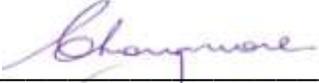




SPECIAL COUNCIL MEETING

MINUTES

**The Special Meeting of Council was held
in the Council Chambers, Welcome Road, Karratha,
on 29 April 2010 at 5.45pm**



**Collene Longmore
CHIEF EXECUTIVE OFFICER**

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1 OFFICIAL OPENING

The Ordinary Meeting of Council held in the Council Chambers, Welcome Road, Karratha on 29 April 2010 was declared open at 5.49pm. Cr Lockwood also 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 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
– arrived 5.51pm
Craig Watts A/Exec Manager, Development Svces
Troy Davis Exec Manager, Technical Svces
Minute Secretary

Apologies: Cr Fiona White-Hartig
Absent: Cr Des Rothe
Leave of Absence: Cr Garry Bailey

Members of Public: Nil
Members of Media: Nil

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.

COUNCIL RESOLUTION

Res No : **15097**
MOVED : **Cr Lally**
SECONDED : **Cr Smeathers**

That Council suspend Standing Orders to allow for open discussion of this item.

COUNCIL RESOLUTION

Res No : **15098**
MOVED : **Cr Vertigan**
SECONDED : **Cr Cechner**

That Council reinstate Standing Orders.

COUNCIL RESOLUTION

Res No : **15099**
MOVED : **Cr Pritchard**
SECONDED : **Cr Lally**

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.

CARRIED

FOR : Cr Lockwood, Cr Lally, Cr Cechner, Cr Hipworth, Cr Lewis, Cr Pritchard, Cr Smeathers and Cr Vertigan
AGAINST : Nil