



SHIRE OF ASHBURTON

SPECIAL MEETING OF COUNCIL

MINUTES (Public Document)

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

12 November 2012

SHIRE OF ASHBURTON
SPECIAL COUNCIL MEETING

Dear Councillor

Notice is hereby given that a Special Meeting of the Council of the Shire of Ashburton will be held on 12 November 2012 at Council Chambers, Community Recreation Centre, Tom Price commencing at 07:00.pm.

The business to be transacted is shown in the Agenda.

Kerry White
President

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.

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1. DECLARATION OF OPENING

Shire President opened the meeting at 7.14pm

2. ANNOUNCEMENT OF VISITORS

3. ATTENDANCE

3.1 PRESENT

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 C Fernandez	Tom Price Ward
Cr A Eyre	Ashburton Ward

Council Decision

Moved Cr Foster

Seconded Cr Fernandez

Cr L Shields Tom Price Ward was not present

Carried 7 / 0

3.2 APOLOGIES

Cr D Wright

Pannawonica Ward

3.3 APPROVED LEAVE OF ABSENCE

NIL

4. QUESTION TIME

4.1 PUBLIC QUESTION TIME (pertaining to the Agenda item)

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.

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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.

BUSINESS

Council Decision to close the meeting to the public at 7.16pm

Moved Cr Foster

Seconded Cr Dias

Carried 7 / 0

6. CONFIDENTIAL ITEM – DISCUSSION AND CONSIDERATION OF ACTIONS TO BE TAKEN BASED ON DETAILS OF PROBITY REPORT HANDED IN BY THE DEPARTMENT OF LOCAL GOVERNMENT

6.1 Refer to Confidential Agenda Item under separate cover.

COUNCILLOR'S NAME: Cr Kerry White

DATE REPORT WRITTEN: 31 October 2012

DISCLOSURE OF FINANCIAL INTEREST: The author has no financial interest in this matter.

Councillor Recommendation

That the Council –

1. notes that, following the formal request by the Council on 15 August 2012 to the Department of Local Government to conduct a probity compliance audit, the Department has completed audit, the department has completed the Shire of Ashburton 2012 Probity Compliance Audit Report (**Report**) and the Minister for Local Government has issued the notice dated 31 October 2012 (**Notice**);
2. engages Herbert Smith Freehills to advise and assist the Council in relation to employment matters;
3. engages McLeods Lawyers to advise and assist the Shire in its response to the Notice and the Report;
4. authorises the CEO to be given, on a strictly confidential basis, a copy of the Report;
5. approves the terms of a letter to the CEO relating to the Report (**Approved Letter**);
6. appoints Paul Omedei to act on behalf of Council to meet with the CEO and discuss the terms of the approved letter with the CEO.

7. directs the CEO –

(a) to meet with Paul Omedei no later than noon on the 14th November 2012 to discuss the terms of the Approved letter.

(b) to give to Herbert Smith Freehills, by the close of business on 19 November 2012, a written response to the Report in accordance with the Approved Letter; and

(c) not to otherwise carry out the functions of the Shire’s CEO during the time that he is preparing the response, and

8. immediately once the meeting in 7(a) above has occurred appoints Paul Omedei as Acting Chief Executive Officer of the Shire during the period referred to in paragraph 7(c), or for two weeks, whichever occurs first.

Voting Requirement

Simple Majority Required

Council Decision

Moved Cr Eyre

Seconded Cr Foster

to suspend standing orders at 7.16pm to speak to the lawyers

Carried 7 / 0

7.45 Cr Shields entered the room

Council Decision

Moved Cr Eyre

Seconded Cr Foster

to resume standing orders at 8.11pm

Carried 8 / 0

Council Decision

Moved Cr Foster

Seconded Cr Rumble

That the Council –

- 2.** notes that, following the formal request by the Council on 15 August 2012 to the Department of Local Government to conduct a probity compliance audit, the Department has completed audit, the department has completed the Shire of Ashburton 2012 Probity Compliance Audit Report (Report) and the Minister for Local Government has issued the notice dated 31 October 2012 (Notice);
- 3.** engages Herbert Smith Freehills to advise and assist the Council in relation to employment matters;

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4. engages McLeods Lawyers to advise and assist the Shire in its response to the Notice and the Report;
5. authorises the CEO to be given, on a strictly confidential basis, a copy of the Report; approves the terms of a letter to the CEO relating to the Report (Attachment 1);
6. appoints Paul Omedei to act on behalf of Council to meet with the CEO and discuss the terms of the approved letter with the CEO.
7. directs the CEO –
 - a. to meet with Paul Omedei no later than noon on the 14th November 2012 to discuss the terms of the Approved letter.
 - b. to give to Herbert Smith Freehills, by the close of business on 19 November 2012, a written response to the Report in accordance with the Approved Letter; and
 - c. not to otherwise carry out the functions of the Shire's CEO during the time that he is preparing the response, and
8. immediately once the meeting in 7(a) above has occurred appoints Paul Omedei as Acting Chief Executive Officer of the Shire during the period referred to in paragraph 7(c), or for two weeks, whichever occurs first.

Carried 5 / 3

For the recommendation Cr White, Thomas, Cr Rumble, Cr Foster and Cr Dias
Against the recommendation Cr Eyre, Cr Shield and Cr Fernandez

7. CLOSURE OF MEETING AT 8.19 pm