

SHELLHARBOUR CITY COUNCIL

Extraordinary Council Meeting - Commenced 20 November 2007 and Reconvened on 3 December 2007

**Minutes of the Extraordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Warilla
on Tuesday 20 November 2007 commencing at 6.03 pm**

Present

His Worship the Mayor	Councillor D Hamilton
A Ward	Councillor M Greig Councillor T Hawker
B Ward	Councillor H Stewart (part) Councillor C Jeffreys
C Ward	Councillor J Bailey Councillor D Briggs (part)
D Ward	Councillor J Leedham Councillor T Hore
E Ward	Councillor G Rose (part)
F Ward	Councillor B Bird Councillor H Gillett

In attendance

General Manager	B A Weir
Director of Operations & Services	A Webster
Director of Community Planning & Strategies	P O'Rourke
Group Manager Corporate Services	T Gearon
Group Manager Corporate Planning	P Masterson
Group Manager Planning Services	G Hoynes
Corporate Solicitor – Manager Legal & Property Services	B McCann
Manager Executive Offices/Executive Assistant	F MastroDomenico
Public Relations Coordinator	A Baltovska
Executive Assistant	J Frasca
Executive Assistant	L Davey
Representative for Maddocks Lawyers	D Baird
Representative for Maddocks Lawyers	T Neal

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613 RESOLVED: Hawker/Greig

That this meeting be formally convened and opened.

CARRIED UNANIMOUSLY

Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting.

1. Apologies / Leave of Absence

Ordinary Council Meeting

An apology was tendered on behalf of Councillor Mifsud

Committee of the Whole Council Meeting

Apologies were tendered on behalf of Councillors Briggs and Mifsud

614 RESOLVED: Hawker/Greig. That the apologies as tendered be accepted.

2. Pecuniary Interest

Note: Councillors who declare a Pecuniary Interest at the Council Meeting are also required to complete a Pecuniary Interest Declaration form.

Councillors Rose and Stewart were not present at the commencement of the meeting having previously declared a pecuniary interest in Item 3.1 which will be considered in Committee of the Whole (Confidential) and also part of the General Manager's report Item 5.1 in Open Council.

3. Confidential Business (Committee of the Whole)

In accordance with the *Local Government Act 1993*, and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in Section 10A(2) of the Act, and should be dealt with in a Confidential Session of the Council meeting closed to the press and public.

Set out below is Section 10A(2) of the Local Government Act 1993, in relation to Confidential Business:

10A(2) Which parts of a meeting can be closed to the public? The matters and information are the following:

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- (a) personnel matters concerning particular individuals;
- (b) the personal hardship of any resident or ratepayer;
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business;
- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law;
- (f) matters affecting the security of the council, councillors, council staff or council property;
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the grounds of legal professional privilege.

CONFIDENTIAL ITEMS

Confirmed Minutes Extraordinary Meeting 20 Nov 2007

Reason for Confidentiality

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

- (e) information that would, if disclosed, prejudice the maintenance of law

and

- (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 includes advice regarding negotiations with respect to the Land & Environment Court case.

Public disclosure of details of this matter at this time could prejudice the maintenance of law, because the matter is still before the Court. Evidence is still to be heard and assessed and a finding by the Court is still to be made. Public discussion at this time is therefore inappropriate. Legal advice, the subject of legal professional privilege, will be discussed during the meeting. Council may determine further legal instructions for Council's solicitors at this meeting.

615 RESOLVED: Greig/Jeffreys

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)(e) & (g) of the Act as outlined above.

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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*.

Meeting adjourned at 6.07pm

Meeting resumed at 7.50pm

Councillors Stewart, Rose and Briggs were now in attendance at the meeting.

4. Recommendation for Committee of the Whole

There was no recommendation from the Committee of the Whole held earlier in the evening and adjourned for further consideration at the conclusion of this meeting.

5. General Manager's Office

5.1 Consideration of Director General of DLG letter dated 5.11.07 (8821968)

Cr Rose began asking questions in relation to the Court proceedings.

The General Manager responded that Cr Rose had a conflict of interest in this discussion and he wouldn't discuss the issue any further.

The Mayor stated that Cr Rose should declare an interest in this item.

The General Manager stated that if Cr Rose wanted to talk about governance that was acceptable, but he could not discuss issues relating to the Court case.

Cr Briggs asked a question referring to the leaking of confidential information.

The Mayor ruled Cr Brigg's question inadmissible and stated that if questions like this were going to persist he would need to ask Councillors Stewart, Rose and Briggs to leave the Chambers.

Councillors Stewart, Rose & Briggs left the Chamber at 8.20pm.

The Mayor asked Mr Moran, who was standing up with his back to the Council, to please take a seat and face the Council.

Mr Moran stated that he had a sore leg and refused to sit down and face the Chair.

The Mayor again asked Mr Moran to face the Councillors.

Mr Moran replied "no".

The Mayor again asked Mr Moran to leave the Chambers and called for a Motion to that effect.

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616 RESOLVED: Jeffreys/Hore

That Mr Moran be requested to leave the Chambers due to his disrespecting Council by standing with his back to the Council.

CARRIED with two dissenting votes (Councillors Greig and Hawker).

Mr Moran left the Chamber.

617 RESOLVED: Jeffreys/Greig

That Council accept, receive and note the General Manager's report.

CARRIED UNANIMOUSLY

The Mayor asked the Councillors if they had any further question in regards to the Court case.

The Councillors had no further questions to ask.

The Mayor asked for Councillors Rose, Stewart & Briggs to be invited back into the Chamber.

Councillors Rose, Stewart & Briggs here returned to the Chamber at 8.30pm

618 RESOLVED: Bird/Greig

That a ten minute recess be called before Council resumed back into Committee of the Whole to consider Item 3.1.

Meeting adjourned 8.34 pm

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Minutes of the Extraordinary Council Meeting of the Shellharbour City Council

held at the Council Chambers, Warilla

**this meeting commenced on Tuesday 20 November 2007 and reconvened on
Monday 3 December 2007 at 6.48pm**

Present

His Worship the Mayor	Councillor D Hamilton
A Ward	Councillor M Greig Councillor T Hawker
B Ward	Councillor H Stewart
C Ward	Councillor J Bailey
D Ward	Councillor J Leedham Councillor T Hore
E Ward	Councillor C Mifsud
F Ward	Councillor B Bird Councillor H Gillett

In attendance

General Manager	B A Weir
Director of Operations & Services	A Webster
Director of Community Planning & Strategies	P O'Rourke
Group Manager Corporate Services	T Gearon
Group Manager Corporate Planning	P Masterson
Corporate Solicitor – Manager Legal & Property Services	B McCann
Manager Executive Offices/Executive Assistant	F MastroDomenico
Manager Media & Communications	B Parker
Executive Assistant	J Frasca
Executive Assistant	L Davey
Representative for Minister of Local Government	E Page
Representative for Maddocks Lawyers	D Baird
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Apologies: Nil.

6. Recommendation from the Committee of the Whole Council (in Confidential Session)

The following Recommendation to Council from the Committee of the Whole Council Meeting (Confidential) was read to the meeting by the General Manager.

3.1 Land & Environment Court Matter (8822659)

COMMITTEE RECOMMENDATION:

1. That Council cease action against Mr Cicolini and enter into negotiations for settlement and that this settlement remain confidential.
2. That Council continue in the Land & Environment Court in court action against Councillors Stewart and Rose.

619 RESOLVED: Hore/Bird

That Council adopt the recommendation from the Committee of the Whole as read to the meeting by the General Manager.

Meeting closed at 6.50pm

CONFIRMED as a correct record of proceedings at the Ordinary Meeting of the Council of the City of Shellharbour held 18 December 2007.

General Manager

Chairperson