



## **TOWN OF PORT HEDLAND**

### **SPECIAL COUNCIL MEETING MINUTES**

**WEDNESDAY, 10 AUGUST 2016 AT 5:30PM**

**COUNCIL CHAMBERS, MCGREGOR STREET,  
PORT HEDLAND**

*Agenda Items:*

1. Mayoral Vacancy
2. 2016/17 Rating Strategy

**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.*

**“A nationally significant, friendly city that people are proud to call home”**

*Chris Linnell  
Acting Chief Executive Officer*

<b>Item 1</b>	<b>Opening of Meeting.....</b>	<b>3</b>
<b>Item 2</b>	<b>Acknowledgement of Traditional Owners.....</b>	<b>3</b>
<b>Item 3</b>	<b>Recording of Attendance.....</b>	<b>3</b>
	3.1 Attendance.....	3
	3.2 Apologies.....	3
	3.3 Approved Leave of Absence.....	3
	3.4 Disclosure of Interests .....	3
<b>Item 4</b>	<b>Applications for Leave of Absence.....</b>	<b>3</b>
<b>Item 5</b>	<b>Attendance by Telephone/Instantaneous Communications.....</b>	<b>4</b>
<b>Item 6</b>	<b>Public Time .....</b>	<b>4</b>
	6.1 Public Question Time.....	4
	6.2 Public Statement Time.....	4
	6.2.1 Mr John Peters.....	4
<b>Item 7</b>	<b>Questions from Members without Notice .....</b>	<b>4</b>
<b>Item 8</b>	<b>Declarations of All Members to Have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting.....</b>	<b>5</b>
<b>Item 9</b>	<b>Announcements by Presiding Member without Discussion .....</b>	<b>5</b>
<b>Item 10</b>	<b>Reports of Officers.....</b>	<b>6</b>
	10.1 Corporate Services .....	6
	10.1.1 Mayoral Vacancy Determination .....	6
	10.1.2 Financial Management – 2016/17 Rating Strategy .....	35
<b>Item 11</b>	<b>Matters for Which Meeting May Be Closed (Confidential Matters) .....</b>	<b>43</b>
<b>Item 12</b>	<b>Closure.....</b>	<b>43</b>
	12.1 Date of Next Meeting .....	43
	12.2 Closure .....	43

---

**Item 1 Opening of Meeting**

---

The Mayor declared the meeting open at 5:35pm.

---

**Item 2 Acknowledgement of Traditional Owners**

---

The Mayor acknowledged the traditional owners, the Kariyarra people.

---

**Item 3 Recording of Attendance**

---

**3.1 Attendance**

Mayor Kelly Howlett  
Councillor Camilo Blanco  
Councillor Jan Gillingham  
Councillor David Hooper  
Councillor Julie Arif  
Councillor Troy Melville  
Councillor Louise Newbery  
Councillor Richard Whitwell  
Councillor Lincoln Tavo

**Officers**

Chris Linnell	Acting Chief Executive Officer
Brendan Smith	Director Works and Services
Dale Stewart	Acting Director Corporate Services
Paul Howrie	Acting Director Community and Development Services
Grace Waugh	Minute Taker/Coordinator Governance

Public	3
Media	1
ToPH Officers	2

**3.2 Apologies**

Nil

**3.3 Approved Leave of Absence**

Nil

**3.4 Disclosure of Interests**

Nil

---

**Item 4 Applications for Leave of Absence**

---

Nil

---

**Item 5 Attendance by Telephone/Instantaneous Communications**

---

Nil

---

**Item 6 Public Time**

---

*Important note:*

*'This meeting is being recorded on audio tape as an additional record of the meeting and to assist with minute-taking purposes which may be released upon request to third parties. If you do not give permission for recording your participation please indicate this at the meeting. The public is reminded that in accordance with Section 6.16 of the Town of Port Hedland Local Law on Standing Orders nobody shall use any visual or vocal electronic device or instrument to record the proceedings of any meeting unless that person has been given permission by the presiding member to do so. Members of the public are also reminded that in accordance with section 6.17(4) of the Town of Port Hedland Local Law on Standing Orders mobile telephones must be switched off and not used during the meeting.'*

The Mayor opened Public Question Time at 5:37pm.

**6.1 Public Question Time**

Nil

The Mayor closed Public Question Time at 5:37pm.

The Mayor opened Public Statement Time at 5:38pm.

**6.2 Public Statement Time****6.2.1 Mr John Peters**

Mr Peters wished the Mayor all the best in her future endeavours, and thanked her for what she has done for this town.

The Mayor closed Public Statement Time at 5:39pm.

---

**Item 7 Questions from Members without Notice**

---

Nil

---

**Item 8    Declarations of All Members to Have Given Due Consideration to All Matters Contained in the Business Paper before the Meeting**

---

The following Elected Members declared that they had given due consideration to all matters contained in the agenda:

- Mayor Howlett
- Councillor Blanco
- Councillor Gillingham
- Councillor Hooper
- Councillor Arif
- Councillor Melville
- Councillor Newbery
- Councillor Whitwell
- Councillor Tavo

---

**Item 9    Announcements by Presiding Member without Discussion**

---

Nil

*Disclaimer*

*Members of the public are cautioned against taking any action on Council decisions, on items on this evening's Agenda in which they may have an interest, until formal notification in writing by the Town has been received. Decisions made at this meeting can be revoked, pursuant to the Local Government Act 1995.*

---

**Item 10 Reports of Officers**

---

**10.1 Corporate Services****10.1.1 Mayoral Vacancy Determination**

File No:	13/07/0003
Applicant/ Proponent:	N/A
Subject Land/ Locality:	N/A
Date:	02/08/2016
Author:	Grace Waugh, Coordinator Governance
Authorising Officer:	Dale Stewart, Acting Director Corporate Services
Disclosure of Interest from Author:	Nil
Authority/Discretion:	<input checked="" type="checkbox"/> Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets. <input checked="" type="checkbox"/> Legislative – includes adopting local laws, town planning schemes and policies. Review when Council reviews decision made by Officers.

## Attachments:

1. Resignation letter from Mayor Kelly Howlett
2. WAEC Cost Estimate, Agreement Letter and Schedule of Dates
3. Policy 4/006 'Elections – Caretaker Period'
4. Audit, Risk and Governance Committee Terms of Reference

---

**OFFICER RECOMMENDATION 1**

That with respect to the Mayoral Vacancy, Council:

1. Note the resignation of Mayor Kelly Howlett, from her position of Mayor of the Town of Port Hedland, effective from 26 August 2016;
2. Thank Mayor Kelly Howlett for her contributions and service as a Mayor since 2009, and as a Councillor between 2007 and 2009;
3. Declare, in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of an extraordinary election for the Mayoral vacancy with a term expiring in October 2017;
4. Decide, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the extraordinary election will be as a postal election;
5. Set the date for the extraordinary election for Saturday 5 November 2016;
6. Engage the Western Australian Electoral Commission to make provision for one polling place at the Civic Centre in Port Hedland to give electors the opportunity to hand in their postal votes on election day;
7. Include in the 2016/17 Budget \$30,000 to fund the extraordinary election; and

8. Agree that policy 4/006 'Elections – Caretaker Period' does not apply to the extraordinary election and that major policy decisions may still be made during the caretaker period in accordance with section 3.1 'Extraordinary Circumstances' and request the Acting Chief Executive Officer to have the policy reviewed, specifically in relation to the principle of whether extraordinary elections should be exempt from application.

**CM201617/032 COUNCIL DECISION****MOVED: CR BLANCO****SECONDED: CR TAVO****That with respect to the Mayoral Vacancy, Council:**

1. **Note the resignation of Mayor Kelly Howlett, from her position of Mayor of the Town of Port Hedland, effective from 26 August 2016;**
2. **Thank Mayor Kelly Howlett for her contributions and service as a Mayor since 2009, and as a Councillor between 2007 and 2009;**
3. **Declare, in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of an extraordinary election for the Mayoral vacancy with a term expiring in October 2017;**
4. **Decide, in accordance with section 4.61(2) of the Local Government Act 1995, that the method of conducting the extraordinary election will be as a postal election;**
5. **Set the date for the extraordinary election for Saturday 5 November 2016;**
6. **Engage the Western Australian Electoral Commission to make provision for one polling place at the Civic Centre in Port Hedland to give electors the opportunity to hand in their postal votes on election day;**
7. **Include in the 2016/17 Budget \$30,000 to fund the extraordinary election; and**
8. **Agree that policy 4/006 'Elections – Caretaker Period' does not apply to the extraordinary election and that major policy decisions may still be made during the caretaker period in accordance with section 3.1 'Extraordinary Circumstances' and request the Acting Chief Executive Officer to have the policy reviewed, specifically in relation to the principle of whether extraordinary elections should be exempt from application.**
9. **Appoint an Acting Deputy Mayor while the Deputy Mayor is performing the duties of the Mayor from 27 August 2016 to 5 November 2016.**

***CARRIED BY ABSOLUTE MAJORITY 9/0***

**CM201617/033 COUNCIL DECISION****MOVED: CR TAVO****SECONDED: CR BLANCO**

**That Council suspend sections 9.4, 9.5 and 9.9 of the Standing Orders Local Law 2014 in accordance with section 18.2 'Suspension of Standing Orders' to hold a ballot on nominations for an Acting Deputy Mayor, for the period of 27 August to 5 November 2016.**

**CARRIED 9/0**

5:39pm The Mayor advised that sections 9.4, 9.5 and 9.9 of the Standing Orders Local Law 2014 are suspended.

The Mayor requested the Acting Chief Executive Officer to conduct the election of the Acting Deputy Mayor on her behalf.

The Acting Chief Executive Officer declared that the following nominations were received at 5:40pm:

- Cr Jan Gillingham
- Cr Troy Melville

The Acting Chief Executive Officer advised all Elected Members of the process to be followed to conduct the election of the Acting Deputy Mayor, which is included under Schedule 2.3, Part 8 of the *Local Government Act 1995*.

All nine Elected Members cast their votes by way of secret ballot.

Votes were counted at 5:43pm by the Acting Chief Executive Officer in the presence of the Acting Director Corporate Services and Coordinator Governance.

Outcome of the vote count:

- Cr Jan Gillingham 4 votes
- Cr Troy Melville 5 votes

The Acting Chief Executive Officer declared that Cr Troy Melville was the Councillor elected as the Acting Deputy Mayor.

**CM201617/034 COUNCIL DECISION****MOVED: CR WHITWELL****SECONDED: CR TAVO**

**That Council resume sections 9.4, 9.5 and 9.9 of the Standing Orders Local Law 2014.**

**CARRIED 9/0**



5:45pm The Mayor advised that sections 9.4, 9.5 and 9.9 of the Standing Orders Local Law 2014 are resumed.

## OFFICER RECOMMENDATION 2

That with respect to continuing representation on committee and groups, Council:

1. Appoint Councillor \_\_\_\_\_ to the Audit, Risk and Governance Committee.
2. Note that the proxy for the Pilbara Regional Council and Joint Development Assessment Panel will attend future meetings until the Mayoral Election;
3. Appoint Councillor \_\_\_\_\_ as proxy for the Regional Roads Group;
4. Appoint Councillor \_\_\_\_\_ as the proxy for the Local Emergency Management Committee;
5. Appoint Councillor \_\_\_\_\_ as the Town of Port Hedland Representative to the Hedland Senior High School Board;
6. Recommend the appointment of Councillor \_\_\_\_\_ as the Town of Port Hedland Representative to the DeGrey Land Conservation District Committee;
7. Appoint Councillor \_\_\_\_\_ as the Town of Port Hedland Representative to the East Pilbara Health Advisory Council and;
8. Appoint Councillor \_\_\_\_\_ as the Town of Port Hedland Representative to the Hedland Roadwise Committee.

### CM201617/035 COUNCIL DECISION

**MOVED: CR ARIF**

**SECONDED: CR MELVILLE**

**That with respect to continuing representation on committee and groups, Council for the interim, until the election of the Mayor, at which time the positions will revert to the responsibility of the incumbent Mayor:**

1. **Appoint Councillor Melville to the Audit, Risk and Governance Committee.**
2. **Note that the proxy for the Pilbara Regional Council and Joint Development Assessment Panel will attend future meetings until the Mayoral Election;**
3. **Appoint Councillor Hooper as proxy for the Regional Roads Group;**
4. **Appoint Deputy Mayor Camilo Blanco as the proxy for the Local Emergency Management Committee;**
5. **Appoint Councillor Gillingham as the Town of Port Hedland Representative to the Hedland Senior High School Board and Councillor Newbery as the proxy;**
6. **Recommend the appointment of Councillor Newbery as the Town of Port Hedland Representative to the DeGrey Land Conservation District Committee;**

7. **Appoint Councillor Whitwell as the Town of Port Hedland Representative to the East Pilbara Health Advisory Council and;**
8. **Appoint Councillor Hooper as the Town of Port Hedland Representative to the Hedland Roadwise Committee.**

***CARRIED BY ABSOLUTE MAJORITY 9/0***

## EXECUTIVE SUMMARY

Mayor Kelly Howlett tendered her resignation as Mayor of the Town of Port Hedland on 27 July 2016. The resignation has created a vacancy on Council and it is required that an extraordinary election is held to fill the vacancy as section 4.17(3) of the Local Government Act 1995 does not allow for an elected Mayoral vacancy (as opposed to a Council elected Mayor) to remain unfilled.

Council is required to set the date for the extraordinary election prior to 27 August 2016. It is recommended that the Western Australian Electoral Commission (WAEC) be responsible for the conduct of an extraordinary postal election.

Mayor Howlett's resignation has also created a vacancy on the Town of Port Hedland's Audit, Risk and Governance Committee.

## BACKGROUND

On Wednesday 27 July 2016, Mayor Kelly Howlett tendered her resignation to the Acting Chief Executive Officer, and later announced the resignation at the Ordinary Council Meeting that same day.

Mayor Howlett has been involved with the Town of Port Hedland since 2002, starting in the Parks and Gardens team, and being elected as a Councillor in 2007, and finally being elected as Mayor in 2009.

In accordance with section 4.17(3) of the Local Government Act 1995 (Act) only a Councillor vacancy can remain unfilled with the Electoral Commissioner's approval. As the Mayor position is a Mayor elected by electors (as opposed to a Council elected Mayor) and therefore is not considered a Councillor, the vacancy cannot remain unfilled until the October 2017 Ordinary Election.

Section 4.10(a) of the Act states that the date the vacancy occurring for the purposes of sections 4.8(1) and 4.9 of the Act is the date that the Acting Chief Executive Officer received the notice of the resignation, being Wednesday 27 July 2016. In accordance with section 4.9 of the Act the Council is required to decide the date of an extraordinary election to fill the Mayoral vacancy within one month of the vacancy occurring. The election date must be within four months of the vacancy occurring therefore must be prior to 27 November 2016.

Should the date of the election is not set by Council within one month of the vacancy occurring the Acting Chief Executive Officer is obliged to notify the Electoral Commissioner. The Electoral Commission will set the date for the election and notify the Town of Port Hedland in accordance with section 4.9(3) of the Act.

The earliest an extraordinary election can be held is 80 days after the decision is made by Council to hold an election. Should a decision be made tonight the election could be held on or after 29 October 2016.

The Council has the option for WAEC to conduct the election or conduct the election in house.

#### *WAEC conducted election*

Town officers have contacted WAEC to obtain a quote for the WAEC to conduct the election on the Town's behalf. The WAEC have recommended that the election be held on Saturday 5 November 2016 to ensure that the postal votes are sent to electors after the school holidays to ensure maximum participation.

Should Council decide that the WAEC will conduct the extraordinary election, in accordance with section 4.20(4) of the *Local Government Act 1995*, the WAEC must agree to be responsible for the conduct of the election.

Council engaged the Electoral Commissioner to conduct the October 2015 ordinary election and the April 2016 extraordinary election on the basis that:

- Postal elections are the preferred method as there are virtually no barriers to voting in a postal election, which encourages participation;
- Elections are conducted by the Electoral Commissioner who is impartial;
- Casting a vote at home is convenient, particularly for shift workers who may not be able to attend the polling places on election day;
- Those without access to transport are not prevented from voting; and
- Statutory requirements are fulfilled and disputes are handled by the Commissioner.

Council will need to resolve by absolute majority that it requests the WAEC to be responsible for the conduct of this extraordinary election and that it be conducted as a postal election.

The proposed date is to be determined by Council, as this is considered to be the best date as indicated in the summary table below. A full schedule of dates is also listed as attachment 2.

Important Milestones	Date
Last day for agreement of Electoral Commissioner to conduct postal election	17 August 2016
Appointment of Returning Officer by the Electoral Commissioner	27 August 2016
Electoral Roll closes at 5:00pm	16 September 2016
Candidate Nominations open	22 September 2016
Candidate Nominations close at 4:00pm	29 September 2016
Lodgement of election packages with Australia Post	7 October 2016
Election Day – close of poll at 6:00pm	5 November 2016

Statistics from previous years show that on average the majority of electors vote in the first week of receiving their voting packs, so the above timeframe is considered to give all electors ample opportunity to vote.

*In-house election*

If the election is conducted by the Town of Port Hedland the Acting Chief Executive Officer would be appointed the returning officer in accordance with section 4.20(1) of the Act. The Acting Chief Executive Officer would be responsible for conducting the election with assistance provided by Governance.

There is no statutory authority for a local government to hold a postal election in house. There is a risk that an in house conducted election would not have as much openness and transparency as an externally conducted election.

*Preferred option*

Town officers recommend that WAEC conduct the election as the process would be independent of the administration by being conducted externally. The WAEC also have the expertise to conduct elections from start to finish as they conduct the majority of local government elections across the state.

The WAEC has been engaged by the Town to conduct each ordinary and extraordinary election since 2011. This election would be the sixth election that the WAEC has conducted for the Town. Statistics have shown that postal elections conducted by the WAEC have resulted in better participation rates compared to in person elections.

The below table outlines the participation rates from the 2007 ordinary election to the April 2016 extraordinary election.

Year	Type of Election	Conduct Election	of Electors on Residents Roll	Votes
2007	Ordinary (Councillors)	In person	5439	1384 (25.45%)
2009	Ordinary (Mayoral)	In person	5621	932 (16.25%)
2011	Ordinary (Councillors)	Postal	5546	1544 (27.8%)
2012	Extraordinary (Councillor)	Postal	5532	1427 (25.8%)
2013	Ordinary (Mayoral)	Postal	5822	2052 (35.25%)
2015	Ordinary (Councillors)	Postal	5755	1696 (29.5%)
2016	Extraordinary (Councillor)	Postal	5735	1441 (25.1%)

*Policy 4/006 'Elections – Caretaker Period'*

As this is an extraordinary election the Council is advised that the application of Policy 4/006 'Elections – Caretaker Period' will be limited to certain sections to ensure that major decisions can still be implemented and executed in a timely manner. The Acting Chief Executive Officer will take care of implementing caretaker practices and advising all Elected Members accordingly as per section 2.1 of the policy, as listed in attachment 3.

### *Town Representation on Committee and Groups*

Mayor Howlett's resignation has also resulted in a vacancy on the Audit, Risk and Governance (ARG) Committee. It is recommended that Council appoint an Elected Member to fill the vacancy. The ARG Committee terms of reference are included under attachment 4.

With the Mayor's resignation there are Town of Port Hedland representative vacancies on the following groups:

- Joint Development Assessment Panel (JDAP)
- Hedland Senior High School Board
- DeGrey Land Conservation District Committee (LCDC)
- Pilbara Regional Council (PRC)
- Regional Roads Group (RRG)
- Local Emergency Management Committee (LEMC)
- East Pilbara Health Advisory Council
- Hedland Roadwise Committee

In accordance with policy 4/007 'Elected Member Representation – Pilbara Regional Council, Regional Roads Group and Local Emergency Committee' the Mayor and Deputy Mayor are the nominated Town of Port Hedland representatives. It is recommended that the proxies for PRC attend any meetings between the Mayor's resignation effective date and the election of the Mayor. The elected Mayor will then become the Town's representative along with the Deputy Mayor.

It is recommended that Council appoint proxies for the RRG and LEMC who can attend meetings in the absence of the Mayor and Deputy Mayor. It is also recommended that Council appoint Town representatives to the Hedland Senior High School Board, DeGrey LCDC, East Pilbara Health Advisory Council and the Hedland Roadwise Committee.

### **CONSULTATION**

Town officers have consulted the WAEC and the Department of Local Government and Communities. Communication was sent to all Elected Members on 28 July 2016 advising the process following the Mayor's resignation.

### **LEGISLATIVE IMPLICATIONS**

Section 2.32 of the Act outlines how extraordinary vacancies occur in offices elected by electors.

Part 4 of the Act outlines the process for holding local government elections. Section 4.20(4) of the Act requires an absolute majority to declare that the election will be conducted by the WAEC. To conduct the election as a postal election under section 4.61(2) of the Act also requires an absolute majority.

Committee members (to Local Government Act Committees) must be appointed by an absolute majority in accordance with section 5.10(1) of the Local Government Act 1995.

Part 2 division 3 of the Act outlines the process for how the office of Mayor is filled (elected by electors or elected by Council).

## POLICY IMPLICATIONS

Policy 4/001 'Elections – Promotion' applies.

Policy 4/006 'Elections – Caretaker Period' applies to all Local Government elections. Major policy decisions will still be made during the caretaker period in accordance with the policy.

Policy 4/007 'Elected Member Representation – Pilbara Regional Council, Regional Roads Group and Local Emergency Committee' applies.

## FINANCIAL IMPLICATIONS

The Electoral Commission is required under section 4.28(c) of the *Local Government Act 1995* to conduct local government elections on a full cost recovery basis. The quote to conduct the extraordinary election is \$23,000 (inc GST), which has been based on the following assumptions:

- 5,800 electors;
- Response rate of approximately 30%;
- Appointment of a local Returning Officer; and
- Count to be conducted in Port Hedland.

Costs not incorporated in the quote include:

- Non-statutory advertising (i.e. additional advertisements in community newspapers);
- Any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns; and
- Four local government staff members to work in the polling place on Election Day.

Based on the recent elections in October 2015 and April 2016 the above have been estimated to be \$7,000, therefore if the Council decides to proceed with the WAEC conducting the election, it is recommended that \$30,000 be included in the 2016/17 budget.

## STRATEGIC IMPLICATIONS

### 4.1 Strategic and best practice local government administration

- Deliver high quality corporate governance accountability and compliance
- Maintain a strong and sustainable financial position
- Be efficient and effective in use of resources, infrastructure, assets and technology
- Attract, develop and retain an effective workforce to deliver organisational outcomes

## SUSTAINABILITY IMPLICATIONS

### *Environmental*

There are no significant identifiable environmental impacts arising from adoption of the officer's recommendation.

*Economic*

There are no significant identifiable economic impacts arising from adoption of the officer's recommendation.

*Social*

The Town will regularly engage the Port Hedland community and encourage participation in the Mayoral election. Candidate information sessions will also be held for any Port Hedland elector who wishes to run for Mayor.

*Risk*

Risk	That Council do not make a decision on an extraordinary election date within the specified timeframe, leading to the WA Electoral Commission to determine the date on the behalf of Council.	That Council conduct an In house conducted in-person election which is seen as not being as independent as an external WAEC conducted election.
Risk Likelihood (based on history and with existing controls)	Unlikely (2)	Possible (3)
Risk Impact / Consequence	Minor (2)	Moderate (3)
Risk Rating (Prior to Treatment or Control)	Low (1-4)	Medium (5-9)
Principal Risk Theme	Reputation - 2 Minor - Substantiated, localised impact on key stakeholder trust or low media item	Reputation - 3 Moderate - Substantiated, public embarrassment, moderate impact on key stakeholder trust or moderate media profile
Risk Action Plan (Controls or Treatment proposed)	Accept Officer Recommendation	Accept Officer Recommendation

## Risk Matrix

Consequence		Insignificant	Minor	Moderate	Major	Catastrophic
Likelihood	1					
	5	Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4	Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3	Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2	Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1	Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)

A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 4 and 9 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

This item does not need to be added to the Town's Risk Register, nor is a Risk Treatment Plan required.

### **CONCLUSION**

It is recommended that Council declare that the WAEC will conduct the extraordinary election on Saturday 5 November 2016.



**ATTACHMENT 1 TO ITEM 10.1.1**

Kelly Howlett  
PO Box 869  
Port Hedland  
Western Australia, 6721.

Town of Port Hedland  
A/CEO  
Attention: Chris Linnell  
PO Box 41  
Port Hedland  
Western Australia, 6721.

Dear Chris,

Good afternoon, I am writing this letter to formalise my intent to resign, from the office of Mayor of the Town of Port Hedland, effective Friday 26<sup>th</sup> August 2016.

I have been honoured, humbled and extremely proud to have been an elected member of the Town of Port Hedland since October 2007, including being Mayor since October 2009.

With the recruitment of a new CEO soon to commence, I feel now is the time for new leadership and energy to drive the Town of Port Hedland forward into the new future.

I thank the Town of Port Hedland, very much for all the opportunities that I have been fortunate to have had serving our community as an elected member for close to nine years. I also wish the Town of Port Hedland all the very best going into the future.

Kind Regards,



Kelly Howlett

27<sup>th</sup> July 2016

## ATTACHMENT 2 TO ITEM 10.1.1



WESTERN AUSTRALIAN Electoral Commission

LGE 028

Mr Chris Linnell  
Acting Chief Executive Officer  
Town of Port Hedland  
PO Box 41  
Port Hedland WA 6721

Attention: Ms Grace Waugh

Dear Mr Linnell

**Extraordinary Election**

I refer to your email dated 29 July 2016 advising of the resignation of Mayor Kelly Howlett and requesting an estimate to conduct an extraordinary election for the Town of Port Hedland.

The estimated cost to conduct the extraordinary election would be \$23,000 including GST which has been based on the following assumptions:

- 5,800 electors;
- response rate of approximately 30%;
- appointment of a local Returning Officer; and
- count to be conducted in Port Hedland.

Costs not incorporated in this estimate include:

- non-statutory advertising (i.e. additional advertisements in community newspapers and promotional advertising); and
- any legal expenses other than those that are determined to be borne by the Western Australian Electoral Commission in a Court of Disputed Returns; and

The Commission is required by the *Local Government Act 1995* to conduct local government elections on a full cost recovery basis. Please note that this is an estimate only and may vary depending on a range of factors including the cost of materials or number of replies received. The basis for our charges is all materials at cost and a margin on staff time only.

138049

Level 2, 111 St George's Terrace, PERTH WA 6000 GPO Box F318 PERTH WA 6841  
Telephone: (08) 9214 0400 Facsimile: (08) 9226 0577 Email: [wsec@wsec.wa.gov.au](mailto:wsec@wsec.wa.gov.au)  
Website: [www.elections.wa.gov.au](http://www.elections.wa.gov.au)



I have taken your email as a request for agreement to be responsible for the conduct of the extraordinary election. Therefore, in accordance with section 4.20(4) of the Local Government Act 1995, I agree to be responsible for the conduct of an extraordinary election on a day to be determined by Council.

If the Town of Port Hedland wishes to have the election conducted as a postal election, Council will now need to pass the following two motions by absolute majority:

1. declare, in accordance with section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner to be responsible for the conduct of the extraordinary election.
2. decide, in accordance with section 4.61(2) of the Local Government Act 1995 that the method of conducting the extraordinary election will be as a postal election.

I have enclosed an election schedule for a suggested election date of Saturday 5 November 2016.

If you have any further queries please contact Phil Richards, Manager Local Government Elections, on 9214 0443.

Yours sincerely



David Kerslake  
**ELECTORAL COMMISSIONER**

1 August 2016

Enc.



WESTERN AUSTRALIAN  
Electoral Commission

## ELECTION TIMETABLE

### Local Government Extraordinary Election

Days to Polling Day	Local Government Act	References to Act/Regs	Day	Date
80	Last day for agreement of Electoral Commissioner to conduct postal election.	LGA 4.20 (2)(3)(4)	Wed	17/08/2016
80	A decision made to conduct the election as a postal election cannot be rescinded after the 80th day.	LGA 4.61(5)	Wed	17/08/2016
70	Electoral Commissioner to appoint a person to be the Returning Officer of the Local Government for the election.	LGA 4.20 (4)	Sat	27/08/2016
70	Between the 70th/56th day the CEO is to give Statewide public notice of the time and date of close of enrolments.	LGA 4.39(2)	Sat	27/08/2016
to	<b>Preferred date Wednesday 31 August 2016</b>		to	to
56			Sat	10/09/2016
56	Last day for the CEO to advise the Electoral Commissioner of the need to prepare a residents roll.	LGA 4.40(1)		10/09/2016
56	Advertising may begin for nominations from 56 days and no later than 45 days before election day.	LGA 4.47(1)	Sat	10/09/2016
	<b>Preferred date Wednesday 14 September 2016</b>			
50	Close roll 5.00 pm	LGA 4.39(1)	Fri	16/09/2016
45	Last day for advertisement to be placed calling for nominations.	LGA 4.47(1)	Wed	21/09/2016
44	<b>Nominations Open</b> First day for candidates to lodge completed nomination paper, in the prescribed form, with the Returning Officer. Nominations period is open for 8 days.	LGA 4.49(a)	Thu	22/09/2016
38	If a candidate's nomination is withdrawn not later than 4.00 pm on the 38th day before election day, the candidate's deposit is to be refunded.	Reg. 27(5)	Wed	28/09/2016
37	<b>Close of Nominations</b> 4.00 pm on the 37th day before election day.	LGA 4.49(a)	Thu	29/09/2016
36	Last day for the CEO to prepare & certify an owners & occupiers roll for the election. Last day for the Electoral Commissioner to prepare & certify a residents roll.	LGA 4.41(1) LGA 4.40(2)	Fri	30/09/2016
29	Lodgement of election packages with Australia Post. Week Commencing	Approx	Fri	07/10/2016
22	The preparation of any consolidated roll under subregulation (1) be completed on or before 22nd day before election day.	Reg. 18(2)	Fri	14/10/2016
19	Last day for the Returning Officer to give Statewide public notice of the election.	LGA 4.64(1)	Mon	17/10/2016
	<b>Preferred date Wednesday 5 October 2016</b>			
4	Commence processing returned election packages	Approx	Tue	01/11/2016
0	<b>Election Day</b> Close of poll 6.00 pm	LGA 4.7	Sat	05/11/2016

  

Post Election Day	Post Declaration	References to Act/Regs		Date
5	Election result advertisement.	LGA 4.77	Thu	10/11/2016
14	Report to Minister. The report relating to an election under section 4.79 is to be provided to the Minister within 14 days after the declaration of the result of the election.	Reg.81	Sat	19/11/2016
28	An invalidity complaint is to be made to a Court of Disputed Returns, constituted by a magistrate, but can only be made within 28 days after notice is given of the result of the election.	LGA 4.81(1)	Sat	03/12/2016

## Town of Port Hedland Policy Manual

---

### 4/006 ELECTIONS – CARETAKER PERIOD POLICY

To ensure the Town's activities and Elected Members are undertaken in a manner that supports a high standard of integrity during local government election periods.

#### Policy Objective

The primary objective of this Policy is to avoid the Council of the Town of Port Hedland making major decisions, prior to election, that would bind an incoming Council, prevent the use of public resources in ways that are seen as advantageous to, or promoting, the sitting Elected Members who are seeking re-election, or new candidates, and ensuring the Town of Port Hedland administration acts impartially in relation to candidates.

This Policy applies during a 'Caretaker Period' (see below for definition) to cover:

- a. Decisions that are made by the Council;
- b. Materials published by the Council;
- c. Attendance and participation in functions and events;
- d. Use of the Town's resources;
- e. Access to Council information.

#### Definitions

**'Caretaker Period'** means the period of time when the caretaker practices are in place prior to the election. The caretaker practices will apply from the close of nominations being 37 days prior to the Election Day in accordance with Section 4.49(a) of the Local Government Act 1995, until 6pm on Election Day.

**'Election Day'** means the day fixed under the Local Government Act 1995 for the holding of any poll needed for an election.

**'Electoral Material'** means any digital communications, advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result in an election but does not include:

- (a) An advertisement in a newspaper announcing the holding of a meeting in accordance with Section 4.87(3) of the Local Government Act 1995.
- (b) Any materials exempted under Regulation 78 of the Local Government (Elections) Regulations 1997.
- (c) Any materials produced by the Town relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the Returning Officer for the purposes of conducting an election.

**'Events and Functions'** means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Town and stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions.

**'Local Government Election'** means all ordinary and extraordinary Councillor and Mayoral elections.

## Town of Port Hedland Policy Manual

---

**‘Major Policy Decision’** means any:

- (a) Decisions relating to the employment, termination or remuneration of the Chief Executive Officer or any other designated senior officer, other than a decision to appoint an Acting or Deputy Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election.
- (b) Decisions relating to the Town entering into a sponsorship arrangement with a total Town contribution value exceeding \$10,000 (excluding GST).
- (c) Irrevocable decisions that commit the Town to substantial expenditure or significant actions, such as that which might be brought about through a Notice of Motion by an Elected Member.
- (d) Irrevocable decisions that will have a significant impact on the Town of Port Hedland or the community.
- (e) Reports requested or initiated by an Elected Member, candidate or member of the public that, in the Chief Executive Officer’s opinion, may be perceived within the general community as an electoral issue that reflects upon the Council’s decision-making process, and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

**‘Public Consultation’** means a process which involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

### Policy Content

#### PART 1 – INTRODUCTION

##### **1.1 Application**

This Caretaker Policy applies to Elected Members, electoral candidates and employees of the Town of Port Hedland.

##### **1.2 Scheduling Consideration of Major Policy Decisions**

So far as is reasonably practicable, the Chief Executive Officer should avoid scheduling major policy decisions for consideration during a Caretaker Period, and instead ensure that such decisions are either:

- a. Considered by the Council prior to the Caretaker Period; or
- b. Scheduled for determination by the incoming Council.

Where extraordinary circumstances prevail, the Chief Executive Officer may submit a major policy decision to the Council in accordance with Part 3 of this policy.



## Town of Port Hedland Policy Manual

---

### **1.3 Decision Made Prior to a Caretaker Period**

This Policy only applies to actual decisions made during a Caretaker Period, not the announcement of decisions made prior to the Caretaker Period. Whilst announcement of earlier decisions may be made during a Caretaker Period, as far as practicable any such announcements should be made before the Caretaker Period begins.

## **PART 2 – IMPLEMENTATION OF CARETAKER PRACTICES**

### **2.1 Role of the Chief Executive Officer in Implementing Caretaker Practices**

The role of the Chief Executive Officer in implementing the caretaker practices outlined in this policy is as follows:

- a. The Chief Executive Officer will ensure as far as possible, that all Elected Members and staff are aware of the Caretaker Policy and practices 30 days prior to the start of the Caretaker Period.
- b. The Chief Executive Officer will ensure, as far as possible, that any major policy or significant decisions required by the Council are scheduled for Council resolution prior to the Caretaker Period or deferred where appropriate for determination by the incoming Council.
- c. The Chief Executive Officer will endeavour to make sure all announcements regarding decisions made by the Council, prior to the Caretaker Period, are publicised prior to the Caretaker Period.

## **PART 3 – EXTRAORDINARY CIRCUMSTANCES REQUIRING EXEMPTION**

### **3.1 Extraordinary Circumstances**

The Chief Executive Officer may, where extraordinary circumstances prevail, permit a matter defined as a 'major policy decision' to be submitted to the Council. The Chief Executive Officer is to have regard to a number of circumstances, including but not limited to:

- a. Whether the decision is 'significant';
- b. The urgency of the issue (that is - can it wait until after the election);
- c. The possibility of legal and/or financial repercussions if it is deferred;
- d. Whether the decision is likely to be controversial; and
- e. The best interests of the Town of Port Hedland.

### **3.2 Appointment or Removal of the Chief Executive Officer**

Whilst the definitions of this policy establishes that a Chief Executive Officer may not be appointed or dismissed during a Caretaker Period, in the case of an emergency, the Council may act to appoint an Acting Chief Executive Officer, or suspend the current Chief Executive Officer (in accordance with the terms of their contract), pending the election, after which date a permanent decision can be made.

## **PART 4 - CARETAKER STATEMENT**

## Town of Port Hedland Policy Manual

---

To ensure the Council complies with the commitment to appropriate decision making during the Caretaker Period a Caretaker Statement will be included in every report submitted to the Council for a decision. The Caretaker Statement will specify one of the following:

- a. "The recommended decision is not a 'Major Policy Decision' within the context of Council Policy 4/006 'Elections - Caretaker Policy'."
- b. "The recommended decision is a 'Major Policy Decision' within the context of Council Policy 4/006 'Elections - Caretaker Policy' however; an exemption should be made due to extraordinary circumstances (insert the circumstances for making the exemption)".

### **PART 5 – TOWN OF PORT HEDLAND PUBLICATIONS**

#### ***5.1 Prohibition on Publishing Local Government Electoral Material***

The Town shall not print, publish or distribute, or cause, permit or authorise others to print, publish or distribute on behalf of the Town any advertisement, handbill, pamphlet or notice that contains 'electoral material' during the Caretaker Period.

#### ***5.2 Electoral Material Relevant to Prohibition***

Without limiting the generality of the definition of 'electoral material', material will be considered to be intended or likely to affect voting in the election if it contains an express or implicit reference to, or comment on:

- a. The election; or
- b. A candidate in the election; or
- c. An issue submitted to, or otherwise before, the voters in connection with the election.

#### ***5.3 Candidate and/or Elected Member Publications***

Candidates and/or Elected Members are permitted to publish campaign material on their own behalf but cannot claim for that material to be originating from or authorised by the Town. For example, use of the Town of Port Hedland crest or logo is prohibited as is use of any of the Town's photographs or images.

#### ***5.4 Election Announcements***

This policy does not prevent publications by the Town which merely announce the holding of the election or relate only to the election process itself.

#### ***5.5 Town of Port Hedland Publications***

Any reference to Elected Members in the Town's publications printed, published or distributed during the Caretaker Period must not include promotional text. Any of the Town's publications that are potentially affected by this policy will be reviewed by the Chief Executive Officer to ensure that any circulated, displayed or otherwise publicly available material during the Caretaker Period does not contain material that may be construed as 'electoral material'.

#### ***5.6 Town of Port Hedland Website***



## Town of Port Hedland Policy Manual

---

During the Caretaker Period the Town's website will not contain any material which is precluded by this policy. Any references to the election will only relate to the election process. Information about Elected Members will be restricted to names, contact details, titles, membership of special committees and other bodies to which they have been appointed to by the Council. Information about candidates on the Town's website will be restricted to their candidate profiles only.

### **PART 6 - PUBLIC CONSULTATION DURING THE CARETAKER PERIOD**

#### **6.1 Prohibition**

It is prohibited under this policy for public consultation to be undertaken during the Caretaker Period (either new consultation or existing) on an issue which is contentious, unless the consultation is a mandatory statutory process or prior approval is given by the Chief Executive Officer.

### **PART 7 - ATTENDANCE AND PARTICIPATION AT EVENTS/FUNCTIONS/MEETINGS**

#### **7.1 Public Events Hosted by External Bodies**

Elected Members may continue to attend events and functions hosted by external bodies during the Caretaker Period.

#### **7.2 Town of Port Hedland Organised Civic Events/Functions**

Civic events/functions organised by the Town and held during the Caretaker Period will be reduced to only those essential to the operation of the Town, and should not in any way be associated with any issues considered topical and relevant to the election. All known candidates are to be invited to civic events/functions organised by the Town during the Caretaker Period, however, only sitting Elected Members will be formally acknowledged at such events/functions.

#### **7.3 Addresses by Elected Members**

Elected Members that are also candidates should not, where possible, be permitted to make speeches or addresses at events/functions organised or sponsored by the Town during the Caretaker Period. Elected Members may make short welcome speeches at events and functions organised or sponsored by the Town during the Caretaker Period subject to prior approval of the Chief Executive Officer.

## Town of Port Hedland Policy Manual

---

### **7.4 Delegates to Community and Advisory Groups**

Elected Members appointed to community groups, advisory groups and other external organisations as representatives of the Town shall not use their attendance at meetings of such groups to either recruit assistance with electoral campaigning or to promote their personal or other candidates' electoral campaigns.

### **4.5 Questions and Statements at Council or Committee Meetings**

All candidates, whether current Elected Members or not, are required to declare that they are a candidate for the upcoming election prior to asking questions or making a statement at Council or Committee Meetings.

## **PART 8 - THE USE OF TOWN OF PORT HEDLAND RESOURCES**

The Local Government (Rules of Conduct) Regulations 2007 provide that the Town's resources are only to be utilised for authorised activities (for example – prohibits the use of employees for personal tasks and prohibits the use of equipment, stationery, or hospitality for non-Council business). This includes the use of resources for electoral purposes. It should be noted that the prohibition on the use of the Town's resources for electoral purposes is not restricted to the Caretaker Period.

The Town's staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign and should avoid assisting Elected Members in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of Town resources might be construed as being related to a candidate's election campaign, advice is to be sought from the Chief Executive Officer.

## **PART 9 - ACCESS TO COUNCIL INFORMATION AND ASSISTANCE**

### **9.1 Elected Members Access to Information**

During a Caretaker Period, Elected Members are able to access Council information relevant to the performance of their functions as an Elected Member. However, this access to information should be exercised with caution and limited to matters that the Council is dealing with within the objectives and intent of this policy. Any Council information so accessed must not be used for election purposes.

### **9.2 Electoral Information and Assistance**

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls) and information relevant to their election campaigns from the Town administration. Information, briefing material and advice prepared or secured by staff for an Elected Member must be necessary to the carrying out of the Elected Member's role and must not be related to election issues that might be perceived to be of an electoral nature (refer to Part 8 of this policy).

Any assistance and advice provided to candidates as part of the conduct of the local government election will be provided equally to all candidates. The types of

## **Town of Port Hedland Policy Manual**

---

assistance that are available will be documented and communicated to candidates in advance. Types of assistance may include advice on manipulation of electoral roll data and interpretation of legislative requirements, amongst other matters.

Candidates may obtain advice or assistance from the Western Australian Electoral Commission (WAEC) as they are responsible for managing the Town of Port Hedland elections.

### **9.3 Information Request Register**

An Information Request Register will be maintained by the Chief Executive Officer during the Caretaker Period. This Register will be a public document that records all requests for information made by Elected Members and candidates, and the response given to those requests, during the Caretaker Period. Staff will be required to provide details of requests to the Chief Executive Officer for inclusion in the Register.

### **9.4 Media Advice**

Any requests for media advice or assistance from Elected Members during the Caretaker Period will be referred to the Chief Executive Officer. No media advice will be provided in relation to election issues or in regard to publicity that involves specific Elected Members. If satisfied that advice sought by an Elected Member during the Caretaker Period does not relate to the election or publicity involving any specific Elected Member(s), the Chief Executive Officer may authorise the provision of a response to such a request.

### **9.5 Publicity Campaigns**

During the Caretaker Period, publicity campaigns, other than for the purpose of conducting (and promoting) the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Town activity, it must be approved by the Chief Executive Officer. In any event, the Town's publicity during the Caretaker Period will be restricted to communicating normal Town activities and initiatives.

### **9.6 Media Attention**

Elected Members will not use their position as an elected representative or their access to Town staff or resources to gain media attention in support of their or any other candidate's election campaign.

### **9.7 Town of Port Hedland Employees**

During the Caretaker Period no Town employee may make any public statement that relates to an election issue unless the statements have been approved by the Chief Executive Officer.

## Town of Port Hedland Policy Manual

---

### 9.8 Election Process Enquiries

All election process enquiries from candidates, whether current Elected Members or not, will be directed to the Returning Officer or, where the matter is outside of the responsibilities of the Returning Officer, to the Western Australian Electoral Commission.

Council Adoption Date and Resolution No.	28 August 2013 OCM (201314/064)
Date of adoption of amendment and Resolution Number <b><i>Do not delete previous dates</i></b>	
Relevant Legislation	Local Government Act 1995 Part 4 Local Government (Elections) Regulations 1996
Delegated Authority	N/A
Directorate	Office of the CEO
Review Frequency	As Required



**ATTACHMENT 4 TO ITEM 10.1.1****AUDIT, RISK & GOVERNANCE COMMITTEE TERMS OF REFERENCE**

---

**1. Purpose of the Terms of Reference**

The purpose of the terms of reference is to facilitate the operation of the Audit, Risk and Governance Committee.

**2. Introduction**

The Audit, Risk and Governance Committee has been established in accordance with Part 7 of the Local Government Act 1995.

The Audit, Risk and Governance Committee is an advisory committee formally appointed by the Council and is responsible to the Council. The Audit, Risk and Governance Committee does not have executive powers or authority to implement actions in areas over which management has responsibility and does not have any financial responsibility. The Audit, Risk and Governance Committee does not have any management functions and is therefore independent of management.

The ARG committee will primarily focus on relevant matters relating to Audit (internal and external), Risk and Governance.

The Audit, Risk and Governance Committee objective is to assist the Town of Port Hedland Council in liaising with the auditor and overseeing the external audit function and promoting the transparency and accountability of the Town's financial management systems and reporting. The role of the Committee is to report to the Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

**3. Objectives**

The objectives of the Audit, Risk and Governance Committee are to oversee:

- 3.1 The integrity of external financial reporting, including accounting policies.
- 3.2 The scope of work, objectivity, performance and independence of the external auditor.
- 3.3 The establishment, effectiveness and maintenance of controls and systems to safeguard the Town's financial and physical resources.
- 3.4 The systems or procedures that are designed to ensure that the Town and its subsidiaries comply with relevant statutory and regulatory requirements.
- 3.5 The process for recognising risks arising from the Town's operations and strategies, and consider the adequacy of measures taken to manage those risks.
- 3.6 The process and systems which protect the Council against fraud and irregularities.

The Audit, Risk and Governance Committee must also add to the credibility of Council by promoting ethical standards through its work.

---

**AUDIT, RISK & GOVERNANCE COMMITTEE TERMS OF REFERENCE**

---

**4. Authority**

The Audit, Risk and Governance Committee has the authority to:

- 4.1 Review and suggest improvements to the internal and external auditor's annual audit plans and the outcomes/results of all audits undertaken.
- 4.2 Formally meet with the Town's appointed external auditor as necessary.
- 4.3 Seek resolution on any disagreements between management and the external auditors on financial reporting.
- 4.4 Advise Council on any or all of the above as deemed necessary.

**5. Composition**

- 5.1 The Audit, Risk and Governance Committee will comprise of six members, four Elected Members and two independent members.
- 5.2 The Council will appoint Audit, Risk and Governance Committee members.
- 5.3 The Presiding Member and Deputy Presiding Member will be appointed by the Audit, Risk and Governance Committee, biennially by election by all committee members after the Ordinary Local Government Election.
- 5.4 The members, taken collectively, will have a broad range of skills and experience relevant to the operations of the Town. At least one member of the committee will have accounting or related financial management experience with an understanding of accounting and auditing standards in a public sector environment.
- 5.5 Independent members will be appointed until the next Ordinary Local Government Election.
- 5.6 A quorum will be a minimum of 50% of the membership.
- 5.7 Audit, Risk and Governance Committee members are required by the Local Government Act and Code of Conduct in observing the requirements of declaring any proximity, financial or impartiality interests that relate to any matter to be considered at each meeting.
- 5.8 New members will receive relevant information and briefings on their appointment to assist them to meet their committee responsibilities.

**6. Meetings**

- 6.1 Meetings may be called by the Presiding Member of the Audit, Risk and Governance Committee, or at the request of the Mayor or Chief Executive Officer.
- 6.2 The Audit, Risk and Governance Committee meetings are generally open to the public unless the Presiding Member or Chief Executive Officer deem it necessary to proceed behind closed doors pursuant to Section 5.23 of the Local Government Act 1995.

---

**AUDIT, RISK & GOVERNANCE COMMITTEE TERMS OF REFERENCE**

---

- 6.3 All Elected Members are invited to attend each Audit, Risk and Governance Committee meeting.
- 6.4 All Audit, Risk and Governance Committee members are expected to attend each meeting in person.
- 6.5 The Chief Executive Officer will facilitate the meetings of the Audit, Risk and Governance Committee and invite members of management, internal and external auditors or others to attend meetings as observers and to provide pertinent information, as necessary.
- 6.6 The Audit, Risk and Governance Committee will develop a forward meeting schedule that includes the dates, location, and proposed work plan for each meeting for the forthcoming year, that cover all the responsibilities outlined in this terms of reference.
- 6.7 Meeting agendas will be prepared and provided at least one week in advance to members, along with appropriate briefing materials.
- 6.8 Minutes will be taken at each meeting and presented to the subsequent meeting for confirmation.

**7. Responsibilities**

The Audit, Risk and Governance Committee will carry out the following responsibilities:

**7.1 Risk management**

- 7.1.1 Review and suggest improvements to whether management has in place a current and comprehensive enterprise risk management framework and associated procedures for effective identification and management of the Town's business and financial risks, including fraud.
- 7.1.2 Determine whether a sound and effective approach has been followed in managing the Town's major risks including those associated with individual projects, program implementation, and activities.
- 7.1.3 Assess the impact of the Town's enterprise risk management framework on its control environment and insurance arrangements.
- 7.1.4 Review and suggest improvements to the process of developing and implementing the Town's fraud control arrangements and satisfy itself the Town has appropriate processes and systems in place to detect, capture and effectively respond to fraud-related information.

**7.2 Business continuity**

- 7.2.1 Determine whether a sound and effective approach has been followed in establishing the Town's business continuity planning arrangements, including whether business continuity and disaster recovery plans have been periodically updated and tested.



---

**AUDIT, RISK & GOVERNANCE COMMITTEE TERMS OF REFERENCE**

---

**7.3 Internal Control**

- 7.3.1 Review and suggest improvements to whether management's approach to maintaining an effective internal control framework is sound and effective.
- 7.3.2 Review and suggest improvements to whether management has in place relevant policies and procedures and that they are periodically reviewed and updated.
- 7.3.3 Determine whether the appropriate processes are in place to assess, at least once a year, whether key policies and procedures are complied with.
- 7.3.4 Review and suggest improvements to whether appropriate policies and supporting procedures are in place for the management and exercise of delegations.
- 7.3.5 Consider how management identifies any required changes to the design or implementation of key internal controls.

**7.4 Financial Report**

- 7.4.1 Review and suggest improvements to significant accounting and reporting issues, including complex or unusual transactions and highly judgemental areas, and recent accounting, professional and regulatory pronouncements and legislative changes, and understand their effect on the financial report.
- 7.4.2 Review with management and the external auditors the results of the audit, including any difficulties encountered, and suggest improvements if required..
- 7.4.3 Review and suggest improvements to the annual financial report and performance report of the Town of Port Hedland and its subsidiaries, and consider whether it is complete, consistent with information known to Audit, Risk and Governance Committee members, and reflects appropriate accounting principles.
- 7.4.4 Review and suggest improvements to the process for the consolidation of financial information of the Town related entities into the financial reports of the Town.
- 7.4.5 Review with management and the external auditors all matters required to be communicated to the Audit, Risk and Governance Committee under the Australian Auditing Standards, and suggest improvements if required..
- 7.4.6 Review and suggest improvements to the draft Annual Financial Statements and recommend the adoption of the Annual Financial Statements to Council.
- 7.4.7 Receive the quarterly budget review.

**7.5 Compliance**

- 7.5.1 Review and suggest improvements to the systems and processes to monitor effectiveness of the system for monitoring compliance with legislation and regulations and the results of management's investigation and follow-up (including disciplinary action) of any instances of non-compliance.



---

**AUDIT, RISK & GOVERNANCE COMMITTEE TERMS OF REFERENCE**

---

7.5.2 Keep informed of the findings of any examinations by regulatory agencies and any auditor (internal or external) observations and monitor management's response to these findings.

7.5.3 Obtain regular updates from management about compliance matters.

7.5.4 Review and suggest improvements to the annual Compliance Audit Return and report to the Council the results of the review.

**7.6 Internal Audit**

7.6.1 Review with management and the internal auditor the terms of reference, activities and resourcing of the internal audit function and suggest improvements if required.

7.6.2 Review, suggest improvements to and recommend the annual internal audit plan for approval by the Council and all major changes to the plan.

7.6.3 Monitor that the internal auditor's annual plan is linked with and covers the material business risks.

7.6.4 Monitor processes and practices to ensure that the independence of the audit function is maintained.

7.6.5 Annually review the performance of the internal audit including the level of satisfaction with internal audit function having consideration of the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing and suggest improvements if required..

7.6.6 Review and suggest improvements to all audit reports and provide advice to the Council on significant issues identified in audit reports and action to be taken on issues raised, including identification and dissemination of good practice.

7.6.7 Monitor management's implementation of internal audit recommendations.

**7.7 External Audit**

7.7.1 Review and suggest improvements to the external auditor's proposed audit scope and approach for financial performance audits, including any reliance on internal auditor activity.

7.7.2 Consider the findings and recommendations of relevant Performance Audits undertaken by the external auditor and ensure the Town implements relevant recommendations.

7.7.3 Provide an opportunity for the Audit, Risk and Governance Committee to meet with the external auditors to discuss any matters that the Audit, Risk and Governance Committee or the external auditors believe should be discussed privately.

7.7.4 Annually review and suggest improvements to the performance of external audit including the level of satisfaction with external audit function.

7.7.5 Monitor management's implementation of external audit recommendations.

**7.8 Reporting Responsibilities**

**AUDIT, RISK & GOVERNANCE COMMITTEE TERMS OF REFERENCE**

---

7.8.1 Report regularly to the Council about Audit, Risk and Governance Committee activities, issues, and related recommendations through circulation of minutes.

7.8.2 Monitor that open communication between the internal auditor, the external auditors, and the Town's management occurs.

**7.9 Other Responsibilities**

7.9.1 Perform other activities related to this terms of reference as requested by the Council.

7.9.2 Annually review, suggest improvements to and assess the adequacy of the Audit, Risk and Governance Committee terms of reference, request Council approval for proposed changes, and ensure appropriate disclosure as might be required by legislation or regulation.

## 10.1.2 Financial Management – 2016/17 Rating Strategy

File No: 24/04/0002  
 Applicant/ Proponent: N/A  
 Subject Land/ Locality: N/A  
 Date: 27/06/2016  
 Author: Carmen Walsh, Senior Rates Officer  
 Authorising Officer: Dale Stewart, Acting Director Corporate Services  
 Disclosure of Interest from Author: Nil  
 Authority/Discretion: ☒ Executive – the substantial direction setting and oversight role of the Council. E.g. adopting plans and reports, accepting tenders, directing the Chief Executive Officer, setting and amending budgets.

### Attachments:

1. Correspondence from the Department of Local Government and Communities

## OFFICER RECOMMENDATION

That with respect to the 2016/17 Rating Strategy, Council:

1. Note the response from the Department of Local Government and Communities that Council's proposed Rating Strategy with respect to UV's is not supported and submit an alternative strategy with respect to UV's as follows;

Rate Category	Rate in Dollar (expressed as cents in \$)	Minimum Payment
UV Mining	40.0000	\$260
UV Other	21.0000	\$1,260
UV Pastoral	10.2877	\$1,260

2. Request that the Chief Executive Officer, or the authorised officer(s), seek approval from the Minister for Local Government and Communities for the Town's application of the above 2016/17 Differential Rating Model as proposed, with respect to the Rate in the Dollar for UV Other (21.0000) and UV Mining (40.0000) due to them being more than twice the lowest Rate in the Dollar for the UV Pastoral rate category (10.2877); and
3. Resolve that the Council's intention is to review the overall Rating Strategy in 2016/17 such that Council reduces the UV Mining Rate in the Dollar to what industry may perceive as being more equitable over a phase in period of no more than three financial years.

### CM201617/036 COUNCIL DECISION

**MOVED: CR BLANCO**

**SECONDED: CR TAVO**

**That with respect to the 2016/17 Rating Strategy, Council:**

1. **Note the response from the Department of Local Government and Communities that Council's proposed Rating Strategy with respect to UV's is not supported and submit an alternative strategy with respect to UV's as follows;**

Rate Category	Rate in Dollar (expressed as cents in \$)	Minimum Payment
UV Mining	37.0000	\$260
UV Other	21.0000	\$1,260
UV Pastoral	10.2877	\$1,260

2. Request that the Chief Executive Officer, or the authorised officer(s), seek approval from the Minister for Local Government and Communities for the Town's application of the above 2016/17 Differential Rating Model as proposed, with respect to the Rate in the Dollar for UV Other (21.0000) and UV Mining (37.0000) due to them being more than twice the lowest Rate in the Dollar for the UV Pastoral rate category (10.2877); and
3. Resolve that the Council's intention is to review the overall Rating Strategy in 2016/17 such that Council reduces the UV Mining Rate in the Dollar to what industry may perceive as being more equitable over a phase in period of no more than three financial years.

**CARRIED 9/0**

## EXECUTIVE SUMMARY

The Department of Local Government and Communities (DLGC) has advised the Town that the Minister will not approve the adopted UV Pastoral rate in the dollar. The DLGC have advised that the Council can amend the proposed rates in the dollar from that advertised to a level that would be considered fair and equitable.

This report recommends that Council endorse the amended 2016/17 Differential Rating Model, pursuant to that which was advertised.

## BACKGROUND

At the Special Council Meeting on Wednesday 29 June 2016 Council made the following decision in relation to the 2016/17 Rating Strategy:

### *201516/304 RECOMMENDATION 1/ COUNCIL DECISION*

*MOVED: CR HOOPER SECONDED: CR WHITWELL*

*That with respect to the 2016/17 Rating Strategy, Council:*

1. *Note that 45 submissions have been received regarding the advertised 2016/17 Differential Rating Model, with a summary provided in Attachment 1, and all submissions being provided in full detail as per Attachment 2 (under confidential cover) to this report;*

2. *With respect to the public submissions, pursuant to sections 6.32, 6.33, 6.34 and 6.35 of the Local Government Act 1995, endorse the following differential general rates and minimum payments on Gross Rental and Unimproved Values with the view of striking these rates as part of the 2016/17 Budget adoption:*

<i>Rate Category</i>	<i>Rate in Dollar (expressed as cents in \$)</i>	<i>Minimum Payment</i>
<i>GRV Residential</i>	<i>5.4074</i>	<i>\$1,260</i>
<i>GRV Commercial</i>	<i>4.0875</i>	<i>\$1,260</i>
<i>GRV Industrial</i>	<i>2.7529</i>	<i>\$1,260</i>
<i>GRV Mass Accommodation</i>	<i>26.0000</i>	<i>\$1,260</i>
<i>GRV Tourist Accommodation</i>	<i>11.4339</i>	<i>\$1,260</i>
<i>UV Mining</i>	<i>40.0000</i>	<i>\$260</i>
<i>UV Other</i>	<i>20.5754</i>	<i>\$1,260</i>

3. *Consider the provision of a 50 percent rate concession (as of right, no application necessary) to 11 properties within the UV Other Rate code, which are classified as “pastoral leases”, with concessions totalling \$135,584.07.*
4. *Endorse the 2016/17 Statement of Objects & Reasons as per Attachment 3.*
5. *Request that the Chief Executive Officer, or the officer’s delegate(s), seek approval from the Minister for Local Government and Communities for the Town’s application of the above 2016/17 Differential Rating Model as proposed, with respect to the Rate in the Dollar for the GRV Mass Accommodation (26.0000) and Tourism Accommodation (11.4339) category, due to them being more than two times the lowest Rate in the Dollar for the GRV Industrial rate category (2.7529).*

*CARRIED 9/0*

The decision was made following an extensive community consultation process. Following Council’s decision the Town requested that the Minister for Local Government and Communities approve the Town of Port Hedland’s application for the model as proposed, including:

- Imposing differential rates for both Unimproved Value and Gross Rental Value such that the rate in the dollar for one or more categories is more than twice that of the lowest category (GRV Mass Accommodation, GRV Tourist Accommodation);
- Combining the UV Other and UV Pastoral rate categories;
- Applying 50 percent concession to 11 properties within the UV Other Rate code, which are classified as “pastoral leases”;
- Combining the UV Mining Other, UV Mining Exploration, and UV Mining rating categories.

It should be noted that ministerial approval must be obtained before Council adopts the 2016/17 Budget or otherwise the Budget is invalid and rates imposed are not recoverable and can be squashed by the State Administrative Tribunal. Approval is only required with respect to the GRV Mass Accommodation and GRV Tourist Accommodation rate in the dollars under the amended model proposed.

The DLGC have advised that the UV Pastoral category rates in the dollar will not be approved by the Minister. Council is required to amend to UV rates and resubmit the application to the DLGC.

### *Rating Strategy - background*

At the Special Council Meeting dated 30 May 2016, Council resolved to endorse the 2016/17 Differential Rating Model for community consultation (decision 201516/263 and 201516/264).

Rate revenue is a substantial source of discretionary revenue for the Town of Port Hedland, accounting for approximately one third of operating revenue in the 2016/17 Budget. The Local Government Act 1995 empowers local governments to impose differential general rates and minimum payments on rate-able land.

The Town of Port Hedland has adopted a differential general rate and general minimum payment for a number of years. The imposition of differential rates represents a conscious decision by a Council to redistribute the rate burden in its district by imposing a higher impact on some ratepayers and a lower impact on others.

The overall objective of a rating model is to provide for the net funding requirements of the Town's services, activities, financing costs and the current and future capital requirements of the Town as outlined in the Strategic Community Plan and Corporate Business Plan. Asset management is a significant challenge for all local governments in Western Australia and any rating model must also support asset renewal and replacement requirements in line with defined service levels.

Pursuant to section 6.36 of the Local Government Act 1995, local governments are required to give a minimum period of 21 days' notice of the proposed differential general rates and minimum payments and to consider any submissions received. The proposed differential general rates and minimum payments can then be imposed, with or without modifications.

The advertised model was underpinned by the following rating principles:

- Gross Rental Values apply to the following differential general rate categories; Residential, Commercial (now includes Shopping Centres), Industrial, Mass Accommodation and Tourist Accommodation;
- Unimproved Values apply to the following differential general rate categories; UV Mining, UV Other and UV Pastoral;
- Properties are rated according to Town Planning zonings and predominant land use with each having a separate calculated rate in the dollar to achieve greater equity across all sectors;
- The current Gross Rental Values have a date of valuation of 1 August 2014 – that is, the Town has received a general valuation in the last 12 months with valuations that came into force on 1 July 2015;
- Unimproved Values are determined annually by the Valuer General and proposed rates have been calculated on the valuations provided with a date in force of 1 July 2016.

### **CONSULTATION**

The Acting Chief Executive Officer met with the DLGC on Thursday 4 August 2016 with further correspondence received on the same day. The DLGC advised that the UV Pastoral category would not be approved by the Minister.

*Rating Strategy – community consultation*

As part of the community consultation process (further outlined in the consultation section of this report), 45 submissions were received regarding the proposed rate in the dollar. Submissions related to the GRV Residential, Commercial, Industrial and Mass Accommodation rate codes and the UV Mining rate code. A summary of the submissions were provided to Elected Members as part of the Special Council Meeting agenda on Wednesday 29 June 2016.

**LEGISLATIVE IMPLICATIONS**

The following sections of the Local Government Act 1995 apply:

- Section 6.33 – Differential General Rates;
- Section 6.35 – Minimum Payments;
- Section 6.36 – Giving Notice;
- Section 6.26 – Non-rateable land;
- Section 6.47 – Concessions.

The Department of Local Government and Communities has prepared a number of relevant Rating Policies that local governments must consider and comply with:

- Rating Policy – Giving Notice (section 6.36 of the Local Government Act 1995) June 2015;
- Rating Policy – Minimum Payments (section 6.35 of the Local Government Act 1995) March 2016;
- Rating Policy – Differential Rates (section 6.33 of the Local Government Act 1995) March 2016;
- Rating Policy – Rate-able Land (section 6.26 of the Local Government Act 1995) August 2013.

The Rates and Charges (Rebates and Deferments) Act 1992 applies to this item.

**POLICY IMPLICATIONS**

Council policies 2/013 (Rates Exemptions, non-rateable land) and 2/014 (Rates Concessions, rateable land) relates.

**FINANCIAL IMPLICATIONS**

The proposed rates model is expected to yield \$23,855,101 in total rate revenue.

**STRATEGIC IMPLICATIONS**

Rates are an essential income for Council to fund the town's vision to become a nationally significant friendly city that people are proud to call home and to provide services and facilities vital to building a unified and vibrant community, supporting a diverse economy, balancing our built and natural environment leading our community.

**SUSTAINABILITY IMPLICATIONS***Environmental*

There are no environmental impacts arising from adoption of the officer's recommendation.



*Economic*

- The Town is seeking to minimize the financial pressures imposed on rate payers by reducing the rates for the Residential, Commercial, Industrial and Pastoral rate codes.

*Social*

There are no significant identifiable social impacts arising from adoption of the officer's recommendation.

*Risk*

Risk	Application for UV Mining rate in the dollar could be declined by the Minister for Local Government and Communities	The delay in the approval of the rates in the dollar by the Minister could delay the adoption of the budget until after 31 August 2016
Risk Likelihood (based on history and with existing controls)	Possible (3)	Possible (3)
Risk Impact / Consequence	Major (4)	Moderate (3)
Risk Rating (Prior to Treatment or Control)	High (10-16)	Medium (5-9)
Principal Risk Theme	Financial Impact - 4 Major - \$300,001 - \$3M	Service Interruption - 3 Moderate - Interruption to Service Unit/(s) deliverables – backlog cleared by additional resources Compliance - 3 Moderate - Non-compliance with significant regulatory requirements imposed Failure to manage and meet basic community expectations
Risk Action Plan (Controls or Treatment proposed)	Accept Risk	Accept Risk and accept officer's recommendation

## Risk Matrix

Consequence Likelihood					
	Insignificant	Minor	Moderate	Major	Catastrophic
	1	2	3	4	5
Almost Certain	5 Medium (5)	High (10)	High (15)	Extreme (20)	Extreme (25)
Likely	4 Low (4)	Medium (8)	High (12)	High (16)	Extreme (20)
Possible	3 Low (3)	Medium (6)	Medium (9)	High (12)	High (15)
Unlikely	2 Low (2)	Low (4)	Medium (6)	Medium (8)	High (10)
Rare	1 Low (1)	Low (2)	Low (3)	Low (4)	Medium (5)



A risk is often specified in terms of an event or circumstance and the consequences that may flow from it. An effect may be positive, negative or a deviation from the expected and may be related to the following objectives; occupational health and safety, financial, service interruption, compliance, reputation and environment. A risk matrix has been prepared and a risk rating of 9 and 12 has been determined for this item. Any items with a risk rating over 10 (considered to be high or extreme risk) will be added to the Risk Register, and any item with a risk rating over 17 will require a specific risk treatment plan to be developed.

## **CONCLUSION**

In line with the background and information provided in this report, it is therefore suggested that Council adopt the officer's recommendation.

**ATTACHMENT 1 TO ITEM 10.1.2**

**From:** sheryl.siekierka@dlgc.wa.gov.au [mailto:sheryl.siekierka@dlgc.wa.gov.au]  
**Sent:** Thursday, 4 August 2016 5:05 PM  
**To:** Chris Linnell (Acting) <ceo@porthedland.wa.gov.au>  
**Cc:** Carmen Walsh <snrratesofficer@porthedland.wa.gov.au>; Zoe.Vos@dlgc.wa.gov.au;  
darrelle.merritt@dlgc.wa.gov.au  
**Subject:** FW: Town of Port Hedland - Differential Rating Strategy 20116/17

Hello Chris,

Further to our conversation at the WALGA Convention, Port Hedland's response dated 29 July has not changed the Department's view that by increasing the rate in the dollar for the UV Pastoral category from 10.2877 to 21.000 and then providing a concession the Town is attempting to circumvent the intent of the requirement for Ministerial approval for certain differential rates and is thus in contravention of the Act. As has been advised to another local government, rates imposed in such a way would be subject to an application to the State Administrative Tribunal for quashing.

If the reason for taking the above action was because of concern about the quantum of the proposed rates, I strongly suggest that the Council reviews the rates for the UV category before making application to the Minister for approval. It is open to the Town to amend the proposed rates in the dollar from that advertised to a level that would be considered fair and equitable. It should be noted that the Department has not carried out any assessment on the UV rates, but that Port Hedland has the highest rate in the dollar for mining properties in the State.

Regards

Sheryl

**Sheryl Siekierka**  
Manager  
Local Government Legislation  
Department of Local Government and Communities  
Tel: +61 8 6552 1569  
Fax: +61 8 6552 1555

---

**Item 11 Matters for Which Meeting May Be Closed (Confidential Matters)**

---

Nil

---

**Item 12 Closure**

---

**12.1 Date of Next Meeting**

The next Ordinary Meeting of Council will be held on Wednesday 31 August 2016, commencing at 5:30pm, with the Public Agenda Briefing being held on Thursday 25 August 2016, commencing at 5:30pm.

**12.2 Closure**

There being no further business, the Mayor declared the meeting closed at 6:14pm.