



# AGENDA

Dear Mayor and Councillors,

I respectfully advise that a **SPECIAL COUNCIL MEETING** will be held in the **Civic Centre, McGregor St, Port Hedland**, on **Wednesday, 1 June 2022**, commencing at

**MEETING AGENDA ATTACHED**

Yours faithfully

Carl Askew  
Chief Executive Officer

30 May 2022

DISCLAIMER

No responsibility whatsoever is implied or accepted by the Town of Port Hedland for any act, omission, statement or intimation occurring during Council Meetings. The Town of Port Hedland 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, and statement of intimation occurring during Council Meetings.

Any person or legal entity that acts or fails to act in reliance upon any statement, act or omission occurring in a Council Meeting does so at their own risk. The Town of Port Hedland advises that any person or legal entity should only rely on formal confirmation or notification of Council resolutions.

## DISCLOSURE OF FINANCIAL/ IMPARTIALITY/ PROXIMITY INTERESTS

*Local Government Act 1995 – Section 5.65, 5.70 and 5.71  
Local Government (Model Code of Conduct) Regulations 2021*

<i>This form is provided to enable members and officers to disclose an Interest in a matter in accordance with the regulations of Section 5.65, 5.70 and 5.71 of the Local Government Act and Local Government (Model Code of Conduct) Regulations 2021</i>			
Name			
Position			
Date of Meeting			
Type of Meeting (Please circle one)	Council Meeting/ Committee Meeting/ Special Council Meeting Workshop/ Public Agenda Briefing/ Confidential Briefing		
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality
Interest Disclosed			
Item Number and Title			
Nature of Interest			
Type of Interest (please circle one)	Financial	Proximity	Impartiality

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Important Note:** Should you declare a **Financial** or **Proximity Interest**, in accordance with the Act and Regulations noted above, you are required to leave the room while the item is being considered.

For an **Impartiality** Interest, you must state the following prior to the consideration of the item:

*“With regard to agenda item (read item number and title), I disclose that I have an impartiality interest because (read your reason for interest). As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly.”*

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## Item 1 Opening of Meeting

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The Presiding Member is to declare the meeting open at [Enter Time](#).

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## Item 2 Acknowledgement of Traditional Owners and Dignitaries

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The Presiding Member acknowledges the Kariyarra people as the Traditional Custodians of the land that we are meeting on and recognises their strength and resilience he and pays his respects to elders past, present and emerging.

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## Item 3 Recording of Attendance

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Scheduled Present:

- Mayor Peter Carter
- Deputy Mayor Tim Turner
- Cr Renae Coles
- Cr Elmar Zielke
- Cr Jan Gillingham
- Cr Ash Christensen
- Cr Flo Bennett
- Cr David Eckhart
- Cr Jason Keller

Scheduled for Attendance:

- Carl Askew (Chief Executive Officer)
- Karren MacClure (Director Corporate Services)
- Josephine Bianchi (Director Community Services)
- Craig Watts (Director Regulatory Services)
- Lee Furness (Director Infrastructure Services)
- Joyce Routledge (Acting Manager Governance)
- Jenna Brown (Acting Senior Governance Advisor)
- Christine Fairbrother (Corporate Support Officer/Minute Taker)

3.2 Attendance by Telephone / Instantaneous Communications

3.3 Apologies

3.4 Approved Leave of Absence

3.5 Disclosure of Interests

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## Item 4 Public Time

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*In accordance with section 6.7(3) of the Town of Port Hedland Local Law on Standing Orders, members of the public are required to complete a question form and place the completed form in the tray provided.*

*If the Presiding Member determines that questions and statements are out of order due to the use of an offensive or objectionable expression or are defamatory, they will not be recorded or responded to.*

4.1 Public Question Time

4.2 Public Statement Time

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Item 5 Questions from Members without Notice

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Item 6 Announcements by Presiding Member without Discussion

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Item 7 Declarations of All Members to Have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting

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**Item 8 Motions of which Previous Notice has been given**

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**8.1 TO REVOKE OR CHANGE COUNCIL DECISIONS**

I commend this Notice of Motion to Council.

I, Mayor Peter Carter, give notice that at the Special Meeting of Council to be held on 1 June 2022, I intend to revoke a previous Council Decision:

**COUNCILLOR MOTION**

That Council revoke by absolute majority in accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996*, the following council decisions made at the Special Council Meeting of 11 May 2022

**1. CM202122/193 COUNCIL DECISION**

That Council Apply to the Supreme Court of Western Australia, pursuant to Order 56 of the Supreme Court Rules 1971, for judicial review of the following decisions, each of which is adversely affecting the personal, occupational and commercial interests of residents of, businesses operating in, and visitors to, the Town of Port Hedland:

Pertaining to State of Emergency Declaration and Extensions;

- a. Declaration of State of Emergency made at 12.45pm on 15 March 2020, by Francis Michael Logan, the Minister for Emergency Services, under section 56 of the Emergency Management Act 2005 (WA).
- b. Extension of State of Emergency Declaration from 25 March 2022 to 8 April 2022 made at 9.35am on 22 March 2022, by Stephen Noel Dawson, the Minister for Emergency Services, under section 58 of the Emergency Management Act 2005 (WA).
- c. Extension of State of Emergency Declaration from 8 April 2022 to 22 April 2022 made at 11.55am on 5 April 2022, by Stephen Noel Dawson, the Minister for Emergency Services, under section 58 of the Emergency Management Act 2005 (WA).

Pertaining to Business and Community Activity Directions;

- d. Proof of Vaccination Directions (No 5) made at 11.25am on 25 February 2022, by Christopher Dawson, Commissioner of Police and State Emergency Co-Ordinator, under sections 61, 67 and 72A of the Emergency Management Act 2005.
- e. COVID Transition (Public Health and Social Measures) Directions (No 2) made at 10.25am on 29 March 2022, by Christopher Dawson, Commissioner of Police and State Emergency Co-ordinator, under sections 61, 67 and 72A of the Emergency Management Act 2005.

Pertaining to Mandatory Vaccination Directions;

f. Resources Industry Worker (Restrictions on Access) Directions (No. 3) made at 1.48pm on 24 February 2022, by Andrew Robertson, the Chief Health Officer, under sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Public Health Act 2016 (WA).

g. Booster Vaccination (Restrictions on Access) Directions (No. 2) made at 6.42pm on 7 January 2022, by Andrew Robertson, the Chief Health Officer, under sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Public Health Act 2016 (WA).

## 2. CM202122/194 COUNCIL DECISION

**That Council** Apply to the Supreme Court of Western Australia, pursuant to Order 56 of the Supreme Court Rules 1971, for judicial review of any future decision which has the effect of replacing, superseding, varying or extending, or otherwise deals with the same subject matter as, any of the decisions referred to in resolutions 1(a) to (g).

## 3. CM202122/196 COUNCIL DECISION

**That Council:** *Will seek and allow (but not delay) any Western Australian local government body and/or private sector, listed below, to contribute to financially supporting this challenge:*

- a. *Other Local Governments across the State;*
- b. *Western Australian Local Government Association (WALGA);*
- c. *Local Government Professionals WA; and,*
- d. *Other professional bodies, associations, business entities and individual Australians.*

*Motions related to the original petition intending to declare the Town a “Pro-Choice” community and associated provisions were not supported.*

**ABSOLUTE MAJORITY VOTE REQUIRED**

### Rationale:

I am concerned that the passed resolutions do not adequately consider the potential for this matter to be beyond the powers (ultra-vires) of the Town and consider that the Town should seek further legal advice before acting on the decisions made.

In addition, I am concerned at the potential unknown cost to the ratepayers of this Town in undertaking the proposed actions and would like further advice as to potential costs.

I also do not believe the Town sought to consult with the broader community before passing the above resolutions and consider that there should be an extensive engagement process so that Council is informed as to the broader communities' view before taking any further action.

### ATTACHMENTS:

1. Notice of Motion to Revoke or Change Council Decisions



## Item 9 Closure

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### 9.1 Date of Next Meeting

The next Ordinary Meeting of Council will be held on Thursday 30 June 2022 commencing at [Enter Time](#).

### 9.2 Closure

There being no further business, the Presiding Member declared the meeting closed at [enter time](#).

**NOTICE OF MOTION TO REVOKE OR CHANGE COUNCIL DECISION**

To: Chief Executive Officer – Town of Port Hedland

**I, Mayor Peter Carter, provide notice that I intend to move the following motion to REVOKE a previous Council decision.**

**MOTION**

That Council REVOKE, by absolute majority in accordance with Regulation 10 of the *Local Government (Administration) Regulations 1996*, the following Council decision made at the **Special Council Meeting of 11 May 2022:**

**MINUTE No. CM202122/193 Council Decision**

**Moved: Cr Gillingham    Seconded: Cr Zielke**

**That Council:**

1. *That the Town of Port Hedland apply to the Supreme Court of Western Australia, pursuant to Order 56 of the Supreme Court Rules 1971, for judicial review of the following decisions, each of which is adversely affecting the personal, occupational and commercial interests of residents of, businesses operating in, and visitors to, the Town of Port Hedland:*

*Pertaining to State of Emergency Declaration and Extensions;*

a. *Declaration of State of Emergency made at 12.45pm on 15 March 2020, by Francis Michael Logan, the Minister for Emergency Services, under section 56 of the Emergency Management Act 2005 (WA).*

b. *Extension of State of Emergency Declaration from 25 March 2022 to 8 April 2022 made at 9.35am on 22 March 2022, by Stephen Noel Dawson, the Minister for Emergency Services, under section 58 of the Emergency Management Act 2005 (WA).*

c. *Extension of State of Emergency Declaration from 8 April 2022 to 22 April 2022 made at 11.55am on 5 April 2022, by Stephen Noel Dawson, the Minister for Emergency Services, under section 58 of the Emergency Management Act 2005 (WA).*

*Pertaining to Business and Community Activity Directions;*

d. *Proof of Vaccination Directions (No 5) made at 11.25am on 25 February 2022, by Christopher Dawson, Commissioner of Police and State Emergency Co-Ordinator, under sections 61, 67 and 72A of the Emergency Management Act 2005.*

e. *COVID Transition (Public Health and Social Measures) Directions (No 2) made at 10.25am on 29 March 2022, by Christopher Dawson, Commissioner of Police and State Emergency Co-ordinator, under sections 61, 67 and 72A of the Emergency Management Act 2005.*

*Pertaining to Mandatory Vaccination Directions;*

f. *Resources Industry Worker (Restrictions on Access) Directions (No. 3) made at 1.48pm on 24 February 2022, by Andrew Robertson, the Chief Health Officer, under sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Public Health Act 2016 (WA).*

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**carried (5/3)**

In Favour: Cr Coles, Cr Zielke, Cr Gillingham, Cr Christensen, Cr Bennett

Against: Mayor Carter, Cr Turner, Cr Eckhart

#### **MINUTE No. CM202122/194 Council Decision**

**Moved: Cr Gillingham Seconded: Cr Zielke**

*That the Town of Port Hedland apply to the Supreme Court of Western Australia, pursuant to Order 56 of the Supreme Court Rules 1971, for judicial review of any future decision which has the effect of replacing, superseding, varying or extending, or otherwise deals with the same subject matter as, any of the decisions referred to in resolutions 1(a) to (g).*

**carried (5/3)**

In Favour: Cr Coles, Cr Zielke, Cr Gillingham, Cr Christensen, Cr Bennett

Against: Mayor Carter, Cr Turner, Cr Eckhart

#### **MINUTE No. CM202122/196 Council Decision**

**Moved: Cr Gillingham Seconded: Cr Zielke**

*That the Local Government will seek and allow (but not delay) any Western Australian local government body and/or private sector, listed below, to contribute to financially supporting this challenge:*

- a. *Other Local Governments across the State;*
- b. *Western Australian Local Government Association (WALGA);*
- c. *Local Government Professionals WA; and,*
- d. *Other professional bodies, associations, business entities and individual Australians.*

*Motions related to the original petition intending to declare the Town a "Pro-Choice" community and associated provisions were not supported.*

**carried (5/3)**

**In Favour:** Cr Coles, Cr Zielke, Cr Gillingham, Cr Christensen, Cr Bennett

**Against:** Mayor Carter, Cr Turner, Cr Eckhart

I provide the following **REASON:**

I am concerned that the passed resolutions do not adequately consider the potential for this matter to be beyond power (ultra-vives) of the Town and consider that the Town should seek further legal advice before acting on the decisions made.

In addition, I am concerned at the potential unknown cost to the ratepayers of this Town in undertaking the proposed actions and would like further advice as to potential costs.

I also do not believe the Town sought to consult with the broader community before passing the above resolutions and consider that there should be an extensive engagement process so that Council is informed as to the broader communities' views before taking any further action.

Under LG (Administration) Regulations 1996 (Regulation 10(1A)) Notice of Rescission Motion requires at least 3 Councillor signatures including the Mover (at least 1/3 of offices on Council).

Dated: **18<sup>th</sup> May 2022**

**MOVER**

**Mayor Peter Carter**

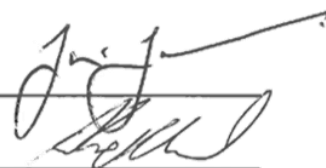
(Please print name) **Signature:**



**SECONDEES**

**1. Cr Turner**

(Please print name) **Signature:**



**2. Cr Eckhart**

(Please print name) **Signature:**

This motion to Revoke to be presented to the next available Council Meeting 18<sup>th</sup> May 2022.