

**Minutes of the Ordinary Council Meeting
of Shellharbour City Council
held in the Council Chambers,
Council Administration Centre,
Shellharbour City Centre
on Tuesday 13 December 2022 commencing at 6.30pm**

Present

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

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
Group Manager City Planning	G Hoynes
Shell Cove Executive Manager	W Peterson
Property Management Coordinator	L Wicks
Property Officer	A Celima
Media Officer	K Wells
Executive Assistant–Councillor Support (Minute Taker)	J Frasca
Executive Assistant – CEO	M Olsen

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.

SHELLHARBOUR CITY COUNCIL

Ordinary Council Meeting – 13 December 2022

4. Confirmation of Minutes

4.1 Council Meeting 29 November 2022

242 RESOLVED: Cr Stefanovski/Cr Hamilton

That the Minutes of the Ordinary Council Meeting held on 29 November 2022 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

5. Disclosures of Interest

Nil.

6. Condolences

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

Robert (Bob) Dodds	of	Albion Park
Ron 'Hawkey' Hawke	of	Albion Park
Julie Leigh 'Jules' Hedley	formerly of	Albion Park
Barbara Stankovic	of	Albion Park
Venda Markovska	of	Barrack Heights
Alie Johanna Martin	of	Barrack Heights
Cveta Velevska	of	Barrack Heights
Joan Geoghegan	of	Lake Illawarra
Allan Albert Hurrell	of	Lake Illawarra
Bruce Verdun Townsend	of	Shell Cove
Frances Adam	of	Warilla
Matthew Adam	of	Warilla
Dorothy Margaret "Dot" Armstrong	of	Warilla
Catherine Brewer	of	Warilla
Beverley June Cappetta	of	Warilla
Heather Gardner	of	Warilla
Peg Gimbert	formerly of	Warilla
Kay Lorraine Lamont	of	Warilla
Peca Stankovic	of	Warilla
Max William Stewart	of	Warilla

243 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:

3 December	<ul style="list-style-type: none">• Warilla Gorillas BBQ
5 December	<ul style="list-style-type: none">• Media opportunity – Merry Christmas Shellharbour
7 December	<ul style="list-style-type: none">• Media opportunity – Tafe Fitness & IAS• Albion Park High School – Community Service Awards
8 December	<ul style="list-style-type: none">• Calderwood Christian School – Beverley Whitfield and Community Service Awards• Shellharbour Anglican College – Senior School Presentation• Stella Maris Catholic School – Beverley Whitfield and Community Service Awards
9 December	<ul style="list-style-type: none">• Carols by Candlelight
12 December	<ul style="list-style-type: none">• Warilla Public School – Beverley Whitfield and Community Service Awards
13 December	<ul style="list-style-type: none">• Balarang Public School – Beverley Whitfield and Community Service Awards

8. Mayoral Minutes**8.1 Mayoral Minute: Mayors for the Voice to Parliament Public Statement**

244 RESOLVED: Mayor Homer

That Council receive and note this Mayoral Minute.

CARRIED UNANIMOUSLY

9. Councillors' Statements / Reports

Councillor Marsh outlined her attendance at Carols by Candlelight and thanked staff for their contribution to the event, which was well received by the community. She also thanked Councillor Stefanovski for representing her at Nazareth Catholic Primary School to present awards on behalf of Council.

Councillor Duffy-Moon advised that she attended a community event at the Albion Park Community Centre where she assisted in wrapping Christmas presents.

Councillor Stefanovski outlined his attendance at Nazareth Catholic Primary School where he presented the Beverley Whitfield and Community Service Awards on behalf of Council.

Councillor Stefanovski also advised that he attended a community event at the Warilla Community Centre for the presentation of awards and Christmas festivities.

Councillor Davey outlined his attendance at Mt Warrigal Public School where he presented the Beverley Whitfield and Community Service Awards on behalf of Council.

10. Reports

10.1 Chief Executive Officer

10.1.1 Christmas and New Year Closure of Council Operations 2022 – 2023 (11963397)

245 RESOLVED: Cr Graf/Cr Hamilton

That Council receive and note the report Christmas and New Year Closure of Council Operations 2022-2023.

CARRIED UNANIMOUSLY

10.1.2 Code of Conduct Complaint Statistics 2021–2022 (11975699)

246 RESOLVED: Cr Marsh/Cr Davey

That Council receive and note the Model Code of Conduct Complaints Statistics report for the period 1 September 2021 to 31 August 2022 as presented.

CARRIED UNANIMOUSLY

10.2 Council Sustainability Directorate

10.2.1 Proposed Licence Agreement to Oak Flats Swimming Club Incorporated - 15 Hope Street, Oak Flats being Part Lot 1 in DP 224750 (11974365)

247 RESOLVED: Cr Graf/Cr Gow

That:

1. Council endorse the licence agreement with Oak Flats Swimming Club Incorporated for use of swimming lanes at Oak Flats Swimming Pool located at the corner of Kingston and Hope Street, Oak Flats be placed on public exhibition pursuant to section 47A of the Local Government Act 1993 for a period of 28 days calling for submissions.
2. Provided there are no opposing submissions received during the public exhibition period, Council endorse a licence agreement with Oak Flats

Swimming Club Incorporated for use of swimming lanes (3 lanes in 50m pool and 2 lanes in 25m pool) at Oak Flats Swimming Pool for a period of three (3) years at a commencing rental of \$24,693 GST inclusive per annum with annual increases in accordance with Council's Fees & Charges.

3. If any opposing submissions are received as a result of the public notification process, a further report be submitted to Council for consideration detailing the public notification outcome and further recommendations.
4. The Mayor and Chief Executive Officer, or their nominated delegate, be authorised to sign all documentation, including affixing of the Council Seal associated with the licence agreement to Oak Flats Swimming Club Incorporated for use of Oak Flats Swimming Pool.

CARRIED UNANIMOUSLY

10.2.2 Creation of Easements over Lots 4, 9, 10, 11, 12 13, 14 and 15 DP 238804, Addison Street, Shellharbour (11974466)

248 RESOLVED: Cr Marsh/Cr Graf

That:

1. Council endorses the creation of an easement for right of access, underground cables, and maintenance over Lot 9, 10, 11, 12, 13, 14 and 15 DP 238804, Addison Street, Shellharbour.
2. Council endorses the creation of an easement for maintenance and access over Lot 4 DP 238804, to be placed on public exhibition pursuant to section 47 of the *Local Government Act 1993* for a period of 28 days calling for submissions.
3. Provided there are no opposing submissions received during the public exhibition period, Council grants an easement for maintenance and access over Lot 4 DP 238804, Addison Street, Shellharbour.
4. If any opposing submissions are received as a result of the public exhibition process, a further report be provided to Council for consideration.
5. Council approves \$250,000 GST exclusive as compensation for the creation of the easements encumbering part Lot 4, 9, 10, 11, 12, 13, 14 and 15 DP 238804, Addison Street, Shellharbour.

6. The Mayor and Chief Executive Officer, or their nominated delegate, be authorised to sign any documentation, including the affixing of the Council Seal associated with the creation of the easements over Lot 4, 9, 10, 11, 12, 13, 14 and 15 DP 238804, Addison Street, Shellharbour.

CARRIED UNANIMOUSLY

10.2.3 Creation of Easement over Lot 15 DP 238804, Addison Street, Shellharbour (11974351)

249 RESOLVED: Cr Marsh/Cr Duffy-Moon

That:

1. Council endorses the creation of an easement for right of access over Lot 15 DP 238804, Addison Street, Shellharbour.
2. Council approves \$47,000 GST exclusive as compensation for creation of the easements encumbering part Lot 15 DP 238804, Addison Street, Shellharbour.
3. The Mayor and Chief Executive Officer, or their nominated delegate, be authorised to sign any documentation, including the affixing of the Council Seal associated with the creation of the easements over Part Lot 15 DP 238804, Addison Street, Shellharbour.
4. That the \$47,000 (gst exclusive) received as compensation be allocated towards the Tripoli Way Bypass extension.

CARRIED 7/2

For vote - Mayor Homer, Cr Hamilton, Cr Marsh, Cr Duffy Moon, Cr Gow, Cr Graf, Cr Davey

Against Vote - Cr Petreski, Cr Stefanovski

10.2.4 Proposed New Lease – Illawarra Shoalhaven Local Health District - 119 Tongarra Road, Albion Park (11974479)

250 RESOLVED: Cr Duffy-Moon/Cr Stefanovski

That:

1. Council endorses a three-year lease agreement with Illawarra Shoalhaven Local Health District for occupation of Lot 119 DP 1137491, 119 Tongarra Road, Albion Park.
2. Council endorses that the annual market rental of \$37,000 (exclusive of GST) be reduced and staged in accordance with the table below.

Year	Percent Discount	Proposed Rent (Annual)
Year 1	75%	\$9,250.00
Year 2	50%	\$18,500.00
Year 3	25%	\$27,750.00

3. The Mayor and Chief Executive Officer, or their nominated delegate, be authorised to sign all documentation, including the affixing of the Council Seal associated with the lease agreement with Illawarra Shoalhaven Local Health District for occupation of Lot 119 DP 1137491, 119 Tongarra Road, Albion Park.

CARRIED UNANIMOUSLY

10.2.5 Shell Cove Subdivisions and Easements (11974328)

251 RESOLVED: Cr Marsh/Cr Hamilton

That the Mayor and the Chief Executive Officer, or their nominated delegate, be authorised to sign:

1. the Strata Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 3008 DP 1258172, and any documents associated with the sale (including the Transfers) of proposed lots 1 to 53 (Precinct C2 Vela Apartments), under Council Seal;
2. the Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 3002 DP 1258171, and any documents associated with the sale (including the Transfers) of proposed lots 3201 to 3207 (Precinct B2/C2 Stage 3002 Housing), under Council Seal;
3. the Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 3003 DP 1258171, and any documents associated with the sale (including the Transfers) of proposed lots 3301 to 3309 (Precinct B2/C2 Stage 3003 Housing), under Council Seal;
4. the Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 3004 DP 1258171, and any documents associated with the sale (including the Transfers) of proposed lots 3401 to 3407 (Precinct B2/C2 Stage 3004 Housing), under Council Seal;
5. the Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 3005 DP 1258171, and any documents associated with the sale (including the Transfers) of proposed lots 3501 to 3512 (Precinct B2/C2 Stage 3005 Housing), under Council Seal;
6. the Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 3009 DP 1258172, and any documents associated

with the sale (including the Transfers) of proposed lots 3901 to 3913 (Precinct B2/C2 Stage 3009 Housing), under Council Seal;

7. the Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 3010 DP 1258172, and any documents associated with the sale (including the Transfers) of proposed lots 3001 to 3008 (Precinct B2/C2 Stage 3010 Housing), under Council Seal;
8. the Subdivision Plan, 88B Instrument and any associated documents for the subdivision of Lot 3011 DP 1258172, and any documents associated with the sale (including the Transfers) of proposed lots 3101 to 3114 (Precinct B2/C2 Stage 3011 Housing), under Council Seal;
9. the Plan of Easements, 88B Instrument and any associated documents over Lot 4205 DP 1254978 that benefit Lot 4204 DP 1254978, Lot 4206 DP 1254978 and Lot 4023 DP 1254658 (Town Centre Easements), under Council Seal; and
10. the Subdivision Plans, 88B Instruments and any associated documents for the subdivisions of Lots 4204 and 4205 DP 1254978 (Town Centre Easements), under Council Seal.

CARRIED 8/1

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

Against Vote - Cr Graf

10.3 Community and Customers Directorate

10.3.1 Agritourism Planning Reforms and Proposed New Optional Local Environmental Plan Clauses (11974659)

252 RESOLVED: Cr Marsh/Cr Stefanovski

That Council:

1. Note the NSW Agritourism Reforms including the changes to the State Environmental Planning Policy (Exempt and Complying Development Codes) and NSW Standard Instrument LEP.
2. Authorise the Chief Executive Officer or their delegate to write to the Department of Planning and Environment advising that Council wishes to opt-in for the inclusion of the optional clauses (5.24 and 5.25) into Shellharbour LEP 2013.

CARRIED UNANIMOUSLY

**10.3.2 Shellharbour Local Environmental Plan 2013 Planning Proposal 1/2022 –
418 Princes Highway and 10 Colden Drive, Albion Park Rail (11974660)**

253 RESOLVED: Cr Marsh/Cr Gow

That Council:

1. Prepare Planning Proposal No 1/2022 to amend Shellharbour Local Environmental Plan 2013 in the following manner:
 - a. Amend Shellharbour LEP 2013 Land Zoning Map generally in accordance with Attachment 4b
 - b. Amend Shellharbour LEP 2013 Height of Building Map generally in accordance with Attachment 5b
 - c. Amend Shellharbour LEP 2013 Floor Space Ratio Map generally in accordance with Attachment 6b
 - d. Amend Shellharbour LEP 2013 Minimum Lot Size Map generally in accordance with Attachment 7b.
2. Authorise the Chief Executive Officer or their delegate to submit Shellharbour Local Environmental Plan 2013 Planning Proposal No 1/2022 to the NSW Department of Planning & Environment in accordance with section 3.34 of the *Environmental Planning & Assessment Act 1979* for review and gateway determination.
3. Delegate to the Chief Executive Officer or their delegate, authority to make minor mapping and Local Environmental Plan instrument changes to Shellharbour Local Environmental Plan 2013 Planning Proposal No 1/2022 if and as required by the NSW Department of Planning & Environment's gateway determination.
4. As part of its gateway submission, apply to the Department of Planning & Environment for Council to use its plan making related delegations, including making or not making the plan under section 3.36 of the *Environmental Planning and Assessment Act*, after any public exhibition of the draft plan.
5. Approve Shellharbour Local Environmental Plan 2013 Planning Proposal No 1/2022 to be publicly exhibited in accordance with the gateway determination.
6. Endorse a further report be provided to Council for consideration after the public exhibition period has closed, detailing the public exhibition outcomes and with further recommendations regarding adoption.

CARRIED UNANIMOUSLY

10.3.3 Opportunities for Oak Flats Youth and Family Recreation Facility (11974658)

254 RESOLVED: Cr Hamilton/Cr Davey

That Council:

1. Receive and note this report which addresses Council resolution of 7 June 2022, on the opportunities for a youth and/or family recreational facility within Oak Flats, to enhance the area and surrounding playground at Kingston Street and to increase the accessibility, usability and activation of the space; and
2. Resolve to prepare a master plan for the site, following preparation and adoption of the LGA wide Aquatics Review.

CARRIED UNANIMOUSLY

10.3.4 Adoption of Shellharbour City Community Gardens Strategy (11974848)

255 RESOLVED: Cr Duffy/Moon/Cr Stefanovski

That Council adopt the Shellharbour City Community Gardens Strategy.

CARRIED UNANIMOUSLY

10.4 Amenity and Assets Directorate

10.4.1 Delegations to the Chief Executive Officer over the Christmas Holiday Period 2022-2023 (11975441)

256 RESOLVED: Cr Marsh/Cr Stefanovski

That Council:

1. Delegate to the Chief Executive Officer the authority to accept, or otherwise, all tenders over \$500,000 (including GST) in value, excluding tenders that provide services currently provided by members of staff of the council, between 13 December 2022 and 7 February 2023.
2. Note that Clause 1(d) of the Council Policy Titled 'Delegations and Sub-Delegations to the Chief Executive Officer' would not apply during the period 13 December 2022 and 7 February 2023.

3. Receive a report for information providing the details of any tender accepted as a result of the recommendations of this report, should the temporary delegation be applied.

CARRIED UNANIMOUSLY

10.4.2 Waste Collection Services Contract 2013-22 (11975477)

257 RESOLVED: Cr Gow/Cr Stefanovski

That Council:

1. In accordance with s55(3)(i) of the *Local Government Act 1993* and due to extenuating circumstances relating to significant supply chain disruptions impacting waste collection service providers, that will impact on the ability to undertake a successful tender process, does not invite tenders for Waste Collection Services.
2. Delegate authority to the Chief Executive Officer to negotiate an extension to the current 2013/22 Collection Services Contract via Deed of Agreement for a period of up to two years (one year + one year).

CARRIED UNANIMOUSLY

11. Committee Recommendations

Nil.

12. Items for Information

Nil.

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.

The Mayor took this opportunity to thank his councillor colleagues, council staff and the community for their support during the year and wished them a Merry Christmas and happy New Year.

Meeting closed 7.41pm

Attachments:

1. 8.1 Mayoral Minute – Mayors for the Voice to Parliament Public Statement

Attachment 1

Subject 8.1 Mayoral Minute: Mayors for the Voice to Parliament Public Statement

To my fellow Councillors

Mayoral Minute

Summary

The purpose of this Mayoral Minute is to inform Councillors that I have signed the Mayors for the Voice to Parliament Public Statement. This statement endorses the Uluru Statement from the Heart and supports the constitutional recognition for Aboriginal and Torres Strait islander people through a Voice to Parliament.

Background

Mayors from across Australia were invited to put their name to a joint Statement of Mayors in support of the Uluru Statement from the Heart and the upcoming referendum on whether to constitutionally recognise Aboriginal and Torres Strait Islander people through a Voice to Parliament – see Attachment 1.

With the referendum only months away it is crucial that local government take a leadership role in helping to educate and inform our communities about the importance of the Uluru Statement and what the Voice to Parliament will mean for Australia.

This joint Statement can help to build awareness about the referendum from the grassroots up.

Recommendation

That Council receive and note this Mayoral Minute.

Approved for Council's
consideration:

Chris Homer – Mayor

Date of Meeting: 13 December 2022

Attachments

Attachment 1 – Mayors for the Voice to Parliament Public Statement

Mayors for the Voice to Parliament Public Statement

We the undersigned endorse the Uluru Statement from the Heart and support constitutional recognition for Aboriginal and Torres Strait Islander people through a Voice to Parliament.

As local leaders we are committed to building awareness in our communities about the upcoming referendum.

Our citizens should be informed about what constitutional recognition through a Voice to Parliament will mean for Indigenous people and Australian society as a whole.

Local government must play an important role in holding civic forums, promoting dialogue, and providing a platform for Indigenous voices to be heard in the debate.

We believe that a successful referendum can be a unifying achievement for Australia.

We are ready to work with all levels of government to educate and inform our communities about why this referendum is such an important moment for our nation.