

**Minutes of the Ordinary Meeting  
of Shellharbour City Council  
held at the Council Chambers, Council Administration Centre  
Shellharbour City Centre  
on Tuesday 10 October 2017 commencing at 6.33 pm**

**Present**

Mayor, Councillor	M Saliba
Deputy Mayor, Councillor	K Marsh
Councillor	N Cattell
Councillor	M Hamilton
Councillor	P Moran
Councillor	J Murray
Councillor	R Petreski

**In attendance**

General Manager	C McIntyre
Director Council Sustainability	M Youell
Director Community and Customers	M Boxall
Director Amenity and Assets	B Stewart
Executive Manager / Public Officer	F Lepouras
Chief Financial Officer	G Grantham
Group Manager City Planning	G Hoynes
Group Manager Business Technology & Customer Services	M Chiodo
Group Manager Asset Strategy	K Packer
Manager Property Services	D Flanagan
Media Officer	K Wells
Senior Executive Assistant	L Davey
Councillor Support Officer (Minute Taker)	J Frasca
Support Desk Analyst	M Felix

**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 and Emergency Plan 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 5 September 2017**

237 RESOLVED: Marsh/Murray

That the Minutes of the Ordinary Council Meeting held on 5 September 2017 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

**2.2 Extraordinary Meeting 26 September 2017**

238 RESOLVED: Murray/Cattell

That the Minutes of the Extraordinary Council Meeting held on 26 September 2017 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

**3. Apologies / Leave of Absence**

**Ordinary Council Meeting**

Nil

**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,
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of any code of conduct requirements applicable under section 440.

## **CONFIDENTIAL ITEMS**

### **4.1 Tender 2017/81 - Hamilton Road and Wattle Road Gross Pollutant Traps Construction (10945881)**

#### **Reason for Confidentiality**

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

- (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it.

The information in the report should remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it.

It is not in the public interest to disclose this information as it may impact the ability of Council to attract competitive tenders in the future.

#### **4.2 Quote 2017/59 - 2017/2018 Asphalt Road Renewals (10945882)**

##### **Reason for Confidentiality**

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

- (d) commercial information of a confidential nature that would if disclosed:
  - (i) prejudice the commercial position of the person who supplied it.

Information in the report should remain confidential as it would, if disclosed, prejudice the commercial position of the person who supplied it.

It is not in the public interest to disclose this information as it may impact the ability of Council to attract competitive tenders in the future.

#### **4.3 Links Golf Course and Tavern 2016/17 Financial Result (10946329)**

##### **Reason for Confidentiality**

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

- (d) commercial information of a confidential nature that would if disclosed:
  - (ii) confer a commercial advantage on a competitor of the council

The detailed financial information provided in the report is of commercial confidence to the Links business that may be prejudice for other competing businesses in the industry if disclosed to the public.

#### **5. Declarations of Interest**

Nil

#### **6. Condolences**

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

Mr Joe Hessenberger	of	Albion Park
Mrs Alice Jackson	formerly of	Albion Park
Mr Eric Munday	of	Albion Park

## SHELLHARBOUR CITY COUNCIL

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Mr George Thomas Pascoe	formerly of	Albion Park
Mr Gordan Souter	of	Albion Park
Mr Anthony McDonald	of	Albion Park Rail
Mr Colin Visman	of	Albion Park Rail
Mr John Wagg	of	Barrack Heights
Mrs Shirley Anne Murphy	formerly of	Mt Warrigal
Mr Peter Frederick Bassett	of	Oak Flats
Mrs Denise Booth	of	Oak Flats
Mr John Alfred Farrugia	of	Oak Flats
Mr David Holmes	of	Oak Flats
Mrs Barbara Jones	of	Oak Flats
Mrs Margarete Oberlander	of	Oak Flats
Mrs Ljubica Stafford	of	Oak Flats
Mr Robert Alfred Hankey	of	Shell Cove
Mrs Marjorie Evelyn Condon	of	Shellharbour
Mrs Marie Evelyn Dawson	of	Shellharbour
Mr Norman Leslie Emm	formerly of	Shellharbour
Mr Graeme Anthony Gerke	of	Shellharbour
Mr Vincent McCabe	formerly of	Shellharbour
Mrs Johanna Tecles	of	Shellharbour
Mrs Barbara Witte	of	Shellharbour
Mr Richard Acton	of	Warilla
Mr John Callcott	of	Warilla
Mrs Pat Clinch	of	Warilla
Mr John Fuller	of	Warilla
Mrs Hazel Kelly	formerly of	Warilla
Mr William James Lowe	formerly of	Warilla
Mr Jimmy Prodanovic	formerly of	Warilla
Mr Peter Robinson	of	Warilla
Mrs Anna Rutten	of	Warilla
Mrs Gisela Treue	of	Warilla

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

**7. Mayor's Statements / Reports / Presentations**

The Mayor attended the following events since the last Council Meeting:

29/9/17	National Police Remembrance Day Service
30/9/17	ALGWA Executive Meeting
23-24/9/17	Councillor Induction Program
9/10/17	Capable Councils Workshop

**8. Mayoral Minutes**

**8.1 Letter to Fair Work Commission – Supported Employment**

240 RESOLVED: Mayor Saliba

That Council forward a letter of support for Greenacres, The Flagstaff Group and The Disability Trust to the Fair Work Commission requesting that the Fair Work Commission not make a decision that could otherwise create job losses for supported employees.

CARRIED UNANIMOUSLY

**9. Councillors' Reports**

Nil

**10. Reports**

**10.1 General Manager**

**10.1.1 Local Government NSW Annual Conference 2017 (10946007)**

MOTION: Murray/Petreski

1. That Council nominate Cr Saliba, Cr Marsh, Cr Petreski and Cr Hamilton as its four voting delegates to the 2017 Local Government NSW Annual Conference.
2. That any Councillor who wishes to attend the Conference as a non-voting delegate, advise the General Manager's office no later than Wednesday, 18 October 2017.

Councillor Moran FORESHADOWED a MOTION that should the Motion be lost that he would move the following:

That Cr Saliba, Cr Marsh, Cr Petreski and Cr Moran be the four voting delegates to the 2017 Local Government NSW Annual Conference.

241 The MOTION on being PUT to the Meeting was CARRIED 6/1

FOR VOTE - Cr Cattell, Cr Hamilton, Cr Marsh, Cr Murray, Cr Petreski, Cr Saliba

AGAINST VOTE - Cr Moran

## **10.2 Council Sustainability Directorate**

### **10.2.1 Monthly Investment Report - August 2017 (10941452)**

242 RESOLVED: Murray/Cattell

That Council receive and note the attached Investment Portfolio report as at 31 August 2017.

CARRIED UNANIMOUSLY

### **10.2.2 Proposed Temporary Lease - Part of Croom Sporting Complex - being part of Lot 3 DP 549511, Lot 2 DP 605565, Lot 1 DP 821478, Lot 2 DP 219411 to Roads and Maritime Services (10945811)**

243 RESOLVED: Murray/Cattell

That Council:

1. Continues to offer qualified support for the State Significant Infrastructure Application but does not believe the proposed project should be approved in its current form.
2. Commence the formal process, including advertising and exhibition of the proposed temporary lease for a period of no less than 28 days.
3. Note that if any relevant submissions are received as a result of public exhibition, a report be submitted to Council for consideration detailing the public exhibition outcomes and with further recommendations regarding the lease.
4. Endorse the temporary lease with Roads and Maritime Services for a period commencing 1 December 2017 for a term of approximately five years with a proposed end date of 31 December 2022 for Part Lot 3 DP 549511, Lot 2 DP 605565, Lot 1 DP 821478, Lot 2 DP 219411 being

part of Croom Sporting Complex, Croome Road, Croom if there are no relevant submissions received as a result of the public exhibition.

5. Approve the nominal rental of \$1 per year be applied.
6. Authorise the Mayor and General Manager, or his nominated delegate, to sign any documentation associated with the temporary lease with Roads and Maritime Services for Part Lot 3 DP 549511, Lot 2 DP 605565, Lot 1 DP 821478, Lot 2 DP 219411 being part of Croom Sporting Complex, Croome Road, Croom under Council Seal.

CARRIED UNANIMOUSLY

**10.2.3 North Macquarie Road, Calderwood Valley - Proposed Formal Road Closure of sections of Public Road (10945501)**

MOTION: Murray/Marsh

That:

1. Council commence the process to formally close the section of public road being North Macquarie Road (as per Stage 2A of the Calderwood Development), as legislated under the *Roads Act 1993*.
2. Provided no relevant submissions are received, forward an application to the Department of Primary Industries, Crown Lands for the road closure of part of North Macquarie Road, Calderwood Valley (as per Stage 2A of the Calderwood Development).
3. If any relevant submissions are received as a result of public exhibition, a report be submitted to Council for consideration detailing the public exhibition outcomes and with further recommendations.
4. Upon approval from the Department of Primary Industries - Crown Lands of the closure of parts of North Macquarie Road, Council classify the land as Operational land.
5. Council approve the section of Public Road being parts of North Macquarie Road, once closed and classified as Operational Land, be offered for disposal to Lendlease for the contract value as noted within the confidential memo to all Councillors.
6. Council approve the Mayor and General Manager, or his nominated delegate, to be authorised to sign any documentation associated with the application for the closure and the disposal of part of North Macquarie Road, Calderwood Valley (as per Stage 2A of the Calderwood Development) under Council Seal.



7. Council approve the proceeds from the sale of the land be allocated to the Tripoli Way Extension, Albion Park By-Pass Project.

Councillor Moran proposed the following addendum to the Motion, which was not accepted by the Mover:

That the confidential memo that was provided to Councillors in relation to this matter be attached to the minutes to the report on this particular item.

244 The MOTION on being PUT to the Meeting was CARRIED 6/1

FOR VOTE - Cr Cattell, Cr Hamilton, Cr Marsh, Cr Murray, Cr Petreski, Cr Saliba

AGAINST VOTE - Cr Moran

#### **10.2.4 Illawarra Regional Airport - Fees and Charges Amendments (10945719)**

245 RESOLVED: Petreski/Marsh

That Council endorse:

1. Placing the amended Illawarra Regional Airport Fees and Charges document on public exhibition for 28 days to advertise the fees and charges, and seek submissions from the public.

Further that the amended Illawarra Regional Airport Fees and Charges document to include a further amendment as follows:

Table 1: New Fees and Charges as detailed in this report, Column 2: Proposed Fee to state 'as negotiated with the airline' and delete the words 'from time to time'.

2. Following the period of exhibition, the proposed amendment to the fees and charges be reported back to Council.
3. If there are no submissions, the proposed fees and charges be adopted.

CARRIED UNANIMOUSLY

**10.2.5 Lot 2 DP 1091265 Cygnet Avenue, Shellharbour City Centre - Creation of Restriction on use of land - Affix Council Seal (10945720)**

246 RESOLVED: Murray/Petreski

That Council authorise the Mayor and General Manager, or his nominated delegate, to sign the Section 88B instrument and associated Deposited Plan Administration Sheets and Plan by affixing the Seal of Council to the associated documentation within Lot 2 DP 1091265 Cygnet Avenue Shellharbour City Centre, for the creation of a restriction on use of land relating to the condition E18 of the Development Consent 205/2014 (date of determination 20 October 2014).

CARRIED UNANIMOUSLY

**10.2.6 Change of Name for the Lease of Lot 420 DP 773124 Illawarra Regional Airport (10945808)**

247 RESOLVED: Marsh/Murray

That:

1. Council approve that the name to be inserted on the lease for Lot 420 DP773124 located at Illawarra Regional Airport be changed from Shell Aviation Australia Pty Limited to Viva Energy Aviation Pty Ltd (ACN 167 761 453).
2. The Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the lease, with Viva Energy Aviation Pty Ltd (ACN 167 761 453) for the occupation of Lot 420 DP773124 located at Illawarra Regional Airport, under Council Seal.

CARRIED UNANIMOUSLY

**10.3 Community and Customers Directorate**

**10.3.1 Submission on NSW Department of Planning and Environment Options Paper - Short-term Holiday Letting (10941906)**

248 RESOLVED: Murray/Cattell

That Council endorse and submit the submission on the Options Paper – Short-term Holiday Letting, as contained in Attachment 1 of this report.

CARRIED UNANIMOUSLY

**10.3.2 Proposed Suburb Boundary Adjustment - Shell Cove and Dunmore (10926067)**

249 RESOLVED: Murray/Petreski

That Council not support the proposed suburb boundary adjustment as it not consistent with previous resolutions of Council for the naming of Shell Cove and advise the applicant accordingly.

CARRIED UNANIMOUSLY

**10.3.3 Council Submission to the NSW Department of Planning and Environment on the Roads and Maritime Services State Infrastructure Application for the M1 Extension (Albion Park Rail Bypass) (10946555)**

250 RESOLVED: Murray/Petreski

That Council received and note the Council Submission to the NSW Department of Planning and Environment on the Roads and Maritime Services State Infrastructure Application for the M1 Extension (Albion Park Rail Bypass) dated 25 September 2017.

CARRIED UNANIMOUSLY

**10.4 Amenity and Assets Directorate**

**10.4.1 2017/18 Active Transport Program Grant Acceptance (10944202)**

251 RESOLVED: Marsh/Murray

1. That Council accept the 2017/18 Active Transport Program grant of \$834,200 and vote funds for the construction of a shared user path adjacent to Tongarra Road commencing at Stapleton Avenue.
2. The General Manager write to thank the Roads and Maritime Service for funding these important shared user path works on Tongarra Road.

CARRIED UNANIMOUSLY

**11. Committee Recommendations**

**11.1 Recommendations from the Disability Access and Inclusion Advisory Committee Meeting held 23 August 2017 recommended for adoption.**

252 RESOLVED: Murray/Marsh

That the Recommendations from the Disability Access and Inclusion Advisory Committee Meeting held 23 August 2017 be adopted.

CARRIED UNANIMOUSLY

**11.2 Recommendations from the Traffic Committee Meeting held 6 September 2017 recommended for adoption.**

253 RESOVLED: Hamilton/Moran

That the Recommendations from the Traffic Committee Meeting held 6 September 2017 be adopted.

CARRIED UNANIMOUSLY

**12. Items for Information**

**12.1 Development Applications taken to the Land and Environment Court (10941905)**

The Item for Information was formally noted.

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

Nil

**14. Notices of Motion**

**14.1 Shell Cove Project**

MOTION: Moran

That:

- i) Council withdraw its support of the application currently before the Department of Planning and Environment in relation to the Shell Cove Project.
- ii) Council support an application to only relocate the hotel development.

The Motion lapsed for want of a Seconder.

**14.2 Notice of Motion submitted by Cr Nathan Cattell: Albion Park Rail Bypass (10947755)**

254 RESOLVED: Cattell/Marsh

That:

1. Councillors continue to support the professionalism and hard work of the General Manager and staff moving forward to satisfactorily resolve all outstanding property issues involving the Albion Park Rail Bypass.
2. Council invite the Parliamentary Secretary for the Illawarra Gareth Ward to a briefing with Council to discuss the Albion Park Rail bypass and Councillors' priorities for the council term.

CARRIED UNANIMOUSLY

**14.3 Notice of Motion submitted by Cr Kellie Marsh: Household Waste Collection (10947820)**

During the Mayor's address Councillor Marsh moved a POINT of ORDER and stated that the motion refers to green FOGO bins not red bins. The Mayor acknowledged her misstatement.

255 RESOLVED: Marsh/Murray

That Council staff investigate the cost to Council and reduced fees for residents with the potential implementation of providing two size options 240 litre and 140 litre for household waste collection with the green FOGO bin.

CARRIED UNANIMOUSLY

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

Nil

**16. Urgent Business**

Nil

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

The Mayor asked whether anyone in the public gallery wished to speak on the reasons why Items 4.1 Tender 2017/81 – Hamilton Road and Wattle Road Gross Pollutant Traps Construction, 4.2 Quote 2017/59 – 2017/2018 Asphalt

Road Renewals and 4.3 Links Golf Course and Tavern 2016/17 Financial Result should not be held in Confidential Session (Closed to the Public). No members of the public expressed an interest in addressing Council.

256 RESOLVED: Murray/Marsh

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)(d)(i) 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*.
4. That the meeting adjourn for a five minute recess.

**Meeting adjourned at 7.42pm**

**Meeting resumed at 8.20pm**

**18. 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 by the General Manager.

**4.1 Tender 2017/81 - Hamilton Road and Wattle Road Gross Pollutant Traps Construction (10945881)**

COMMITTEE RECOMMENDATION:

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, Council accept the tender and enter into a contract (Contract 2017/81) with Cadifern Pty Ltd in the amount of \$539,163 in accordance with Tender Document 2017/81.
2. Authorise the General Manager or his delegate to sign the Letter of Award and execute the contract and associated documents on behalf of Shellharbour City Council.

**4.2 Quote 2017/59 - 2017/2018 Asphalt Road Renewals (10945882)**

COMMITTEE RECOMMENDATION:

That Council:

1. In accordance with Section 178 of the *Local Government (General) Regulation (2005)*, Council enter into a contract (Contract 2017/59) with Bitupave Ltd T/A Boral Asphalt in the amount of \$2,500,000.00 (excl. GST) in accordance with Tender Document 2017/59.
2. Authorise the General Manager or his delegate to sign the Letter of Award and execute the contract with Bitupave Ltd T/A Boral Asphalt on behalf of Shellharbour City Council.
3. Authorise the General Manager or his delegate to extend the contract for Separable Portions 2 and 3 following approval of the funding allocation by Council at the Quarterly review.

**4.3 Links Golf Course and Tavern 2016/17 Financial Result (10946329)**

COMMITTEE RECOMMENDATION:

That Council note the report "Links Golf Course and Tavern 2016/17 Financial Result".

257 RESOLVED: Murray/Marsh

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

CARRIED UNANIMOUSLY

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

Nil

**Meeting closed 8.23 pm**