



SHIRE OF WYNDHAM | EAST KIMBERLEY

**MINUTES  
SPECIAL COUNCIL  
MEETING**

**7 October 2016**



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**SHIRE OF WYNDHAM EAST KIMBERLEY  
SPECIAL COUNCIL MEETING AGENDA  
KUNUNURRA COUNCIL CHAMBERS  
TO BE HELD ON 7 OCTOBER 2016 AT 9:30AM**

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**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

Commissioner declared the meeting open at 9.30am.

**2. RECORD OF ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE (PREVIOUSLY APPROVED)**

Ron Yuryevich

Commissioner

Carl Askew

CEO

David Klye

Director Infrastructure

Lisa Hannagan

Minute Taker

**APOLOGIES**

Louise Gee

Director Community Development

Natalie TePohe

Director Corporate Services

**GALLERY**

Keith Wright

Darren Spackman

**3. DECLARATION OF INTEREST**

There were no declarations of interest.

- Financial Interest
- Impartiality Interest
- Proximity Interest

**4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

Nil

**5. PUBLIC QUESTION TIME**

Nil

**7. PETITIONS**

Nil

**8. ANNOUNCEMENTS BY THE PERSON PRESIDING WITHOUT DISCUSSION**

Nil

**9. DEPUTATIONS / PRESENTATIONS / SUBMISSIONS**

Nil

**10. MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Item 15.1 includes matters of both legal and financial nature.

**11. REPORTS**

Nil

**12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**13. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN**

Nil

**14. URGENT BUSINESS APPROVED BY THE PERSON PRESIDING OR BY DECISION**

Nil

**15. MATTERS BEHIND CLOSED DOORS**

**COUNCIL DECISION**

**Minute No: 7/10/2016-11518**

**Commissioner resolved that Council move behind closed doors at 9.31am.**

**Carried 1/0**

## 15.1. D2 DRAIN - DEED OF AGREEMENT WITH OIC

DATE:	7 October 2016
AUTHOR:	David Klye, Director Infrastructure
RESPONSIBLE OFFICER:	David Klye, Director Infrastructure
FILE NO:	SD.05.2
DISCLOSURE OF INTERESTS:	Nil

*This item is to be considered behind closed doors as per the Local Government Act 1995:*

### 5.23. Meetings generally open to public

- (2) *If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —*
- (a) a matter affecting an employee or employees; and*
  - (b) the personal affairs of any person; and*
  - (c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and*
  - (d) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and*
  - (e) a matter that if disclosed, would reveal —*
    - (i) a trade secret; or*
    - (ii) information that has a commercial value to a person; or*
    - (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and*
  - (f) a matter that if disclosed, could be reasonably expected to —*
    - (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or*
    - (ii) endanger the security of the local government's property; or*
    - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety; and*
  - (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and*
  - (h) such other matters as may be prescribed.*
- (3) *A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.*

## **VOTING REQUIREMENT**

Absolute Majority

## **PURPOSE**

To advise Council of the current situation regarding the Shire's obligations regarding the D2 drain and to seek guidance on an offer from the Ord Irrigation Cooperative Ltd (OIC).

### **COUNCIL DECISION**

**Minute No: 7/10/2016-11519**

**Commissioner resolved:**

**That Council:**

- 1. Accepts the offer made by the Ord Irrigation Cooperative in its letter to the Shire of 6 October 2016 for the Ord Irrigation Cooperative and the Ord Irrigation Asset Mutual Co-operative Ltd to relinquish any and all rights, obligations and responsibilities as a consequence of the *Deed of Indemnity M1/D2 Shire Drainage Works* between the Shire and all other parties, being the Ord Irrigation Cooperative and the Ord Irrigation Asset Mutual Cooperative Limited in exchange for payment of the amount stated in the letter of offer dated 6 October 2016.**
- 2. Accepts payment option one detailed in the letter of offer dated 6 October 2016.**
- 3. The Shire notes in particular that in accordance with the letter of offer made by the Ord Irrigation Cooperative, that all of the Shire's obligations and liability under the *Deed of Indemnity M1/D2 Shire Drainage Works* cease on full payment of the consideration referred to in points one and two of this decision.**
- 4. Authorises the use of the funds allocated in general ledger account No 02120231 D2 Drain Rehabilitation to dissolve the *Deed of Indemnity M1/D2 Shire Drainage Works*.**
- 5. Authorises the Chief Executive Officer to negotiate the terms of payment and execute the dissolution of the *Deed of Indemnity M1/D2 Shire Drainage Works* and report finalisation of the matter to a future Council Meeting.**
- 6. Establish a Drainage Reserve with the purpose of the reserve to be; *To establish, repair and maintain Shire drainage infrastructure.***

**Carried 1/0**

**COUNCIL DECISION**

**Minute No: 7/10/2016-11520**

**Commissioner resolved that Council return from behind closed doors and re-opened the meeting to the public at 9.38am.**

**Carried 1/0**

**16. CLOSURE**

Commissioner declared the meeting closed at 9.41am.