Minutes of the Ordinary Council Meeting

of Shellharbour City Council

held in the Council Chambers,

Council Administration Centre,

Shellharbour City Centre

on Tuesday 28 February 2023 commencing at 6.30pm

Present

In attendance

Chief Executive Officer Director Council Sustainability Director Community and Customers Director Amenity and Assets Executive Manager / Public Officer Chief Financial Officer Group Manager Organisational Performance Group Manager Organisational Performance Group Manager City Planning Acting Group Manager Business Technology & Customer Service Acting Group Manager Asset Strategy Shell Cove Executive Manager Manager Business Performance & Development Manager Business and Investment Manager Shell Cove Property Management Coordinator Property Officer	M Archer S Bridgement M Boxall B Stewart F Lepouras K Buckman S Colefax G Hoynes M Baez D Brilsky W Peterson A Smith T James K James L Wicks A Celima
Governance Manager	L Davey
Executive Assistant Chief Executive Officer (Minute Taker)	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

4. Confirmation of Minutes

4.1 Council Meeting 7 February 2023

13 RESOLVED: Cr Marsh/Cr Hamilton

That the Minutes of the Ordinary Council Meeting held on 7 February 2023 as circulated be taken as read and confirmed as a correct record of proceedings.

CARRIED UNANIMOUSLY

5. Disclosures of Interest

Nil

6. Condolences

The Mayor acknowledged the passing of Lyn Watkins OAM, former resident of Albion Park and the 2007 Shellharbour Citizen of the Year, and extended his condolences to her family on behalf of Council.

The Mayor also acknowledged the passing of Tony Hardy of Dunmore, who had been Captain of the Dunmore Rural Fire Service for many years before becoming Group 5 Region Controller and Group Captain for the area, and extended his condolences to his family on behalf of Council.

Margaret (formerly Partridge) Ross	of	Albion Park
Brian Tocock	of	Albion Park
Lynette Ann Watkins OAM	formerly of	Albion Park
Robert "Bob" Edward Axam	of	Albion Park Rail
Bruce Edward Baker	of	Albion Park Rail
Elaine (Marjorie) Moolhuyzen	of	Albion Park Rail
Mary (Grech) Cassar	formerly of	Barrack Heights
Danilo Sokolovski	of	Barrack Heights
Mark David Brownlie	of	Shellharbour
Brian (Harko) Harkness	of	Warilla
Robert 'Bob' McBlain	of	Warilla
Karl "Charlie" Recek	of	Warilla
Kenneth Rugg	of	Warilla

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

7. Mayoral Statements / Reports / Presentations

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

15 February 2023
16-17 February 2023
20 February 2023
21 February 2023
24 February 2023
28 February 2023
Calderwood Valley Public Art Opening
Shell Cove Community Group Meeting
SEATS Meeting
LGNSW Rural and Regional Summit
Country Mayor's Association – Meet the Leaders Forum
ISJO Board Meeting
White Eagles Season Launch
Southern Regional Planning Panel Meeting

8. Mayoral Minutes

Nil

9. Councillors' Statements / Reports

Nil

10. Reports

The Addresses to Council Forum was held prior to the Council Meeting at 4.30pm and there was one speaker on Item 10.3.3.

Agenda Item No & Title	Page Ref	Name	For or Against
10.3.3 Closed-Circuit Television (CCTV) Cameras for Anti- Social Behaviour (12007500)	95	1. James Fowler	For

15 RESOLVED: Cr Marsh/Cr Graf

That standing orders be suspended in order for Item 10.3.3, the subject to Addresses to Council, to be considered here in the agenda.

10.3.3 Closed-Circuit Television (CCTV) Cameras for Anti-Social Behaviour (12007500)

MOTION: Cr Davey/Cr Duffy-Moon

That Council:

- 1. Not proceed with Closed-Circuit Television (CCTV) Cameras for Anti-Social Behaviour, and
- 2. Continue to liaise with the Police in regard to Anti-Social Behaviour and Community Safety.

Councillor Graf FORESHADOWED a MOTION that should the motion be lost she would move the following:

That Council:

- 1. Not proceed with Closed-Circuit Television (CCTV) Cameras for Anti-Social Behaviour, but consider the use of CCTV in specific locations in the future.
- 2. Continue to liaise with the Police in regard to Anti-Social Behaviour and Community Safety.
- 3. Council develop a policy and code of practice for CCTV in public spaces compliant with NSW legislation and guidelines
- 16 The MOTION on being PUT to the Meeting was CARRIED 7 / 2

FOR VOTE - Mayor Homer, Cr Hamilton, Cr Duffy-Moon, Cr Gow, Cr Petreski, Cr Stefanovski, Cr Davey AGAINST VOTE - Cr Marsh, Cr Graf

17 RESOLVED: Cr Davey/Cr Marsh

That standing orders be resumed.

CARRIED UNANIMOUSLY

10.1 Chief Executive Officer

10.1.1 Administration of the 2024 Local Government Election (12008111)

MOTION: Cr Davey/Cr Gow

That Council of the City of Shellharbour ("the Council") resolves:

- 1. pursuant to s. 296(2) and (3) of the *Local Government Act 1993* (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
- pursuant to s. 296(2) and (3) of the Act, as applied and modified by s.
 18, that a council poll arrangement be entered into by contract for the Electoral Commissioner to administer all council polls of the Council.
- pursuant to s. 296(2) and (3) of the Act, as applied and modified by s. 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.
- 4. that Council request the Electoral Commissioner for Council to have more input into the determination of the pre-poll and polling place numbers and venues during the contract consultation and negotiations.

Councillor Marsh FORESHADOWED a MOTION that should the motion be lost, she would move the following:

That:

- 1. The information contained in the report on the Administration of the 2024 Local Government Election be received.
- 2. A tender process not be entered into in accordance with Section 55(3)(i) of the *Local Government Act 1993* because a satisfactory result would not be achieved due to the unavailability of competitive tenderers.
- 3. The Chief Executive Officer be authorised to engage the Australian Election Company to administer the election subject to satisfactory terms being agreed upon.
- 4. Council write to the Office of Local Government and the NSW Electoral Commission advising of this decision and of the nominated Returning Officer and Substitute Returning Officer when this information is available.
- 5. The Chief Executive Officer, or their nominated delegate, be authorised to sign all documentation associated with the engagement of the Australian Election Company.
- 18 RESOLVED: Cr Davey/ Cr Gow

That Councillor Marsh be given an extension of time of one minute to conclude her address.

The MOTION on being PUT to the Meeting was LOST 2 / 7

FOR VOTE - Mayor Homer, Cr Davey AGAINST VOTE - Cr Hamilton, Cr Marsh, Cr Duffy-Moon, Cr Petreski, Cr Gow, Cr Stefanovski, Cr Graf

The FORESHADOWED MOTION then became the MOTION

19 RESOLVED: Cr Marsh/Cr Duffy-Moon

That:

- 1. The information contained in the report on the Administration of the 2024 Local Government Election be received.
- 2. A tender process not be entered into in accordance with Section 55(3)(i) of the *Local Government Act 1993* because a satisfactory result would not be achieved due to the unavailability of competitive tenderers.
- 3. The Chief Executive Officer be authorised to engage the Australian Election Company to administer the election subject to satisfactory terms being agreed upon.
- 4. Council write to the Office of Local Government and the NSW Electoral Commission advising of this decision and of the nominated Returning Officer and Substitute Returning Officer when this information is available.
- 5. The Chief Executive Officer, or their nominated delegate, be authorised to sign all documentation associated with the engagement of the Australian Election Company.

CARRIED UNANIMOUSLY

10.1.2 Disclosure of Interest Returns – Recently Appointed Designated Persons (12007438)

20 RESOLVED: Cr Graf/Cr Gow

That Council note the tabling of Pecuniary Interest Disclosure Returns for the following recently appointed Designated Persons:

- 1. Chief Executive Officer
- 2. Development Assessment Officer (x2)
- 3. Manager Planning and Urban Release

10.1.3 Your Ideas Our Actions Second Quarter Review of the Delivery Program / Operational Plan 2022-2023 (12008691)

Councillor Duffy-Moon referred to the "Good Times" tourism campaign and asked how was it determined that the 348% increase in visits to the Visit Shellharbour website was related to this campaign? The Chief Executive Officer took the Question on Notice.

21 RESOLVED: Cr Duffy-Moon/Cr Petreski

That Council adopt the:

- 1. Your Ideas, Our Actions Second Quarter Review of the Delivery Program/ Operational Plan 2022-2023.
- 2. December 2022 Quarterly Budget Review with all recommended adjustments as contained in this report and attachment.

CARRIED UNANIMOUSLY

10.1.4 Amendment to the Ordinary Council Meeting Dates – October 2022 to September 2023 (12009947)

22 RESOLVED: Cr Graf/Cr Marsh

That Council approve the removal of the 13 June 2023 date from the scheduled meeting dates of Ordinary Council Meetings for 2023.

CARRIED UNANIMOUSLY

10.2 Council Sustainability Directorate

10.2.1 Monthly Investment Report – January 2023 (11992995)

23 RESOLVED: Cr Davey/Cr Gow

That Council receive and note the Investment Portfolio report as at 31 January 2023.

10.2.2 Assignment of Lease from Southern Biplane Adventures Pty Ltd to Eastern Skies Aviation Pty Ltd t/as First Nations Aviation – 3/32 Airport Road, Albion Park (Lot 3 in DP 1092398) (12008299)

24 RESOLVED: Cr Davey/Cr Hamilton

That:

- 1. Council consent to the assignment of lease for the land located at 3/32 Airport Road, Albion Park being Lot 3 Deposited Plan 1092398 from Southern BiPlane Adventures Pty Ltd to Eastern Skies Aviation Pty Ltd t/as First Nations Aviation.
- 2. The Mayor and Chief Executive Officer, or their nominated delegate, be authorised to sign all documentation associated with the assignment of lease from Southern BiPlane Adventures Pty Ltd to Eastern Skies Aviation Pty Ltd t/as First Nations Aviation.

CARRIED UNANIMOUSLY

10.2.3 Creation of Easements to Drain Water over Council Land – Lot 403 in DP1261461, Calderwood (12008306)

25 RESOLVED: Cr Marsh/Cr Graf

That:

- 1. Council endorses the creation of easements to drain water two metres wide over Lot 403 in Deposited Plan 1261461 benefiting Lot 1379 in Deposited Plan 1206167 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.
- 2. Provided there are no valid opposing submissions received during the public exhibition period, Council grant the easements to drain water burdening Lot 403 in Deposited Plan 1261461, Escarpment Drive, Calderwood.
- 3. Council approves \$8,500 GST exclusive as compensation for the creation of the easements encumbering part Lot 403 in Deposited Plan 1261461, Escarpment Drive, and Calderwood.
- 4. The Mayor and Chief Executive Officer, or their nominated delegate, be authorised to sign any documentation, associated with the creation of the easements over Lot 403 in Deposited Plan 1261461, Escarpment Drive, Calderwood.

10.2.4 Proposed Licence Agreement to Cove Catering – Café within Shellharbour Airport – Part Lot 2 DP1240742 (12008877)

26 RESOLVED: Cr Marsh/Cr Graf

That:

- 1. Council endorse a 12 month licence agreement, including a 12 month option, with Cove Catering for the occupation and operation of the cafe facility within the Shellharbour Airport terminal building situated at Part Lot 2 DP 1240742, 42 Airport Road, Albion Park Rail.
- 2. Council endorse that the annual market rental of \$18,000 (ex GST) be reduced and staged in accordance with Table 1 below.

Year	Percent Discount	Proposed Rent (Annual)
Year 1	50%	\$9,000
Year 2	0%	\$18,000

3. The Mayor and Chief Executive Officer, or their nominated delegate, be authorised to sign all documentation associated with the licence agreement with Cove Catering for the occupation and operation of the cafe facility within the Shellharbour Airport terminal building situated at Part Lot 2 DP 1240742, 42 Airport Road, Albion Park Rail.

CARRIED UNANIMOUSLY

10.2.5. The Waterfront Shell Cove Land Purchase Option No. 11 – The Waterfront Centre (12010308)

MOTION: Cr Petreski/Cr Duffy-Moon

That Council:

- 1. Exercise its first purchase of Harbour Land right under the Shell Cove Management Agreement for Lot 4023 DP 1254658 (The Waterfront Centre land); and
- 2. Transfer the amount of \$380,000 (excluding GST) into the Shell Cove Trust Fund.

Councillor Graf FORESHADOWED a MOTION that should the motion be lost, she would MOVE the following:

That Council:

1. Exercise its first purchase of Harbour Land right under the Shell Cove Management Agreement for Lot 4023 DP 1254658; and

- 2. Transfer the amount of \$380,000 (excluding GST) into the Shell Cove Trust Fund.
- 27 The MOTION on being PUT to the Meeting was CARRIED UNANIMOUSLY

10.2.6. 2021-2022 Draft Annual Financial Reports (12015411)

28 RESOLVED: Cr Gow/Cr Hamilton

That:

- 1. Council note the draft 2021-2022 Annual Financial Reports.
- 2. Council note that the previous draft 2021/2022 Annual Financial Reports were referred to audit at its meeting of 27 September 2022 and that audit has since been conducted.
- 3. Council approve the application of the signatures of the Mayor, another Councillor, the Chief Executive Officer and the Responsible Accounting Officer to the General Purpose and Special Purpose Statements.
- 4. Council note that the audited Annual Financial Reports will then be reported back to Council for formal adoption as part of the Annual Report considerations in March.

CARRIED UNANIMOUSLY

10.2.7. Proposed Termination and New Licence Agreement – Airshow Event at Shellharbour Airport (Lot 2 DP 1240742 - 42 Airport Road, Albion Park Rail) (12016131)

29 RESOLVED: Cr Davey/Cr Marsh

That:

- 1. Council terminate the Licence Agreement between Shellharbour City Council and Bright Events Pty Ltd.
- 2. Council approve a new Licence Agreement with the new operator of the Airshow event at Shellharbour Airport.
- 3. The Chief Executive Officer be delegated the authority to negotiate the commercial terms of the Licence Agreement between Shellharbour City Council and the proposed operator for the purpose of operating the Airshow event at Shellharbour Airport.

- 4. The Chief Executive Officer, or his nominated delegate, be authorised to sign all documentation associated with the termination of the Licence Agreement with Bright Events Pty Ltd and a new Licence Agreement with the new operator of the Airshow event at Shellharbour Airport.
- 5. The name of the new licensee will be publicised following the Council meeting and included in the Minutes of this Council meeting.*

CARRIED UNANIMOUSLY

* Note: The name of the new licensee is AMDA Foundation Limited.

10.3 Community and Customers Directorate

10.3.1 Investigation of establishment of a formal Cadetship, Apprenticeship and Trainee Programme (11992830)

30 RESOLVED: Cr Petreski/Cr Stefanovski

That Council receive and note this report and endorse the establishment of a formal Cadet, Apprentice and Traineeship (CAT) Programme as outlined in this report as resources become available through the operational plan budget process.

CARRIED UNANIMOUSLY

10.3.2 Planning Proposal 0005/2020 – Final consideration of Infrastructure Zoning Amendment (12005523)

31 RESOLVED: Cr Marsh/Cr Gow

That Council:

- 1. Adopt the following amendments to Shellharbour Local Environmental Plan 2013 for the purpose of making the Local Environmental Plan under section 3.36(2) of the *Environmental Planning & Assessment Act 1979:*
 - a. Amend the following Shellharbour LEP 2013 Land Zone Map sheets, in accordance with Attachment 1, under separate cover:
 - i. LZN_014, LZN_017, LZN_018, LZN_023, LZN_024, LZN_028, LZN_029, LZN_030, LZN_031.
 - b. Amend the following Shellharbour LEP 2013 Height of Building Map sheets, in accordance with Attachment 2, under separate cover:
 - i. HOB_014, HOB_017, HOB_018, HOB_023, HOB_024, HOB_028, HOB_029, HOB_030, HOB_031.

- c. Amend the following Shellharbour LEP 2013 Lot Size Map sheets, in accordance with Attachment 3, under separate cover:
 - i. LSZ_014, LSZ_017, LSZ_018, LSZ_023, LSZ_024, LSZ_028, LSZ_029, LSZ_030, LSZ_031.
- d. Amend the following Shellharbour LEP 2013 Floor Space Ratio Map sheets, in accordance with Attachment 4, under separate cover:
 - i. FSR_014, FSR_017, FSR_018, FSR_023, FSR_024, FSR_028, FSR_029, FSR_030, FSR_031.
- 2. Delegate the Chief Executive Officer authority to:
 - a. sign the Map Cover Sheet;
 - b. sign the written Local Environmental Plan; and
 - c. send the Planning Proposal to the regional office of the NSW Department of Planning & Environment in accordance with section 3.36(2) of the *Environmental Planning & Assessment Act 1979* to place the amending Local Environmental Plan on the NSW Legislation website.

CARRIED UNANIMOUSLY

10.3.3 Closed-Circuit Television (CCTV) Cameras for Anti-Social Behaviour (12007500)

This item was considered earlier in the meeting (Resolution No 16).

10.4 Amenity and Assets Directorate

10.4.1 Tender 2022/87 - Construction of Oak Flats Town Centre – Pedestrian Safety Upgrades (12008297)

32 RESOLVED: Cr Hamilton/Cr Davey

That Council:

- 1. Decline to accept any tender in accordance with clause 178(1) of the Local Government (General) Regulation 2021.
- 2. In accordance with Section 178(3)(e) of the *Local Government (General) Regulation (2021)*, Council enter into negotiations with any person with a view to entering into contracts in relation to the subject matter of the Tender and not invite fresh tenders for the following reasons:

- a. Clarification of traffic facilities design and work methods through a negotiation may reduce the prices offered.
- b. Limited interest in the recent tender process.
- 3. 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.
- 4. 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 Traffic Committee Meeting on 1 February 2023

33 RESOLVED: Cr Duffy-Moon/Cr Davey

That the Recommendations from the Traffic Committee Meeting held on 1 February 2023 be adopted.

CARRIED UNANIMOUSLY

12. Items for Information

Nil

13. Notices of Rescission/Alteration Motions

Nil

14. Notices of Motion

14.1 Notice of Motion submitted by Cr John Davey and Cr Colin Gow: Breakfast by the Lake (12010051)

MOTION: Cr Davey/Cr Gow

That:

- 1. Council staff investigate and report back to Council on a proposal to reestablish the community event "Breakfast by the Lake" on Reddall Reserve to be held on Australia Day each year. Further that the report include costs, scheduling, Council's events calendar/program and any other implications for Council's consideration.
- 2. A report be presented to Council prior to the Calendar of Events report being presented to Council in April and before finalisation of the 2023/2024 budget.

Councillor Petreski FORESHADOWED a MOTION that should the MOTION be lost, he would move the following:

Council staff consults the Australia Day Committee, investigate and report back to Council on a proposal to re-establish the community event "Breakfast by the Lake" on Reddall Reserve to be held on Australia Day each year. Further that the report include costs, scheduling, Council's events calendar/program and any other implications for Council's consideration.

34 The MOTION on being PUT to the Meeting was 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

14.2 Notice of Motion submitted by Cr Robert Petreski and Cr Lou Stefanovski: Shell Cove Development (12012772)

MOTION: Cr Petreski / Cr Stefanovski

- 1. That Council undertake a strategic review of the proposed Shell Cove development, with a view to maximising the benefits to our broader community. This review should include, but not be limited to the following:
 - i) Strategically review the Shell Cove Project to ensure the most effective use of community space and potential land acquisitions, in conjunction with our IP&R Framework objectives, and Shell Cove Marine Precinct Strategic Business Plan.
 - ii) Council investigate means by which a higher level of public amenity, green space and shared access could be achieved to

enhance the public open space and adjacent streetscapes surrounding the Waterfront centre, Shell Cove (Lot 4023, DP 1254658).

- iii) Explore the possible benefits of increased connectivity between the Shell Cove and Shellharbour Village Town centres maximising the potential social, economic, and lifestyle opportunities.
- 2. Report back to Council accordingly.

Councillor Gow proposed the following amendment to 1 iii) of MOTION which was accepted by the Mover:

- iii) Explore the possible benefits of increased connectivity between Shell Cove and Shellharbour Village maximising the potential social, economic, and lifestyle opportunities.
- 35 RESOLVED: Cr Petreski/Cr Stefanovski
 - 1. That Council undertake a strategic review of the proposed Shell Cove development, with a view to maximising the benefits to our broader community. This review should include, but not be limited to the following:
 - Strategically review the Shell Cove Project to ensure the most effective use of community space and potential land acquisitions, in conjunction with our IP&R Framework objectives, and Shell Cove Marine Precinct Strategic Business Plan.
 - ii) Council investigate means by which a higher level of public amenity, green space and shared access could be achieved to enhance the public open space and adjacent streetscapes surrounding the Waterfront centre, Shell Cove (Lot 4023, DP 1254658).
 - iii) Explore the possible benefits of increased connectivity between the Shell Cove and Shellharbour Village maximising the potential social, economic, and lifestyle opportunities.
 - 2. Report back to Council accordingly.

CARRIED 7 / 2

FOR VOTE - Mayor Homer, Cr Hamilton, Cr Marsh, Cr Duffy-Moon, Cr Gow, Cr Petreski, Cr Stefanovski AGAINST VOTE - Cr Graf, Cr Davey

14.3 Notice of Motion submitted by Cr Kellie Marsh: Tripoli Way Bypass (12016206)

36 RESOLVED: Cr Marsh/Cr Duffy-Moon

That Council Officers prepare a report on the Tripoli Way Bypass with consideration of how the project timeline can be brought forward.

CARRIED UNANIMOUSLY

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

15.1 Question on Notice submitted by Cr Robert Petreski: Tripoli Way Funding (12012831)

The Question on Notice and Response to Question on Notice was formally noted.

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 9.08pm