



SPECIAL COUNCIL MEETING

AGENDA

**NOTICE IS HEREBY GIVEN that a
Special Meeting of Council will be held
in the Council Chambers, Welcome Road, Karratha,
on 29 April 2010 at 5.45pm**

**Collene Longmore
CHIEF EXECUTIVE OFFICER**



No responsibility whatsoever is implied or accepted by the Shire of Roebourne for any act, omission or statement or intimation occurring during Council or Committee Meetings. The Shire of Roebourne disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

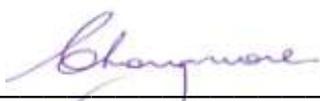
Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee Meeting does so at that persons or legal entity's own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning application or application for a license, any statement or intimation of approval made by any member or Officer of the Shire of Roebourne during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of Roebourne.

The Shire of Roebourne warns that anyone who has any application lodged with the Shire of Roebourne must obtain and should only rely on

WRITTEN CONFIRMATION

of the outcome of the application, and any conditions attaching to the decision made by the Shire of Roebourne in respect of the application.

Signed: 
Ms C Longmore –Chief Executive Officer

DECLARATION OF INTERESTS (NOTES FOR YOUR GUIDANCE) (updated 13 March 2000)

A member who has a **Financial Interest** in any matter to be discussed at a Council or Committee Meeting, which 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.

INTERESTS AFFECTING IMPARTIALITY

DEFINITION: *An interest that would give rise to a reasonable belief that the impartiality of the person having the interest would be adversely affected, but does not include an interest as referred to in Section 5.60 of the 'Act'.*

A member who has an **Interest Affecting Impartiality** in any matter to be discussed at a Council or Committee Meeting, which 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.

IMPACT OF AN IMPARTIALITY CLOSURE

There are very different outcomes resulting from disclosing an interest affecting impartiality compared to that of a financial interest. With the declaration of a financial interest, an elected member leaves the room and does not vote.

With the declaration of this new type of interest, the elected member stays in the room, participates in the debate and votes. In effect then, following disclosure of an interest affecting impartiality, the member's involvement in the Meeting continues as if no interest existed.

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AGENDA

1 OFFICIAL OPENING

Cr Lockwood acknowledged the traditions of the Ngarluma people, on whose land we are gathered here today.

2 RECORD OF ATTENDANCES / APOLOGIES / LEAVE OF ABSENCE

Councillors:

- Cr Nicole Lockwood [President]
- Cr John Lally [Deputy President]
- Cr Fay Cechner
- Cr Harry Hipworth
- Cr Ben Lewis
- Cr Joanne Pritchard
- Cr Des Rothe
- Cr Evette Smeathers
- Cr Sharon Vertigan

Staff:

| | |
|------------------|----------------------------------|
| Collene Longmore | Chief Executive Officer |
| Paul Anderson | Assistant to CEO |
| Ray McDermott | Exec Manager Corporate Svces |
| Simon Kot | Exec Manager Community Svces |
| Craig Watts | A/Exec Manager Development Svces |
| Troy Davis | Exec Manager Technical Svces |
| | Minute Secretary |

Apologies: Cr Fiona White-Hartig

Absent:

Leave of Absence: Cr Garry Bailey

Members of Public:

Members of Media:

3 CHIEF EXECUTIVE OFFICER & EXECUTIVE SERVICES

3.1 CHIEF EXECUTIVE OFFICER

3.1.1 CITIC PACIFIC MINING LTD

| | |
|--------------------------------|--------------------------------|
| File No: | LP62 |
| Attachment(s) | McLeods Legal Advice |
| Responsible Officer: | Chief Executive Officer |
| Author Name: | Chief Executive Officer |
| Disclosure of Interest: | Nil |

REPORT PURPOSE

The purpose of this report is to notify Council of advice received from Council's solicitors that informs planning approval requirements for CITIC Pacific Mining (CPM) leases and to seek Council's endorsement in line with this advice.

Background

CITIC Pacific Mining is a wholly-owned subsidiary of CITIC Pacific Limited, China's largest speciality steel manufacturer. CPM has been established to manage the Sino Iron project at Cape Preston, about 100 kilometres south-west of Karratha.

It is the first magnetite project of its scale in Western Australia and, when complete, will be one of the world's largest mines. CITIC Pacific Mining's Sino Iron project has access to over two billion tonnes of measured indicated and inferred magnetite ore and, when operational, will produce 27.6 million tonnes per annum of a mix of pellets and concentrate.

The mine's end product is an important commodity as it is one of the raw materials used to make steel.

The project requires significant processing and transport infrastructure.

Processing infrastructure will include:

- Primary crushers
- Autogenous and Semi-Autogenous grinding mills
- Concentrator
- Pellet plant

Supporting infrastructure will include:

- New port and port facilities
- Combined cycle gas-fired power station
- Accommodation villages
- Desalination plant
- Pipelines
- Roads
- Materials handling equipment including a slurry pipeline

Issues

As discussed this development when completed will be one of the world's biggest mines. This development is of significant State importance and is the subject of a State Agreement Act.

There has been considerable conjecture over the Shire's requirement for Development Approval for development within mining leases. CPM states they have legal advice to the effect they do not require development approval under the Mining Act.

Section 8 of the Mining Act 1978 states that:

Mining Operations means any mode or method of working whereby the earth or any rock structure stone fluid or mineral bearing substance may be disturbed removed washed sifted crushed leached roasted distilled evaporated smelted or refined or dealt with for the purpose of obtaining any mineral there from whether it has been previously disturbed or not and includes:

- (a) the removal of overburden by mechanical or other means and the stacking, deposit, storage and treatment of any substance considered to contain any mineral;
- (b) operations by means of which salt or other evaporates may be harvested;
- (c) operations by means of which mineral is recovered from the sea or a natural water supply; and
- (d) the doing of all lawful acts incident or conducive to any such operation or purposes.

This is a very broad definition and essentially covers the process from the point at which the ore comes out of the ground until, practically, the point of smelting. This same ground would be covered under specific State Agreements and, if it is not specifically defined, then it would revert to the Mining Act's definition.

CPM does not dispute the need for building licences to be issued for those buildings necessary to undertake the mining operations.

The Department of State Development suggests the following way forward:

- The proponent lodges a single project based development approval with Local Government under the Planning and Development Act 2005.
- Local Government to process and endorse the development approval within 4 weeks
- Local Government to advise the Proponent immediately following development approval about what building structures require building licences.
- Building Licence requirements to be consistent with the definition of mining operation; namely:
 - All structures being for accommodation, offices, ablutions and amenities require building licences.

- Any equipment for the mining operation, where it housed within an enclosed structure only requires a building licence for the structure (not the equipment within the structure).

This 'Way Forward' has been proposed by the Department of State Development to provide a greater deal of clarity for the shire to address individual development of this nature which are of significance to the State and how we (State and Shire) can move to a position that will not add unnecessary layers of assessment that have been previously endorsed by the State utilising the expertise that is currently available to which is in excess of the Shires current resources.

Advice provided by Councils solicitors this week states that there is no requirement for planning approval for Buildings for mining operations on Mining Leases. Section 120 of the Mining Act gives exemption for Planning Approval for development which is associated in the extraction and processing of extracted materials.

While the Shire of Roebourne Town Planning scheme states that, unless exempted all Developments require Planning Approval. Section 120 of the Mining Act operates to provide exemption from Shire Planning approval for mining operations

Advice from the solicitors also states that a planning or development approval is not required prior to the issuing of a building licence, as the two approvals processes work independently of each other.

Notwithstanding the solicitor's advice to Council, there is a need for Council to be informed as to what the general layout of land uses will be within a mining operation, and what buildings and structures are proposed to be erected. This information may not be necessary for planning approval purposes, but can be used to inform Council as to what buildings may need a building licence.

While the composition, location and layout of buildings and structures may change over time, it is reasonable for Council to know what development is occurring within its municipality, even if development approval is not required.

Options

1. Acknowledge and Support the advice by Council solicitors to allow development without Planning Approval.
2. To request CPM to provide Council, for information purposes only, a plan or diagram of its mining operations showing the general layout of land uses, buildings and structures, to assist Council in determining which buildings will require building licences to be issued.

Policy Implications

Council Policy DP5 Industrial Zones and Industrial Development requirements state:

A planning application is required for:

Any industrial development works to be undertaken on land zoned rural requires a planning application unless exempted by this policy, Commonwealth, or State legislation such as the Public Works Act 1902 or a State Agreement Act.

It is the authors view that our Policy currently negates the need for Planning Approval for this proposal.

Legislative Implications

The advice from solicitors indicates that the provisions of the Shire of Roebourne's Town Planning Scheme in relation to areas outside of town site boundaries do not apply. Section 120(1) of the Mining Act 1978 indicates, *and the provisions of the scheme shall not operate to prohibit or affect the granting of a mining tenement or the carrying out of mining operations authorised by this act.*

Financial Implications

As the proposed development would be in excess of \$21.5m the development application fee of \$31,100 would be applicable.

In the event that the Council resolves not to require a development application these fees would not be forthcoming.

In the event that Council applies this principle to future developments budgeted income for Development Services would have to take this into consideration.

Fees associated with the building application process would still be applicable.

The Council could also apply spot rating on the development to raise rates based upon the valuation set by the valuer general with the rate in the dollar set by the Council applied to this valuation. Given the lead time from approval to valuation it is anticipated that any rates income would be in forward budgets.

Voting Requirements

Simple.

RECOMMENDATION

That Council:

1. Acknowledges the advice from Council's solicitors in regard to development approval not being required for any development constituting mining operations in accordance with section 120 of the Mining Act 1978 and applies this advice with regard to CITIC Pacific Mining Sino iron project mining tenements in the vicinity of Cape Preston.
2. Requests CITIC Pacific Mining to provide Council, for information purposes only, a plan or diagram of its mining operations showing the general layout of land uses, buildings and structures, to assist Council in determining which buildings will require building licences to be issued.
3. Advises CITIC Pacific Mining that approvals in accordance with section 374 of the Local Government (Miscellaneous provisions) Act 1960, the Health Act 1911, and Food Act 2008 apply.
4. Request administration to seek clarification and direction from the State Solicitor's office and the Department of Planning and other relevant State Government agencies in regards to the application of the Shire of Roebourne's Town Planning Scheme to developments on mining leases and developments in accordance with State agreements.

4 CLOSURE & DATE OF NEXT MEETING

5 May 2010