



Town of Port Hedland

MINUTES

OF THE

SPECIAL MEETING

OF THE TOWN OF PORT HEDLAND COUNCIL

HELD ON

WEDNESDAY 8 MAY 2013

AT 4.50PM

IN COUNCIL CHAMBERS

McGREGOR STREET, PORT HEDLAND

Purpose of Meeting: To consider:

Amendment of Resolution 201213/340 from 24 April 2013 Listed in the Minutes as Proposed Final Adoption of Scheme Amendment 52 to the Town of Port Hedland Town Planning Scheme No.5 to rezone Lot 226 Greenfield Street, Boodarie from "Rural Residential" to "Residential 2.5" (File No.: 18/09/0066)

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

OUR COMMITMENT

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

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ITEM 1 OPENING OF MEETING**1.1 Opening**

The Mayor declared the meeting open at 4.56 pm and acknowledged the traditional owners, the Kariyarra people.

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

Mayor Kelly A Howlett
Councillor George J Daccache
Councillor Arnold A Carter
Councillor Jan M Gillingham
Councillor David W Hooper
Councillor Michael (Bill) Dziombak
Councillor Julie E Hunt
Councillor Penny Taylor
Councillor Gloria A Jacob

Officers

Malcolm Osborne	Chief Executive Officer
Natalie Octoman	Director Corporate Services
Russell Dyer	Director Engineering Services
Eber Butron	Director Planning & Development
Gordon MacMile	Director Community Development
Josephine Bianchi	Governance Coordinator
Lorraine Mathieson	Administration Officer Governance

2.2 Apologies

Nil.

2.3 Approved Leave of Absence

Nil.

Mayor opened Public Question Time at 4.57.

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'.

3.1 Public Question Time

Nil.

Mayor closed Public Question Time at 4.58.

Mayor opened Public Statement Time at 4.58.

3.2 Public Statement Time

Nil.

Mayor closed Public Statement Time at 4.59.

ITEM 4 QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil.

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

Mayor Howlett	Councillor Jacob
Councillor Daccache	Councillor Hunt
Councillor Carter	Councillor Taylor
Councillor Dziombak	Councillor Hooper
Councillor Gillingham	

Background

At the Ordinary Council Meeting of 24 April 2013 Council resolved to adopt Scheme Amendment No. 52. An administrative error occurred with the omission of the word “portion” within the description of the Scheme Amendment. The purpose of this report is to correct this omission.

At the Ordinary Council Meetings of 14 December 2011, 25 January 2012 and 22 August 2012, the proposed scheme amendment was presented to Council recommending initiation of Scheme Amendment No. 52, for the rezoning of a portion of Lot 226 Greenfield Street, Boodarie from “Rural Residential” to “Residential R2.5”. On all three occasions Council resolved not to initiate the subject scheme amendment.

The resolution not to initiate the scheme amendment resulted in a Section 76 application (s76 of the Planning & Development Act 2005) being lodged with the Minister of Planning. The Minister ordered the Town, through Section 76 to initiate the Scheme Amendment as its next available Council Meeting.

At its Ordinary Meeting on the 28 November 2012 Council resolved to initiate Scheme Amendment 52 to the Town of Port Hedland *Town Planning Scheme No. 5 (TPS5)*.

Subsequently, the application was forwarded to the Environmental Protection Authority (EPA) for consideration. The EPA advised that an assessment was not required and permitted the Council to advertise the amendment in accordance with the *Town Planning Regulations 1967*.

Consultation

In accordance with the *Town Planning Regulations 1967*, the proposed scheme amendment has been advertised and circulated as follows:

North West Telegraph: 6 February 2013 – 20 March 2013.

Site signs: 6 February 2013 – 20 March 2013.

Council Website: 31 January 2013 – 16 April 2013.

Written notification was sent to all adjoining and affected landowners.

Written notification was sent to the following agencies:

- Water Corporation
- Department of Environment and Conservation
- Department of Water
- Main Roads Western Australia
- Horizon Power
- Telstra

- Optus

A summary of submissions received during the advertising period is contained with Table 2 below (Copies included in Attachment 3):

Correspondent	Issue Raised	Planning Response
Department of Indigenous Affairs	No objection.	Not required.
Optus	No objection	Not required
Members of the public (7 submissions)	I/we believe the proposed scheme amendment should be adopted as proposed.	Not required.

Department of Water (Attachment 4)

A Local Water Management Strategy should be prepared as part of the subdivision or Scheme Amendment. The planning report provides no consideration for the protection of the waterway or impacts upon the waterway from the proposed development and will need to be addressed as part of the Local Water Management Strategy.

The Department has previously assessed and approved the flood study (Hydraulic Impact Assessment VDM 2011) prepared for the site. The proposed subdivision and increased lot yield is not expected to detrimentally impact on the natural flooding regime of the area. The Department is concerned about the increase in development in an area prone to flood.

A flood emergency plan should be prepared for the area and a minimum habitable floor level of 0.5m above the 100 year ARI flood level be specified to ensure adequate flood protection.

Planning Response

The applicants engineers VDM Consulting, provided a detailed Hydraulic Impact Assessment confirming:

1. The revised lot layout showing 133 lots has no additional impact to the surrounding stakeholders when compared to hydraulic modelling previously carried and approved by the WAPC when considering the subdivision application for 71 lots;
2. The building pads for Stage 2 will be constructed at 500mm above the 100 year flood level;
3. Roads in Stage 1 will be elevated so that there is no more than 300mm of flood water over the road during a 100 year flood event.

The above mitigation factors will ensure dwellings are not flooded and roads are not impassable after a 100 year flood event. In addition, the further details and flood management measures will be addressed via a Local Water Management Strategy as part of the subdivision process.

Department of Environment and Conservation (Attachment 5)

The Department of Environment and Conservation advises the site is in close proximity to known populations of the Mulgara (*Dasyercus Cristicauda*) which is noted as a protected species. It is recommended a fauna survey is conducted by a suitably qualified biologist, in accordance with the Environmental Protection Authority Guidance Statement No. 56 Terrestrial Fauna Surveys for Environmental Impact Assessment in Western Australia. If the Mulgara is found, a fauna management plan should be prepared.

Applicant's Response (Attachment 6)

In response to the above, the applicant has agreed to undertake the survey as part of the subdivision process. Notwithstanding this, as part of the Scheme Amendment process, the application was granted approval by the EPA and did not require any further assessment.

Megara Developments Pty Ltd (member of the public)

The Town has received a detailed submission from a landowner requesting their property be listed as part of the Scheme Amendment for the following reasons:

1. *South Hedland Rural Estate is closer to the South Hedland town centre, so any justification presented about efficient use of land for rezoning of the subject land is more relevant to the South Hedland Rural Estate land.*
2. *There should be no confusion for existing land owners as no one is compelled to develop, and this is a very simple principle that can easily be explained to existing owners in the South Hedland Rural Estate.*
3. *Any increased traffic will be directed to the South Hedland Town Centre and have nil impact on the area subject to this rezoning.*
4. *This rezoning process provides a unique opportunity to continue to solve housing affordability and supply issues by piggy backing onto an existing amendment process therefore streamlining the rezoning of the South Hedland Rural Estate.*

5. *The rezoning will not affect the underlying lifestyle lot amenity of the area;*
6. *The rezoning of our and all land in the South Hedland Rural Estate accords with the principles detailed in the Pilbara Planning and Infrastructure Framework, Pilbara Port City Growth Plan and the Pilbara Cities Vision.*
7. *Accords with orderly and proper planning and avoids 'leap frogging' of density away from the high areas of amenity (ie South Hedland Town Centre) and provide a more coordinated and logical approach to density and housing in South Hedland.*

The point of our submission was to note concerns regarding the leapfrogging of development away from areas of amenity. It is our opinion a good orderly and proper plan for the area would be to include the whole area in the amendment; this would make for a coordinated plan that follows best practice planning principles. In summary we support the amendment generally but we believe its implementation is flawed.

Planning Response

Proper and orderly planning would dictate that the natural development pattern is from high density around town centres with a gradual decline in density the further removed there from.

While this is ideal planning principles, it is often not achievable due to historical planning decisions and market forces. The overall design / layout of South Hedland presents unique challenges, in that the South Hedland Rural Estate is located closer to the South Hedland Town Centre than existing medium density residential developments, due in part to natural constraints.

To follow ideal planning principles and preferred development patterns the applicant should be required to include the existing 61 "Rural Residential" lots located to the north (existing South Hedland Rural Residential Estate) in the subject Scheme Amendment.

This option was discussed with the applicant at the time and it was agreed this may result in further delays, as a result of the residents not having a full understanding of the proposal (i.e. residents may assume that the approval may result in the decrease in the size of their lots).

Furthermore the inclusion of the northern estate would require additional studies to understand the impacts of increased densification of the existing rural estate. At this stage it is considered inappropriate to include the northern portion of the estate within the Scheme Amendment without further consideration of the above issues. It would therefore be recommended, that Council reviews the zone and density of the existing rural residential estate as part of the Scheme Review process.

Statutory Implications

Section 76, of the *Planning and Development Act 2005*, provides the Minister with the ability to intervene where,

There are proper planning grounds that the Minister “ought” to intervene so that the proposed scheme amendment or amendment is made or adopted.

The *Planning and Development Act 2005* and the *Town Planning Regulations 1967* provide Council the authority to amend its Local Planning Scheme and establish the procedure required to make this amendment.

Policy Implications

Nil.

Strategic Planning Implications

The following section of the “Pilbara’s Port City Growth Plan” is considered relevant to the proposal:

5.6.14 Precinct 14 – Southern

Precinct Highlights

1. South Hedland rural residential estate expansion.

The following section of Council’s Strategic Plan 2012 – 2022 are considered relevant to this proposal:

6.3 Environment

6.3.1 Housing

Attract and retain new residents to increase the population to 40,000 by 2025.

Budget Implications

Immediate:

Council was required to advertise the Scheme Amendment under the provisions of the *Town Planning Regulations 1967*. The costs associated with the Scheme Amendment have been budgeted for by the Planning & Development Unit.

Long Term:

Nil.

Whole of Life:

The Town will take control of the public roads within any future subdivision. However the properties will become rateable.

Officer's Comment

As the Town grows towards a City, "Rural Residential" areas located within close proximity to the Town Centre are likely to experience pressure to increase development potential. Acknowledging this is a natural growth phenomenon of any growing Town, consideration must be given to the time such a shift in development would take and the original intent of the zone.

The intent of a "Rural Residential" zone is to provide residents with an opportunity to have a country living experience within a relative distance to community and commercial amenities.

Currently in terms of TPS5 the site can only be developed with residential lots to a minimum size of 10000m². The applicant proposes to amend the zoning of portion of the site to "Residential R2.5", enabling the development of residential properties to a minimum size of 4000m².

It is considered the proposed lot sizes of 4000m² plus, will be compatible with the existing "Rural Residential" lots of between 10000m² and 20000m². This provides the residential market with additional residential choices, for those looking for a rural residential life style but not the large lots that are often costly and difficult to maintain.

Attachments

1. Locality Plan
2. Scheme Amendment Documents (Under Separate Cover)
3. Public Submissions Received (Under Separate Cover)
4. Department of Water's submission
5. Department of Environment and Conservation's submission
6. Applicant's response

Options

1. Approve final adoption of Scheme Amendment 52.
2. Approve final adoption of Scheme Amendment 52 with modifications.
3. Refuse final adoption of Scheme Amendment 52.

Option 1 is recommended as the proposed Scheme Amendment is deemed to be consistent with the strategic direction of the Town. Progressing the Scheme Amendment will ensure existing and future developments are consistent with the TPS5.

201213/366 Officer's Recommendation/Council Decision**Moved: Cr Jacob****Seconded: Cr Hooper****That Council resolves to:**

1. **Amend Point 1 of resolution 201213/340 made at Ordinary Council Meeting of 24 April 2013 by inserting the words 'a portion of' before 'Lot 226 Greenfield Street', to read as follows:**

"Rezone a portion of Lot 226 Greenfield Street, Boodarie from "Rural Residential" to "Residential" with a density code of R2.5."

CARRIED 9/0



ATTACHMENT 4 TO ITEM 6.1



Government of **Western Australia**
Department of **Water**



Your ref: 2012/637/18/09/0066
Our ref: RF741-11/ SRS 33134
Enquiries: Natalie Leach 08 6364 6574

Chief Executive Officer
Town of Port Hedland
PO Box 41
PORT HEDLAND WA 6721



Attn: Leonard Long

Dear Sir

Application 2012/637 – Scheme Amendment No.52 – Lot 226 Greenfield St, South Hedland Rural Estate

Thank you for the opportunity to provide comment on the above application. The Department of Water (DoW) has considered the application and offers the following comments.

Local Water Management Strategy

Under the *Better Urban Water Management framework*, the Department requires the preparation of a Local Water Management Strategy (LWMS) to support a local planning scheme amendment.

The site is constrained by its location within a floodplain and is traversed by South West Creek. Therefore a thorough understanding of the water related issues on the site is required to protect both the water resources and proposed infrastructure.

The LWMS should address floodplain management issues, waterway protection (including setbacks to the waterway and fencing and rehabilitation if required) and stormwater management.

Ideally a LWMS would be submitted with the planning documentation. However, as the proponents have already undertaken flood management studies for the site, it is considered the major water management constraint to the site has already been addressed. As such, the Department does not want to constrain the planning process at this stage and requires that the LWMS be prepared and approved prior to subdivision stage - with the consent of the Town of Port Hedland.

Waterways

South West Creek traverses Lot 226. The planning report provides no consideration for the protection of the waterway or impacts upon the waterway from the proposed development. The LWMS needs to provide an assessment of the waterway and determine management strategies that should be implemented at subdivision stage.

Pilbara Region
Lot 4608 Cherratta Road KIE
Karratha Western Australia 6714
PO Box 836 Karratha Western Australia 6714
Telephone (08) 9144 0200 Facsimile (08) 9144 2610
www.water.wa.gov.au
wa.gov.au

Floodplain management

The Department of Water's guiding principles for floodplain management are to ensure that:

- Proposed development has adequate flood protection from a 100 year ARI flood.
- Proposed development does not detrimentally impact on the existing flooding regime of the general area.

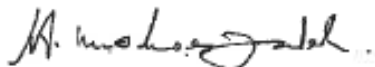
The department has previously assessed and approved the flood study (Hydraulic Impact Assessment VDM 2011) prepared for this site. The proposal to redesign the subdivision guide plan and increase the lot yield is not expected to detrimentally impact on the natural flooding regime of the general area. However, the Department is concerned about the increase in development in an area which is known to be flood prone, and the associated potential isolation and evacuation issues during major events.

The *Port Hedland Coastal Vulnerability Study* shows that the lot is affected by flooding during major events. The 100 year ARI flood event is predicted to reach depths of up to 2.8 m over the lot.

It is recommended that the Local government, emergency services and the community is made fully aware of the flood risk, adequately prepared for events and responds appropriately. It is recommended that a flood emergency plan for the area is prepared. Additionally, minimum habitable floor levels of 0.5 m above the 100 year ARI flood level are recommended to ensure adequate flood protection.

Thank you for the opportunity to comment on the above proposal. If you wish to discuss the above please, contact Natalie, at the Department of Water on (08) 6364 6574.

Yours Sincerely,



Hamid Mohsenzadeh
Regional Manager
Department of Water
Pilbara Region

8 April 2013

ATTACHMENT 5 TO ITEM 6.1



Government of Western Australia
Department of Environment and Conservation

Your ref: 2012/637
Our ref: DEC7088
Enquiries: Libby Hoskin
Phone: 08 9182 2004
Fax: 08 9144 1118
Email: libby.hoskin@dec.wa.gov.au

Manager Planning
Town of Port Hedland
PO Box 41
Port Hedland WA 6721

Attn: Leonard Long

Referral of application for Scheme Amendment No. 52 on Lot 226 Greenfield Street, South Hedland - Application 2012/637.

Thank you for referring the above mentioned application to the Department of Environment and Conservation (DEC) for comment. The planning application refers to rezone portion of Lot 226 from 'Rural Residential' to 'Residential'.

DEC advises that the proposed site is in close proximity to known populations of the Mulgara (*Dasyurus cristicauda*) Listed as Schedule 1 under the Wildlife Conservation Act 1950 and as Vulnerable under the Commonwealth's EPBC Act 1999. In the absence of a vegetation survey to confirm potential habitat or a fauna survey it is not clear whether there is potential for the population to use remnant vegetation on proposed rezoning site. DEC recommends that fauna surveys are conducted to establish the presence/absence of Mulgara on the site prior to subdivision. The fauna survey should be carried out by a suitably qualified biologist, in accordance with the Environmental Protection Authority (EPA) Guidance Statement No. 56 Terrestrial Fauna Surveys for Environmental Impact Assessment in Western Australia. If the Mulgara is found to be present on this site a fauna management plan should be prepared, on the advice of DEC.

Clearing of native vegetation in Western Australia is prohibited unless the clearing is authorised by a clearing permit obtained from the Department of Environment and Conservation or is of a kind that is exempt in accordance with Schedule 6 of the Environmental Protection Act 1986 or Regulation 5 Environmental Protection (Clearing of Native Vegetation) Regulations 2004

If you have any queries regarding this matter please call Libby Hoskin at DEC Karratha Regional Office on 9182 2004.

Yours sincerely

Allisdair MacDonald
REGIONAL MANAGER - PILBARA

26 February 2013

Pilbara Region
Lot 3 Cm Mardie & Anderson Roads, Karratha KIE WA 6714
Phone: (08) 9182 2000 Fax: (08) 9144 1118
PO Box 835, Karratha WA 6714
www.dec.wa.gov.au

ATTACHMENT 6 TO ITEM 6.1

Djanegara Ryan

Subject: RE: IPA36723 - FW: South Hedland - Amendment No.52 on Lot 226

From: Anthony Rowbottam [<mailto:anthony.rowbottam@acuitus.com.au>]
Sent: Thursday, 28 March 2013 9:11 AM
To: Long Leonard
Cc: barry.pound@gmail.com; Evan Jones; Scott Vanson; Luke Montgomery (Luke@tbplanning.com.au)
Subject: FW: South Hedland - Amendment No.52 on Lot 226

Leonard

Please find attached a response from RPS regarding the DEC's correspondence in regard to Scheme Amendment No. 52 on Lot 222 Greenfield Street, South Hedland. Whilst RPS considers that there is only a low possibility of Mulgara being present on the site, they recommend that a site survey should be undertaken as part of the subdivision process. I am writing to advise that we are happy to commit to this, and will initiate the survey as soon as practicable.

RPS also correctly advise that the DEC's own guidelines include that an approved subdivision is exempt from requiring a clearing application. It is therefore not a relevant consideration for the rezoning or subdivision of Lot 226.

Regards

Anthony Rowbottam
Director
Acuitus
Level 1/322 Hay Street
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6.2 Engineering Services

Nil.

6.3 Community Development

Nil.

6.4 Corporate Services

Nil.

ITEM 7 LATE ITEMS AS PERMITTED BY CHAIRPERSON/COUNCIL

Nil.

ITEM 8 CONFIDENTIAL ITEMS

Nil.

ITEM 9 CLOSURE

9.1 Date of Next Meeting

The next Ordinary Meeting of Council will be held on Wednesday 22 May 2013, commencing at 5.30 pm.

9.2 Closure

There being no further business, the Mayor declared the meeting closed at 5.03 pm.

Declaration of Confirmation of Minutes

I certify that these Minutes were confirmed by the Council at its Ordinary Meeting of _____ 2013.

CONFIRMATION:

MAYOR

DATE