



SHIRE OF ASHBURTON

SPECIAL MEETING OF COUNCIL

MINUTES

**Council Chambers, Community Recreation
Centre, Tom Price**

5 July 2013

SHIRE OF ASHBURTON
SPECIAL COUNCIL MEETING

Dear Councillor

Notice is hereby given that an Special Meeting of the Council of the Shire of Ashburton will be held on 5 July 2013 at Council Chambers, Community Recreation Centre, Tom Price commencing at 8:00 am.

The business to be transacted is to discuss Legal agreements associated with the Water Main Relocation Works – Onslow Airport project.

Frank Ludovico
A/CHIEF EXECUTIVE OFFICER

DISCLAIMER

The recommendations contained in the Agenda are subject to confirmation by Council. The Shire of Ashburton warns that anyone who has any application lodged with Council must obtain and should only rely on written confirmation of the outcomes of the application following the Council meeting, and any conditions attaching to the decision made by the Council in respect of the application. No responsibility whatsoever is implied or accepted by the Shire of Ashburton for any act, omission or statement or intimation occurring during a Council meeting.

Special Meeting of Council 5 July 2013

1.	DECLARATION OF OPENING.....	4
2.	ANNOUNCEMENT OF VISITORS.....	4
3.	ATTENDANCE	4
3.1	PRESENT	4
3.2	APOLOGIES.....	4
3.3	APPROVED LEAVE OF ABSENCE.....	4
4.	ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION	4
5.	DECLARATION BY MEMBERS.....	4
5.1	DECLARATION OF INTEREST	5
6.	BUSINESS	6
6.1	DEED OF COVENANT AND INDEMNITY - WATER MAIN RELOCATION WORKS - ONslow AIRPORT PROJECT	6
7.	NEXT MEETING.....	9
8.	CLOSURE OF MEETING	9

1. DECLARATION OF OPENING

The Shire President declared the meeting opened at 8.00 am.

2. ANNOUNCEMENT OF VISITORS

The Shire President welcomed Lydia Highfield, Recruitment Services Manager, WALGA Workplace Solutions.

Cr Karen Chappel, Shire President from Morawa Shire entered the meeting at 8.03 am.

3. ATTENDANCE

3.1 PRESENT

Council Chambers, Recreation Centre, Central Road Tom Price

Cr K White	Shire President, Onslow Ward
Cr L Rumble	Deputy Shire President, Paraburdoo Ward
Cr I Dias	Paraburdoo Ward
Cr L Thomas	Tableland Ward
Cr P Foster	Tom Price Ward
Cr A Eyre	Ashburton Ward

Mr F Ludovico	A/Chief Executive Officer
Mr K Pearson	A/Executive Manager, Technical Services
Ms J Smith	Executive Officer CEO

Teleconference

Cr L Shields	Tom Price Ward
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(Cr Shields listened to the meeting via teleconference but did not vote).

Ms A O'Halloran	Executive Manager, Strategic & Economic Development
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(Ms O'Halloran participated in the meeting via teleconference).

3.2 APOLOGIES

Cr D Wright	Pannawonica Ward
Cr C Fernandez	Tom Price Ward

Ms D Wilkes	Executive Manager, Community Development
Mrs L Hannagan	A/Executive Manager, Corporate Services

3.3 APPROVED LEAVE OF ABSENCE

There were no approved Leave of Absences.

4. ANNOUNCEMENTS BY THE PRESIDING PERSON WITHOUT DISCUSSION

5. DECLARATION BY MEMBERS

That Councillors have given due consideration to all matters contained in the Agenda presently before the meeting.

5.1 DECLARATION OF INTEREST

Councillors to Note

A member who has a Financial Interest in any matter to be discussed at a Council or Committee Meeting, that will be attended by the member, must disclose the nature of the interest:

- (a) In a written notice given to the Chief Executive Officer before the Meeting or;
- (b) At the Meeting, immediately before the matter is discussed.

A member, who makes a disclosure in respect to an interest, must not:

- (c) Preside at the part of the Meeting, relating to the matter or;
- (d) Participate in, or be present during any discussion or decision-making procedure relative to the matter, unless to the extent that the disclosing member is allowed to do so under Section 5.68 or Section 5.69 of the Local Government Act 1995.

NOTES ON FINANCIAL INTEREST (FOR YOUR GUIDANCE)

The following notes are a basic guide for Councillors when they are considering whether they have a Financial Interest in a matter.

I intend to include these notes in each agenda for the time being so that Councillors may refresh their memory.

1. A Financial Interest requiring disclosure occurs when a Council decision might advantageously or detrimentally affect the Councillor or a person closely associated with the Councillor and is capable of being measure in money terms. There are exceptions in the Local Government Act 1995 but they should not be relied on without advice, unless the situation is very clear.
2. If a Councillor is a member of an Association (which is a Body Corporate) with not less than 10 members i.e. sporting, social, religious etc), and the Councillor is not a holder of office of profit or a guarantor, and has not leased land to or from the club, i.e., if the Councillor is an ordinary member of the Association, the Councillor has a common and not a financial interest in any matter to that Association.
3. If an interest is shared in common with a significant number of electors or ratepayers, then the obligation to disclose that interest does not arise. Each case needs to be considered.
4. If in doubt declare.
5. As stated in (b) above, if written notice disclosing the interest has not been given to the Chief Executive Officer before the meeting, then it **MUST** be given when the matter arises in the Agenda, and immediately before the matter is discussed.
6. Ordinarily the disclosing Councillor must leave the meeting room before discussion commences. The **only** exceptions are:
 - 6.1 Where the Councillor discloses the **extent** of the interest, and Council carries a motion under s.5.68(1)(b)(ii) or the Local Government Act; or
 - 6.2 Where the Minister allows the Councillor to participate under s.5.69(3) of the Local Government Act, with or without conditions.

6. BUSINESS

Declaration of Interest

Prior to consideration of this Agenda Item Cr Eyre declared an interest in Agenda Item 6.1 in accordance with Section 5.60A of the Local Government Act. The interest being that her husband is employed by Onslow Salt.

6.1 DEED OF COVENANT AND INDEMNITY - WATER MAIN RELOCATION WORKS - ONSLOW AIRPORT PROJECT

Cr Eyre left the meeting at 8.04 am.

Council Decision

MOVED: Cr P Foster

SECONDED: Cr LRumble

That Council suspend standing orders in order for Amanda O'Halloran, Executive Manager, Strategic & Economic Development to provide information regarding the Deed of Covenant and Indemnity.

CARRIED BY ABSOLUTE MAJORITY 5/0

MINUTE: 12

FILE REFERENCE:

AS.TE.13.12

AUTHOR'S NAME AND POSITION:

Amanda O'halloran
Executive Manager, Strategic and Economic Development

NAME OF APPLICANT/RESPONDENT:

Not Applicable

DATE REPORT WRITTEN:

4 July 2013

DISCLOSURE OF FINANCIAL INTEREST:

The author has no financial interest in the proposal.

PREVIOUS MEETING REFERENCE:

Agenda Item 12.1 (Minute 11392) - Ordinary Meeting of Council 12 December 2012
Agenda Item 6.2 (Minute 5) - Special Meeting of Council 7 February 2013

Summary

The Shire is currently undertaking the Onslow Aerodrome Redevelopment including the construction of a new 1900m airstrip to CASA Code 3C requirements.

The water main that services the Onslow town is located under the existing airstrip and also under the southern end of the new airstrip. Water Corporation has advised that the main will need to be realigned due to the impact of the heavier jet aircraft and increased traffic expected on the new airstrip.

An agreement has been formed between Water Corporation and Shire of Ashburton for the water main relocation.

Further negotiation has been ongoing with Onslow Salt Pty Ltd (OSPL) to gain approval for the relocation works on the Shires Aerodrome land over which their General Purpose Mining Leases extend.. The Deed of Covenant and Agreement has been negotiated and it is recommended that Council authorise the Shire President and Acting Chief Executive Officer to execute this agreement through signing and affixing the Common Seal.

The Onslow Aerodrome Redevelopment includes, but is not limited to, the construction of a new runway, taxiway and apron. Chevron has agreed to contribute \$30 million to the redevelopment which is to be delivered over a twelve month period.

The sole water main which supplies the Onslow town site is located under the existing airstrip and the alignment of the new airstrip.

After numerous discussions, the Water Corporation advised in a letter dated 10 April 2012 that it would be the Shire's responsibility to arrange for the pipe to be diverted and for temporary protection if works were to be undertaken in the vicinity of the existing main.

Tenders were called for the diversion of the water main at the Onslow Airport in accordance with Water Corporation requirements. The tender closed at 3pm on Wednesday 16 January 2013 and was awarded to Redline WA Pty Ltd at the 7 February 2013 Special Meeting of Council.

The diversion of the water main is crucial to the delivery of the Aerodrome Runway as commissioning cannot occur without the completion of the new main. The timing for the temporary protection work is also critical as it impacts the ability of the Shire to complete construction works in the area where the main is currently located.

OSPL has 9 general purpose leases that impact Lot 16 Onslow Road - 08/38;08/39;08/40;08/41;08/42;08/43;08/44;08/45 and 08/46. These general purpose leases provide OSPL with tenure to carry out associated mining activities, and require the Shire to ensure that no activity we carry out on our land impacts or prohibits OSPL from these activities. We have been working with OSPL since October 2012 to reach agreement.

Comment

Due to the short timeframe of the Airport Expansion Project, the Shire of Ashburton requested OSPL's agreement to allow the commencement of construction to complete the water main relocation works. OSPL has agreed to give its consent for the Shire to carry out the works, as per the terms outlined in the Deed.

Special Meeting of Council 5 July 2013

The Deed asks the Shire to agree to the following:

- (a) Indemnify OSPL and its associates against any liability for damage or loss caused by the works;
- (b) Ensure that the construction works do not jeopardise the General Purpose Leases or interfere with the operations or infrastructure of OSPL on the leases;
- (c) Comply with its construction management plan in respect of the works;
- (d) Pay OSPL's reasonable legal costs in respect of the deed.

This Deed is critical in allowing the Shire to meet project deadlines. Therefore, it is recommended that Council authorise the Shire President and Acting Chief Executive Officer to execute the Deed.

Consultation

A/Chief Executive Officer
Executive Manager – Operations
Peter Kyle - Legal Counsel, Kyle & Co
Shane Priddle - Project Engineer, Water Corporation
Norm Cull - Senior Asset Delivery Representative, Water Corporation
David Goaley – Civil Engineer, David Wills and Associates

Statutory Environment

Local Government Act 1995 – S. 9.49A; Onslow Solar Salt Agreement Act 1992;
Mining Act 1978 s.117

Financial Implications

Section 8 Ancillary Costs

Section 8.3 The Shire must reimburse OSPL for all reasonable legal costs incurred by OSPL in negotiating, preparing and executing this deed. Further negotiation is required to reach a final figure. Provision has been made for legal costs in the Onslow Aerodrome Upgrade Construction Budget.

Standby Rates

Contractors (Redline) are on site and have carried out all work possible to date. Any delay in this negotiation process will impact on continuation of the works – every day the project is delayed the contractors are entitled to a daily standby rate of \$12,500.00 under the contract, these costs will be incurred by the project and are unbudgeted, and may be a cost to Council.

Strategic Implications

Shire of Ashburton 10 Year Community Strategic Plan 2012-2022

Goal 02 - "*Enduring Partnerships*"

Objective 01 – Strong Local Economies

Objective 02 – Enduring Partnerships with Industry and Government

Goal 04 - "*Distinctive and Well Serviced Places*"

Objective 01 – Quality Public Infrastructure

Objective 03 – Well Planned Towns.

Special Meeting of Council 5 July 2013

Policy Implications

There are no policy implications.

Voting Requirement

Absolute Majority Required.

Council Decision

MOVED: Cr I Dias

SECONDED: Cr P Foster

That Council reinstate standing orders.

CARRIED ABSOLOUTE MAJORITY 5/0

Council Decision

MOVED: Cr I Dias

SECONDED: Cr P Foster

That Council:

That Council authorise the Shire President and A/Chief Executive Officer to execute under the Common Seal a Deed of Covenant and Indemnity between Onslow Salt Pty Ltd and the Shire relating to the re-alignment of the water main round the Onslow Airport.

CARRIED BY ABSOLUTE MAJORITY 5/0

7. NEXT MEETING

The next Ordinary Meeting of Council will be held on 17 July 2013, at the Civic Centre, Tamarind Street, Tom Price, commencing at 1.00 pm.

8. CLOSURE OF MEETING

The Shire President closed the meeting at 8.25 am.