

**Minutes of the Extraordinary Meeting
of Shellharbour City Council
held at the Council Chambers, Council Administration Centre
Shellharbour City Centre
on Tuesday 15 October 2013 commencing at 6.34 pm**

Present

Mayor	M Saliba
Deputy Mayor	P Rankin
Councillor	K Marsh
Councillor	D Boyle
Councillor	H Stewart
Councillor	J Murray
Councillor	P Moran

In attendance

General Manager	M Willis
Director City Outcomes	C McIntyre
Acting Director Corporate Policy	M Boenisch
Executive Manager / Public Officer	F MastroDomenico
Manager Property & Recreation	D Flanagan
Manager Risk Management Services	I Smith
Manager Assets & Projects	G Standen
Property Officer	M Scozzafava
Media Officer	C Lewis
Senior Executive Assistant (Minute Taker)	L Davey
Public Information Officer	S Stewart

1. Acknowledgement to Country

Shellharbour City Council acknowledges the Traditional Owners and Custodians of the Land on which we are meeting and pays its respects to Elders past and present.

Webcasting Comment

The Mayor read the usual advice regarding the webcasting of the meetings of the Council.

2. Apologies / Leave of Absence

Extraordinary Council Meeting

Nil

Committee of the Whole Council Extraordinary Meeting

Nil

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:

- (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

3.1 Proposed Resumption of Lands at Oak Flats by Transport for NSW (10024469) CONFIDENTIAL

Reason for Confidentiality

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

- (d) commercial information of a confidential nature that would if disclosed:
 - (i) prejudice the commercial position of the person who supplied it.

This item, if discussed in the Open Meeting of Council, would be contrary to the public interest because it is premature at this time. The appropriate time for its full release such that the commercial position of the person who supplied it is not prejudiced, would be when the proposed acquisition by Agreement is entered into.

Transport for NSW has also requested that this matter remain confidential between the parties until agreed to by Council.

3.2 Airport Terminal Fire (10024887) CONFIDENTIAL

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(e) 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.

This report has been made confidential to enable Councillors to discuss the issues regarding the investigation into the cause of the fire at the Airport Terminal Building in May 2013.

If this matter were to be discussed in open Council, there is a risk that those discussions could prejudice persons involved in the operation of the Aviator Lounge restaurant at the time of the fire.

4. Pecuniary Interest and Conflict of Interest Declarations

Nil

5. Addresses to Council

Agenda Item No & Title	Name
3.2 Airport Terminal Fire (10024887) CONFIDENTIAL	Sonya McKay
8.1 Airport Terminal Fire - Insurance Options (10024924)	Sonya McKay

6. Committee of the Whole in Closed Session: Adjournment

330 RESOLVED: Rankin/Boyle

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)(d)(i) and 10A(2)(e) of the Act as outlined above.
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*.

CARRIED 4/3

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin
AGAINST VOTE - Cr Moran, Cr Stewart, Cr Marsh

Meeting adjourned at 7.04 pm

Meeting resumed at 7.34 pm

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

The following Recommendations to Council from the Committee of the Whole Council (confidential) were read to the Meeting

3.1 Proposed Resumption of Lands at Oak Flats by Transport for NSW (10024469)

COMMITTEE RECOMMENDATION:

1. That Council agree to enter into an Acquisition by Agreement with Transport for NSW for the resumption and transfer of lands at Oak Flats being Lot 3 in DP 1062155 and proposed Lots 100, 102 and 103 for the value of \$1,580,330 (exclusive of GST).
2. That all proceeds from the resumption and transfer of Lot 3 in DP 1062155 and proposed Lots 100, 102 and 103 for the value of \$1,580,330 (exclusive of GST) be dedicated to the City Hub Stage 1 Project.
3. That on registration of the proposed subdivision, Lot 101 is classified as operational land.
4. The Mayor and General Manager, or his nominated delegate, be authorised to execute relevant documentation in relation to the Acquisition by Agreement with Transport for NSW.

3.2 Airport Terminal Fire (10024887)

COMMITTEE RECOMMENDATION:

That Council receive and note the confidential report on the Airport Terminal Fire in May 2013.

331 RESOLVED: Marsh/Murray

That the recommendations to Council from the Committee of the Whole meeting held earlier today be adopted.

CARRIED UNANIMOUSLY

8. Reports

8.1 Airport Terminal Fire - Insurance Options (10024924)

332 RESOLVED: Murray/Marsh

1. That Council agrees to accept the cash settlement offer from Council's Insurers (Vero) in the amount of \$1,120,049.90 in full and final settlement of the property damage claim, for the loss of the terminal building at The Illawarra Regional Airport in May 2013.
2. That the Mayor and General Manager, or his nominated delegate, be authorised to sign the associated Deed of Release issued by Vero Insurance Limited and Allianz Australia Insurance Limited, for agreement and approval of the affixing of the General Manager's signature.
3. That the Mayor and General Manager, or his nominated delegate, be authorised to sign any documentation associated with the request for the removal of Lease to Aviator Restaurants Pty Limited from the Certificate of Title for Lot 10 in DP 1157377 under Council Seal.
4. That the total final sum be invested in an interest accruing account; tied specifically to be utilised for future replacement for the lost infrastructure at the Airport.
5. That the General Manager, as a matter of priority, prepare a report setting out the best options for Council to rebuild an asset at the Airport.

CARRIED 6/1

FOR VOTE - Cr Boyle, Cr Saliba, Cr Murray, Cr Rankin, Cr Stewart, Cr Marsh
AGAINST VOTE - Cr Moran

Business Arising

MOTION: Moran

That the confidential report and recording of Item 3.2 Airport Terminal Fire from the Committee of the Whole Meeting be declassified and made available on Council's website.

The MOTION lapsed for want of a seconder.

333 RESOLVED: Saliba/Murray

That the confidential report relating to Item 3.2 Airport Terminal Fire be declassified and be made available on Council's website.

CARRIED UNANIMOUSLY

Councillor Marsh asked whether staff can investigate what can be done by Council to provide food and beverages at the Illawarra Regional Airport precinct. The General Manager stated that he will make enquiries.

Items for Information

Councillor Stewart outlined her attendance at the recent Zone Library Meeting in Batemans Bay and extended an invitation to the Mayor and Councillor Marsh to attend the next Zone Library Meeting in Kiama on 9 December 2013.

The Mayor outlined her participation in the Highlights for Hope fundraising activity and thanked staff for their support of this event.

The Mayor also provided a reminder of the Dogs Day Out event being held on Saturday 19 October 2013 between 9.00am and 2.00pm at Reddall Reserve.

Meeting closed 8.06 pm

Attachment: Declassified Report

3.2 Airport Terminal Fire (15 October 2013)

Attachment - Report: 3.2 Airport Terminal Fire (15 October 2013)

3.2 Airport Terminal Fire (10024887) CONFIDENTIAL

To the General Manager

Directorate: Corporate Policy

Department: Risk Management

Manager: Tony Gearon - Group Manager Finance

Author: Ian Smith - Manager Risk Management Services

Reason for Confidentiality

This item is classified CONFIDENTIAL under the provisions of Section 10A(2)(e) 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.

This report has been made confidential to enable Councillors to discuss the issues regarding the investigation into the cause of the fire at the Airport Terminal Building in May 2013.

If this matter were to be discussed in open Council, there is a risk that those discussions could prejudice persons involved in the operation of the Aviator Lounge restaurant at the time of the fire.

Summary

There have been a number of independent investigations into the cause of the fire at The Airport Terminal Building on 20 May 2013. A forensic investigation has been conducted by the Police with inconclusive findings. Another two investigations have been conducted by a specialist investigation firm working on behalf of the insurers for the tenant.

Background

On Monday 20 May 2013 at approximately 3.00am, there was a fire in the Aviator Lounge at the Illawarra Regional Airport, Albion Park Rail. The damage to the building was extensive and as a consequence of the fire, the entire ground floor section of the restaurant, bar and reception area was destroyed beyond repair. The tower located in the centre of the building was not damaged to the same extent as the rest of the building. We have been advised by the consulting engineers, that the tower and amenities block located beneath it on ground floor are both salvageable, subject to some additional repairs to the external skin of brickwork.

Forensic investigators were appointed by the police and detectives were also appointed to investigate the cause of the fire. Council have not been provided with any written information regarding the outcomes from any of the investigations into the fire. We have received verbal advice from the police that the results of their investigations were inconclusive due to the intense heat of the fire. Apparently they were unable to determine where the fire started or if an accelerant was used due to the extensive damage caused by the intense heat.

The police have also informed us that due to the value of the damage caused by the fire (excess of \$1million) Council may request that a coronial enquiry be conducted into the fire in an attempt to determine the cause. The police also have the power to request a coronial inquest if they deem it necessary or beneficial and in this circumstance they have decided not to proceed down that line.

Council's Claims Managers (CMA) have informed us verbally regarding the outcome of the insurance investigation into the cause of the fire. Their findings were very similar to those of the police investigation in that whilst there was some suspicion regarding the cause of the fire there was no evidence to confirm how it started or who lit it.

The insurers for the tenants did not make a determination regarding their claim until late August because it took them approximately 3 months to finalise their investigations. Due to the lack of evidence regarding an arson attack, the insurers had no choice but to indemnify the tenants for the loss and settle their claim

Link to Community Strategic Plan

The Airport Terminal Fire report supports the following objectives and strategies of the Community Strategic Plan:

Objective: 4.2 Supported by a Council that is responsive, accountable and financially viable

Strategy: 4.2.5 Minimise risk and ensure continuity of critical business functions

Objective: 3.1 Infrastructure is planned and managed in a way that meets the community's needs

Strategy: 3.1.1 Provide the community with a broad range of quality infrastructure, assets and facilities delivered in a cost-effective and sustainable manner

3.1.2 Renew the City's ageing assets, infrastructure and facilities to meet the needs of the community now and into the future

Consultations

Internal

Director Shellharbour Enterprises
Director Corporate Policy

External

Claims Managers Australasia (CMA)
NSW Police

Political Donations Disclosure

Not Applicable

Recommendation

That Council receive and note the confidential report on the Airport Terminal Fire in May 2013.

Approved for Council's consideration: _____



Attachments

Nil