



# CONFIRMED MINUTES

**Ordinary Meeting held on 22 August 2017**



## SHIRE OF CHRISTMAS ISLAND MEETING MINUTES CERTIFICATION

**Minutes of the Ordinary meeting of the Shire of Christmas Island Council held at the George Fam Chambers at 7.00pm on Tuesday 22 August 2017**

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## **CONFIRMED MINUTES**

**Ordinary Meeting of the Shire of Christmas Island held at the George Fam Chambers at 7.00pm on Tuesday 22 August 2017**

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

The President declared the meeting open at 7.00pm.

### **2 RECORD OF ATTENDANCE/APOLOGIES/LEAVE OF ABSENCE/DECLARATIONS OF FINANCIAL INTEREST**

#### **2.1 Record of Attendance**

Shire President  
Deputy President  
Councillors

Cr Gordon **THOMSON**  
Cr Kee Heng **FOO**  
Cr Rosnah **PAL**  
Cr Nora **KOH**  
Cr Azmi **YON**  
Cr Kelvin **LEE**  
Cr Philip **WOO**  
Cr Vincent **SAW**  
Cr Hafiz **MASLI**

Chief Executive Officer  
Manager Finance and Admin  
Manager Recreation Services and Training Officer

David **PRICE**  
**GAN** So Hon  
Olivier **LINES**

Minute Taker

Shikin **HASINUDIN**

#### **2.2 Leave of Absence**

#### **2.3 Apologies**

#### **2.4 Declarations of Financial/Impartiality/Proximity Interest**

### **3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

### **4 PUBLIC QUESTION TIME**

4.1 Cr YON – Arenga Close – Cr YON advised Council that after the entering Arenga Close, there is a blind corner that some motorist would 'cut corner'. Cr YON had 2 near misses at that corner and would like for Council to install a speed hump near that corner of the road.

The CEO will get the Manager Works and Services to look into this matter.

4.2 Cr PAL – Water Leak in Road – Cr PAL advised Council that there is water leak under the road adjacent to the Halal BBQ at the cove.

The CEO replied that it is Water Corporation's responsibility and that this matter will be raised to them.

**5 APPLICATIONS FOR LEAVE OF ABSENCE**

Cr Nora KOH (23/9/17-28/10/17)

**Council Resolution**

**Moved: Cr YON**

**Seconded: Cr PAL**

**Res. No: 77/17**

That the leave of absence application submitted by Cr KOH (23/9/17 to 28/10/17) be approved.

**Carried: 9/0**

**6 PETITIONS/DEPUTATIONS/PRESENTATIONS**

**7 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS/BUSINESS ARISING FROM THE MINUTES OF PREVIOUS MEETINGS**

**7.1 Minutes of Ordinary Council Meeting held on 25 July 2017**

Members considered the unconfirmed minutes.

**Council Resolution**

**Moved: Cr KOH**

**Seconded: Cr PAL**

**Res. No: 78/17**

That Council adopt the unconfirmed minutes of the 25 July 2017 Council Meeting.

**Carried: 9/0**

**7.2 Business Arising from the Minutes of Previous Meetings**

**8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION**

**9 REPORTS OF COMMITTEES**

**10 REPORTS OF OFFICERS**

**10.1 Chief Executive Officer**

10.1.1 Proposed Subdivision of Lot 143 Triadic Crescent

**Council Resolution**

**Moved: Cr MASLI**

**Seconded: Cr SAW**

**Res. No: 79/17**

That Council advise that Western Australian Planning Commission that it has no objection to the proposed subdivision of Lot 143 Triadic Crescent, Christmas Island into four (4) lots, subject to the following conditions and advice notes being imposed:

B1 - All buildings and effluent disposal systems having the necessary clearance from the new boundaries as required under the relevant legislation including the Local Planning Scheme and Building Regulations of Australia. (Local Government)

B3 - Written confirmation from the local government that all necessary local government approval(s) have been issued and that the whole of the building has been completed in accordance with those approvals. (Local Government)

B5 - Other than buildings, outbuildings and/or structures shown on the approved plan for retention, all buildings, outbuildings and/or structures present on lot(s) 604 at the time of subdivision approval being demolished and materials removed from the lot(s). (Local Government)

D4 - The land being filled, stabilised, drained and/or graded as required to ensure that:

- a) lots can accommodate their intended development; and
- b) finished ground levels at the boundaries of the lot(s) the subject of this approval match or otherwise coordinate with the existing and/or proposed finished ground levels of the land abutting; and
- c) stormwater is contained on-site, or appropriately treated and connected to the local drainage system. (Local Government)

D5 - Prior to the commencement of subdivisional works, the landowner/applicant is to provide a pre-works geotechnical report certifying that the land is physically capable of development clearly addressing any stability issues associated with proximity to the coastline and coastal processes or advising how the land is to be remediated and compacted to ensure it is capable of development; and In the event that remediation works are required, the landowner/applicant is to provide a post geotechnical report certifying that all subdivisional works have been carried out in accordance with the pre-works geotechnical report. (Local Government)

E1 - Arrangements being made to the satisfaction of the Western Australian Planning Commission and to the specification of the Indian Ocean Territories Power Authority for the provision of an underground electricity supply to the lot(s) shown on the approved plan of subdivision. (Indian Ocean Territories Power Authority)

T16 - The proposed access way(s) being constructed and drained at the landowner/applicant's cost to the specifications of the local government. (Local Government)

W1 - Arrangements being made with the Water Corporation so that provision of a suitable water supply service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)

W2 - Arrangements being made with the Water Corporation so that provision of a sewerage service will be available to the lots shown on the approved plan of subdivision. (Water Corporation)

W3 - The provision of easements for existing or planned future water, sewerage and/or drainage infrastructure as may be required by the Water Corporation being granted free of cost to that body. (Water Corporation)

A notification, pursuant to Section 165 of the Planning and Development Act 2005 is to be placed on the certificate(s) of title of the proposed lot(s) advising of the existence of a hazard or other factor. Notice of this notification is to be included on the diagram or plan of survey (deposited plan). The notification is to state as follows:

*"VULNERABLE COASTAL AREA –This lot is located in an area likely to be subject to coastal erosion and/or inundation over the next 100 years."*(Western Australian Planning Commission)

Advice notes:

Ba1 - In regard to Condition B1, the Western Australian Planning Commission will accept building clearance requirements as specified in the relevant local planning scheme operative at the time the subdivision approval was granted by the Western Australian Planning Commission.

Ba2 - In regard to Condition B5, planning approval and/or a demolition licence may be required to be obtained from the local government prior to the commencement of demolition works.

Ea1 - In regard to Condition E1, Indian Ocean Territories Power Authority provides only one underground point of electricity supply per freehold lot.

Wa1 - In regard to Condition/s W2, the landowner/applicant shall make arrangements with the Water Corporation for the provision of the necessary services. On receipt of a request from the landowner/ applicant, a Land Development Agreement under Section 67 of the Water Agencies (Powers) Act 1984 will be prepared by the Water Corporation to document the specific requirements for the proposed subdivision.

**Carried: 9/0**

## **10.2 Manager Finance & Administration**

### **10.2.1 Schedule of Accounts – July 2017**

#### **Council Resolution**

**Moved: Cr FOO**

**Seconded: Cr WOO**

**Res. No: 80/17**

That Council approves the expenditure as presented in July 2017 Schedule of Accounts.

**Carried: 9/0**

#### 10.2.2 Financial Statements – June & July 2017

**Council Resolution**

**Moved: Cr FOO**

**Seconded: Cr YON**

**Res. No: 81/17**

That council receives the Financial Statements of the June 2017 (un-audited) and July 2017 for the Municipal Fund.

**Carried: 9/0**

#### 10.3 Manager Community Services

#### 10.4 Manager Works & Services

#### 10.5 Manager Recreation Services & Training Officer

#### 11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

#### 12 NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF THE MEETING

**Council Resolution**

**Moved: Cr FOO**

**Seconded: Cr YON**

**Res. No: 82/17**

That Council approves Item 12.1 Crown Land Development Ordinance to be discussed.

**Carried: 9/0**

#### 12.1 Crown Land Development Ordinance

**Council Resolution**

**Moved: Cr FOO**

**Seconded: Cr YON**

**Res. No: 83/17**

The Council adopts the following terms as the Council's Crown Land Development Policy:

**Preamble**

Council acknowledges the Commonwealth of Australia retains ownership and control of Crown Land subject of the Shire of Christmas Island's Land Planning Strategy and Town Planning Scheme #2.

In March 2017 the Australian Government issued the Christmas Island Crown Land Management Plan (CLMP).

The CLMP does not provide an effective mechanism for economic development of Christmas Island.

The Commonwealth can best facilitate economic development of Christmas Island by formulation of an Economic Vision for Christmas Island and establishing a Crown Land Development Ordinance in the terms set out in this policy.

**Christmas Island Crown Land Management Plan (CLMP)**

The final release of the CLMP is welcomed as it clearly indicates the Government's commitment to release Crown land for the purpose of economic advancement.

However the CLMP is deficient for the following reasons:

- a. The orderly and enforceable management of land use on Christmas Island can only be

exercised through the Shire *Town Planning Scheme No.2* (TPS2) underpinned by the Shire *Planning Strategy*. This has been repeatedly stated since 2009.

- b. The CLMP is not a statutory document, it has no arbitration or mandatory provisions; it is not enforceable.
- c. Any inconsistency between the CLMP and the statutory planning instruments will give rise to conflict and or confusion in intents and procedures with inevitable delays and unnecessary challenges.
- d. An explicit collaborative partnership between the Department and the Shire is expected by business and in the community. The CLMP provides a negative perception of procedural non-alignment between the two layers of Government.
- e. In the majority of cases the land uses proposed in the CLMP will only be confirmed to the buyers after the prosecution of the necessary planning procedures such as Scheme Amendment and or Structure Plan are completed. The CLMP is inviting to purchase land without certainty of usage. This is not good commercial practice.
- f. The CLMP does not provide clear, precise and assured guidance on how Crown land represented in the documentation can readily be developed in a timely manner. The CLMP offers no clue on how to alleviate red and green tape.
- g. The map of "potentially available Crown land" released with the CLMP documents includes Crown land zoned for Public Purposes, Public Open Space and Crown Reserve under TPS 2. In advertising the likes of public parks, cemeteries, sport ovals and beaches as "potentially available" for disposal, the CLMP ignores and contradicts the regulatory planning instruments in force.
- h. The CLMP implies that agriculture may not proceed in a meaningful way until 2034 when the current mining lease expires. By not offering any solution to allow the two activities to work concurrently within the mining lease the CLMP unduly ignores the timely introduction of broad acre commercial agriculture on Christmas Island.

### **Commonwealth *Economic Vision for Christmas Island* and Community aspirations**

We call upon the Australian Government to declare its *Economic Vision for Christmas Island*. The formulation of an *Economic Vision for Christmas Island* by the Commonwealth Government is, in our opinion, essential to:

- encourage effective private investments in Christmas Island;
- facilitate the creation of sustainable additional local revenues;
- simultaneously reducing the Commonwealth financial exposure in administering the Territory; and
- protect Australia's sovereignty over Christmas Island through enhanced economic development.

Territorial sovereignty within the United Nations context is expected to actively promote and facilitate sustainable economic well-being for the subject communities in the territory.

The maintenance of Australia's strategic National interests and its sovereignty over Christmas Island relies fundamentally on a sustained economy for the community. To that end a long-term Government (not the Department) sanctioned *Economic Vision for Christmas Island* would promote an environment conducive to private investment.

In the past 40 years, apart from phosphate mining, economic activities on Christmas Island have been dependant on Government infrastructure building cycles that have not provided the necessary framework for private investment from local and/or external sources. This in turn has kept Australia's sovereignty over Christmas Island in a fragile and vulnerable position.

We are of the opinion that, at this point, the community of Christmas Island remains uncertain about



the strategic significance of the Island from the Government's perspective in terms of defence, foreign engagement and commitment to economic development. The Department's CLMP offers little clarification in this respect.

Naturally the community has ambitions and detailed expectations and our views and experience on the ground should also be taken into account in creating the vision for the island.

Some of that information is already available. For example, collective community aspirations have been reflected and well documented in the *Christmas Island Planning Strategy 2011* and the Minister's willingness to support the review and update of the *CI 2021 Plan for the future* provide further encouragement in that area.

A Government *Economic Vision for Christmas Island* supported by cabinet and sanctioned by Parliament would include the following concepts but not be limited to:

- a. the strategic National significance of Christmas Island
- b. statements reflecting the aspirations and needs of the island community
- c. aspiration for the establishment of a reliable, open and diversified logistics framework;
- d. a clear position to allow access to new phosphate deposits on Christmas Island outside the National Park;
- e. a robust, transparent and expeditious vehicle to process unsolicited proposals; and
- f. facilitation of Investment born from the Australia-Singapore comprehensive strategic partnership

### **Christmas Island Land Development Ordinance**

As observed above the CLMP provides little meaningful guidance on how Crown land can readily be released and more specifically how land can be developed whilst satisfying simultaneously the aspirations of the Commonwealth, the Local Government and the community.

As noted in the CLMP, it is clear that the release and the subsequent development of Crown land will be subject to the following legislative and regulatory instruments:

- I. *Christmas Island Act 1958* (Cth)
- II. *Indian Ocean Territories (Administration of Laws) Act 1992* (WA)
- III. *Planning and Development Act 2005* (WA) (CI)
- IV. *Land Administration Act 1997* (WA) (CI)
- V. *Public Governance, Performance and Accountability Act 2013*
- VI. *Mining Act 1978* (WA) (CI)
- VII. *Environment Protection and Biodiversity Conservation Act 1999* (Cth)
- VIII. *Christmas Island Planning Strategy 2011*
- IX. *Christmas Island Town Planning Scheme No.2*

We also note that the CLMP has not made reference to:

- X. *Local Government Act 1995* (WA)

From the perspective of prospective investors, the interpretation and interaction of this legislative intricacy is undisputedly a confounding and formidable challenge.

We maintain our opinion that, unlike the CLMP, a Christmas Island economically focused *Land Development Ordinance* would effectively consolidate obligatory requirements in one document and, where necessary, eliminate uncertainty or conflicting arrangements thus expediting procedures. The ordinance would provide appropriate legal legitimacy, clarity and certainty to assist potential investors in making financial decisions. It would also ensure much needed permanency and continuity in the face of changing Governments.

We therefore propose that the *Land Development Ordinance* would incorporate but not be limited to:

- a. A preamble making reference to an Australian Government high level long term *Economic Vision for the IOT* with input and or alignment from key Ministerial portfolios such as Defence, Foreign Affairs, Finance, Agriculture & Water resources, Trade, Tourism & Investment and Infrastructure & Transport in accord with the requirements of Chapter XI of the UN Charter on Non-Self-Governing Territories;
- b. A set of precise, Christmas Island specific, land development rules, objectives and associated criteria in terms of the scale and nature of permissible investments.
- c. A locally based Development Authority consisting of the Administrator to manage and execute conditional lease and or sale of Crown land for the explicit purpose of promoting and expediting economic development;
- d. Reference to the Authority's function in planning, undertaking, promoting and coordinating the development of land in nominated areas.
- e. Reference to the Authority maintaining an approved business plan and an operational plan.
- f. Reference to the Authority obtaining written agreement by the Minister before entering into any transaction;
- g. An advisory board to the Authority constituted by representatives of the Department, the Shire, Christmas Island Phosphates and other parties appointed by the Minister;
- h. A provision stipulating that the *Commonwealth Property Disposal Policy* has no application to Christmas Island;
- i. Rules to ensure proceeds of leasing and or selling land by the Authority are retained by the Authority for the purpose of further advancing economic development;
- j. Other provisions stipulating that, where possible and or necessary, part(s) of other WA or Commonwealth legislations have no application to Christmas Island
- k. Rules for the conditional but timely release of new mining leases in particular when mining must, or is expected to, occur before land development;
- l. Rules for the creation of agriculture land over former mining areas and conditional allowance for agriculture to exist alongside mining;
- m. Reference to new Management Orders with the Shire for the purpose of community development and affordable housing;
- n. Reference to *Guidelines for Unsolicited Proposals*

**Carried: 9/0**

**13 BEHIND CLOSED DOORS**

**14 CLOSURE OF MEETING**

The President closed the meeting at 8.05pm

**15 DATE OF NEXT MEETING: 26 September 2017.**