

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 31 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
A/Group Manager Organisational Performance	A Bateman
Group Manager City Development	G Meredith
Group Manager City Planning	G Hoynes
Group Manager Asset Strategy	K Packer
Group Manager Services	R Crowhurst
Manager Property Services	D Flanagan
Acting Manager Financial Services	L Mason
Acting Manager Environment	T Heather
Media Officer	K Wells
Senior Executive Assistant	L Davey
Councillor Support Officer (minute taker)	J Frasca

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. Apologies

Nil

3. Leave of Absence

Nil

4. Confirmation of Minutes

4.1 Ordinary Council Meeting 10 October 2017

258 RESOLVED: Murray/Marsh

That the Minutes of the Ordinary Council Meeting held on 10 October 2017 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

5. Declarations of Interest

Councillor Cattell: Item 11.3.3 Shellharbour Surf Life Saving Club – planning proposal to reclassify land from community to operational and permit a function centre – Lot 1 DP 211127, Part of Lot 5 DP 218551.

Nature of Interest: Councillor Cattell declared a non-pecuniary interest for this item as he operates/works similar functions at Killalea and advised that he would remain in the Chamber and participate on the debate and vote on the item.

6. Confidential Business (Committee of the Whole in Closed Session)

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

6.1 Tender 2017/50 - Construction of Cell 5B (10954424)

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.

SHELLHARBOUR CITY COUNCIL

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6.2 Tender 2017/76 - Shellharbour Skate Park Design and Construct (10954534)

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.

7. Condolences

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

Mrs Margaret Ann Wilson	formerly of	Albion Park Rail
Mr Edward Thomas Cain	of	Barrack Heights
Mrs Sylvia Bagley	of	Flinders
Ms Mary Weekes	of	Flinders
Ms Johanna 'Hanna' Benden	of	Lake Illawarra
Mrs Sofija Kolevska	of	Mount Warrigal
Ms Roslyn Loxley	of	Mount Warrigal
Mr Pat McTiernan	of	Oak Flats
Mrs June Sheedy	of	Oak Flats
Mrs Sandra Ann Williams	of	Oak Flats
Mr Fred Dalton	of	Shellharbour
Mr Maurice Joseph O'Dwyer	of	Shellharbour
Mrs Joan Byng	of	Warilla
Mr Donald Albert Lever	formerly of	Warilla
Mr Raymond John McDougall	of	Warilla

The Mayor acknowledged the passing of Mr Raymond McDougall and extended her condolences to the family.

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

8. Mayoral Statements / Reports / Presentations

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

- 12/10/17 Shellharbour Bikeabout Presentation
Southern Youth and Family Services - Youth and Family Awards
Event
- 14/10/17 Councillor - Bus Tour of Shellharbour City
- 15/10/17 Warilla Barrack Point SLSC - Christening of the new boat
"Bluey"
- 17/10/17 JETGO Flight Experience - Illawarra Regional Airport
- 18/10/17 Keith Barnes Park - Official opening of new play equipment
- 30/10/17 Jetgo inaugural flight to Melbourne

The Mayor thanked Councillor Marsh for attending events on her behalf whilst she was on leave.

9. Mayoral Minutes

Nil

10. Councillors' Statements / Reports

Councillor Marsh outlined her attendance at the opening of the new SES Operations Centre and presentation of awards to Shellharbour City Unit Volunteer Members.

11. Reports

Note: The Addresses to Council Forum was held prior to the Council Meeting from 4.30pm to 5.30pm.

Agenda Item No & Title	Page Ref	Name
11.3.3 Shellharbour Surf Life Saving Club – planning proposal to reclassify land from community to operational and permit a function centre – Lot 1 DP 211127, Part of Lot 5 DP 218551	47	Tracey Freeman

260 RESOLVED: Murray/Marsh

That Standing Orders be suspended in order for Item 11.3.3, the subject of Addresses to Council, to be considered here in the agenda.

CARRIED UNANIMOUSLY

11.3 Community and Customers Directorate

11.3.3 Shellharbour Surf Life Saving Club - planning proposal to reclassify land from community to operational and permit a function centre - Lot 1 DP 211127, Part of Lot 5 DP 218551 (10954526)

Note: Councillor Cattell declared a non-pecuniary interest in Item 11.3.3 and remained in the Chamber, participated in the debate and vote on this item.

261 RESOLVED: Murray/Marsh

That:

1. Council prepare a Planning Proposal (No 0005/2016) to amend Shellharbour Local Environmental Plan 2013 to allow a function centre as an additional permitted use and reclassify the land from community to operational and incorporate the proposed zoning and planning controls in Attachments 2.
2. Council authorise the General Manager to submit Shellharbour Local Environmental Planning Proposal No 0005/2016 to NSW Planning & Environment in accordance with section 56 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.

3. Council delegate to the General Manager authority to make minor mapping and Local Environmental Plan instrument changes to Shellharbour Local Environmental Plan 2013 Planning Proposal No 0005/2016 if and as required by the Department of Planning & Environment's LEP Review Panel and gateway determination.
4. Council and Council staff not use the plan-making delegations from the Minister for Planning on this Planning Proposal.
5. Shellharbour Local Environmental Plan 2013 Planning Proposal No 0005/2016 be publicly exhibited in accordance with the gateway determination.
6. A public hearing be held into the proposed reclassification no less than 3 weeks after any public exhibition.
7. After the public exhibition period has closed and public hearing held, a report be submitted to Council for consideration detailing the outcomes and with further recommendations regarding adoption.

CARRIED UNANIMOUSLY

262 RESOLVED: Murray/Marsh

That Standing Orders be resumed.

CARRIED UNANIMOUSLY

11.1 General Manager

11.1.1 2016/17 Annual Report and Annual Financial Statements (10954531)

A presentation by Chris Clayton of the NSW Audit Office was given to Council in relation to the Annual Financial Statements.

263 RESOLVED: Murray/Cattell

Council adopt the 2016-17 Annual Report which includes the:

1. Audited Financial Statements for the year ended 30 June 2017.
2. State of the Environment Report 2011-2017.
3. End of Term Report 2011-2017.

CARRIED UNANIMOUSLY

11.2 Council Sustainability Directorate

11.2.1 Aero V Australia Pty Limited Assignment and Transfer of the Lease of Lot 4 DP 1092398 Illawarra Regional Airport, Albion Park Rail to NSW Air Flight Training Pty Limited (10954352)

264 RESOLVED: Murray/Marsh

That:

1. Council consent to the assignment and transfer of the lease for the hangar and land located at Lot 4 DP 1092398 Airport Road, Albion Park Rail, Illawarra Regional Airport, from Aero V Australia Pty Limited (Aero V) (ACN 064 575 588) to NSW Air Flight Training Pty Limited (NSW Air Flight training) (ACN 612 451 537) and William Joseph Quintal and Alexander Collin Brown as Guarantors.
2. The Mayor and General Manager or his nominated delegate be authorised to execute the documentation related to this lease assignment and transfer, under Council seal.

CARRIED UNANIMOUSLY

11.2.2 Monthly Investment Report - September 2017 (10954423)

MOTION: Murray/Cattell

That Council receive and note the attached Investment Portfolio report as at 30 September 2017.

Following the Mayor's comments, Councillor Marsh provided a personal explanation on her previous comments during debate on this item.

265 The MOTION on being PUT to the Meeting was CARRIED UNANIMOUSLY

11.3 Community and Customers Directorate

11.3.1 Shellharbour Local Environmental Plan 2013 Planning Proposal No. 0003/2016 - Lot 2, DP 1144885, 1 Piper Road, Dunmore - Shellharbour Anglican College Site - Deferred Land (10952596)

266 RESOLVED: Marsh/Murray

That Council:

1. Adopt the following amendments to Shellharbour Local Environmental Plan 2013 for Lot 2 DP 1144885, 1 Piper Road Dunmore, for the purpose of sending the amendments to the office of the NSW Parliamentary Counsel under section 59(1) of the Environmental Planning & Assessment Act 1979, subject to the maps being finalised in the Standard Instrument format:
 - a. Amend Shellharbour LEP 2013 Land Zoning Map in accordance with Attachment 4
 - b. Amend Shellharbour LEP 2013 Floor Space Ratio Map in accordance with Attachment 5
 - c. Amend Shellharbour LEP 2013 Land Application Map in accordance with Attachment 6.
2. Delegate the General Manager authority to send the Planning Proposal to the office of the NSW Parliamentary Counsel in accordance with section 59(1) of the *Environmental Planning & Assessment Act 1979* to draft the legal instrument that will give effect to this Planning Proposal.
3. Delegate to the General Manager the authority to make minor mapping and Local Environmental Plan instrument changes if required by the office of the NSW Parliamentary Council.
4. Require a report be submitted to Council on the outcomes of the request to the office of the NSW Parliamentary Counsel and for final consideration of Planning Proposal No. 0003/2016.

CARRIED UNANIMOUSLY

11.3.2 Lake Illawarra Estuary Management Committee Update Terms of Reference and extension of current committee members (10954029)

267 RESOLVED: Murray/Petreski

That Council:

1. Endorse the updated Terms of Reference for the Lake Illawarra Estuary Management Committee to include two Aboriginal community representatives and update references to legislation.
2. Endorse the extension of the current membership of the Lake Illawarra Estuary Management Committee for a further 12 months.

CARRIED UNANIMOUSLY

11.3.3 Shellharbour Surf Life Saving Club - planning proposal to reclassify land from community to operational and permit a function centre - Lot 1 DP 211127, Part of Lot 5 DP 218551 (10954526)

This item was dealt with earlier in the agenda as it was the subject of Addresses to Council prior to the meeting (See Resolution No.261).

11.3.4 Renewal of Alcohol-Free Zones and Prohibited Zones (10954818)

268 RESOLVED: Marsh/Petreski

1. That Council endorse the proposed renewal of Alcohol Free and Prohibited Zones to be placed on public exhibition for a period of 30 days calling for submissions.
2. 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 adoption.
3. That if there are no relevant submissions received as a result of the public exhibition and there are no substantial post public exhibition changes proposed for any other reasons, Council adopt the proposed renewal of Alcohol Free and Prohibited Zones as attached to this report.

CARRIED UNANIMOUSLY

11.4 Amenity and Assets Directorate

11.4.1 Recycled Material (10954539)

269 RESOLVED: Moran/Murray

That Council receive and note the report.

CARRIED UNANIMOUSLY

12. Committee Recommendations

12.1 Recommendations from the Traffic Committee Meeting held 4 October 2017 recommended for adoption.

270 RESOLVED: Marsh/Moran

That the Recommendations from the Traffic Committee Meeting held 4 October 2017 be adopted.

CARRIED UNANIMOUSLY

13. Items for Information

Nil

14. Notices of Rescission/Alteration Motions

Nil

15. Notices of Motion

15.1 Notice of Motion submitted by Cr Kellie Marsh: Airport Terminal Building (10949642)

271 RESOLVED: Marsh/Moran

That Council officers incorporate into the permanent airport terminal building design provision for retail shops and pop-up retail kiosk spaces that will be commercially viable which will complement the various services provided at the airport.'

CARRIED UNANIMOUSLY

15.2 Notice of Motion submitted by Cr Kellie Marsh: 2017 NSW Local Government Conference (10954666)

Councillor Marsh formally withdrew this item from the Agenda.

15.3 Notice of Motion submitted by Mayor Cr Marianne Saliba: Proposed Motion to 2017 NSW Local Government Conference (10955845)

Councillor Moran asked whether the rate peg was tied to Local Government Cost Index (LGCI).

The General Manager took the Question on Notice.

272 RESOLVED: Saliba/Murray

That the following Motion be submitted to the Local Government Conference being held on 2-4 December 2017:

That the NSW Government call upon the Independent Pricing and Regulatory Tribunal (IPART) and request consideration be given to aligning the rate peg with the CPI rather than the Local Government Cost Index (LGCI).

CARRIED UNANIMOUSLY

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

Nil

17. Urgent Business

Nil

18. Committee of the Whole in Closed Session (Closed to the Public): Adjournment

The Mayor asked whether anyone in the public gallery wish to speak on the reasons why Items 6.1 Tender 2017/50 - Construction of Cell 5B and 6.2 Tender 2017/76 - Shellharbour Skate Park Design and Construct should not be held in Confidential Session (Closed to the Public). No members of the public expressed an interest in addressing Council.

273 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 adjourned for a five-minute recess.

CARRIED UNANIMOUSLY

Meeting adjourned at 7.36pm

Meeting resumed at 8.14pm

19. Committee of the Whole in Closed Session: 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.

6.1 Tender 2017/50 - Construction of Cell 5B (10954424)

COMMITTEE RECOMMENDATION:

1. That Council decline to accept any tender in accordance with Clause 178(1)(b) of the *Local Government (General) Regulation 2005*.
2. That Council invite fresh tenders for the proposed contract Request for Tender 2017/50 - Construction of Cell 5B, based on different details, in accordance with Clause 178(3)(b) of the *Local Government (General) Regulation 2005*.

6.2 Tender 2017/76 - Shellharbour Skate Park Design and Construct (10954534)

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 2017/76) with VGF Skate Parks Pty Ltd for the amount of \$623,319 in accordance with Tender Document 2017/76.
2. That the General Manager, or his nominated delegate, be authorised to sign the Letter of Award and execute the contract and associated document on behalf of Shellharbour City Council.

274 RESOLVED: Petreski/Murray

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

CARRIED UNANIMOUSLY

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

Nil

The Mayor thanked Councillors and the former Council for their support and their commitment to the Motion to save Shellharbour Hospital from privatisation. She also thanked staff for their assistance in preparing the banner and stickers for the campaign.

Meeting closed 8.20pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 21 November 2017.

General Manager

Chairperson