



**Town of Port Hedland**

**MINUTES**

**OF THE**

**SPECIAL MEETING**

**OF THE TOWN OF PORT HEDLAND COUNCIL**

**HELD ON**

**WEDNESDAY 10 MARCH 2010**

**AT 5:45 PM**

**IN COUNCIL CHAMBERS**

**MCGREGOR STREET, PORT HEDLAND**

*Purpose of Meeting: To consider  
Continuation Application for Trading In Streets & Public Place -  
Operation of a Hotdog Van*

**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.*

*Matthew Scott  
Acting Chief Executive Officer*

---

---

---

**OUR COMMITMENT**

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

**TABLE OF CONTENTS**

1.1	OPENING.....	5
<b>ITEM 2</b>	<b>RECORDING OF ATTENDANCE AND APOLOGIES .....</b>	<b>5</b>
2.1	ATTENDANCE.....	5
2.2	APOLOGIES .....	5
2.3	APPROVED LEAVE OF ABSENCE .....	5
<b>ITEM 3</b>	<b>PUBLIC TIME.....</b>	<b>5</b>
3.1	PUBLIC QUESTIONS .....	5
3.2.1	<i>Mr Jeffrey Pass</i> .....	6
<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>
<b>6.1</b>	<b>REGULATORY SERVICES.....</b>	<b>7</b>
6.1.1	PLANNING SERVICES.....	7
6.1.1.1	<i>Review of Street Vending Trial – Operation of a Hotdog Van (File No.: 19/04/001)</i> .....	7
<b>ITEM 7</b>	<b>CLOSURE .....</b>	<b>13</b>
7.1	CLOSURE .....	13



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

The Mayor declared the meeting open at 5:45pm and acknowledged the traditional owners, the Kariyarra people.

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

Mayor Kelly A Howlett  
 Councillor Arnold A Carter  
 Councillor George J Daccache  
 Councillor Jan M Gillingham  
 Councillor Steve J Coates  
 Councillor Michal (Bill) A Dziombak  
 Councillor David W Hooper

Mr Matthew Scott	Acting Chief Executive Officer and Director Corporate Services
Mr Russell Dyer	Director Engineering Services
Mr Paul Martin	Director Community Development
Mr Russell Dyer	Director Regulatory Services

Members of the Public	2
-----------------------	---

Members of the Media	1
----------------------	---

**2.2          Apologies**

Nil

**2.3          Approved Leave of Absence**

Councillor Stan R Martin

**ITEM 3      PUBLIC TIME****3.1          Public Questions**

5:45 pm      Mayor opened Public Question Time

Nil

5:45 pm      Mayor closed Public Question Time

**3.2 Public Statements**

5:45 pm Mayor opened Public Statement Time

**3.2.1 Mr Jeffrey Pass**

Mr Pass made a brief statement thanking Council for the opportunity to operate his business over the trial period; and also the patrons who supported the business during that time.

5:06 pm Mayor closed Public Statement Time

**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**

The following Members verbally declared to have given due consideration to all matters contained in the Business Paper presented before the meeting.

Cr K A Howlett	Cr S J Coates
Cr A A Carter	Cr M (Bill) Dziombak
Cr J M Gillingham	Cr D W Hooper

**ITEM 6      REPORTS OF OFFICERS****6.1            REGULATORY SERVICES****6.1.1        Planning Services****6.1.1.1    *Review of Street Vending Trial – Operation of a Hotdog Van (File No.: 19/04/001)***

<b>Officer</b>	Darryal Eastwell Manager Environmental Health Services
----------------	--

<b>Date of Report</b>	9 March 2010
-----------------------	--------------

<b>Disclosure of Interest by Officer</b>	Nil
--	-----

**Summary**

To provide information to Councillors regarding the trial period for Hollywood Hotdogs allowing for a decision on whether an annual license should be issued.

**Background**

At Council's meeting on the 24 January 2010 Mr Jeffery Pass was given permission to undertake a 4 week trial, operating his hotdog business on a Friday and Saturday night on Anderson Street, Port Hedland between the hours of 11pm and 1:30am.

**Consultation**

Contact has been made with the Port Hedland Police Station to ascertain whether any issues had arisen during the trial that may impact on whether or not a yearly license should be issued.

The police advise they have received one minor incident report during the trial period and have stated that Mr Pass operates his business in a professional and responsible manner.

The Police advice to Council has not changed and they do not support his application as it discourages patrons leaving the hotels to disperse from the area quickly once the premises have closed, minimizing the opportunity for anti-social behavior.

**Statutory Implications**

Section 7, 8 and 9 of the Town of Port Hedland Local Law – Trading in Public Places states:-

*“7. In considering an application for a licence or renewal of a licence, the Local Government shall have regard to—*

- (a) *any relevant policy statements;*
  - (b) *the desirability of the proposed activity;*
  - (c) *the location of the proposed activity;*
  - (d) *the circumstances of the case;*
  - (e) *the principles set out in the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995.*
8. *The Local Government may grant the licence or renewal, or may refuse to grant the licence or renewal and it may so be refused on any of the following grounds—*
- (a) *the applicant is not a desirable or suitable person to hold the licence;*
  - (b) *the applicant has committed a breach of this local law;*
  - (c) *the needs of the district or a portion thereof for which the licence is sought is adequately catered for by established shops or by persons to whom licences have been issued; or*
  - (d) *there is inadequate means of access to or from, or inadequate parking space for a person(s) trading in a public place; or*
  - (e) *such other grounds as may be relevant in the circumstances.*
9. *The Local Government may issue a licence specifying such requirements terms and conditions as in the opinion of the Local Government are appropriate, including—*
- (a) *the place to which the licence applies; which in the event of mobile traders may include a predetermined approved route or area;*
  - (b) *the days and hours when trading may be carried on;*
  - (c) *the number, type, form and construction as the case may be of any stand, table, structure or vehicle which may be used for trading;*
  - (d) *the particulars of the goods, wares, merchandise, produce, services or transactions which trading may be carried on;*
  - (e) *the number of persons and the name of persons permitted to carry on trading, and any requirements concerning personal attendance at the place of trading and the nomination of assistants, nominees or substitutes;*
  - (f) *whether and under what terms the licence is transferable;*
  - (g) *any prohibitions or restrictions concerning the cause of any nuisance (as defined in the Health Act Section 182), the use of signs, the making of noise and the use of amplifiers, sound equipment, sound instruments and lighting apparatus;*
  - (h) *any requirements on display of the licence holder's name and other details of the licence;*



- (i) *the care, maintenance and cleansing of the place of trading, and requirements for preparation of food;*
- (j) *the vacating of the place of trading when trading not taking place;*
- (k) *any requirements concerning the acquisition by the licence holder of public risk insurance;*
- (l) *the period, not exceeding 12 months, during which the licence is valid;*
- (m) *designation of any place or places wherein trading is totally or from time to time prohibited by the Local Government.”*

**Policy Implications** Nil

**Strategic Planning Implications** Nil

### **Budget Implications**

Annual License fee of \$534.00

### **Officer's Comment**

Over recent years the Town of Port Hedland has committed significant resources to Community Safety and Crime Prevention, establishing a much more effective relationship with the Police in the prevention of crime and anti-social behavior. Significant success has been achieved in managing the crime “hotspots” by applying the principles of “Crime Prevention Through Environmental Design”. Through its planning approval process, Council has actively discouraged any development that contributes adversely to the possibility of crime and safety issues adversely affecting the Town.

In commenting on this proposal the police have quite correctly identified such a problem, in that introducing a food vendor to this neighbourhood during the period that people are vacating the licensed premises, effectively reverses those principles.

This is not a reflection on the applicant at all. No matter how good and hygienic the hot dog stall is, how well run the business is, or how professional the operator is, the effect of this business will be to retain people in the area in the hours after they leave the nearby licensed premises. Many of these people will be intoxicated to some degree and given that fights do occur outside the hotel on a reasonably frequent basis, there can be little doubt that prolonging the time in which people are congregated, will increase the number of assaults and violent crimes.

This area has also been the site of considerable vandalism and damage to buildings, street furniture, gardens and trees in recent times.

Because maintenance of the upgraded street landscaping is still being undertaken by BHPBIO who were responsible for the installation, Council does not yet have detailed data, but there is no doubt that many thousands of dollars have been spent repairing damage to streetscape in this area, damage that appears to have been caused by people leaving the licensed premises late at night. Again the level of damage and antisocial behavior is likely to increase with people staying longer in the area.

This business is unique to Port Hedland and appears to be operated professionally. There is little doubt that the business could operate effectively in other areas at other times but this location and time is likely to provide the best financial return to the operator.

To be balanced against that financial gain to one businessman however, is the cost to the community if permission is granted to operate in accordance with this application. The officer cannot recommend that a license be issued at that location at those times for the following reasons:

- The Police do not recommend the issue of a license. It seems extremely unwise to disregard the expert advice of the local Police, who are Council's partners and co-signatories to the Town of Port Hedland Community Safety Crime Prevention Plan.
- The approval is inconsistent with CPTED Principles. Council has put some considerable effort into designing out crime by imposing conditions on developments which, where possible, eliminate crime and safety problems. This application will result in increased risk of alcohol related crimes by retaining people in the area following closure of the licensed premises.
- There is currently a business operating from an approved food premises in Wedge Street at this time that does cater for patrons leaving the licensed premises.
- There was only one incident reported to police during the trial period, and while it was relatively minor, it is a concern that any incident at all occurred during the trial when it has to be assumed every effort was being made to prevent any adverse events happening. It has to be assumed that the standards will drop over time and presumably more incidents or more serious incidents will occur.

Of course Council could still choose to grant approval, but if it does the following conditions are recommended.

1. The hours of operation shall be between 10.00pm and 12:30am on Fridays and Saturdays.

2. Should the number of reported incidents requiring police attendance or property repairs in any month increase on the corresponding month for the previous year the license will be cancelled.

**Attachments**

Nil

**Officer's Recommendation**

That Council:

- i) refuses the Application to Trade in a Public Place from Mr Jeffery Pass to operate his business known as "Hollywood Hotdogs" in the west end of Port Hedland; and
- ii) encourages Mr Jeffery Pass to apply for approval to operate his business from a location and at a time, which will not adversely impact on the potential for antisocial behavior to occur.

**Alternate Recommendation**

That Council approves the Application for Trading in Streets and Public Places from Mr Jeffery Pass for the operation of a hotdog vendor at location B described as Anderson Street side of Hedland First National, subject to the following conditions:

1. The hours of operation shall be between 10.00pm and 1:30am on Fridays and Saturdays.
2. Should the number of reported incidents requiring police attendance or property repairs in any month increase on the corresponding month for the previous year the license will be cancelled.

**200910/305 Council Decision****Moved:** Cr A A Carter**Seconded:** Cr W Dziombak

**That Council approves the Application for Trading in Streets and Public Places from Mr Jeffery Pass for the operation of a hotdog vendor at location B described as Anderson Street side of Hedland First National, subject to the following conditions:**

- 1. The hours of operation shall be between 9:30pm and 1:30am on Fridays and Saturdays, and for Major Town events.**
- 2. Should the number of reported incidents requiring police attendance or property repairs in any month increase on the corresponding month for the previous year the license will be cancelled.**

***CARRIED 6/0***

*REASON: Council amended Clause 1. Of the Alternate Recommendation to read "The hours of operation shall be between 9:30pm and 1:30am on Fridays and Saturdays, and for Major Town events." Providing Mr Pass with clarification of the future business.*

**ITEM 7 CLOSURE**

**7.1 Closure**

There being no further business, the Chairman declared the meeting closed at 5:56 pm.

**Declaration of Confirmation of Minutes**

I certify that these Minutes were confirmed by the Council at its Ordinary Meeting of 24 March 2010.

CONFIRMATION:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
DATE