

**Minutes of the Ordinary Council Meeting
of Shellharbour City Council
held in the Council Chambers,
Council Administration Centre,
Shellharbour City Centre
on Tuesday 18 April 2023 commencing at 6.30pm**

Present

Mayor	C Homer
Deputy Mayor	K Marsh
Councillor	J Davey
Councillor	M Duffy-Moon (part)
Councillor	C Gow
Councillor	J Graf
Councillor	M Hamilton (part)
Councillor	R Petreski (part)
Councillor	L Stefanovski (part)

In attendance

Chief Executive Officer	M Archer
Director Council Sustainability	S Bridgement
Director Community and Customers	M Boxall
Director Amenity and Assets	B Stewart
Executive Manager / Public Officer	F Lepouras
Chief Financial Officer	K Buckman
Group Manager Organisational Performance	S Colefax
Group Manager City Planning	G Hoynes
Group Manager Built & Natural Environment	M Apolo
Group Manager Community Connections	K Baget-Juleff
Group Manager Asset Strategy	D Brilsky
Senior Transport Engineer	W Wilson
Acting Risk Manager	M Fitzgerald
Media and Communications Cadet	H Ekman
Executive Assistant – CEO	M Olsen
Executive Assistant–Councillor Support (Minute Taker)	J Frasca

1. Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Custodians of the Dharawal Country and recognise their continued connection to the land we meet on today. We pay our respects to Elders past, present and emerging and the contribution they make to the life of this city and this region and extend our recognition to their descendants who continue to live on country.

Webcasting Statement

Council broadcasts its meeting live to enhance the accessibility of Council Meetings to the broader Shellharbour City Community. Recordings can be downloaded from Council's website for later viewing. For further information on Privacy refer to Council's website.

Council accepts no responsibility for any defamatory or offensive statements. Conduct standards of behaviour during Council meetings and Public Address forums are available on Council's website.

Should Council need to consider confidential matters during a Council Meeting, the open Council meeting will adjourn, the online webstreaming will be paused and will resume when the open meeting has resumed.

Please ensure that mobile phones and other electronic devices are turned off or are in silent mode for the duration of the meeting.

In the event of an emergency, please evacuate the building using the nearest exit and follow the instructions given by the wardens. Do not use the lifts.

Statement of Ethical Obligations

The Mayor and Councillors are reminded of their Oath/Affirmation of office made under Section 233A of the *Local Government Act 1993* and their obligations under Council's Code of Conduct to disclose and appropriately manage conflicts of interest.

2. Apologies

Nil.

3. Leave of Absence

Nil.

4. Confirmation of Minutes

4.1 Council Meeting 21 March 2023

55 RESOLVED: Cr Marsh/Cr Hamilton

That the Minutes of the Ordinary Council Meeting held on 21 March 2023 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

5. Disclosures of Interest

Councillor Rob Petreski: Item: 10.4.2 Tender 2023/22 – Myimbarr Additional Sporting Field - Construction

Nature of Declaration: Councillor Petreski declared a Non-Significant Non-Pecuniary interest as all four of his children have played for Shellharbour Junior Football Club in the past and one child plays for Shellharbour Senior Football Club currently.

Action: Councillor Petreski will remain in the room and debate and vote on the matter.

6. Condolences

The Mayor acknowledged the passing of Councillor Maree Duffy-Moon's father Vincent Duffy and extended his sincere condolences to Councillor Duffy-Moon and her family.

Councillor Petreski and Councillor Marsh also acknowledged the passing of Vincent Duffy and extended their sincere condolences to Councillor Duffy-Moon and her family.

Council Marsh acknowledged the passing of John Rankin and extended her condolences to his family.

Council, since its last meeting, has learned with genuine regret of the passing of the following members of our community:

Maureen Violet Murphy	of	Albion Park
Patrick John O'Brien	of	Albion Park
Jack "John" Rankin	of	Albion Park

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Phillip Duck	of	Albion Park Rail
Tanya Dunwell	of	Albion Park Rail
Jean Heydon	of	Albion Park Rail
Cheryl (nee Bennett) Renshaw	of	Albion Park Rail
Jean Elizabeth Sawtell	of	Albion Park Rail
Sharon Tetley	formerly of	Albion Park Rail
Yula Boulton	of	Barrack Heights
Barbara Windebank	of	Barrack Heights
Carina Andrea (nee Ballesteros) De Brito	of	Blackbutt
Rocco Sagrestano	of	Blackbutt
Shirley Sault	of	Blackbutt
Josip 'Alojz' Akmacic	of	Flinders
Loca Kotevska	of	Flinders
Betty Joan Driscoll	of	Lake Illawarra
Max (Rodney) Lewis	of	Lake Illawarra
Vincent Duffy	of	Mount Warrigal
Jeffrey Galea	of	Mount Warrigal
Kenneth Charles Benoit	of	Oak Flats
Pamela Miriam Woodford	of	Oak Flats
Winsome Burrows	of	Shellharbour
Audrey Jean Dumbell	of	Shellharbour
Dacia Siles	of	Shellharbour
Barbara (formerly O'Connell) Vaughan	of	Warilla

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

7. Mayoral Statements / Reports / Presentations

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

- | | |
|----------|---|
| 24 March | • Warilla Wanderers FC Season Launch |
| 30 March | • Barnardos South Coast Children's Family Centre Open Day |
| 31 March | • Good Neighbour Awards |
| 3 April | • Launch of the Youth Art Exhibition |

- | | |
|----------|--|
| 13 April | • Community Safety Pop Up Meeting |
| 18 April | • Media Interviews – Play space opening |
| | • Official opening of the Aboriginal Playspace – Yirran Muru |

8. Mayoral Minutes

Nil.

9. Councillors' Statements / Reports

Councillor Marsh congratulated Delta Amidzovski of Albion Park who broke the Australian under 18s record in the 100 metre hurdles of Olympic champion Sally Pearson at the recent Australian Junior Athletics Championship in Brisbane.

10. Reports

57 RESOLVED: Cr Duffy-Moon/Cr Davey

That standing orders be suspended in order for Items 10.3.3 and 10.4.2, the subject of Addresses to Council, to be considered here in the agenda.

CARRIED UNANIMOUSLY

10.3.3 Consideration of Planning Proposal PP0003/2022 to amend the Shellharbour Local Environmental Plan 2013 for Lot 1 DP 549286, No. 400 Shellharbour Road and Lot 14 DP 716238, No. 2 Ocean Beach Drive Shellharbour (12035726)

58 RESOLVED: Cr Marsh/Cr Gow

That Council not support the preparation of Planning Proposal PP0003/2022 at Lot 1 DP 549286, No. 400 Shellharbour Road and Lot 14 DP 716238 No. 2 Ocean Beach Drive Shellharbour for the following reasons:

- a. The effect of the increased site specific zoning, height and floor space ratio proposed, would create a site with land use controls anomalous to and out of character with its surrounds;
- b. The proposal is inconsistent with Section 9.1 Directions under the *Environmental Planning and Assessment Act*;
- c. The proposal is inconsistent with the Shellharbour Local Housing Strategy;
- d. The proposal is inconsistent with the Shellharbour Employment Lands Study;

- e. The proposal is inconsistent with Council's Local Strategic Planning Statement;
- f. The proposal is inconsistent with Council's Community Strategic Plan 2022 – 2032; and
- g. The proposal is not supported by Sydney Water based on odour and visual amenity issues associated with its nearby Water Resource Recovery Facility.

CARRIED UNANIMOUSLY

10.4.2 Tender 2023/11 - Myimbarr Additional Sporting Field – Construction (12036780)

Note: Councillor Petreski declared a Non-Significant Non-Pecuniary Interest and remained in the room, debated and voted on the matter.

59 RESOLVED: Cr Petreski/Cr Graf

That:

1. In accordance with Clause 178 of the *Local Government (General) Regulation 2021 (NSW)*, Council accepts the tender offer for contract 2023/11 from Tenderer 'A' for the Myimbarr Additional Sporting Field for Stage 1 and accept Tenderer 'A' offer for stage 2, with the award of Stage 2 conditional on the allocation of budget and substantial completion of Stage 1 to required standards.
2. Council delegate to the Chief Executive Officer or their nominated delegate the authority to execute the contract 2023/11 and sign the letters of acceptance for all separable portions, variations and associated documents on behalf of Shellharbour City Council.
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 Council's contract register.

CARRIED UNANIMOUSLY

60 RESOLVED: Cr Marsh/Cr Davey

That Standing Orders be resumed.

CARRIED UNANIMOUSLY

10.1 Chief Executive Officer

10.1.1 Organisational Structure 2023 (12035195)

61 RESOLVED: Cr Marsh/Cr Davey

That Council:

1. Adopt the senior staff organisation structure as detailed in Attachment 1
2. Designate the following positions as Senior staff positions within the organisational structure of the Council, in accordance with Section 332 of the Local Government Act 1993:
 - Executive Director Business Enterprises
 - Executive Director Infrastructure Services
 - Executive Director Planning and Environment
 - Executive Director Corporate Services
 - Executive Director Community and Culture

CARRIED UNANIMOUSLY

10.1.2 Endorsement for Public Exhibition – Code of Meeting Practice (12031309)

62 RESOLVED: Cr Marsh/Cr Petreski

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 valid opposing submissions are received as a result of the public exhibition process, or substantial changes are recommended for any reason, a further report be provided to Council for consideration.
3. Council adopt the draft amended Code of Meeting Practice as attached to this report, if at the conclusion of the exhibition period no valid opposing submissions are received and there are no substantial post public exhibition changes proposed for any reason. Councillors will be informed of submissions and any post public exhibition changes for the proposal by memo.

This resolution is a policy position of Council.

CARRIED UNANIMOUSLY

10.1.3 Audit Risk and Improvement Committee (ARIC) - Chairpersons Report (12034997)

63 RESOLVED: Cr Davey/Cr Gow

That Council receive and note the report provided by the Independent Chairperson of Council's Audit Risk and Improvement Committee.

CARRIED UNANIMOUSLY

10.1.4 Audit Risk and Improvement Committee (ARIC) Terms of Reference (12037483)

64 RESOLVED: Cr Davey/Cr Graf

That Council adopt the Draft Audit Risk and Improvement Terms of Reference as attached to this report.

CARRIED UNANIMOUSLY

10.1.5 Public Exhibition of the Draft combined Delivery Program 2022-2026 and Operational Plan 2023-2024, Draft Long Term Financial Plan 2023-2033 and Draft Rates Policy (12038653)

65 RESOLVED: Cr Davey/Cr Gow

That Council:

1. Endorse for the purpose of exhibition for a period of 28 days the Draft combined Delivery Program 2022-2026 and Operational Plan 2023-2024 (including Draft Revenue Policy and Draft Fees and Charges), the Draft Long Term Financial Plan 2023-2033 and the Draft Rates Policy.
2. Invite financial institutions to provide loan borrowing quotations for amounts of \$2,507,000 (2022/23) and up to \$4,227,092 (2023/24) for capital expenditure associated with the Warilla Seawall project.
3. Delegation be granted to the Chief Executive Officer to accept the most advantageous interest rates once received and authorise the Mayor and Chief Executive Officer, or their nominated delegate, to execute any loan documents under Council Seal.

CARRIED UNANIMOUSLY

10.2 Council Sustainability Directorate

10.2.1 Monthly Investment Report – February 2023 (11993152)

66 RESOLVED: Cr Davey/Cr Marsh

That Council receive and note the Investment Portfolio report as at 28 February 2023.

CARRIED UNANIMOUSLY

10.3 Community and Customers Directorate

10.3.1 Draft Shellharbour Disability Access and Inclusion Plan 2023-2026: An Inclusive City (12034812)

67 RESOLVED: Cr Graf/Cr Hamilton

That:

1. Council endorse the Draft Shellharbour Disability Access and Inclusion Plan 2023-2026: An Inclusive City (Attachment 1) and Easy Read Version (Attachment 2) for the purposes of public exhibition.
2. The Draft Shellharbour Disability Access and Inclusion Plan 2023-2026: An Inclusive City and Easy Read Version be placed on public exhibition allowing for public submissions for a period of twenty-eight (28) days.
3. Following the close of the public exhibition period, if any valid opposing reasons are received, the Draft Shellharbour Disability Access and Inclusion Plan 2023-2026: An Inclusive City and Easy Read Version Plan, together with those public submissions, be reported back to Council for consideration.
4. A further report be presented to Council following the close of public exhibition period for consideration prior to adoption.

This resolution is a policy position of Council.

CARRIED UNANIMOUSLY

10.3.2 Options for the re-establishment of Breakfast by the Lake 2024 (12036166)

MOTION: Cr Davey/Cr Marsh

1. That Council proceed with Breakfast by the Lake to be held at Reddall Reserve on Australia Day 2024 capped at an upper limit of \$70,000 for the event to be funded from the annual events budget.
2. Breakfast by The Lake be included in the Council's annual Calendar of Events.
3. The event to commence 8am and finish at noon.
4. The event includes:
 - Mayoral Welcome
 - Welcome to Country
 - Live Music (suitable for the occasion)
 - Children's Entertainment
 - Market Stalls
5. Production/event management includes:
 - Stage
 - Audio & infrastructure
 - Temporary structures front of house back of house
 - Accessible and portable toilets
 - Temporary fencing
 - Secure car parking area
 - Security
 - Waste facilities
 - Substantial shading and seating
6. Community Groups/Sporting clubs to be invited to sell cooked BBQ breakfasts directly to the public - setting pricing at their discretion and retaining the profits.
7. Commercial Food and drink vendors be also be invited: e.g., coffee, ice cream, donuts etc. and pay standard council charges for such events

Following two councillors speaking in favour of the Motion and two councillors speaking against the Motion, Councillor Marsh MOVED that the MOTION be PUT.

68 RESOLVED: Cr Marsh

That the MOTION be PUT.

CARRIED 5/4

For Vote - Mayor Homer, Cr Marsh, Cr Gow, Cr Graf, Cr Davey

Against Vote - Cr Hamilton, Cr Duffy Moon, Cr Petreski, Cr Stefanovski

69 RESOLVED: Cr Davey/Cr Marsh

1. That Council proceed with Breakfast by the Lake to be held at Reddall Reserve on Australia Day 2024 capped at an upper limit of \$70,000 for the event to be funded from the annual events budget.
2. Breakfast by The Lake be included in the Council's annual Calendar of Events.
3. The event to commence 8am and finish at noon.
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6. Community Groups/Sporting clubs to be invited to sell cooked BBQ breakfasts directly to the public - setting pricing at their discretion and retaining the profits.
7. Commercial Food and drink vendors be also be invited: e.g., coffee, ice cream, donuts etc. and pay standard council charges for such events

CARRIED 5/4

For Vote - Mayor Homer, Cr Marsh, Cr Gow, Cr Graf, Cr Davey

Against Vote - Cr Hamilton, Cr Duffy Moon, Cr Petreski, Cr Stefanovski

Councillor Petreski moved the following Consequential Motion:

That this item be sent to the Australia Day Committee and the Aboriginal Advisory Committee for consultation and consideration before it is back to council for a final decision on this matter.

The Consequential Motion was not accepted by the Mayor as it sought to change the intent of the previous resolution just passed on item 10.3.2.

Councillor Petreski then Moved a MOTION of DISSENT from the Mayor's Ruling.

MOTION: Cr Petreski

That the Mayor's ruling be dissented from.

The MOTION ON being PUT to the Meeting was LOST 4/5

For Vote - Cr Hamilton, Cr Duffy Moon, Cr Petreski, Cr Stefanovski
Against Vote - Mayor Homer, Cr Marsh, Cr Gow, Cr Graf, Cr Davey

10.4 Amenity and Assets Directorate

10.4.1 Installation of High Pedestrian Activity Area Traffic Calming Devices – Warilla and Shellharbour (12035703)

Note: Councillors Petreski, Hamilton, Duffy-Moon and Stefanovski left the Chamber at 7.34pm.

70 RESOLVED: Cr Marsh/Cr Davey

That Council:

1. Note the acceptance of the NSW Government's funding offer for High Pedestrian Activity Area projects in Warilla and Shellharbour in the amount of:
 - a. \$360,000 from the Australian Government Blackspot 2022-2023 program (project P.0079859); and
 - b. \$180,000 from the 2022-2023 High Pedestrian Activity Area Speed Management Program (projects P.0080654 and P.0080655)
2. Allocate budget to the 2022-2023 and 2023-2024 financial years to deliver the High Pedestrian Activity Area projects in Warilla and Shellharbour in accordance with the table below:

Program	Project Number	2022-2023 Funding	2023-2024 Funding
Australian Government Blackspot 2022-2023	P.0079859	\$140,000	\$220,000
2022-2023 High Pedestrian Activity Area Speed Management Program	P.0080654	\$90,000	\$0
	P.0080655	\$90,000	\$0

3. In accordance with Section 55(3)(i) of the Local Government Act 1993, do not invite tenders for the 2022-2023 Warilla and Shellharbour High Pedestrian Activity Area projects as a satisfactory result would not be achieved due to the following extenuating circumstances:
 - a. Lack of market competition for the specialised products and service.
 - b. Recent efforts to seek offers for projects of a similar nature have failed to gain interest or achieve a timely outcome.
4. Delegate to the Chief Executive Officer or their nominated delegate the authority to undertake and finalise negotiations, sign the letters of acceptance and execute the contract, variations and associated documents on behalf of Shellharbour City Council.
5. In accordance with the Government Information (Public Access) Act 2009, the name of the successful contractor and amount payable under the contracts be added to the Contracts Register.

CARRIED UNANIMOUSLY

11. Committee Recommendations

11.1 Recommendations from the Disability Access and Inclusion Advisory Committee Meeting on 22 March 2023

71 RESOLVED: Cr Graf/Cr Marsh

That the Recommendations from the Disability Access and Inclusion Advisory Committee Meeting held 22 March 2023 be adopted.

CARRIED UNANIMOUSLY

12. Items for Information

12.1 Item for Information – Response to Question Taken on Notice submitted by Councillor Duffy-Moon: Your Ideas Our Actions Second Quarter Review of the Delivery Program / Operational Plan 2022-2023 (12035022)

12.2 Item for Information: Update of Strategic Developments at Shellharbour Airport (12040041)

12.3 Item for Information: Establishing Bike Skills and Pump Tracks (12041142)

The items for information were formally NOTED.

13. Notices of Rescission/Alteration Motions

Nil.

14. Notices of Motion

Nil.

15. Questions with Notice (must be submitted in writing)

Nil.

16. Urgent Business

Nil.

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

Nil.

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

Nil.

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

Nil.

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

Nil.

Meeting closed 7.38pm