



CONFIRMED MINUTES

Ordinary Meeting held on 22 August 2023



**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 2023

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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 2023

1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS

- 1.1 The Shire President declared the meeting open at 7.00pm.

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

- 1.2 Record of Attendance

Shire President

Deputy President

Councillors

Cr Gordon **THOMSON**

Cr Kee Heng **FOO**

Cr Philip **WOO**

Cr Hafiz **MASLI**

Cr Morgan Boon Hwa **SOH**

Cr Azmi **YON**

Director Planning, Governance & Policy/Minute Taker

Director Community/Recreation Services

Director Works, Services & Waste

Chris **SU**

Olivier **LINES**

Troy **DAVIS**

- 2.2 **Leave of Absence**

Cr Kelvin Kok Bin **LEE**

Cr Vincent Cheng Siew **SAW**

- 2.3 **Apologies**

Chief Executive Officer

David **PRICE**

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

3 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

4 PUBLIC QUESTION TIME

- 4.1 Stephanie LAI, of 4 Jalan Ketam Merah, Drumsite, raised a question with the Council seeking clarification on the change in its stance regarding the WA Local Government Reforms. The query pertained to the shift from the Council's initial position of 'Full Reform,' as expressed during the Ordinary Council Meeting on October 25, 2022, to its subsequent stance during the Ordinary Council Meeting on June 24, 2023. The Council's proposal at the latter meeting indicated significant differences in the content and nature of the Ordinance related to the Local Government Reforms.

Shire President Gordon THOMSON explained that during the October 2022 Ordinary Council Meeting, the Council was adhering to a directive from the State Government. This directive required the Council to provide a response, as mandated by the Western Australian Minister for Local Government, from the available options it was presented with.

President THOMSON clarified that laws enacted in Western Australia automatically apply to Christmas Island unless there is a specific Commonwealth Ordinance to stand in their place instead. He highlighted that the default stance is that Western Australian laws have jurisdiction over Christmas Island. In situations where decisions necessitate the involvement of the Minister for a department within the Western Australian state, the Federal Minister for Territories assumes the responsibilities of that equivalent Western Australian State Minister.

President THOMSON emphasized that SOCI was bound by the necessity to follow a directive from the Western Australian Minister for Local Government, which required all local governments to submit a response from the provided options by the specified deadline in October 2022. The majority of the suggested reforms actually posed no issue for SOCI.

However, a concern emerged for SOCI when it came to the decision-making process of the WA Local Government Review Panel (the Panel), which would determine the allocation of Councillors for each local government area as part of the Local Government Reforms. The number of Councillors was expected to range between 5 and 7 for 'tier 3 population groups' such as Christmas Island.

Consequently, SOCI was mandated to submit its proposal to the Panel in October 2022, doing so under a sense of compulsion. President THOMSON acknowledged that the proposed Local Government Reforms, including the reduction in the number of elected members, were subject to determination by individuals in Western Australia. He noted that when governments enact reforms to laws, they usually engage in consultations with those who will be impacted by the reforms. This consultation process took place within Western Australia.

President THOMSON also highlighted that the ramifications of the Local Government Reforms would be more pronounced for larger Councils such as the City of Perth, while having less impact on smaller Councils like SOCI.

Shire President THOMSON provided an explanation for the Council's changed position on June 24, 2023. He clarified that the Council had been directed to nominate a range of 5 to 7 Councillors for the future composition of elected members on Christmas Island in October 2022 and did so. In compliance with this direction, SOCI chose to nominate the maximum number of 7 Councillors. The intention was to follow the Panel's decision in the event they determined that Christmas Island should have 7 Councillors moving forward.

However, the Panel informed SOCI that it could not determine the number of elected Councillors for the external territory of Christmas Island. They indicated that only the Minister for Territories in Canberra had the authority to decide the future number of Councillors in this context.

Shire President Gordon THOMSON reported that no consultation had been done by the Western Australians or the Commonwealth about these significant changes to take place with either Cocos (Keeling) Islands or Christmas Island residents regarding the Local Government Reforms.

These reforms were enacted by Western Australian Parliamentarians, with accessibility limited to residents of Western Australia. The Panel redirected the Council first to the Department of Infrastructure's Perth office and then to their Canberra office. The responsibility for creating a Commonwealth Ordinance to implement any proposed change in the number of elected members lay with the Canberra office.

In June 2023, the Department of Infrastructure informed SOCI that the Minister would be enacting an Ordinance regarding this matter. President Gordon THOMSON raised a point that if an Ordinance was to be enacted, there should be a consultation process involved. This would provide an opportunity for the Council to propose changes based on community input.

During the 14 June 2023 meeting with the Council in Canberra, the Department of Infrastructure conveyed that there would be a two-week window for SOCI to submit their proposed changes to the Minister for Territories. However, the Council found this

timeframe insufficient for their practice of engaging the public for important matters. The execution of the Council's *Community Consultation Policy* required more time than two weeks to be effectively enacted.

Given that SOCI had been directed to make a submission in October 2022, this decision by the Minister in 2023 provided an opportunity to make a comprehensive submission and did so after completion of the community consultation indicated in public notice 19/23 of June 30 2023.

On August 21st, 2023, the Hon. Minister for Territories Kristy McBAIN wrote to SOCI, indicating that a Commonwealth Ordinance would not be ready for the 2023 Local Government election. The Shire CEO had previously communicated to the Minister that due to this situation, the status quo of four candidates would be necessary to run without a ready Commonwealth Ordinance. The Minister acknowledged this in her letter.

The Minister has further informed SOCI that when the time is right, the number of elected members will be decreased to 7. Shire President Gordon THOMSON said that the Shire of Christmas Island is against the reduction in the number of Councillors and that numerous governance inquiries have highlighted the need for a more comprehensive consultative mechanism to be had by the Commonwealth.

The community of Christmas Island raised concerns about fisheries, leading to a change in approach. President THOMSON emphasized that credit was due to former Minister Nola MARINO, who acknowledged the inappropriateness of applying laws uniformly to the IOTs. This marked the first time that Islanders could vote on a proposed Ordinance.

Shire President THOMSON stated that the protests surrounding fisheries brought about this change, underscoring that governance requires the consent of the governed.

- 4.2 Stephanie LAI, of 4 Jalan Ketam Merah, Drumsite, asked why SOCI has not engaged the Western Australian Election Commission (WAEC) to conduct the 2023 local government elections?

Shire President Gordon THOMSON explained that according to the Local Government Act 1995 (WA)(CI), the default requirement is for the local government's CEO to oversee local government elections.

In response, Stephanie LAI shared that the Shire of Cocos (Keeling) Islands had chosen to involve the WA Electoral Commission (WAEC) in their election processes.

President THOMSON clarified that the decision to deviate from the default arrangement rests with each individual local government. He added that in an instance where an Acting CEO with limited experience in elections was in place, SOCI had sought assistance from the Department of Local Government, Sports and Cultural Industries in the past. It's important to note that elections are managed by the CEO, not the Council itself.

- 4.3 Stephanie LAI, of 4 Jalan Ketam Merah, Drumsite, asked in regards to the submissions received for public notice 19/23 community comments on local government law reform were accessible?

Shire President Gordon THOMSON advised that many persons including himself made submissions to the public notice to the CEO. Provided that he was unsure if those submissions were accessible noting that the Minister provided in her correspondence to the Shire of August 21st 2023 that she had received views not in support that she would not disclose.

Stephanie LAI commented that an application via a Freedom of Information Act request may be able to grant access.

Shire President THOMSON advised that the Shire can certainly receive FOI requests.

- 4.4 Millie BARRETT, residing at 89 Gaze Road, Settlement, inquired about the potential impact of reducing the number of Councillors on the island, seeking the Council's perspective on this matter.

Shire President Gordon THOMSON articulated his view that reducing the number of elected Councillors could not be perceived as an enhancement of democracy. He pointed out that there is an existing "democratic deficit" on Christmas Island, given that its residents lack the ability to vote for the lawmakers in Western Australia who formulate laws applicable to the island.

President Gordon THOMSON emphasized that a significant portion of his time, approximately 80%, is dedicated to advocating for Christmas Islanders on matters at the state level rather than strictly municipal concerns. He underscored that involving more individuals in the island's governance and advocacy efforts would yield more positive outcomes. A reduction in the number of Councillors from 9 to 7, or even as low as 5, would not contribute effectively to this goal.

President Gordon THOMSON elaborated on the role of the Shire of Christmas Island Community Consultative Committee. This committee consists of several Councillors, the CEO, the Director for Governance, and representatives from various community organizations such as the Malay Association of Christmas Island, Chinese Literary Association, CI Christian Fellowship, Phosphate Resources Limited, Union of Christmas Island Workers, Christmas Island Women's Association, Christmas Island Neighbourhood Centre, and Islamic Council of Christmas Island, among others. They convene monthly to become informed about matters related to state service provision and to offer input and feedback to the Minister. The CCC serves as a platform to discuss issues that the Council advocates for with the Government.

Shire President Gordon THOMSON stated that the impact of a reduction of elected people is antithetical to democracy. Through democratic institutions like the CCC, the people dedicate their time to advocate for the Island.

Millie BARRETT enquired where does the CCC meet?

Shire President Gordon THOMSON emphasized that the CCC convenes on a monthly basis at the Council. He stated that the CCC represents a significant broadening and enhancement of democratic participation in advocacy and emphasized the importance of not diminishing its role or impact.

- 4.5 Tracey KREPP of 32 Seaview Drive Silver City asked if any of the 177 submissions in favour of the Council's proposal or 18 that were against were in a petition?

Shire President Gordon THOMSON advised that none were in a petition, that they comprised of individual submissions.

Tracey KREPP of 32 Seaview Drive Silver City asked if there was standardised letter or pro-forma amongst the submissions?

Shire President Gordon THOMSON said that there was a pro-forma format to some of the submissions.

Tracey KREPP asked how the submissions were made?

Shire President Gordon THOMSON advised that some were in email and others in were in letters.

- 4.6 Millie BARRETT of 89 Gaze Road asked if the Councillors voted for the President and not the public?

Shire President Gordon THOMSON confirmed that to be accurate. He highlighted that prior to the current reforms, it was the responsibility of Councillors to determine the number of

Councillors and whether a President should be directly elected. He mentioned that larger councils often have elected Mayors and some councils are divided into wards, but smaller councils like Christmas Island don't have either.

The Local Government Reforms specifically stated that local governments of Christmas Island's size would not have wards or the direct election of a President. This is in line with what already happens on Christmas Island. The key objectives of the Shire were to prevent a reduction in the number of elected members and to retain the first-past-the- post voting system.

5 APPLICATIONS FOR LEAVE OF ABSENCE

Leave of Absence Application

Council Resolution

Moved: Cr YON

Seconded: Cr WOO

Res. No: 61/23

That the Leave of Absence application by Cr Vincent Cheng-Siew SAW from 18th August – 2nd September 2023 be accepted.

For

Cr Gordon THOMSON, Cr FOO Kee Heng, Cr Phillip WOO, Cr Morgan SOH, Cr Hafiz MASLI, Cr Azmi YON

Against

None

Carried: 6/0

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 July2023

Members considered the unconfirmed minutes.

Council Resolution

Moved: Cr MASLI

Seconded: Cr FOO

Res. No: 62/23

That Council adopt the unconfirmed minutes of the 25 July 2023 Council Meeting.

For

Cr Gordon THOMSON, Cr FOO Kee Heng, Cr Phillip WOO, Cr Morgan SOH, Cr Hafiz MASLI, Cr Azmi YON

Against

None

Carried: 6/0

7.2 Business Arising from the Minutes of Previous Meetings

8 ANNOUNCEMENTS BY PRESIDING MEMBER WITHOUT DISCUSSION

- 8.1 Shire President Gordon THOMSON advised that CEO David PRICE had sent out a Community Notice on the local government elections and in it referred to the correspondence Council received from Minister for Territories Kristy MCBAIN on 21st August 2023.

The Minister for Territories advised that there would be two Commonwealth Ordinances created:

1. An Ordinance to confirm Christmas Island as a 'Tier 3 Local Government' in size with its population of 1782 at last census
2. An Ordinance to reduce the number of elected Councillors from 9 down to 7 for the 2025 election.

This will allow for the four Councillors elected in 2023 to serve their four year terms.

9 REPORTS OF COMMITTEES

10 REPORTS OF OFFICERS

10.1 Chief Executive Officer

10.2 Director Finance & Administration

10.2.1 Schedule of Accounts – July 2023

Council Resolution

Moved: Cr FOO

Seconded: Cr YON

Res. No: 63/23

That Council approves the expenditure as presented in July 2023 Schedule of Accounts

Carried: 6/0

For

*Cr Gordon THOMSON, Cr FOO Kee Heng, Cr Phillip WOO, Cr Morgan SOH,
Cr Hafiz MASLI, Cr Azmi YON*

Against

none

10.2.2 Financial Statements – July 2023

Council Resolution

Moved: Cr FOO

Seconded: Cr YON

Res. No: 64/23

That Council receives the Financial Statements of July 2023 for the Municipal Fund.

Carried: 6/0

For

*Cr Gordon THOMSON, Cr FOO Kee Heng, Cr Phillip WOO, Cr Morgan SOH,
Cr Hafiz MASLI, Cr Azmi YON*

Against

none

10.3 Director Community/Recreation Services & Training

10.4 Director Works, Services & Waste

10.4.1 RFQ 03-23 Supply of Guardrail and Components

Council Resolution

Moved: Cr YON

Seconded: Cr SOH

Res. No: 65/23

That Council accepts the quote from Blackwoods for the lump sum price of \$158,309.20 for the supply of guardrail and components for the repair of existing, unserviceable guardrail.

Carried: 6/0

For

Cr Gordon THOMSON, Cr FOO Kee Heng, Cr Phillip WOO, Cr Morgan SOH, Cr Hafiz MASLI, Cr Azmi YON

Against

none

10.5 Director Planning, Governance & Policy

11 ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

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

13 BEHIND CLOSED DOORS

13.1 Meeting to be closed under 5.23(2) LGA 1995 (WA)(CI)

Council Resolution

Moved: Cr YON

Seconded: Cr WOO

Res. No: 66/23

The meeting be closed to members of the public in accordance with section 5.23(2) of the Local Government Act 1995 for council to discuss matter of a confidential nature.

For

Cr Gordon THOMSON, Cr FOO Kee Heng, Cr Phillip WOO, Cr Morgan SOH, Cr Hafiz MASLI, Cr Azmi YON

Against

none

Carried: 6/0

13.1 CEO Performance Appraisal

Council Resolution

Moved: Cr YON

Seconded: Cr WOO

Res. No: 67/23

That Council –

1. Commence the performance review of the CEO, in accordance with Clause 4 of the Contract of Employment between the Shire of Christmas Island and the CEO, to be completed prior to the Ordinary Council Meeting scheduled for 26 September 2023.
2. That the Shire President write to the CEO formally advising of such in accordance with

Clause 4 of the Contract of Employment between the Shire of Christmas Island and the CEO and;

3. That the CEO provides approved performance review documentation to Council in accordance with the procedure detailed in Clause 4 of the Contract of Employment between the Shire of Christmas Island and the CEO.

4. A CEO interview committee consisting of CRs Thomson, FOO and WOO be established to review the CEO's performance review documentation once the CEO has returned it to the President. The review committee is to report to the Ordinary Meeting of Council on 26 September 2023 on the outcome of the CEO's review including any recommendations for the consideration of Council.

5. The interview committee it to also discuss with the CEO of a possible extension of his current contract that expires 12th July next year, and if necessary, report to the Ordinary Meeting of Council on 26 September 2023 on the outcome of that discussion.

For

Cr Gordon THOMSON, Cr FOO Kee Heng, Cr Phillip WOO, Cr Morgan SOH, Cr Hafiz MASLI, Cr Azmi YON

Against

none

Carried: 6/0

13.2 Re-open the meeting

Council Resolution

Moved: Cr YON

Seconded: Cr MASLI

Res. No: 68/23

That the meeting be reopened to the public.

For

Cr Gordon THOMSON, Cr FOO Kee Heng, Cr Phillip WOO, Cr Morgan SOH, Cr Hafiz MASLI, Cr Azmi YON

Against

none

Carried: 6/0

14 CLOSURE OF MEETING

The Shire President closed the meeting at 7.50 pm

15 DATE OF NEXT MEETING: 26 September 2023