

**Minutes of the Extraordinary Meeting  
of Shellharbour City Council  
held in the Auditorium (Jungah Room),  
Council Administration Centre, Shellharbour City Centre  
on Tuesday 01 February 2022 commencing at 6.30 pm**

**Present**

|                   |                |
|-------------------|----------------|
| Mayor, Councillor | C Homer        |
| Councillor Ward A | K Marsh (part) |
| Councillor Ward A | M Edwards      |
| Councillor Ward B | M Hamilton     |
| Councillor Ward B | J Davey        |
| Councillor Ward C | L Stefanovski  |
| Councillor Ward C | C Gow          |
| Councillor Ward D | R Petreski     |
| Councillor Ward D | J Graf         |

**In attendance**

|   |                |
|---|----------------|
| Chief Executive Officer                                 | C McIntyre     |
| Director Council Sustainability                         | S Bridgement   |
| Director Community and Customers                        | M Boxall       |
| Executive Manager / Public Officer                      | F Lepouras     |
| Group Manager Organisational Performance                | S Colefax      |
| Group Manager Community Connections                     | K Baget-Juleff |
| Group Manager Business Technology and Customer Service  | M Chiodo       |
| Media Officer   | K Wells        |
| Senior Executive Assistant                              | L Davey        |
| Executive Assistant – Councillor Support (Minute Taker) | J Frasca       |
| Manager Information Communication Technology            | M Baez         |
| Sparke Helmore Representative (online)                  | N Simmons      |

**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.

**2. Apologies**

Nil.

**3. Confidential Business (Committee of the Whole)**

Council may resolve to move into Committee of the Whole (Confidential session) at any time during this meeting if matters raised discussed or debated require confidentiality under Section 10A (2) of the Local Government Act 1993.

**4. Declarations of Interest**

**Councillor Kellie Marsh:**

Item 5.1 Verbal Report – Shellharbour Ward A Election Results

**Nature of Interest:**

Councillor Marsh declared a non-pecuniary significant interest as she is a councillor in Ward A and advised that she will not vote or debate on the matter and will leave the meeting during the item.

**Councillor Maree Edwards**

Item 5.1 Verbal Report – Shellharbour Ward A Election Results

**Nature of Interest:**

Councillor Edwards declared a pecuniary interest as she is a councillor in Ward A and advised that she will remain in the meeting for debate, discussion and decision on this matter.

Councillor Marsh left the meeting here at 6.36pm

**5. Reports**

**5.1 Verbal Report – Shellharbour Ward A Election Results**

Councillor Marsh declared a non-pecuniary significant interest in Item 5.1 Verbal Report – Shellharbour Ward A Election Results and left the meeting whilst this matter was being considered pursuant to Section 451 of the Local Government Act 1993.

Councillors Edwards declared a pecuniary interest in Item 5.1 Verbal Report – Shellharbour Ward A Election Results and remained in the meeting.

The Chief Executive Officer provided a verbal report to the meeting.

The Chief Executive Officer invited Council's legal representative Ms Naomi Simmons of Sparke Helmore Lawyers to provide Council with legal information regarding the legal proceedings in the matter of the Electoral Commission of NSW 'Commissioner' v Kempsey Shire Council and 22 others including Shellharbour City Council (tenth defendant) in the Supreme Court to consider the validity of Shellharbour City Ward A results.

**Reason for Confidentiality**

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 grounds of legal professional privilege.

The reason for confidentiality with this matter is to enable legal advice to be provided to the Council on the legal proceedings relating to item 5.1 Verbal Report – Shellharbour Ward A Election Results.

The Mayor asked if anyone in the gallery wished to speak on the reasons why Item 5.1 Verbal Report – Shellharbour Ward A Election Results should not be held in

## **SHELLHARBOUR CITY COUNCIL**

Extraordinary Council Meeting – 01 February 2022

---

Confidential Session (Closed to the Public). No members of the public expressed an interest to address the council.

1 RESOLVED: Petreski/Gow

That Standing Orders be suspended to move into Committee of the Whole to receive legal advice from Council's legal representative.

CARRIED UNANIMOUSLY

**Meeting adjourned at 6.49pm.**

**Meeting resumed at 7.28pm**

MOTION: Homer/Gow

1. That Council does not support a Council-funded and/or funded re-election for Ward A in Shellharbour City.
2. Specifically regarding Shellharbour City, if a re-election is called for Ward A, it should only be for the second place candidate.
3. As the Shellharbour City Council election legal proceedings do not affect the whole LGA, and only the second place in Ward A only, Shellharbour City Council should not be considered with the election issues of Kempsey Shire Council and Singleton Council and should be dealt with as a separate matter.

Councillor Petreski MOVED a POINT of ORDER and requested that the wording of the proposed motion read out to the meeting be displayed to Councillors. The POINT of ORDER was accepted and the Executive Manager confirmed that the minute taker emailed a copy to all councillors at that point in the meeting as the screen facilities were not available for this meeting.

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

1. That the verbal report provided by the Chief Executive Officer in relation to the Ward A Election Results be received and noted.
2. That Council strongly oppose a declaration that the election in Ward A is void in the matter of the Electoral Commission of NSW 'Commissioner' v Kempsey Shire Council and 22 others including Shellharbour City Council (tenth defendant) in the Supreme Court to consider the validity of Shellharbour City Ward A results and that there be no new election conducted in Ward A Shellharbour City.

## **SHELLHARBOUR CITY COUNCIL**

Extraordinary Council Meeting – 01 February 2022

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3. The Council does not support a council funded and/or funded re-election for Ward A in Shellharbour City.
4. That Council seek costs including legal costs and, if required, the costs of any new election in this matter.
5. That Council instruct the Chief Executive Officer to write to relevant Ministers on its own behalf on this matter.

The MOTION on being PUT to the Meeting was LOST 7/1

FOR VOTE - Mayor Homer

AGAINST VOTE – Cr Petreski, Cr Davey, Cr Graf, Cr Edwards, Cr Stefanovski, Cr Gow, Cr Hamilton

The FORESHADOWED MOTION then became the new Motion and being PUT to the Meeting was CARRIED 7/1

### **2 RESOLVED: Petreski/Hamilton**

1. That the verbal report provided by the Chief Executive Officer in relation to the Ward A Election Results be received and noted.
2. That Council strongly oppose a declaration that the election in Ward A is void in the matter of the Electoral Commission of NSW ‘Commissioner’ v Kempsey Shire Council and 22 others including Shellharbour City Council (tenth defendant) in the Supreme Court to consider the validity of Shellharbour City Ward A results and that there be no new election conducted in Ward A Shellharbour City.
3. The Council does not support a council funded and/or funded re-election for Ward A in Shellharbour City.
4. That Council seek costs including legal costs and, if required, the costs of any new election in this matter.
5. That Council instruct the Chief Executive Officer to write to relevant Ministers on its own behalf on this matter.

FOR VOTE – Cr Petreski, Cr Davey, Cr Graf, Cr Edwards, Cr Stefanovski, Cr Gow, Cr Hamilton

AGAINST VOTE – Mayor Homer

**Meeting closed 8.03pm**