

**Minutes of the Ordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 30 April 2019 commencing at 6.31 pm**

Present

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

In attendance

General Manager	C McIntyre
A/ Director Council Sustainability	M Chiodo
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 Asset Strategy	W Peterson
Group Manager City Development	G Meredith
Group Manager City Planning	G Hoynes
Group Manager Community Connections	K Baget-Juleff
A/Group Manager Design	R Crowhurst
Manager Business & Investment	T James
Manager Property Services	D Flanagan
Manager Technical Services	A De Clouett
Team Leader Children & Youth Services	T McColl
Media Officer	K Wells
Governance Manager	R Kennedy
Public Information Officer	S Stewart
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

Ordinary Council Meeting

Nil.

Committee of the Whole Council Meeting

Nil.

3. Leave of Absence

Councillor Cattell formally requested leave of absence from 3 May to 10 June 2019.

50 RESOLVED: Murray/Petreski

That the leave of absence tendered by Councillor Cattell for the period from 3 May to 10 June 2019 be formally received and noted.

CARRIED UNANIMOUSLY

4. Confirmation of Minutes

4.1 Ordinary Council Meeting 9 April 2019

51 RESOVLED: Hamilton/Murray

That the Minutes of the Ordinary Council Meeting held on 9 April 2019 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

4.2 Committee of the Whole (Confidential) Meeting 9 April 2019

52 RESOLVED: Murray/Petreski

That the Minutes of the Committee of the Whole (Confidential) Meeting held on 9 April 2019 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

5. Declarations of Interest

Councillor Marsh: Item 11.3.1 Request for Financial Assistance Fourth Quarter Allocation 2018/19

Nature of Interest: Councillor Marsh declared a non-pecuniary interest in Item 11.3.1 as her child attends Warilla High School.

Councillor Marsh: Item 11.3.3 Shellharbour City Youth Council

Nature of Interest: Councillor Marsh declared a non-pecuniary interest in Item 11.3.3 as her son is on the Youth Council.

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

6.1 Illawarra Regional Airport - Agreement and associated matters (11206959)

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

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

This report is confidential as it relates to current legal proceedings and negotiations and cannot be discussed in an open meeting and is not in the public interest at this stage.

Declassification of this Report

Declassification of this report may only be considered at the conclusion of any formal agreement term in accordance with the Government Information Public Access Act (GIPA Act).

7. Condolences

The Mayor acknowledged the passing of Mr Tony Papac and extended her condolences to his wife Glenda and his three sons.

She also acknowledged the passing of Mrs Nell Hogan and extended Council's condolences to her family.

Councillor Petreski acknowledged the passing of Lidia Protolipac and extended his condolences to her husband and family. The Mayor also acknowledged the passing of Lidia, who was a former staff member of Council and stated that Lidia will be missed dearly by the staff. She also extended her condolences to Lidia's family.

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

Mrs Eliza Nellie Hogan	of	Albion Park
Mr Barry Leonard Long	of	Albion Park
Mrs Merle McCauley	formerly of	Albion Park
Mr Ronal White	of	Albion Park
Mrs Shirley Patricia Summers	of	Albion Park Rail
Mrs Margaret McCue	of	Barrack Point
Mr Sam Farrugia	of	Flinders
Mr Christopher Phillips	of	Flinders
Mrs Pamela Madge Sloan	of	Lake Illawarra
Mr Rodney Terrence Burchell	of	Oak Flats
Mr Phillip Ramsay	formerly of	Oak Flats
Mr Peter Temple	of	Oak Flats
Mr Ross Temple	of	Oak Flats
Mrs Pauline Ann Potonides	of	Shell Cove
Mrs Lidia Protolipac	of	Shellharbour
Mr Paul Speelman	of	Shellharbour
Mr Kelvin Scott	formerly of	Warilla
Mr Robert Bruce Simpson	of	Warilla

53 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:

- 10/4/19 Eddi Woo Author Talk
- 12/4/19 LGNSW Board Meeting
- 12/4/19 Youth Week Art Exhibition Opening Night
- 15/4/19 CivicRisk West Board Meeting
- 16/4/19 Housing Trust's Flinders Development Sod Turning
- 23/4/19 Attended her own Graduation Ceremony at Wollongong University.
- 25/4/19 ANZAC Day Services
 - Albion Park RSL Sub Branch Dawn Service
 - Warilla RSL Dawn Service
 - Shellharbour City Council Commemoration Service
 - Warilla Bowls & Recreation Club Service

The Mayor thanked Councillor Hamilton for representing her at the Oak Flats Bowling Club Anzac Service and the Councillors who attended the Anzac Services in the City.

9. Mayoral Minutes

Nil.

10. Councillors' Statements / Reports

Councillor Marsh outlined her attendance at the recent Youth Markets and congratulated the youth in our city, the Youth Council and council staff for their participation and attendance at the markets.

11. Reports

11.1 General Manager

11.1.1 Draft Code of Meeting Practice based on the Model Code of Meeting Practice for Local Councils in NSW (11203891)

MOTION: Murray/Petreski

SHELLHARBOUR CITY COUNCIL

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That:

1. Council endorse the draft amended Code of Meeting Practice to be placed on public exhibition for a period of 42 days calling for submissions.
2. if any relevant submissions are received as a result of public exhibition, or if there are substantial post public exhibition changes proposed for any other reasons, a report be submitted to Council for consideration detailing the public exhibition outcomes and with further recommendations regarding adoption.
3. if there are no relevant submissions received as a result of the public exhibition, or there are no substantial post public exhibition changes proposed for any other reasons, Council adopt the draft amended Code of Meeting Practice as attached to this report.

Councillor Moran provided a personal explanation in relation to his comments during debate in relation to the pre council meeting briefing.

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

That the original Motion as printed in the business paper be adopted with an amendment to page 21 of the draft Code of Meeting Practice, clause 8.2 The general order of business for an ordinary meeting of the council, being that point 6 be moved down to point 17 and that points 7-17 be moved up one in the order.

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

That the proposed recommendation remain exactly the same and a further recommendation point 4 be added as follows:

4. That in part 3.1 of the Draft Code of Meeting Practice the committees all be renamed to include the word 'Advisory'.

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

That the recommendation as printed in the business paper remain the same with the addition of a further recommendation point 4 as follows:

4. That Clause 10.10 of the draft Code of Meeting Practice include a second sentence to read as follows:

‘Once debate has started the mover and seconder cannot withdraw their moving and seconding’.

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

That the recommendation as printed in the business paper remain the same with the addition of a further recommendation point 4 as follows:

4. That Clause 10.10 of the draft Code of Meeting Practice include the following at the end of the clause:

‘(subject to clause 10.16)’.

54 The MOTION on being PUT to the Meeting was CARRIED: 5/2

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

11.2 Council Sustainability Directorate

11.2.1 Update on Proposed Road Closure - Road Reserve between Girraween Avenue and Beaton Street, Lake Illawarra (11204371)

55 RESOLVED: Murray/Marsh

That Council:

1. Approve the closure of the section of Public Road between Girraween Avenue and Beaton Street Lake Illawarra. On closure the land is to be classified as Operational Land and be offered for disposal to the adjoining land owners being the owners of 26 & 28 Girraween Avenue and 23 & 25 Beaton Street, Lake Illawarra, with costs to be shared between adjoining land owners according to their own arrangements. The adjoining land owners are also required to meet all associated costs including advertisement, legal, survey plan preparation and registration
2. Approve the Mayor and General Manager, or his nominated delegate, to be authorised to sign any documentation, including the fixing of Council Seal, associated with the closure and the disposal of road reserve between Girraween Avenue and Beaton Street, Lake Illawarra.

3. Approve the proceeds from the sale of the land be allocated to the Tripoli Way Extension, Albion Park Rail Bypass Project.

CARRIED UNANIMOUSLY

11.2.2 Impacts on Lot 40 DP 805748, Albion Park Rail - Connecting to adjoining Rail Corporation Land (11118935)

56 RESOLVED: Murray/Hamilton

That Council:

1. Authorise the General Manager or his nominated delegate to undertake negotiations with Rail Corp to purchase Lot 40 DP 805748 from Council. These negotiations should include highlighting the heritage significance of the site, no formal access to the Rail Corp land and the statutory curtilage as per Shellharbour Local Environmental Plan 2013.
2. Require a further report on the outcome of these negotiations to Council.

CARRIED UNANIMOUSLY

11.2.3 Proposed Licence Agreement - Civic Square Cafe & Catering Opportunities (11200181)

57 RESOLVED: Murray/Cattell

That:

1. Council rescind the following resolution from 8 August 2017 Council Meeting:
That:
 1. Council enter into a Licence Agreement with Mr Arthur Papageorge trading as Artsan Pty Ltd for a period of five years with two five year options to operate the café at the Shellharbour Civic Centre on an annual rental for the first five years.
 2. On each year anniversary of the commencement date Consumer Price Index (CPI) is to apply and having a market review applied prior to the anniversary of the commencement date of the fifth and tenth year.
 5. The Mayor and General Manager, or his nominated delegate be authorised to sign any documentation associated with the Licence Agreement under Council Seal.

2. The General Manager or his nominated delegate be authorised to enter into negotiations with any person (whether or not that person was a tenderer) with a view to entering into a licence agreement in relation to the operation of the Civic Square Café and catering opportunities.

CARRIED UNANIMOUSLY

11.2.4 Monthly Investment Report - March 2019 (11202903)

Councillor Moran asked what the fees for the services provided by Imperium, Council's investment advisors, amounted to. The General Manager took the Question on Notice.

58 RESOLVED: Hamilton/Cattell

That Council receive and note the attached Investment Portfolio report as at 31 March 2019.

CARRIED UNANIMOUSLY

11.2.5 Growing Local Economies Fund (11203215)

Councillor Moran referred to page 214 of the business paper, second paragraph above financial/resources implication and requested clarification and an assurance that there is not going to be 'a knock on affect' where projects that were originally identified to be undertaken in the current financial year which will now be 'bumped' to 2020 will not be bumped to later years. The Acting Director Council Sustainability took the Question on Notice.

59 RESOLVED: Murray/Petreski

That Council receive and note the information in this report relating to Council's co-contribution to the grant funds received from the NSW Government's Growing Local Economies Fund to undertake upgrade works at the Illawarra Regional Airport.

CARRIED UNANIMOUSLY

11.3 Community and Customers Directorate

11.3.1 Requests for Financial Assistance - Fourth Quarter Allocation 2018/19 (11203890)

Note: Councillor Marsh declared a non-pecuniary interest for Item 11.3.1 and remained in the Chamber during debate and voting on the matter.

60 RESOLVED: Murray/Hamilton

That Council:

1. Provide financial assistance from the miscellaneous donations budget totalling \$5,040.00 to the following groups:

St Vincent de Paul Society – Shellharbour City Conference	500
Warilla High School – shipping container for year 11 Skills for Work and Vocational Pathways	\$2,500
Shellharbour Swans Junior Australian Football Club	\$500
Albion Park Youth and Community Care Inc – healthy eating program	\$500
Albion Park Youth and Community Care Inc – Breaky Club	\$500
Shellharbour Tri Club	\$540

2. That any remaining funds of \$2948.50 be carried forward to the 2019/2020 budget.

CARRIED UNANIMOUSLY

11.3.2 Sponsorship Applications - Fourth Allocation 2018/19 (11203964)

61 RESOLVED: Moran/Marsh

That Council:

1. Provide sponsorship to the following events from the sponsorship budget totalling \$22,000:

KidsFest Shellharbour 2019 'People Play Nature Nurture'	\$5,000
Sculptures at Killalea – In Kind and monetary support	\$7,000
Department of Education – Southern Stars	\$5,000
Roller Hawks – Cluster Round Tournament	\$5,000

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

3. That the remaining funds of \$2,999 from the 2018/19 Event Sponsorship budget be carried forward to the 2019/20 financial year budget.

CARRIED UNANIMOUSLY

11.3.3 Shellharbour City Youth Council (11204085)

Note: Councillor Marsh declared a non-pecuniary interest for Item 11.3.3 and remained in the Chamber during debate and voting on the matter.

62 RESOLVED: Cattell/Moran

That Council:

1. Receive and note the report on the Shellharbour City Youth Council;
2. Endorse the newly developed Terms of Reference (Attachment 1), supplementary to the original resolution of Council;
3. Endorse that new Shellharbour City Youth Council members will be called for, in line with the Terms of Reference.

CARRIED UNANIMOUSLY

11.4 Amenity and Assets Directorate

11.4.1 Public Exhibition of the Draft Lake Illawarra, Mt Warrigal and Oak Flats Flood Study (11202896)

63 RESOLVED: Moran/Murray

That Council:

1. Endorse the draft Lake Illawarra, Mt Warrigal & Oak Flats Flood Study to be placed on public exhibition for a period of 28 days calling for submissions.
2. 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 adoption.
3. Note 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 Lake Illawarra, Mt Warrigal & Oak Flats Flood Study as attached (under separate cover) to this report.

CARRIED UNANIMOUSLY

11.4.2 Tender 2018/45 Skiway Park Promenade Renewal (11202897)

64 RESOLVED: Murray/Moran

That Council:

1. In accordance with Clause 178 of the *Local Government (General) Regulation (2005)*, Council accept the tender offer for Contract 2018/52 from Tender "A" for the Skiway Park Promenade Renewal Works.
2. Authorise the General Manager or his delegate to sign the Letter of Award and execute the contract, variations and associated documents.
3. In accordance with the Government Information (Public Access) Act 2009 that the name of the successful contractor and amount payable under the contract be added to the contracts register.

CARRIED UNANIMOUSLY

Business Arising

65 RESOLVED: Moran/Murray

That Council note the tender 2018/45 Skiway Park Promenade Renewal is accepted from GPM Constructions for the amount of \$894,157 excluding GST.

CARRIED UNANIMOUSLY

11.4.3 Tender 2019/01 Construction of the Croome Road to Albion Park Station Shared Use Path (11202898)

66 RESOLVED: Murray/Marsh

That Council:

1. In accordance with Clause 178 of the *Local Government (General) Regulation (2005)*, Council accept the tender offer for the contract 2019/01 from Tender 'A' for the construction of the Croome Road to Albion Park Station Shared Use Path.
2. Authorise the General Manager or his delegate to sign the Letter of Award and execute the contract, variations and associated documents.

3. In accordance with the Government Information (Public Access) Act 2009 that the name of the successful contractor and amount payable under the contract be added to the contracts register.

CARRIED UNANIMOUSLY

Business Arising

67 RESOLVED: Moran/Marsh

That Council note the tender 2019/01 Construction of the Croome Road to Albion Park Station Shared Use Path is accepted from Cleary Bros (Bombo) Pty Ltd for the amount of \$527,041 excluding GST.

CARRIED UNANIMOUSLY

11.4.4 Additional Road Access to Shell Cove Subdivision (11202901)

MOTION: Murray/Marsh

1. That Council receive and note this report.

Councillor Petreski proposed the following addendum to the Motion, which was accepted by the Mover and the Seconder:

2. That Council consider this report with any further development of the land adjacent to the Links.

During Councillor Petreski's debate, Councillor Moran MOVED a POINT of ORDER that Councillor Petreski should only discuss the addendum if the Mover doesn't accept it. The Mayor accepted the POINT OF ORDER.

68 RESOLVED: Murray/Marsh

1. That Council receive and note this report.
2. That Council consider this report with any further development of the land adjacent to the Links.

CARRIED UNANIMOUSLY

12. Committee Recommendations

12.1 Recommendations from the Traffic Committee Meeting held 3 April 2019 recommended for adoption.

69 RESOLVED: Marsh/Hamilton

That the Recommendations from the Traffic Committee Meeting held 3 April 2019 be adopted.

CARRIED UNANIMOUSLY

12.1 Recommendations from the Australia Day Committee Meeting held 3 April 2019 recommended for adoption.

70 RESOLVED: Petreski/Cattell

That the Recommendations from the Australia Day Committee Meeting held 3 April 2019 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: Electronic Community Notice Board, Shellharbour Civic Centre (11205681)

71 RESOLVED: Marsh/Moran

Council officers prepare a report on the cost and viability of installing a variable message electronic community notice board at the front of the Civic Centre. The report should include at least, information on sizing options, location options and a discussion on any possibility for sign mobility.

CARRIED UNANIMOUSLY

15.2 Notice of Motion submitted by Cr Peter Moran: Establishment of an art prize (11206312)

MOTION: Moran/Saliba

That:

1. Council Officers prepare a report on the establishment of an art prize.
2. The report includes, but is not limited to the following: timing and frequency of the award; curatorial model; exhibition location; judging method; entrant requirements and artwork mediums; award categories and prize money and cost and funding models.

At the end of debate on this item, Councillor Moran stated that he wished to withdraw the Motion. The Mayor advised that she would not accept the withdrawal of Councillor Moran moving the Motion, as debate was finished and the Motion was about to be PUT.

Councillor Moran MOVED dissent from the Chair's ruling.

MOTION: Moran

That the Mayor's ruling be dissented from.

The MOTION OF DISSENT on being PUT to the Meeting was LOST 2/5

FOR VOTE - Cr Marsh, Cr Moran

AGAINST VOTE - Cr Cattell, Cr Hamilton, Cr Murray, Cr Petreski, Cr Saliba

72 RESOLVED: Moran/Saliba

That:

1. Council Officers prepare a report on the establishment of an art prize.
2. The report includes, but is not limited to the following: timing and frequency of the award; curatorial model; exhibition location; judging method; entrant requirements and artwork mediums; award categories and prize money and cost and funding models.

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 Item 6.1 Illawarra Regional Airport – Agreement and associated matters should not be held in Confidential Session (Closed to the Public). No members of the gallery expressed an interest in addressing Council.

73 RESOLVED: Marsh/Petreski

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) & (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 UNANIMOUSLY

Meeting adjourned 8.03pm

Meeting resumed at 8.27pm

**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 (Confidential) session were read to the Meeting by the General Manager.

COMMITTEE RECOMMENDATION:

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That Council adopt the "Proposed Committee Recommendation" based on the background information and confidential memo relating to this report as the Committee Recommendation for this matter.

74 RESOLVED: Murray/Marsh

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

CARRIED UNNANIMOUSLY

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

Nil.

Meeting closed 8.28 pm