



**Town of Port Hedland**

**MINUTES**

**OF THE**

**SPECIAL MEETING**

**OF THE TOWN OF PORT HEDLAND COUNCIL**

**HELD ON**

**WEDNESDAY 9 OCTOBER 2013**

**AT 2.00PM**

**IN COUNCIL CHAMBERS**

**McGREGOR STREET, PORT HEDLAND**

*Agenda Items:*

1. *Reconsideration of Proposed Partial Closure of Whim Creek Road, Boodarie – Lot 1281 on Deposited Plan 70562 (File No.: 28/01/0017)*  
**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.*

*M.J. (Mal) Osborne*  
*Chief Executive Officer*

***“A nationally significant, friendly city, where people want to live and are proud to call home”***

## OUR COMMITMENT

*To enhance social, environmental and economic well-being through leadership and working in partnership with the Community.*

<b>ITEM 1</b>	<b>OPENING OF MEETING .....</b>	<b>4</b>
1.1	OPENING .....	4
<b>ITEM 2</b>	<b>RECORDING OF ATTENDANCE AND APOLOGIES.....</b>	<b>4</b>
2.1	ATTENDANCE.....	4
2.2	APOLOGIES .....	4
2.3	APPROVED LEAVE OF ABSENCE.....	4
<b>ITEM 3</b>	<b>PUBLIC TIME .....</b>	<b>4</b>
3.1	PUBLIC QUESTION TIME .....	4
3.2	PUBLIC STATEMENT TIME .....	5
3.2.1	MR DARRYL HOCKEY, GENERAL MANAGER EXTERNAL AFFAIRS, ROY HILL HOLDINGS PTY LTD. ....	5
3.2.2	MR DUANE McDONNELL, PROJECT MANAGER, DEPARTMENT OF STATE DEVELOPMENT .....	5
<b>ITEM 4</b>	<b>QUESTIONS FROM MEMBERS WITHOUT NOTICE.....</b>	<b>6</b>
<b>ITEM 5</b>	<b>DECLARATION BY MEMBERS TO HAVE GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING .....</b>	<b>6</b>
<b>ITEM 6</b>	<b>REPORTS OF OFFICERS .....</b>	<b>7</b>
6.1	PLANNING & DEVELOPMENT .....	7
6.1.1	<i>Reconsideration of Proposed Partial Closure of Whim Creek Road, Boodarie – Lot 1281 on Deposited Plan 70562 (File No.: 28/01/0017) .....</i>	<i>7</i>
<b>ITEM 7</b>	<b>CONFIDENTIAL ITEMS .....</b>	<b>13</b>
<b>ITEM 8</b>	<b>CLOSURE.....</b>	<b>13</b>
8.1	DATE OF NEXT MEETING .....	13
8.2	CLOSURE .....	13

**ITEM 1      OPENING OF MEETING****1.1          Opening**

The Mayor declared the meeting open at 2:07pm and acknowledged the traditional owners, the Kariyarra people.

**ITEM 2      RECORDING OF ATTENDANCE AND APOLOGIES****2.1          Attendance**

Councillor George J Daccache - took the Chair in his capacity of Deputy Mayor in the Mayor's absence

Councillor Arnold A Carter

Councillor Jan M Gillingham

Councillor David W Hooper

Councillor Michael (Bill) Dziombak

Councillor Gloria A Jacob

Councillor Penny M Taylor

**2.2          Apologies**

Mayor Kelly A Howlett

**2.3          Approved Leave of Absence**

Councillor Julie E Hunt

**ITEM 3      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 also reminded that in accordance with Section 20.3 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 chairperson to do so.'*

Deputy Mayor opened Public Question Time at 2:10pm

**3.1          Public Question Time**

Nil.

Deputy Mayor closed Public Question Time at 2:10pm

Deputy Mayor opened Public Statement Time at 2:10pm

### **3.2 Public Statement Time**

#### **3.2.1 Mr Darryl Hockey, General Manager External Affairs, Roy Hill Holdings Pty Ltd.**

Mr Hockey stated that Roy Hill understands and is supportive of Council's desire to provide the Town's community with coastal access and spoke in favour of agenda item 6.1.1 'Reconsideration of Proposed Partial Closure of Whim Creek Road, Boodarie – Lot 1281 on Deposited Plan 70562 (File No.: 28/01/0017).

Mr Hockey advised that the reason for which partial closure of Whim Creek Road is required is that the works Roy Hill is about to undertake in this area will see deep earth excavation and associated heavy machinery and trucks movements, which will be very unsafe for public access. With regard to the provision of an alternative public access in this area, Mr Hockey advised that it is Boodarie Station, as pastoral leaseholder of the land, and not Roy Hill that has control over the current tracks utilised by recreational fishers. Roy Hill however, in accordance with its State agreement and Port Lease and Licence is required to build a Multi User Public Access (MUPA) road which. This road will go from the Great Northern Highway up to the Western side of the railway corridor and will intersect with the current fishing track under discussion; however this will not be available until 2015. In the meantime Roy Hill has been working, and will continue to work with all stakeholders to try and find the most suitable option for public access to the coast.

#### **3.2.2 Mr Duane McDonnell, Project Manager, Department of State Development**

Mr McDonnell's advised that in his role of Project Manager at the Department of State Development his function is to facilitate government approval for the Roy Hill project.

Mr McDonnell confirmed that Roy Hill is committed to two things; one being building the MUPA road and the other to build the Great Northern Highway bridge.

The Department of State Development agrees that there should only be one bridge built at this location, and has been in discussions with other mining companies such as BHP Billiton Iron Ore when it was planning to build the Outer Harbour; but as the Outer Harbour has been deferred so are discussions about this matter. With respect to the MUPA road, another company, Horizon, has been looking at building an independent railway running parallel to the Roy Hill railway, but the State agreement required has not gone through to Parliament as yet as it is still in draft form. These discussions with Horizon are affecting the timing and the location of the MUPA.

The Department therefor needs to have further discussions not only with Horizon but also with Main Roads, the Department of Transport and the Port Hedland Port Authority about the location and timing and construction of the MUPA, which could take up to two to three years. The main reason for this delay being that Horizon will be carrying iron ore for the more juniors companies.

Mr McDonnell further stated that even though at this stage there is no guarantee as to where the MUPA road will be built, common sense would not see a public road being built across an industrial area as this would clearly be unsafe.

Deputy Mayor closed Public Statement Time at 2:23pm

**ITEM 4 QUESTIONS FROM MEMBERS WITHOUT NOTICE**

**ITEM 5 DECLARATION BY MEMBERS TO HAVE GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPER PRESENTED BEFORE THE MEETING**

Deputy Mayor Daccache	Councillor Jacob
Councillor Gillingham	Councillor Carter
Councillor Hooper	Councillor Taylor
Councillor Dziombak	

**Disclaimer**

**IMPORTANT NOTE:**

*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 Council has been received. Decisions made at this meeting can be revoked, pursuant to the Local Government Act 1995.*

**ITEM 6 REPORTS OF OFFICERS****6.1 Planning & Development****6.1.1 *Reconsideration of Proposed Partial Closure of Whim Creek Road, Boodarie – Lot 1281 on Deposited Plan 70562 (File No.: 28/01/0017)***

**Officer** Julie MacMile  
**Lands and Technical Officer**

**Date of Report** 2 October 2013

**Disclosure of Interest by Officer** Nil

**Summary**

The Town received a request from Roy Hill Infrastructure to permanently close a portion of Whim Creek Road.

On 25 September 2013, Council resolved to:

“Approve the request for partial closure of the Whim Creek Road (in accordance with the attached plan) subject to an alternative permanent and safe (public) access being provided at the same time as the closure that will allow access (west of the rail corridor) to the coastal areas;”

Roy Hill Infrastructure has requested Council to reconsider their position in relation to the timing of the provision of the alternative public access.

Council is requested to revoke the resolution made on 25 September and reconsider the proposed partial road closure of Whim Creek Road.

**Background**

Whim Creek Road dissects the Roy Hill Special Rail Licence corridor.

Portion of Whim Creek Road currently provides access to the informal coastal fishing tracks to the west of Port Hedland.

The Town intends to formalise coastal access and camping as a community and tourism opportunity. Unfortunately, access to other coastal areas (via De Grey and Mundabullangana stations) has recently been restricted.

Council considered the request to close a portion of Whim Creek Road on 24 April 2013 and resolved to approve the closure subject to no objections being received during the advertising period.

In accordance with Section 58 of the *Land Administration Act 1997*, the proposed closure was advertised for a period of 35 days.

Following the closure of the advertising period, a report was considered by Council on 25 September 2013. At this meeting, Council resolved to:

*“Approve the request for partial closure of the Whim Creek Road (in accordance with the attached plan) subject to an alternative permanent and safe (public) access being provided at the same time as the closure that will allow access (west of the rail corridor) to the coastal areas;”*

### **Consultation**

Nil

### **Statutory Implications**

Section 58 of the *Land Administration Act 1997* and regulation 9 of the *Land Administration Regulations 1998*, establishes the procedure for closing a road.

*Local Government Act 1995 (WA)* Section 5.25 Regulations about council and committee meetings and committees...

*(e) the circumstances and manner in which a decision made at a council or a committee meeting may be revoked or changed (which may differ from the manner in which the decision was made); ...*

### **Policy Implications**

Nil

### **Strategic Planning Implications**

6.1	Community
6.1.2	Vibrant
	Maintain and extend the visual and physical access to the coast and thoroughfares for general public
6.2	Economic
6.2.1	Diverse Economy
	Work closely with businesses to achieve sustainable economic growth and a broad economic base

### **Budget Implications**

The applicant has paid the application fee of \$350.00 for the proposed Road Closure.



Any costs associated with the advertising of this proposal will be invoiced to the applicant in accordance with the adopted operating procedure for road closures.

**Officer's Comment**

Roy Hill Infrastructure has requested Council to reconsider their position in relation to the timing of the provision of the alternative public access.

1. Construction access will not allow public access as Roy Hill have advised that there will be road train movements every 2.5 minutes.
2. Outside of the State Agreement Act provided rail reserve, the applicant has no control over access to pastoral lease land.
3. Any access outside of the rail reserve will have prerequisites of Native Title clearance, State Lands approval and an understanding of who will take the ongoing responsibility for the access.

It must be noted, Whim Creek Road does not provide access to the informal fishing grounds located on Boodarie Station. Whim Creek Road provides access to the informal tracks that traverse across Boodarie Station.

The use of these informal tracks requires permission from the pastoral lease holders and is not under the control or care of the Town.

Access to the informal fishing grounds can be refused / restricted by the pastoral lease holders regardless of the status of Whim Creek Road.

As part of the agreement between Roy Hill Infrastructure and the pastoral lease holders a new access road to the homestead will be provided and will have the same status as the informal tracks traversing the station.

The new homestead road with permission from the pastoral lease holders will provide access to the informal tracks leading to the fishing grounds, being no different to what the current situation is.

Options:

1. Revokes Council decision of Item 11.1.1.3 'Proposed Partial Closure of Whim Creek Road, Boodarie – Lot 1281 on Deposited Plan 70562' of the Council meeting held on the 25 September 2013 and recorded on page 39 of those minutes, and further resolving to approve the closure of portion of Whim Creek Road.

This will result in the partial closure of an unused portion of Whim

Creek Road, allowing the infrastructure developments to proceed.

The closure will not result in the loss of access to the informal fishing ground which is obtained via informal tracks traversing Boodarie Station, and requires the permission of the pastoral lease holders to utilise.

2. Resolves not to revoke Council decision of Item 11.1.1.3 'Proposed Partial Closure of Whim Creek Road, Boodarie – Lot 1281 on Deposited Plan 70562' of the Council meeting held on the 25 September 2013 and recorded on page 39 of those minutes.

This would delay the construction of the infrastructure required by Roy Hill. It will also not guarantee access to the fishing grounds. As mentioned access to the fishing grounds is obtained via informal tracks which could be closed by the pastoral lease holders at any time.

### **Attachments**

1. Aerial Plan

*NOTE: Deputy Mayor called for a show of hands in favour (1/3 of members) to consider the revoking of Resolution 201314/099 of Item 11.1.1.3 'Proposed Partial Closure of Whim Creek Road, Boodarie – Lot 1281 on Deposited Plan 70562' presented to Council's Ordinary Meeting held on 25 September 2013, and recorded on page 39 of those Minutes.*

The following Councillors indicated their intent to do so:

- Cr Carter
- Cr Gillingham
- Cr Hooper

### **201314/123 Officer's Recommendation / Council Decision 1**

**Moved: Cr Jacob**

**Seconded: Cr Carter**

**That Council revokes Council decision 201314/099 of Item 11.1.1.3 'Proposed Partial Closure of Whim Creek Road, Boodarie – Lot 1281 on Deposited Plan 70562' held on the 25 September 2013 and reordered on page 39 of those minutes:**

#### ***201314/099 Council Decision***

***Moved: Cr Jacob***

***Seconded: Cr Hooper***

***That Council:***

1. ***Approve the request for partial closure of the Whim Creek Road (in accordance with the attached plan) subject to an alternative permanent and safe (public) access being provided at the same time as the closure that will allow access (west of the rail corridor) to the coastal areas;***
2. ***Requests the Chief Executive Officer or his delegate to enter into discussions with Roy Hill Infrastructure, Department of State Development, the Port Hedland Port Authority and pastoral lease owner to determine the location, and timing of the delivery of an alternate access to the coastal areas in that locality; and***
3. ***Delegate the Chief Executive Officer or his delegate to submit the request for partial road closure to the Department of Lands on receipt of documentation confirming that alternative safe public access will be provided.***

***ABSOLUTE MAJORITY VOTE 7/0***

**201314/124 Officer's Recommendation/ Council Decision 2**

**Moved: Cr Carter**

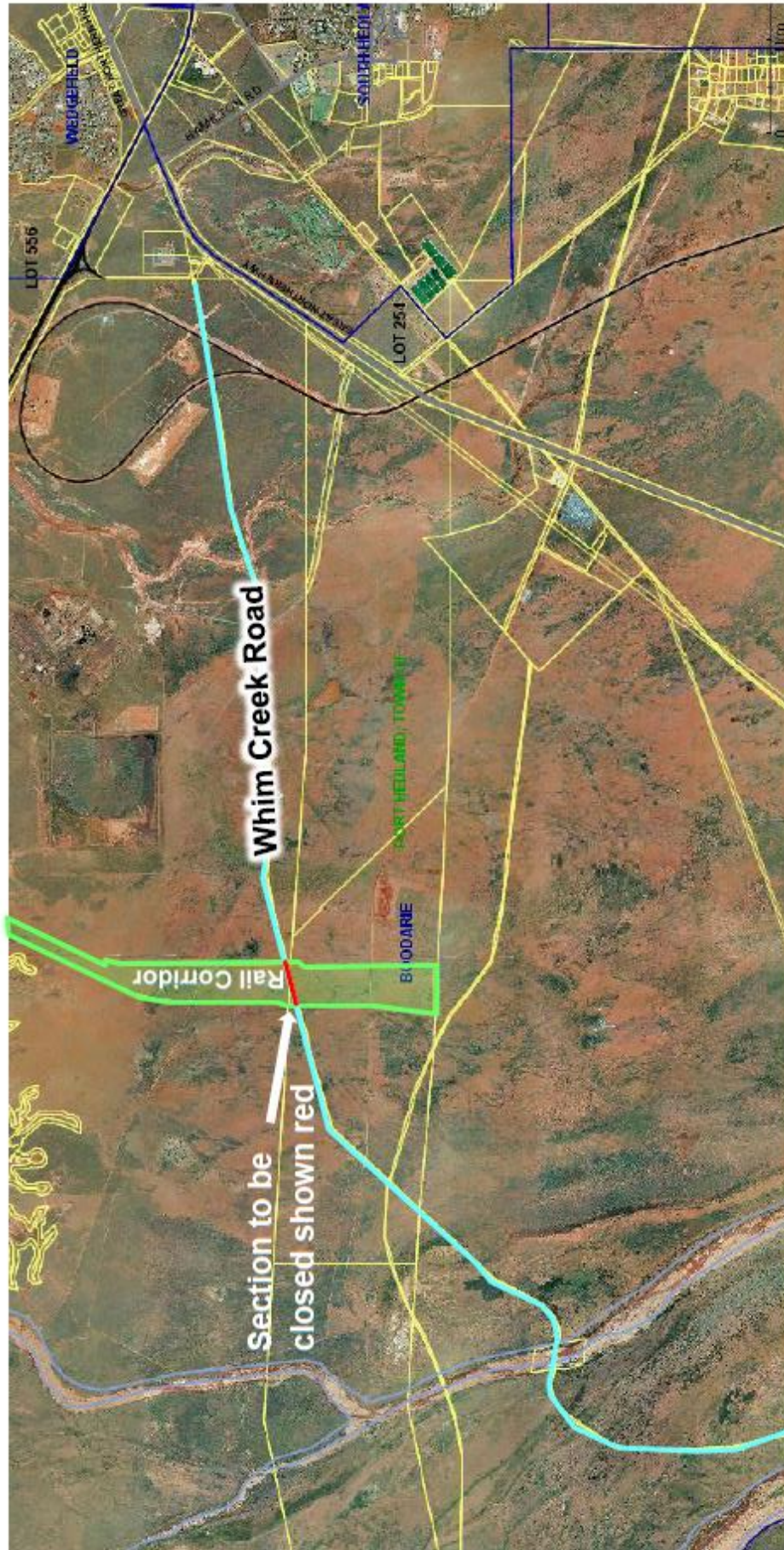
**Seconded: Cr Dziombak**

**That Council:**

1. **Approves the request for partial closure of Whim Creek Road (in accordance with the attached plan);**
2. **Delegates the Chief Executive Officer, or his delegate(s), to submit the request for partial road closure to the Department of Lands;**
3. **Requests the Chief Executive Officer, or his delegate(s), to enter into discussions with Roy Hill Infrastructure, Department of State Development and the Port Hedland Port Authority to determine the location, and timing of the delivery, of an alternate access to the coastal areas in that locality; and**
4. **Requests the Chief Executive Officer, or his delegate(s), to present to Council a report regarding coastal access issues within the Town of Port Hedland local government area boundary.**

***CARRIED 7/0***

# Proposed Partial Closure of Whim Creek Road, Boodarie



**ITEM 7      CONFIDENTIAL ITEMS**

Nil

**ITEM 8      CLOSURE**

**8.1          Date of Next Meeting**

The next Ordinary Meeting of Council will be held on Wednesday 23 October 2013, commencing at 5.30 pm.

**8.2          Closure**

There being no further business, the Mayor declared the meeting closed at 2:37pm.