the community.
5. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the Licence Agreement under Council Seal.

CARRIED UNANIMOUSLY

**11.3.7 Dunmore Resource Recovery Redevelopment (10264371)**

357 RESOLVED: Murray/Marsh

1. That Council approve the Business Case and proposed funding strategies for the Dunmore Resource Recovery Redevelopment project.
2. If funding is received through the Waste Less Recycling More program for this project, the General Manager, or his delegate, be granted the authority to accept the funding on Council's behalf.

CARRIED UNANIMOUSLY

**11.4 Shellharbour Enterprises Directorate**

Nil

**12. Committee Recommendations**

**12.1 Recommendations from the Traffic Committee Meeting held 1 October 2014 recommended for adoption.**

358 RESOLVED: Stewart/Marsh

That the Recommendations from the Traffic Committee Meeting held 1 October 2014 be adopted.

CARRIED UNANIMOUSLY

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**13. Items for Information**

Nil

**14. Notices of Rescission/Alteration Motions**

Nil

**15. Notices of Motion**

Nil

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

Nil

**17. Urgent Business**

Nil

**18. Committee of the Whole in Closed Session: Adjournment**

<b>Agenda Item No &amp; Title</b>	<b>Name</b>
4.1 Offer to Purchase Council Land - Lot 522 DP 1168919 Braemar Street Tullimbar (10265563)	Sonya McKay

The Mayor asked whether anyone in the public gallery wished to speak on the reasons why Item 4.1 Offer to Purchase Council Land – Lot 522 DP 1168919 Braemar Street Tullimbar, should not be held in Confidential Session (closed to the public). One member of the public expressed their interest in addressing the Council.

359 RESOLVED: Stewart/Marsh

That members of the Public be permitted to address Council on the reasons why they consider Item 4.1 should not be held in Confidential Session (closed to the Public).

CARRIED 5/1

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

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Agenda Item No & Title	Name
4.1 Offer to Purchase Council Land - Lot 522 DP 1168919 Braemar Street Tullimbar (10265563)	Harry Gooden

360 RESOLVED: Murray/Rankin

1. That Council resolve into Committee of the Whole (in Confidential Session) to consider the above business as listed, together with any late reports tabled at the meeting.
2. That pursuant to Section 10A(1-3) of the *Local Government Act 1993*, 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 Section 10A(2)( c, d(i), d(ii)) 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 4/2

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin

AGAINST VOTE - Cr Stewart, Cr Marsh

**Meeting adjourned at 8.01pm**

**Meeting resumed at 9.03PM**

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

The following Recommendations to Council from the Committee of the Whole Council (confidential) were read to the Meeting

#### **4.1 Offer to Purchase Council Land - Lot 522 DP 1168919 Braemar Street Tullimbar (10265563)**

COMMITTEE RECOMMENDATION:

1. That Council enter into a Due Diligence Deed with the party noted in the Report on the terms set out in that report concerning Lot 522 in DP1168919, Braemar Street, Tullimbar.
2. That the Mayor and General Manager, or his nominated delegate, be authorised to sign under Council Seal, the Due Diligence Deed.

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3. That Council delegate to the General Manager the ability to negotiate the Put & Call Option Deed for Lot 522 in DP1168919, Braemar Street, Tullimbar on the terms set out in the Report.
4. That subject to the General Managers satisfaction with the Put & Call Option Deed, that Council enter into the Put & Call Option Deed with the proposed purchaser noted in the Report.
5. That the Mayor and General Manager, or his nominated delegate, be authorised to execute under Council Seal the Put & Call Option Deed and following that, the Contract for Sale arising out of the Put & Call Option Deed of Lot 522 in DP1168919, Braemar Street, Tullimbar
6. That the commercial terms and the proposed purchaser be keep confidential until the Put & Call Option Deed is executed.

Cr Marsh MOVED a POINT of ORDER in relation to comments made by Cr Murray during his address, which was not accepted by the Mayor. She then moved a further POINT of ORDER in relation to comments made by Cr Murray. The Mayor did not accept the POINT of ORDER and asked Cr Murray to continue with his address.

361 RESOLVED: Murray/Rankin

That the Recommendations to Council from the Committee of the Whole Meeting held earlier today be adopted.

CARRIED 4/2

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

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

**Meeting closed 9.13 pm**