

December 05, 2018

ORDINARY MONTHLY MEETING

TO BE HELD

WEDNESDAY, DECEMBER 12, 2018

Please address all communications to:
The General Manager
240 Blende Street
PO Box 448
Broken Hill NSW 2880
Phone 08 8080 3300
Fax 08 8080 3424
council@brokenhill.nsw.gov.au
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ABN 84 873 116 132

Dear Sir/Madam,

Your attendance is requested at the Ordinary Meeting of the Council of the City of Broken Hill to be held in the Council Chamber, Sulphide Street, Broken Hill on **Wednesday, December 12, 2018** commencing at 6:30pm to consider the following business:

- 1) Apologies
- 2) Prayer
- 3) Acknowledgement of Country
- 4) Public Forum
- 5) Minutes for Confirmation
- 6) Disclosure of Interest
- 7) Mayoral Minute
- 8) Notice of Motion
- 9) Notices of Rescission
- 10) Reports from Delegates
- 11) Reports
- 12) Committee Reports
- 13) Questions Taken on Notice from Previous Council Meeting
- 14) Questions for Next Meeting Arising from Items on this Agenda
- 15) Confidential Matters


JAMES RONCON
GENERAL MANAGER

LIVE STREAMING OF COUNCIL MEETINGS

***PLEASE NOTE:** This Council meeting is being streamed live, recorded, and broadcast online via Facebook. To those present in the gallery today, by attending or participating in this public meeting you are consenting to your image, voice and comments being recorded and published. The Mayor and/or General Manager have the authority to pause or terminate the stream if comments or debate are considered defamatory or otherwise inappropriate for publishing. Attendees are advised that they may be subject to legal action if they engage in unlawful behaviour or commentary.*

MINUTES FOR CONFIRMATION

Minutes of the Ordinary Meeting of the Council of the City of Broken Hill held Wednesday, November 28, 2018.

MINUTES OF THE ORDINARY MEETING OF THE BROKEN HILL CITY COUNCIL HELD
NOVEMBER 28, 2018

Meeting commenced at 6:30 p.m.

The Mayor acknowledged the following persons present at the meeting:

*Mr Kevin Humphries - State Member for Barwon;
Mr Stephen Childe and Mr Brett Cunningham from JLT Statewide Mutual; and
Mr Andrew Schier, National Party Candidate for Barwon.*

PRESENT:

Councillor D. Turley (Mayor) Councillor M. Browne (Deputy Mayor)
Councillors C. Adams, B. Algate, M. Clark, D. Gallagher, T. Kennedy,
B. Licul, J. Nolan and R. Page.

General Manager, Chief Operations Officer, Chief Financial Officer,
Director Corporate, Manager Communications, Governance Officer and
Executive Support Officer.

Mr Kevin Humphries MP

Media (4), Members of the Public (22).

APOLOGIES:

Nil

PRAYER

Councillor Adams delivered the prayer.

ACKNOWLEDGEMENT OF COUNTRY

Councillor Gallagher delivered the Acknowledgment of Country.

The Mayor advised of an amendment to the Agenda due to the severe storms in Sydney, Council's external auditors were unable to travel to Broken Hill to attend the meeting and present Council's Financial Statements for 2017/2018.

PUBLIC FORUM

Save Our Recycling Campaign

Ms Barbara Webster spoke about Lifeline scavenging for items to recycle and requested Council to allow Lifeline staff to inspect patron's loads at the weighbridge and assist people with unloading.

The Mayor took the question on notice.

Jubilee Oval Project

Mr Andrew Schmidt advised Council that the Jubilee Redevelopment Project had gained a grant of \$2.568M from the State Government and acknowledged the assistance of the Member for Barwon and his staff with their grant application. They also received grants of \$100,000 from AFL NSW, \$30,000 from the Broken Hill Credit Union, \$50,000 from Council and \$50,000 from AFL Broken Hill. Mr Schmidt also acknowledged the assistance of Council's General Manager and City Growth Coordinator.

Mr Schmidt requested that Council consider waiving all or part of the Development Application Fees of \$32,232.00 associated with the Jubilee Oval Redevelopment and referred to the recent waiving of similar Development Application fees for the YMCA Redevelopment.

PRESENTATION OF TIDY TOWNS AWARDS

Councillor Adams advised that Council had submitted entries into three categories for the NSW Tidy Towns Awards and had been successful in receiving the following awards:

Received positive feedback regarding their entry of the Heritage

- *First Prize – Heritage and Cultural Award for the Broken Hill Regeneration Area Plan.*
- *Second Prize and Highly Commended - Community Spirit and Inclusion Award for the Tidy Town Committee's work at the Broken Hill Cemetery.*

The Committee also received positive feedback regarding their entry of the Broken Hill Heritage Festival and was encouraged to promote the festival nationally.

The Mayor thanked Councillor Adams for her work on the Tidy Towns Committee and the Committee's contribution to beautifying Broken Hill.

PRESENTATION BY THEM R KEVIN HUMPHRIES MP

Mr Kevin Humphries MP addressed Council and spoke about the Government's options for the Menindee Lakes Water Savings Plan and the proposed reconfiguration of the lakes and the water saving initiatives that the NSW Government are obliged to meet by end of 2019.

Mr. Humphries introduced a further option (option 7), seeking Council's support for what he believes would be the most beneficial proposal for the reconfiguration of the Menindee Lakes System to allow flows downstream and also to retain enough water in Menindee Lake to allow for fruit crop irrigation and for recreational purposes at Sunset Strip and Copi Hollow.

Mr Humphries' proposed option is:

- *Construct a regulator at Morton Boolka linking Menindee Lake and Lake Cawndilla via Cawndilla Creek. This would require associated earthworks to raise the height of the Menindee Lake banks adjacent to the regulator.*
- *Flow through rules (MDA supported) established that once Cawndilla reaches a certain capacity, for example 700G, the two lakes are separated.*
- *Works would need to be undertaken to enlarge the capacity of Cawndilla Creek and the Panelco Channel offtake and Darling River delivery point.*
- *An additional consideration is additional storage in Weir 32 to support the fruit industry requirements. This could be achieved with either a top up from the Wetherell – Pamamaroo Lake system via the existing interconnecting channel, or raising the height of Weir 32. This would need further scoping to quantify.*

In effect Lake Cawndilla is to be given over to the MDBA agreement with operations and drawdowns their responsibility with end of system requirements and down stream flows to be met via Lake Cawndilla.

In effect Menindee Lake is to be the full responsibility of NSW. The Lake remains largely intact with flow through rules to meet downstream irrigator, stock and domestic supplies. This needs a review in line with future commitments i.e. it could negate the need for buy outs of water entitlement currently held by irrigators with additional works constructed (weirs) to meet demand. Depending on water storages in both Lakes the water user requirements downstream could also be a shared arrangement between the two Lake systems e.g. a temporary transfer arrangement which gives everyone more options.

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Mr Humphries advised that this is not a new proposal, but one that has not been pursued before.

Other recent factors are:

- The securing of Broken Hill's water supply via the Murray pipeline now breaks Broken Hill's reliability of water from Weir 32 and releases the need for the 480-640G rule.*
- The decommissioning of Tandou as a farm reliant on water supplied by the Menindee Lakes system via Cawndilla Lake. Cawndilla Lake in effect, is now a stranded large water storage which could be used to meet our downstream end of system flows as per the interstate agreement. Infrastructure in existence via the Panelco Channel which links Cawndilla back to the Darling River, is a logical delivery option.*

Mr Humphries advised that discussions held with Menindee residents and user groups thus far indicates strong support for this option and requested that Council also considers its support.

Mr Humphries then answered questions from Councillors

The Mayor thanked Mr Humphries for his presentation and attendance at the Council Meeting.

MINUTES FOR CONFIRMATION

RESOLUTION

Minute No. 45950

Councillor M. Browne moved
Councillor R. Page seconded

)
)

That the Minutes of the Ordinary Meeting of the Council of the City of Broken Hill held October 31, 2018 be confirmed.

CARRIED

Councillor Kennedy commented on the minutes of the Ordinary Meeting. The Mayor noted the comments.

RESOLUTION

Minute No. 45951

Councillor M. Browne moved
Councillor R. Page seconded

)
)

That the Minutes of the Extraordinary Meeting of the Council of the City of Broken Hill held November 05, 2018 be confirmed.

CARRIED

DISCLOSURE OF INTEREST

The Mayor declared:

- a non-pecuniary interest in Report No. 205/18 as her relative works for the organisation and advised that she will leave the Council Chambers whilst the item is considered.*

MAYORAL MINUTES

ITEM 1 - MAYORAL MINUTE NO. 9/18 - DATED NOVEMBER 09, 2018 - REQUEST FOR FINANCIAL SUPPORT TOWARDS THE AUSTRALIA INSTITUTE'S REPORT "TRICKLE OUT EFFECT"

11/426

Resolved

MINUTES OF THE ORDINARY MEETING OF THE BROKEN HILL CITY COUNCIL HELD
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1. That Mayoral Minute No. 9/18 dated November 9, 2018, be received.
2. That Council provides financial support of \$2,750.00 (inc GST) to the Australia Institute towards the development of a video to explain the "Trickle Out Effect" report.

RESOLUTION

Minute No. 45952

Councillor M. Browne moved)

Councillor J. Nolan seconded)

CARRIED

ITEM 2 - MAYORAL MINUTE NO. 13/18 - DATED NOVEMBER 14, 2018 - SAVE OUR RECYCLING CAMPAIGN 11/199

Resolved

1. That Mayoral Minute No. 13/18 dated November 14, 2018, be received.
2. That Council endorse Local Government NSW's campaign "Save Our Recycling", to realise the reinvestment of a 100% of the Waste Levy collected each year by the NSW Government in waste minimization, recycling and resource recovery.
3. That Council make representation to the local State Member in support of this campaign objective for the NSW Government to commit to reinvest 100% of the Waste Levy in waste minimization, recycling and resource recovery.
4. That Council write to the Premier, the Hon Gladys Berejiklian MP, the Opposition Leader, the Hon Michael Daley MP, the Minister for Local Government and the Minister for the Environment, the Hon Gabrielle Upton MP, and the Shadow Minister for the Environment and Heritage, Penny Sharpe MLD, seeking bipartisan support for the 100% reinvestment of the Waste Levy collected each year into waste minimization, recycling and resource recovery.
5. That Council take a lead role in activating the Local Government NSW Save Our Recycling campaign locally.
6. That Council endorse the distribution and display of the Local Government NSW Save Our Recycling information on Council premises, as well as involvement in any actions arising from the initiative.
7. That Council formally advise Local Government NSW that Council has endorsed the Save Our Recycling advocacy initiative.

RESOLUTION

Minute No. 45953

Councillor D. Turley moved)

Councillor C. Adams seconded)

CARRIED

NOTICES OF MOTION

ITEM 3 - MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 28/18 - DATED NOVEMBER 23, 2018 - OPPOSITION TO THE RECONFIGURATION OF THE MENINDEE LAKES 11/426

Notice of Motion

Councillor T. Kennedy moved)

Councillor B. Algate seconded)

1. That Motions of Which Notice has been Given No. 28/18 dated November 23, 2018, be received.

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2. That Broken Hill City Council hold a workshop to provide a submission to the State Government opposing the reconfiguration of the Menindee Lakes and the lowering of the 480/640 GL trigger.
3. That once the submission is complete it be circulated to State election candidates in our electorate for endorsement.
4. The workshop to be held and the submission completed before the December 2018 meeting.

Amendment

Councillor M. Browne moved)
Councillor C. Adams seconded)

1. That correspondence be sent to all current and any future State election candidates informing them that the Broken Hill City Council strongly opposes the current version of the Menindee Lakes Water Saving Plan and any lowering of the 480/640 trigger for the reasons that the implementation of the plan combined with a drastic decrease of the water required to be held in the lakes would have a destructive impact on the aboriginal communities who live along the river, that permanent damage to the environment and health of the whole river system would result and the opportunities for recreational enjoyment for the communities of Menindee and Broken Hill would be severely curtailed.
2. That Council makes representations to the Government to consider the State Member for Barwon's "option 7" that is:
 - a) Construct a regulator at Morton Boolka linking Menindee Lake and Lake Cawndilla via Cawndilla Creek. This would require associated earthworks to raise the height of the Menindee Lake banks adjacent to the regulator.
 - b) Flow through rules (MDA supported) established that once Cawndilla reaches a certain capacity, for example 700G, the two lakes are separated.
 - c) Works would need to be undertaken to enlarge the capacity of Cawndilla Creek and the Panelco Channel offtake and Darling River delivery

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point.

- d) An additional consideration is additional storage in Weir 32 to support the fruit industry requirements. This could be achieved with either a top up from the Wetherell – Pamamaroo Lake system via the existing interconnecting channel, or raising the height of Weir 32. This would need further scoping to quantify.

CARRIED

The amendment becomes the motion.

Councillor M. Browne moved)
Councillor C. Adams seconded)

- 1. That correspondence be sent to all current and any future State election candidates informing them that the Broken Hill City Council strongly opposes the current version of the Menindee Lakes Water Saving Plan and any lowering of the 480/640 trigger for the reasons that the implementation of the plan combined with a drastic decrease of the water required to be held in the lakes would have a destructive impact on the aboriginal communities who live along the river, that permanent damage to the environment and health of the whole river system would result and the opportunities for recreational enjoyment for the communities of Menindee and Broken Hill would be severely curtailed.
- 2. That Council makes representations to the Government to have them consider the State Member for Barwon’s “option 7” that is:
 - a) Construct a regulator at Morton Boolka linking Menindee Lake and Lake Cawndilla via Cawndilla Creek. This would require associated earthworks to raise the height of the Menindee Lake banks adjacent to the regulator.
 - b) Flow through rules (MDA supported) established that once Cawndilla reaches a certain capacity, for example 700G, the two lakes are separated.
 - c) Works would need to be undertaken to enlarge the capacity of Cawndilla Creek and the Panelco Channel offtake and Darling River delivery

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point.

- d) An additional consideration is additional storage in Weir 32 to support the fruit industry requirements. This could be achieved with either a top up from the Wetherell – Pamamaroo Lake system via the existing interconnecting channel, or raising the height of Weir 32. This would need further scoping to quantify.

Amendment

Councillor T. Kennedy moved)
Councillor D. Gallagher seconded)

- 1. That Broken Hill City Council supports the Member for Barwon’s proposal; that is:
 - a) Construct a regulator at Morton Boolka linking Menindee Lake and Lake Cawndilla via Cawndilla Creek. This would require associated earthworks to raise the height of the Menindee Lake banks adjacent to the regulator.
 - b) Flow through rules (MDA supported) established that once Cawndilla reaches a certain capacity, for example 700G, the two lakes are separated.
 - c) Works would need to be undertaken to enlarge the capacity of Cawndilla Creek and the Panelco Channel offtake and Darling River delivery point.
 - d) An additional consideration is additional storage in Weir 32 to support the fruit industry requirements. This could be achieved with either a top up from the Wetherell – Pamamaroo Lake system via the existing interconnecting channel, or raising the height of Weir 32. This would need further scoping to quantify.
- 2. That the proposal be circulated to State election candidates for the seat of Barwon for endorsement.

LOST

The motion was put.

RESOLUTION
Minute No. 45954

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Councillor M. Browne moved)
Councillor C. Adams seconded)

1. That correspondence be sent to all current and any future State election candidates informing them that the Broken Hill City Council strongly opposes the current version of the Menindee Lakes Water Saving Plan and any lowering of the 480/640 trigger for the reasons that the implementation of the plan combined with a drastic decrease of the water required to be held in the lakes would have a destructive impact on the aboriginal communities who live along the river, that permanent damage to the environment and health of the whole river system would result and the opportunities for recreational enjoyment for the communities of Menindee and Broken Hill would be severely curtailed.
2. That Council makes representations to the Government to have them consider the State Member for Barwon's "option 7" that is:
 - a) Construct a regulator at Morton Boolka linking Menindee Lake and Lake Cawndilla via Cawndilla Creek. This would require associated earthworks to raise the height of the Menindee Lake banks adjacent to the regulator.
 - b) Flow through rules (MDA supported) established that once Cawndilla reaches a certain capacity, for example 700G, the two lakes are separated.
 - c) Works would need to be undertaken to enlarge the capacity of Cawndilla Creek and the Panelco Channel offtake and Darling River delivery point.
 - d) An additional consideration is additional storage in Weir 32 to support the fruit industry requirements. This could be achieved with either a top up from the Wetherell – Pamamaroo Lake system via the existing interconnecting channel, or raising the height of Weir 32. This would need further scoping to quantify.

CARRIED
On the casting vote of the Mayor

A Division was called which resulted in:

FOR: Crs Browne, Licul, Turley, Clark and Nolan

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AGAINST: Crs Adams, Algate, Gallagher, Kennedy and Page

ITEM 4 - MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 29/18 - DATED NOVEMBER 23, 2018 - RESPONSIBILITY FOR THE COST OF THE WENTWORTH TO BROKEN HILL PIPELINE

11/426

Resolved

1. That Motions of Which Notice has been Given No. 29/18 dated November 23, 2018, be received.
2. That Broken Hill City Council sends correspondence to the NSW State Government and the opposition requesting that the NSW State Government legislates that Broken Hill is not responsible for any costs associated with the delivery of water via the Wentworth to Broken Hill pipeline and that the NSW Government cover the costs for the life of the pipeline; and the pipeline be declared as State significant infrastructure.

That to have the State Government of the day decide whether they subsidise the pipeline costs will cause great uncertainty in the community and to have the Broken Hill community begging the State Government every four years to pay a \$30m subsidy is unacceptable and impractical.

3. That each of the candidates for the State election for the seat of Barwon be contacted and asked to provide a written letter of support for legislation that ensures the Broken Hill community does not pay for any costs associated with the delivery of water from the Wentworth to Broken Hill pipeline.

RESOLUTION

Minute No. 45955

Councillor T. Kennedy moved)
Councillor B. Algate seconded)

CARRIED

RESCISSION MOTIONS

Nil.

Councillor Kennedy referred to the Rescission Motion regarding DA34/2018 – Painting of a Mural on a Heritage Building in a Heritage Precinct (handed to the Acting Mayor during the August Council Meeting) and stated that it still has not been dealt with.

Councillor Kennedy referred to the Local Government Act (section not cited), stating that once a Rescission Motion has been lodged it negates the original motion as if it never existed until the Rescission Motion is considered. Therefore Council's Resolution for the refusal of DA34/2018 and removal of the mural, does not exist.

The Mayor advised that the General Manager had not included the Rescission Motion in the Business Papers as it was deemed to be an unlawful motion and referred to the General Manager's report.

The Mayor advised that this matter can be discussed at the Councillor Workshop being conducted by the Office of Local Government in December.

REPORTS FROM DELEGATES

Nil.

REPORTS

**ITEM 5 - BROKEN HILL CITY COUNCIL REPORT NO. 188/18 - DATED NOVEMBER 13, 2018 -
PUBLIC PRESENTATION OF 2017/2018 FINANCIAL STATEMENTS** 13/92

The Mayor took a question on notice from Councillor Kennedy regarding when Council's External Auditor would be able to give the presentation of Council's financial statements to the public.

- Councillor D. Gallagher moved)
Councillor M. Browne seconded)
1. That Broken Hill City Council Report No. 188/18 dated November 13, 2018, be received.
 2. That Council adopt the financial statements and authorise the presentation of the financial statements to the public.

Councillor Kennedy moved a motion of dissent in the Mayor's ruling that he could not ask a further question after Councillor Gallagher had used his right of reply.

Councillor Kennedy stated that Councillor Gallagher had raised new information in his right of reply regarding the Civic Centre redevelopment of which Councillor Kennedy wished to ask a further question. Councillor Gallagher confirmed that he had not mentioned the Civic Centre in his right of reply.

Councillor Kennedy then indicated that he wished to move an amendment. The Mayor ruled that he could not move an amendment after Councillor Gallagher's right of reply.

Councillor Adams moved that the original motion be put.

Motion of Dissent

- Councillor T. Kennedy moved)
) In the Mayor's ruling that no amendments can be put after the mover of the motion has used his right of reply.

LOST

Prior to the vote of the Motion of Dissent the Mayor advised that it was her understanding that the right of reply is the closing of the debate and no amendments should be put.

The original motion was put.

RESOLUTION

Minute No. 45956

- Councillor D. Gallagher moved)
Councillor M. Browne seconded)
1. That Broken Hill City Council Report No. 188/18 dated November 13, 2018, be received.
 2. That Council adopt the financial statements and authorise the presentation of the financial statements to the public.

CARRIED

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A Division was called which resulted in:

FOR: Crs Adams, Browne, Gallagher, Licul, Turley, Clark, Page and Nolan
AGAINST: Crs Algate and Kennedy

**ITEM 6 - BROKEN HILL CITY COUNCIL REPORT NO. 189/18 - DATED NOVEMBER 16, 2018 -
DRAFT ANNUAL REPORT 2017/2018** 17/110

Resolved

1. That Broken Hill City Council Report No. 189/18 dated November 16, 2018, be received.
2. That the 2017/2018 Annual Report, inclusive of audited Annual Financial Statements, Delivery Program Key Performance Indicators Report and Disability Inclusion Action Plan Key Performance Indicators Report for the reporting period 1 July 2017 to 30 June 2018 (KPI reports adopted at Council meeting 26 September 2018, minute no. 45884 and minute no. 45885 respectively), be adopted.
3. That the Annual Report, inclusive of audited Annual Financial Statements, Delivery Program Key Performance Indicators Report and Disability Inclusion Action Plan Key Performance Indicators Report for the reporting period 1 July 2017 to 30 June 2018, be posted on Council's website.
4. That Council's web link of Annual Report, inclusive of audited Annual Financial Statements, Delivery Program Key Performance Indicators Report and Disability Inclusion Action Plan Key Performance Indicators Report for the reporting period 1 July 2017 to 30 June 2018, be provided to the Minister via the Office of Local Government and Minister for Disability Services, by 30 November 2018.

RESOLUTION

Minute No. 45957

Councillor M. Browne moved)
Councillor C. Adams seconded) CARRIED

**ITEM 7 - BROKEN HILL CITY COUNCIL REPORT NO. 190/18 - DATED NOVEMBER 09, 2018 -
COUNCILLOR ATTENDANCE AT THE WESTERN DIVISION COUNCILS OF NSW ANNUAL
CONFERENCE 2019** 11/173

RESOLUTION

Minute No. 45958

- Councillor D. Gallagher moved)
Councillor C. Adams seconded)
1. That Broken Hill City Council Report No. 190/18 dated November 9, 2018, be received.
 2. That Councillors advise their interest in representing Council at the 2019 Western Division Councils of NSW Annual Conference to be held in Bourke, 24-26 February 2019.
 3. That the February Council Meeting be re-scheduled to Wednesday, 20 February 2019 to allow Councillors attending the Western Division Councils of NSW Conference to attend the Council Meeting prior to the Conference.

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5. That Councillors submit motions to the Western Division Councils of NSW Annual Conference to the General Manager.

CARRIED

ITEM 8 - BROKEN HILL CITY COUNCIL REPORT NO. 191/18 - DATED NOVEMBER 14, 2018 - COMMUNITY ASSISTANCE GRANTS AWARDED FOR ROUND 2 OF 2018/2019 18/44

Resolved

1. That Broken Hill City Council Report No. 191/18 dated November 14, 2018, be received.
2. That Council notes the Community Assistance Grants awarded for Round 2 of 2018/2019 which were approved by the Panel on 13 November 2018 and the Acting General Manager on 14 November 2018.
3. That the Community Assistance Grants Policy and Application be amended:
 - 1) to clarify the eligibility criteria 4.5.1(a) to read:

“Applicants must be an incorporated community association/organisation, or a registered not-for-profit association/charitable organisation with an ABN or ACN. Applications will not be accepted from individuals, businesses, government agencies, political parties or lobby groups.”
 - 2) to include additional questions and evaluation by Council’s Finance Department of an organisation/association’s financial statements in order for the Panel to gain a clearer understanding of an organisation/association’s financial position.
4. That the balance from Round 2 of 2018/2019 of \$28,281.00 be rolled-over to Round 1 of 2019/2020.

RESOLUTION

Minute No. 45959

Councillor J. Nolan moved)

Councillor D. Gallagher seconded)

CARRIED

ITEM 9 - BROKEN HILL CITY COUNCIL REPORT NO. 192/18 - DATED NOVEMBER 08, 2018 - RECONCILIATION ACTION PLAN REPORT 14/59

Resolved

1. That Broken Hill City Council Report No. 192/18 dated November 8, 2018, be received.
2. That Broken Hill City Council establish a Reconciliation Action Plan Working Group
3. That Broken Hill City Council endorse the Terms of Reference for the Broken Hill City Council Reconciliation Action Plan Working Group

RESOLUTION

Minute No. 45960

Councillor J. Nolan moved)

Councillor R. Page seconded)

CARRIED

ITEM 10 - BROKEN HILL CITY COUNCIL REPORT NO. 193/18 - DATED OCTOBER 17, 2018 - ADOPTION OF DRAFT LIVING DESERT PLAN OF MANAGEMENT 11/141

Resolved

1. That Broken Hill City Council Report No. 193/18 dated October 17, 2018, be received.

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2. That Council adopts the Living Desert Plan of Management.

RESOLUTION

Minute No. 45961

Councillor M. Browne moved)
Councillor C. Adams seconded)

CARRIED

**ITEM 11 - BROKEN HILL CITY COUNCIL REPORT NO. 194/18 - DATED OCTOBER 30, 2018 -
NOTIFICATION OF APPOINTMENT OF NATIVE TITLE MANAGER UNDER THE CROWN LAND
MANAGEMENT ACT 2016**

18/144

Resolved

1. That Broken Hill City Council Report No. 194/18 dated October 30, 2018, be received.
2. That Council nominate Francois Van Der Berg (Manager Operations Planning Development and Compliance) as Council's Native Title Manager under the *Crown Land Management Act 2016*.
3. That give notice to the Minister for Lands and Forestry of the name and contact details of Council's appointed Native Title Manager, as required under Section 8.8 of the *Crown Lands Management Act 2016*.

RESOLUTION

Minute No. 45962

Councillor M. Browne moved)
Councillor D. Gallagher seconded)

CARRIED

**ITEM 12 - BROKEN HILL CITY COUNCIL REPORT NO. 195/18 - DATED NOVEMBER 14, 2018 -
DEVELOPMENT APPLICATION TO OPERATE AN ANIMAL POUND FACILITY**

11/467

Resolved

1. That Broken Hill City Council Report No. 195/18 dated November 14, 2018, be received.
2. That consent be granted for Development Application 110/2018 for an animal pound facility at Lot 12 DP 1232493, No. 86 Airport Road, Broken Hill subject to the following conditions:
 1. This consent relates to an Animal Pound Facility at Part Lot 12 DP 1232493, No. 86 Airport Road, Broken Hill, comprising:
 - Re-use of an existing single story brick workshop to accommodate 20 dog cages, a cattery and veterinary room, a kitchen, toilet and storage area,
 - A ranger's office in a single story transportable building,
 - A carport to provide parking for up to 4 vehicles,
 - Additional unenclosed car parking for 4 vehicles, and
 - Two dog exercise yards.

And as described and shown on the following documents submitted with the development application that are stamped as approved:

- Statement of Environmental Effects prepared by Broken Hill City Council,

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- Drawing No. 142018 A1 Site Plan by P. Oldsen, 19 August 2018,
- Drawing No. 212018 A1 Elevations by P. Oldsen, 11 November 2018,
- Drawing No. 212018 A2 Floor Plan by P. Oldsen, 11 November 2018, and
- Environmental Noise Assessment prepared by Sonus dated August 2018.

Notes:

Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act 1979, or a fresh development application. No works, other than those approved under this consent, shall be out without the prior approval of Council.

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE

2. Notice of Commencement

Notice must be given to Council at least two (2) days prior to the commencement of building work.

3. Principal Certifying Authority/Construction Certificate

The following must be undertaken before any building works can commence:

- (a) A Principal Certifying Authority (PCA) must be appointed; and
- (b) A Construction Certificate must be obtained from either Council or an accredited certifier.

4. Existing services and damage to public assets

Prior to the commencement of any work(s) associated with this development:

(a) The developer or his agent shall undertake a site inspection of the adjacent kerbs, gutters, carriageway, reserves and the like and document evidence of any damage to existing assets. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense. Any damage to the adjacent kerb, gutter, footpath/road reserve area, carriageway and the like that occurs during development works shall be repaired by the applicant; and

(b) The developer or his agent must check that the proposed works are not affected by any Council, energy utility, telecommunications, gas service or other services. Any required alterations to services will be at the developer's expense.

5. Supervision of works

Prior to the commencement of any works, Council shall be advised in writing of the name of the person/company nominated to be responsible for construction works including erosion and sediment control measures.

6. Sign – Supervisor Contact Details

The person/company responsible for the construction of site works must erect a sign at the site in a visible position with that person/company's name, license number, site address and contact number, and the name of the Principal Certifying Authority, accreditation number and telephone number, where the Principal Certifying Authority is not the Council.

7. Protection of existing vegetation

No vegetation is to be removed from Lot 12 DP 1232493 or adjoining land at any time other than is necessary to construct and operate the animal pound facility and ancillary works within the site area shown on the approved stamped drawings, to provide access to the facility and as a 10 metre defensible space surrounding the pound building in the event of bushfire. All other existing trees/vegetation that are within 6 metres of any works on the subject site, are to be marked with temporary barrier fencing external to the base of the tree. This must be inspected and approved by the Principal Certifying Authority.

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED

8. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan and accompanying specifications for the construction phase of the works based on the Landcom manual "Soils and Construction, Managing Urban Stormwater, Vol 1 4th Edition, March 2004", shall be lodged for approval with the application for a Construction Certificate. All controls must be implemented, inspected and approved prior to the commencement of any site works.

9. Stormwater and wastewater management

The stormwater and wastewater management system is to be designed to comply with the Trade Waste requirements of Essential Water. Details are to be submitted with the application for a Construction Certificate.

10. Waste Minimisation and Management

A Waste Management Plan must be prepared that complies with the NSW DECC Environmental Guidelines: Classification and Management of Liquid and Non-liquid Wastes and lodged for approval with the application for a Construction Certificate. A copy of the approved plan shall be lodged with Council prior to the issue of the Construction Certificate.

11. Driveway access and car parking

A plan that shows driveway entrances to the site of the animal pound facility and sealed car parking that is in accordance with Council's engineering specifications shall be lodged with Council prior to the issue of the Construction Certificate. A parking space for persons with disabilities is to be included within the public parking area in accordance with the Disability (Access to Premises - Buildings) Standard 2010.

CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT

12. Soil and Water Management

All site works shall be undertaken in accordance with the Erosion and Sediment Control Plan and measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur.

13. Waste Management

All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan or removed to an authorised waste disposal facility. No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.

14. Construction hours/storage

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To limit the impact of the development on adjoining properties, the following must be complied with:

- (a) All construction work shall be restricted to the hours of 7:00am to 5:00pm Monday to Friday and 8:00am to 1:00pm Saturdays. No construction work shall take place on Sundays or Public Holidays,
- (b) The storing of construction equipment/materials, soil, spoil, or rubbish external to Lot 12 DP 1232493 is prohibited other than on the adjoining road reserve, and
- (c) The parking of machinery or vehicles shall only be on Lot 12 DP 1232493 in the immediate vicinity of the works area or on the adjoining road reserve.

15. Building Code of Australia

All building work must be out in accordance with the requirements of the Building Code of Australia.

CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION CERTIFICATE CAN BE ISSUED

16. Occupation Certificate

An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) before the building is used or occupied. If Council is the appointed PCA for this project, a minimum of twenty four (24) hours' notice must be given to Council to make an inspection of the work.

CONDITIONS THAT RELATE TO ONGOING MANAGEMENT OF THE PROPOSED DEVELOPMENT

17. Site Management and Maintenance

The proprietor shall at all times be responsible for on-going site management and maintenance in accordance with the following:

- (a) The use of the approved development must not:
 - (i) cause transmission of vibration to any place of different occupancy,
 - (ii) cause 'Offensive Noise' as defined in the Protection of the Environment Operations Act 1997, or
 - (iii) Impact upon the amenity of any adjoining property or tenancy by reason of the emission of noise, dust, fumes, odour, vibration, electrical interference or otherwise.
- (b) Council must ensure that the facility is well maintained in consideration of the visual amenity of the area.

18. Ongoing operations

The ongoing care and management of animals kept within the facility should have regard to the standards set out in the NSW Animal Welfare Code of Practice No 5 – Dogs and Cats in animal boarding establishments.

19. Signage

Signage is to comprise a business identification sign, a warning sign citing penalties for abandonment of animals at the facility, and directional signs on Airport Road. All signage is to comply with the provisions of Broken Hill Development Control Plan 2016.

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20. Surveillance

A CCTV monitoring and alarm system is to be installed that enables surveillance of the external perimeter of the facility.

21. Fencing and security

Fencing is to comprise a 1.8 metre high solid Colorbond metal fence to enclose all structures with internal 1.8 metre high chainmesh fencing to enclose the dog exercise areas. Other external areas are to remain unenclosed to retain the amenity of the immediate area.

22. Bushfire protection

The location of the animal pound is mapped as being category 3 bushfire prone land. A cleared defensible space of 10 metres surrounding the pound building is to be maintained at all times.

REASONS FOR CONDITIONS

Conditions of consent have been imposed to ensure that:

1. The proposed development achieves the objects of the Environmental Planning and Assessment Act 1979 and complies with the provisions of relevant environmental planning instruments
2. The relevant public authorities have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities
3. The protection of the amenity and character of land adjoining and in the locality of the proposed development
4. Any potential adverse environmental, social or economic impacts of the proposed development are minimised or mitigated
5. All traffic, car parking and access requirements arising from the development are addressed
6. The development does not conflict with the public interest

RESOLUTION

Minute No. 45963

Councillor C. Adams moved)

Councillor J. Nolan seconded)

CARRIED

A Division was called which resulted in:

FOR: Crs Adams, Browne, Gallagher, Licul, Turley, Clark, Page and Nolan

AGAINST: Crs Algate and Kennedy

**ITEM 13 - BROKEN HILL CITY COUNCIL REPORT NO. 196/18 - DATED OCTOBER 25, 2018 - AFL
BROKEN HILL - WAIVER OF DEVELOPMENT FEES ASSOCIATED WITH JUBILEE OVAL
UPGRADE**

16/154

Motion

Councillor B. Licul moved)

Councillor M. Clark seconded)

1. That Broken Hill City Council Report No. 196/18 dated October 25, 2018, be received.
2. That the request for waiver of development fees associated with the Jubilee Oval upgrade be referred to the Community Assistance Grants program for consideration.

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Amendment

- Councillor T. Kennedy moved)
Councillor B. Algate seconded)
1. That Broken Hill City Council Report No. 196/18 dated October 25, 2018, be received.
 2. That the applicant pay the fees listed as 1-5 in the report:
 - 1) DA application fee of \$3,966.00
 - 2) Plan First Fee of \$1,503.50
 - 3) Construction Certificate fee of \$3,309.04
 - 4) Long Service Levy of \$8,222.21
 - 5) Principal Certifying Authority fee of \$1,471.00
 3. That Council waive the Section 7.12 Developer Contribution Fee of \$23,492.02.

LOST

The original motion was put.

RESOLUTION

Minute No. 45964

- Councillor B. Licul moved)
Councillor M. Clark seconded)
1. That Broken Hill City Council Report No. 196/18 dated October 25, 2018, be received.
 2. That the request for waiver of development fees associated with the Jubilee Oval upgrade be referred to the Community Assistance Grants program for consideration.

CARRIED

ITEM 14 - BROKEN HILL CITY COUNCIL REPORT NO. 197/18 - DATED OCTOBER 31, 2018 - BOOK CALLED 'THE FATAL LODES' 11/254

Resolved

1. That Broken Hill City Council Report No. 197/18 dated October 31, 2018, be received.
2. That Council rescind Minute 44555 of the meeting held on 29 January 2014 and authorize the General Manager or his delegate, to make any future decisions on pricing and distribution of the content (including digital) of the book called, '*The Fatal Lodes*' with consideration given to the author's wishes.

RESOLUTION

Minute No. 45965

- Councillor C. Adams moved)
Councillor J. Nolan seconded)
- CARRIED

ITEM 15 - BROKEN HILL CITY COUNCIL REPORT NO. 198/18 - DATED NOVEMBER 13, 2018 - INVESTMENT REPORT FOR OCTOBER 2018 17/82

Resolved

1. That Broken Hill City Council Report No. 198/18 dated November 13, 2018, be received.

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RESOLUTION

Minute No. 45966

Councillor B. Algate moved)

Councillor M. Browne seconded)

CARRIED

**ITEM 16 - BROKEN HILL CITY COUNCIL REPORT NO. 199/18 - DATED NOVEMBER 16, 2018 -
ACTION LIST REPORT** 11/21

Resolved

1. That Broken Hill City Council Report No. 199/18 dated November 16, 2018, be received.

RESOLUTION

Minute No. 45967

Councillor D. Gallagher moved)

Councillor M. Browne seconded)

CARRIED

COMMITTEE REPORTS

**ITEM 17 - BROKEN HILL CITY COUNCIL REPORT NO. 200/18 - DATED NOVEMBER 09, 2018 -
NOMINATIONS FOR COMMUNITY MEMBERSHIP OF COUNCIL S355 COMMITTEES** 12/52

Resolved

1. That Broken Hill City Council Report No. 200/18 dated November 9, 2018, be received.
2. That Layne Ralph and Dinny Reardon be appointed as community representatives on the Memorial Oval Community Committee.

**ITEM 18 - BROKEN HILL CITY COUNCIL REPORT NO. 201/18 - DATED NOVEMBER 12, 2018 -
MINUTES OF THE FLORA AND FAUNA OF THE BARRIER RANGES COMMUNITY COMMITTEE
MEETING HELD 16 OCTOBER 2018** 12/51

Resolved

1. That Broken Hill City Council Report No. 201/18 dated November 12, 2018, be received.
2. That the minutes of the Friends of the Flora and Fauna of the Barrier Ranges Community Committee Meeting held October 16, 2018 be received.

**ITEM 19 - BROKEN HILL CITY COUNCIL REPORT NO. 202/18 - DATED NOVEMBER 13, 2018 -
MINUTES OF THE MEMORIAL OVAL COMMUNITY COMMITTEE MEETING HELD 6 NOVEMBER
2018** 12/52

Resolved

1. That Broken Hill City Council Report No. 202/18 dated November 13, 2018, be received.
2. That minutes of the Memorial Oval Community Committee Meeting held 6 November 2018 be received.

Minute No. 45968

Councillor M. Clark moved)

Councillor C. Adams seconded)

That the recommendations of items 17 to 19 be adopted.

CARRIED

QUESTIONS TAKEN ON NOTICE FROM PREVIOUS COUNCIL MEETING

**ITEM 20 - QUESTIONS ON NOTICE NO. 9/18 - DATED NOVEMBER 07, 2018 - COUNCILLOR
QUESTIONS TAKEN ON NOTICE AT THE OCTOBER 2018 COUNCIL MEETING** 11/171

Resolved

1. That Questions On Notice No. 9/18 dated November 7, 2018, be received.

RESOLUTION

Minute No. 45969

Councillor M. Browne moved)

Councillor B. Licul seconded)

CARRIED

QUESTIONS FOR NEXT MEETING ARISING FROM ITEMS ON THIS AGENDA

Public Presentation of Council's 2017/2018 Financial Statements

The Mayor took a question on notice from Councillor Kennedy regarding when Council's External Auditor would be able to give the presentation of Council's financial statements to the public.

CONFIDENTIAL MATTERS

**ITEM 21 - BROKEN HILL CITY COUNCIL REPORT NO. 203/18 - DATED NOVEMBER 16, 2018 -
CONFIDENTIAL MINUTES OF THE EXTRAORDINARY COUNCIL MEETING HELD 5 NOVEMBER
2018 - CONFIDENTIAL** 11/249

(General Manager's Note: This report considers confidential minutes from a tender item and is deemed confidential under Section 10A(2) (c) (g) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business; AND which contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege).

Recommendation

1. That Broken Hill City Council Report No. 203/18 dated November 16, 2018, be received.
2. That the confidential minutes of the Extraordinary Council Meeting held 5 November 2018 be noted for confirmation of minutes purposes.

The Mayor advised that Item 19 had been dealt with at the Minutes for Confirmation section.

**ITEM 22 - BROKEN HILL CITY COUNCIL REPORT NO. 204/18 - DATED OCTOBER 17, 2018 -
T18/5 - REQUEST FOR TENDER FOR ASPHALT RECONSTRUCTION OF FAILED FLEXIBLE
PAVEMENT 2018/19 - AWARD - CONFIDENTIAL** T18/5

(General Manager's Note: This report considers a tender and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).

Resolved

1. That Broken Hill City Council Report No. 204/18 dated October 17, 2018, be received.
2. That GBM CONSULTING SERVICES PTY LTD be awarded the Contract for Tender T18/5

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3. That Council accept the lump sum fee of \$1,100,519.90 ex. GST for all tendered works under T18/5.

RESOLUTION

Minute No. 45970

Councillor B. Algate moved)
Councillor M. Browne seconded) CARRIED

A Division was called which resulted in:

FOR: Crs Adams, Algate, Browne, Gallagher, Licul, Turley, T Kennedy, M Clark, R Page and Nolan

AGAINST: Nil

ITEM 23 - BROKEN HILL CITY COUNCIL REPORT NO. 205/18 - DATED OCTOBER 25, 2018 - LEASE OF 72 GYPSUM STREET (HACC CENTRE) TO LIVEBETTER SERVICES LIMITED -

CONFIDENTIAL

11/121

(General Manager's Note: This report considers a lease and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).

The Mayor declared a non-pecuniary interest in Item 21 and left the Council Chambers at 8:32pm.

The Deputy Mayor assumed the Chair.

Resolved

1. That Broken Hill City Council Report No. 205/18 dated October 25, 2018, be received.
2. That Council accept the initial lease term for 72-74 Gypsum Street (HACC Centre) proposed by Livebetter Services Limited, being two (2) x two (2) year options, instead of the previous one (1) x three (3) year option.
3. That the annual rent and other terms of the lease remain the same.
4. That the General Manager be authorised to negotiate variations to the lease agreement as required with Livebetter Services Limited.
5. That the Mayor and General Manager be authorised to sign and execute any documents as required under the Common Seal of Council.

RESOLUTION

Minute No. 45971

Councillor C. Adams moved)
Councillor B. Licul seconded) CARRIED

The Mayor returned to the Council Chambers at 8:33pm and resumed the Chair.

The Deputy Mayor advised the Mayor that Council had adopted the report recommendation of Item 21.

ITEM 22 - BROKEN HILL CITY COUNCIL REPORT NO. 206/18 - DATED NOVEMBER 09, 2018 - CONSOLIDATED BROKEN HILL HOLDINGS PROPOSED SUBLEASE OF AIRPORT HANGAR 30 -

CONFIDENTIAL

11/218

(General Manager's Note: This report considers a lease and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed,

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confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).

Resolved

1. That Broken Hill City Council Report No. 206/18 dated November 9, 2018, be received.
2. That Council consent to the proposed sublease of Airport 'Hangar 30' (also known as Lot 13, or part 12/1232493), consenting to Consolidated Broken Hill Holdings subleasing the hangar to Consolidated Aviation Services Pty Ltd.
3. That the General Manager be authorised to negotiate the terms and conditions of the sublease agreement.
4. That Consolidated Broken Hill Holdings be responsible for any legal fees incurred by Council regarding the proposed sublease agreement.
5. That the Mayor and General Manager be authorised to sign and execute any required documents under the Common Seal of Council.

RESOLUTION

Minute No. 45972

Councillor B. Algate moved)
Councillor J. Nolan seconded)

CARRIED

There being no further business the Mayor closed the meeting at 8:34pm.

THE FOREGOING MINUTES WERE READ)
AND CONFIRMED AT THE ORDINARY)
MEETING OF THE BROKEN HILL CITY)
COUNCIL HELD ON 12 DECEMBER 2018)

CHAIRPERSON

REPORTS

1. BROKEN HILL CITY COUNCIL REPORT NO. 207/18 - DATED NOVEMBER 29, 2018 - DEVELOPMENT APPLICATION 144/2018 - USE OF PROPERTY AT 81 BUCK STREET, BROKEN HILL FOR FUNCTION CENTRE AND CAFE (11/467)26

2. BROKEN HILL CITY COUNCIL REPORT NO. 208/18 - DATED DECEMBER 03, 2018 - EXHIBITION OF DRAFT VOLUNTARY PLANNING AGREEMENT WITH PERILYA LTD (11/216).....35

3. BROKEN HILL CITY COUNCIL REPORT NO. 209/18 - DATED NOVEMBER 30, 2018 - MINUTES OF THE LOCAL TRAFFIC COMMITTEE MEETING NO 387 HELD WEDNESDAY NOVEMBER 7, 2018. (11/397).....71

4. BROKEN HILL CITY COUNCIL REPORT NO. 210/18 - DATED NOVEMBER 23, 2018 - ACTION LIST REPORT (11/21)86

unreasonably impact nearby residential receivers That the noise generated from the development shall not exceed 5db(A) above the background noise level at the most sensitive point i.e. the nearest dwelling/boundary of site. The applicant must appoint a suitably qualified acoustic engineer should noise complaints be lodged with Council. The acoustic report must demonstrate ability to comply with this condition and make recommendations for structural alterations and/or sound proofing measures to achieve these levels.

8) **Part of building**

This approval does not allow use of the “lower level” (cellar) of the building. Use of that part of the building shall be subject to separate Development consent.

9) **Carparking**

That carparking facilities clearly signposted shall be provided onsite. The number of spaces to be provided shall be a minimum of 23. The car parking design must comply with Australian Standard 2890.

- 10) The Applicant is to obtain an Occupation Certificate pursuant to the *Environmental Planning and Assessment Act 1979*, from Council prior to occupation and use of the building.

Executive Summary:

A Development Application has been lodged seeking approval for use of part of the building at 81 Buck Street, Broken Hill for a Function Centre and café.

Zoning of the land is R1 General Residential. The use is permissible, subject to development consent being granted.

As one part of the assessment process, Council notified approximately 40 neighbouring property owners of the proposal. As a result, 3 submissions were received, raising concerns about noise (from music and patrons during the night) and the proposed hours.

Due to submissions being received, this application has been referred to Council for determination, rather than being determined under delegation.

It is recommended that the Development Application be approved, subject to conditions. One condition will include that the approval is a “deferred commencement” consent – whereby the consent does not commence until a Fire Safety Statement is issued by Council. Other conditions to be imposed would include hours of business, compliance with the Building Code of Australia and standard conditions regarding preventing nuisance to the neighbourhood.

Report:

Development Application 144/2018 was lodged by Mr Brendan Barlow on October 4, 2018. The application seeks approval for premises at 81 Buck Street to be used as a licensed Function Centre, café and gallery.

81 Buck Street is located just near the corner of Beryl Street, and is known as the “Old Brewery”.

Adjoining neighbours are Thankakali offices, residences and the Jubilee Oval.



Figure 1: Location map – 81 Buck Street

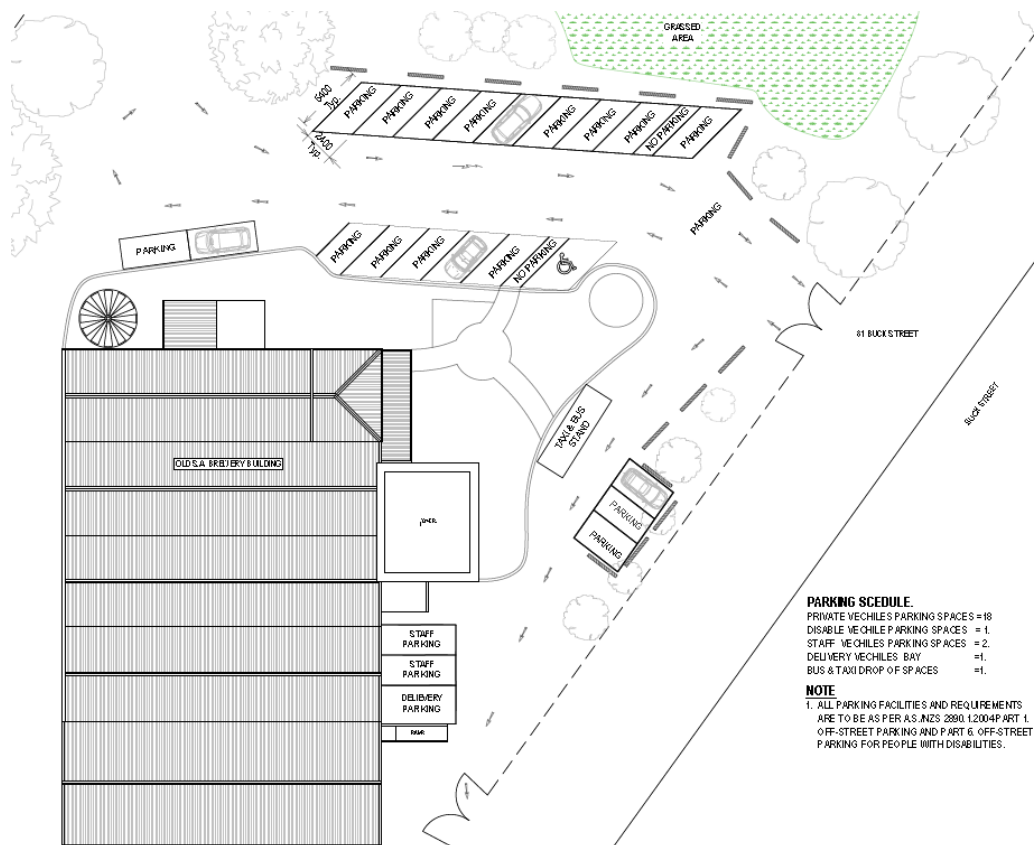


Figure 2: Site plan

The application originally sought to use the majority of the building, being both lower and upper levels. However during the assessment process, Mr Barlow advised that he wishes for the application to only relate to the “upper level” of the building.

Any future use of the lower level (former cellar area) will be subject to a separate Development Application needing to be lodged.

The applicant advised that “building’s ambience will become part of a quirky Café and Gallery, the large rooms catering for a strong function centre”. The initial use will primarily be for functions.

A Café operating will initially be for brunches and relaxed Sunday afternoons. Morning tea, lunch and afternoon tea will later become available.

Some Arts, collectibles and individual piece, craft items, will be displayed from local craftspeople.

The applicant noted that “The Old Brewery Centre will cater for birthday parties and weddings incorporating its grounds as a backdrop for event photography”

The proposed hours of operation outlined in the application were:

9am to 12 midnight Monday – Thursday,

9am to 2am Friday and Saturday,

10am to 12 midnight Sunday and Public Holidays.

Discussions have been held with the applicant regarding the hours proposed.

It has been suggested to the applicant that should approval be granted, that Council will impose conditions restricting the hours.

It is suggested that a condition be imposed restricting the hours to:

9am to 10:30pm Monday-Thursday,

9am to 12:30am Friday and Saturday,

10am to 9pm Sunday and Public Holidays.

(The reason for 12:30am on weekends, is that it allows functions to cease at 12 midnight, and provide a short time of additional 30 minutes for people to leave the site and the building to be closed up etc).

Environmental Planning and Assessment Act 1979 - Section 4.15 assessment

The development application has been lodged under Part 4 of the *Environmental Planning and Assessment Act 1979*. An assessment of the proposed development under section 4.15 of the Act is given below.

(a) the provisions of:

(i) any environmental planning instrument

Broken Hill Local Environmental Plan 2013

Zoning is R1 General Residential. Uses for Function centre, café and gallery are permissible in the zone.

Clause 5.10 Heritage conservation

It is noted that the building is listed as a Heritage Item in Council’s Local Environmental Plan.

Under 5.10 Council must, before granting consent under this clause in respect of a heritage item, consider the effect of the proposed development on the heritage significance of the item or area concerned.

Council's Heritage Adviser has considered the application and carried out a site inspection of the property. The Adviser noted that, despite some changes and alterations in the past, the heritage values of the place remain intact. He further noted that recent minor, non-structural work carried out have not affected heritage values.

The Adviser considered the proposed uses as suitable from a heritage perspective.

Clause 6.2 Essential services

Under 6.2 Council must be satisfied that all essential services are adequate or available to the site. This includes water and sewerage services, power, stormwater management and vehicular access.

All utility services such as electricity, water, sewer, and telecommunications are already available.

(ii) any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the draft instrument has been deferred indefinitely or has not been approved)

There are no draft environmental planning instruments that are being exhibited or have been placed on public exhibition that apply to the land or the type of development being proposed.

(iii) any development control plan

Broken Hill Development Control Plan 2016 (DCP)

Notification

The proposal was notified in accordance with the DCP. 40 properties were notified. As a result, 3 submissions were received.

Car parking

23 car parking spaces are provided onsite. The parking area is sealed. There is additional area available onsite adjoining the defined parking area for any "overspill".

The DCP requires 30 parking spaces to be provided for a function centre.

However, the DCP does note "Inability to provide parking as per the schedule will not exclude a development and in such cases the Development Application will be considered on its merits".

The DCP also provides exemptions for heritage listed properties – "Council may exempt a development involving restoration and/or adaptive re-use of a building which is either listed as a heritage item in Schedule 5 Environmental heritage of Broken Hill LEP 2013 or is within a Heritage Conservation Area, from part or all of the subject developments on-site parking requirement. In this instance, the applicant must provide details of expected parking demand and justification as to why an exemption should be given".

The subject property is heritage listed, and this proposal will result in an otherwise vacant building being re-used.

The use as a function centre does mean that there will be a certain number of persons that will not attend by car (dropped off, taxi, car share etc). As noted, there is available space onsite for up to an additional 7-8 cars to park (albeit in area that is not officially designated for parking).

There is ample vehicle movement area on site for vehicles, including taxis, to drop people off and pick up onsite, without the need for vehicles to pick up people on the street.

Advertising

1 business identification sign is proposed to be positioned on the front fence near the main entrance driveway.

1 business identification sign is also to be positioned on the building wall to replace an existing sign (which remains from a former tenant).

Both signs are suitable to be approved, and do not detract from the heritage value of the property.



Figure 3: draft design for signage

(iia) any planning agreement that has been entered into, or any draft planning agreement that a developer has offered to enter into

No planning agreement or draft planning agreement has been entered into relating to the proposed development or the land.

(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates

Environmental Planning & Assessment Regulation 2000 prescribes additional matters that a consent authority must take into consideration in determining a development application. These considerations relate to development in the coastal zone, development involving demolition of a building and development the subject of a subdivision order/development plan.

Broken Hill is not located in the coastal zone, no demolition of any structures is proposed and the development is not on land that is subject to a subdivision order or development plan.

(v) any coastal zone management plan (within the meaning of the [Coastal Protection Act 1979](#)), that apply to the land to which the development application relates

The site is not located within the coastal zone. There is no coastal zone management plan that applies to the subject land.

(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Access, transport and traffic – vehicular access is available from Buck Street. There is area onsite for car parking and to allow for loading/unloading of any goods.

Heritage - Council's Heritage Adviser has considered the application and carried out a site inspection of the property. The Adviser noted that the heritage values of the place remain intact. He further noted that recent minor, non-structural (internal cosmetic) work carried out have not affected heritage values.

The Adviser considered the proposed uses as suitable from a heritage perspective. No external alterations are planned to the building.

Soils – N/A (no new building work is proposed).

Significant Flora and Fauna – N/A.

Waste – this can be easily managed through normal waste disposal services.

Noise and vibration – use of a property for purposes such as functions, events, café etc do have potential for noise impact. Generation of noise can be from the activity inside the building (including playing of music) and also outside areas from people and cars.

The building itself is set back from Buck Street approximately 25-30 metres, and the onsite car parking area and internal driveway areas mean that many people when leaving a function, will either get into a car or be picked up in a car/taxi from within the boundaries of the site (rather than being on the street).

The majority of the building itself is of stone construction and this will assist with noise attenuation.

Conditions to mitigate noise impact can be imposed on an approval.

Economic impacts in the locality – N/A. It is important to note that various court cases have determined that direct economic competition between similar businesses is not a town planning consideration when assessing a Development Application. It is further noted that concerns over property values in the locality can not be considered when assessing Development Applications.

(c) the suitability of the site for the development

Are utilities and services available to the site and adequate for the development? Yes

Are there hazardous landuses or activities nearby? No

Is the site subject to natural hazards including flooding, tidal inundation, subsidence, slip, mass movement, and bushfires? No

Is the proposal compatible with conserving the heritage significance of the site? Yes

Will development prejudice the future use of the site for extractive resources? No

(d) any submissions made in accordance with this Act or the regulations,

Three submissions were made to Council in relation to the Application.

The concerns raised in the submissions were:

- *It is a Residential area and should be "kept that way".*

Response: This is a common, and understandable, concern raised when a non-residential use is proposed in a residential zone.

It is important to note that many non-residential uses (including these applied for) are permitted in residential zones.

Whilst the property is within a primarily residential area, the building itself is set back from the street approximately 25-30 metres. The site also allows for onsite parking.

The minimum distance from the closest point of the building to the closest dwelling is approximately 25 metres. The carpark area and entrance doors to the building

are on the opposite side of the property from this dwelling. Therefore there will not be an unacceptable impact on this dwelling from “people” or “car” noise. The potential impact from music should be managed by imposing conditions of consent, and good management practices by the owner/operator. The majority of the building is constructed of stone, and the nature of this building material will assist with noise reduction from activity within the building.

Comparison can be made to other premises in town which are within residential areas (and with residences close by) and hold functions. Many of these Council very rarely if ever, receive complaint about – including Central, North and South Football clubs, Northern and Junction Hotels, Whitehouse Convention Centre etc.

It should also be noted that failure to comply with conditions of consent can result in harsh penalties, including fines and orders to cease use of the property.

- *“Excessively loud music from the property has kept me awake on several occasions”.*

Response: A condition can be placed on the approval which limits noise so that it does not exceed 5Db(A) above background level when measured at the most sensitive point i.e. the nearest dwelling/boundary of the site. This is quite a reasonable expectation.

As with many developments, when considering nuisance concerns, much comes down to the management of the premises by the operator. It is important that the owner/operator takes responsibility to ensure that noise is not offensive and not causing a nuisance to the neighbourhood.

As noted earlier in the report, the majority of the building is constructed of stone, and the nature of this building material will assist with noise generated from activity within the building.

- *“In agreeance with the approval but have concerns around noise after 12pm”.*

Response: As noted earlier in the report, a condition can be placed on the approval restricting the hours to no later than 10:30pm Monday to Friday, no later than 12:30am Friday and Saturday nights, and no later than 9pm Sunday and Public Holidays.

These hours are restricted from what was applied for by the applicant.

(e) the public interest.

When determining a Development Application, Council must “weigh up” all matters relating to the proposal.

The public interest is a broad consideration that can relate to many issues, and it is Council’s responsibility to consider which issues/matters should be given “more weight” than others. Approval of the proposal, subject to conditions of consent is considered to be in the broader public interest.

Conclusion:

A key point when determining any Development Application is that Council is considering a proposal within what is primarily a merits based assessment system. Benefits of a development must be weighed up against the negatives. Where there are negatives, consideration can be given to whether those negatives can be mitigated or managed through imposing conditions on a consent.

Based on the above assessment it is concluded that the proposed use does not result in impacts which are so unacceptable that it warrants the application being refused. The use as a Function Centre and café is permitted under the current zoning controls for the site.

Strategic Direction:

Key Direction: Our Environment
Objective: 3.3 Proactive, Innovative and Responsible Planning supports the community, the environment and beautification of the City
Function: Built Environment
DP Action: Not applicable

Relevant Legislation:

Environmental Planning and Assessment Act 1979.

Financial Implications:

Nil.

Attachments

There are no attachments for this report.

ANTHONY MISAGH
CHIEF OPERATIONS OFFICER

JAMES RONCON
GENERAL MANAGER

ORDINARY MEETING OF THE COUNCIL

December 3, 2018

ITEM 2BROKEN HILL CITY COUNCIL REPORT NO. 208/18

SUBJECT: EXHIBITION OF DRAFT VOLUNTARY PLANNING AGREEMENT
WITH PERILYA LTD 11/216

Recommendation

1. That Broken Hill City Council Report No. 208/18 dated December 3, 2018, be received.
2. That a draft Voluntary Planning Agreement (VPA) with Perilya Ltd be publicly exhibited for a period not less than 28 days.
3. That a further report be presented to Council on completion of the public exhibition for Council's consideration and adoption.
4. That the Willyama Common Trust approve the registration of a Voluntary Planning Agreement on the Certificates of Title for Lots 7314 and 7319 in DP 1185108 and Lot 4143 in DP 757298 and that the Mayor and General Manager be authorised to sign and execute any documents as required under the Common Seal of Council.

Executive Summary:

A draft voluntary planning agreement (VPA) was developed to comply with condition 15 of the planning approval for the recommencement of the North Mine. Pursuant to clause 6 and 25D of the *Environmental Planning and Assessment Regulation 2000*, public notice must be given of the proposed VPA by placing an ad in the local newspaper.

The ad must specify the arrangements for inspecting a copy of the proposed agreement, include an explanatory note and the ad should state the last date for making submissions on the draft VPA. This report seeks Council approval to commence with the public exhibition of the draft VPA with Perilya Ltd. Given that the notification period coincides with a Christmas and New Year break, it is proposed to exhibit the draft VPA until 8 February 2019 in lieu of the required 28-day exhibition period.

Approval is also sought from the Willyama Common Trust to register the VPA on the Certificates of Title for various parcels of land.

Report:

Introduction - A voluntary planning agreement (VPA) is a planning tool that allows planning authorities and developers to work together to deliver innovative infrastructure outcomes alongside development proposals.

VPAs allow flexibility and innovation in infrastructure so that the whole community can benefit from development.

Background - The recommencement of the North Mine was classified as state significant development SSD 7538, hence was assessed and determined by NSW Planning and Environment. The North Mine project was publicly exhibited from 5 February – 6 March 2017.

Council’s Planning Department submitted a submission on 6 March 2017 which requested that Perilya Ltd enters into a VPA with Council to formalize contributions towards the reconstruction and maintenance of an intersection with a regional road and the inclusion of Community Enhancement Works as proposed by Perilya during the negotiations.

The Planning Agreement requires a one off monetary contribution in the amount of \$280,000 towards road works, as well as an annual contribution towards road maintenance costs.

The Planning Agreement also requires the Developer to carry out Community Enhancement Works every year to a value of approximately \$367,442 (as adjusted for CPI).

It is important to note that Council’s Section 7.12 Developer Contributions Plan do not apply in this instance as Council is not the consent authority. Negotiations for contributions are done in good faith to offset impacts on infrastructure on a fair and just basis. Legislation does not prescribe a formula for the calculation of contributions; hence contributions must be fair and be utilized for the purpose as defined in the VPA. The process is strictly voluntary and relies on the goodwill of the parties to arrive at a mutually agreed outcome.

Condition 15 of the Planning Approval requires that the following contributions be included in a VPA:

Schedule 2 Monetary Contributions (section 6.1)

Funding Area	Developer's Contribution		Details of works	Timing for making of contribution
	One off payment (ex GST)	Payment per year (as adjusted) ex GST		
Gypsum Street/South Road intersection (east bound left turn lane)	\$280,000	-	Contribution is to be used by the Council to fund road upgrades in the form of widening the formation and seal of the left turn lane of Gypsum Street at its intersection with South Street by 0.5m.	Contribution must be paid within 12 months of the Construction Date
	-	\$variable amount calculated in accordance with clause 6	Contribution is to be used by the Council to undertake road maintenance	Contribution must be paid by 30 August each year for the Term
Gypsum Street (westbound land from South Road)	-	\$20,000	Contribution is to be used by the Council to undertake road maintenance in accordance with the Transport Management Plan approved under Condition 27 of the Consent	Contribution must be paid by 30 August each year for the Term

Schedule 3 Works contributions (clause 6.3)

Funding Area	Value of works to be done by Developer each year	Location of works	Details of works	Timing
Community Enhancement	\$215,670	Zinc Lakes	Gardening, slashing, garbage, maintenance, cleaning, payment of rates, water, electricity fees and charges	Annually
	\$64,295	Zinc ovals		
	\$10,100	Zinc Broken Hill Bowling Club		
	\$49,978	North Broken Hill Bowling Club		
	\$13,100	Pony Club		
	\$14,299	Rainbow Pre-school		
Total value of works	\$367,442			

The land – A VPA is required to be registered on the title of the land. This means that the current owners will need to give their consent to the registration and any future owners of the land should be aware of the existence and terms of the VPA. Approval is sought from the Willyama Common Trust for the registration of the VPA on Lots 7314 and 7319 in DP 1185108 and Lot 4143 In DP 757298. The following parcels of land will be subject to the proposed VPA.

Annexure A Land

Lot Number	Deposited Plan	Registered Owner
7313 ¹	1185108	The State of NSW
7314 ¹	1185108	Willyama Common
7316	1185108	The State of NSW
7318 ¹	1185108	The State of NSW
7319 ¹	1185108	Willyama Common
3870	757298	The State of NSW
3871	757298	The State of NSW
4143 ¹	757298	Willyama Common

¹ part lot only

The minimum exhibition period is 28 days; however, it is proposed to extend this period due to the Christmas and New Year break. It is envisaged that the public exhibition will commence on Saturday, 15 December 2018 and will conclude on Friday, 8 February 2019.

Strategic Direction:

Key Direction: 3. Our Environment
Objective: 3.3 Proactive, innovative and responsible planning supports the community, the environment and beautification of the City

Function: Built Environment
DP Action: 3.3.1.03 Ensure compliance activities promote public safety and environmental control

Relevant Legislation:

Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2000
Local Government Act 1993

Financial Implications:

Legal expenses for the development of the VPA.

Contributions from the developer will reimburse Council for all maintenance and upgrades to infrastructure, hence nil expenses for maintenance of roads.

Attachments

1. [↓](#) Submission for Recommencement of North Mine Project
2. [↓](#) Draft Voluntary Planning Agreement

ANTHONY MISAGH
CHIEF OPERATIONS OFFICER

JAMES RONCON
GENERAL MANAGER

BROKEN HILL
CITY COUNCIL

Quote No L17/574
JR/FVDB

Telephone / Personal Enquiries
Ask for Francois Van Der Berg

Please address all communications to:

The General Manager
240 Blende Street
PO Box 448
Broken Hill NSW 2880
Phone 08 8080 3300
Fax 08 8080 3424
council@brokenhill.nsw.gov.au
www.brokenhill.nsw.gov.au

6 March 2017

ABN 84 873 116 132

The Director Resource Assessments
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Sir

Submission in relation to Recommencement of North Mine Project - Broken Hill

Reference is made to abovementioned project that is currently on public exhibition with closing date of 6 March 2017.

Broken Hill City Council wishes to inform the Department of Planning and Environment that Council is in support of the proposed recommencement of North Mine Project. The socio-economic benefits of the proposed development will have countless positive impacts on the City as a whole.

It is Broken Hill City Council's understanding that that the proposed route from North Mine to Southern Operations via Argent Street onto Menindee Road and right onto Crystal Street has been withdrawn.

Further, it is Council's understanding that the approved route for the Potosi Development will be utilised for the recommencement of North Mine Project i.e. North Mine - Argent Street - Iodide Street - Crystal Street - South Road - Gypsum Street - Southern Operations and same route back to North Mine.

Abovementioned route will have a detrimental impact on regional roads under Council's care and maintenance. Council discussed aforementioned impacts with Perilya and the parties agreed to enter into a Voluntary Planning Agreement (VPA) to formalise future contributions from the developer to offset impacts on road infrastructure. In addition to agreed contributions for road infrastructure, the proponent offered to make contributions towards community amenities.

1. It is therefore proposed that a condition of consent be imposed, *that prior to the development of the mine, unless the Secretary agrees otherwise, the Applicant must enter into a VPA with Council in accordance with the terms of the Applicant's offer as per table below.*

Cont'd...

A U S T R A L I A ' S F I R S T H E R I T A G E L I S T E D C I T Y

Funding area	Contributions plus GST	Details	Responsibility for administration
Gypsum Street/South Road intersection – East bound left turn lane	\$280,000 upfront once-off payment	<p>Carry out works to upgrade intersection and widen lane by 0.5 metres – works to be carried out within 12 months of commencement of project</p> <p>Council agrees that the following alternate route may be used during construction: South Road – Gaffney Street – Gypsum Street – Southern Operations and vice versa</p>	Council and Perilya
Gypsum Street/South Road intersection – East bound left turn lane	As required	<p>Repair and upgrade remainder of intersection should further future deterioration occurs</p> <p>Council agrees that the following alternate route may be used during construction: South Road – Gaffney Street – Gypsum Street – Southern Operations and vice versa</p>	Council and Perilya
Westbound lane from South Road onto Gypsum Street	Annual contribution of \$20,000 to be indexed at the Consumer Price Index of Australia	<p>Contributions to be made for the life of the project</p> <p>Council agrees that the following alternate route may be used during construction: South Road – Gaffney Street – Gypsum Street – Southern Operations and vice versa</p>	Council and Perilya

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Annual community amenities contributions			
Zinc Lakes	\$215,670	Gardening, slashing, garbage, maintenance, cleaning, water, electricity, rates, other	Perilya
Zinc ovals	\$64,295		
Zinc Broken Hill Bowling Club	\$10,100		
North Broken Hill Bowling Club	\$49,978		
Pony Club	\$13,100		
Rainbow Pre-school	\$14,299		
Total community amenities contribution per annum	\$367,442		
Annual road maintenance contributions	\$20,000		
Once-off contribution for works associated with Gypsum Street/South Road intersection upgrade and widening with 0.5 metres	\$280,000		
Total annual contributions	\$ 387,442		

The North Mine precinct contains thirty two heritage items as per Broken Hill Local Environmental Plan 2013.

- It is proposed that the following condition of consent be imposed on the development. *Heritage - The Proponent shall prepare and implement a Conservation Management Plan for the site to the satisfaction of the Secretary. This plan must provide a strategic framework for all heritage items located on the Lease, based on the principles of the Burra Charter, and developed in consultation with OEH and Council. The plan must be submitted for the approval of the Secretary by December 2019.*

Yours faithfully



JAMES RONCON
GENERAL MANAGER

L17/574



Voluntary Planning Agreement

Perilya Broken Hill Ltd
ACN 099 761 289

Broken Hill City Council
ABN 84 873 116 132

Sydney

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Agreement

Date **2018**

Parties

First party

Name Perilya Broken Hill Limited (**Developer**)
ACN 099 761 289
Contact Geoff Hender
Telephone (08) 8088 8664

Second party

Name Broken Hill City Council (**Council**)
ABN 84 873 116 132
Contact Francois Van Der Berg
Telephone 08 8080 3324

Third party

Name Perilya Limited ACN 009 193 695 (**Parent Company**)
ABN 85 009 193 695
Contact Company Secretary
Telephone (08) 6330 1041

Background

- A. On 22 December 2017, the Developer obtained Development Consent to carry out the Development on the Land.
- B. A condition of the Development Consent requires the Developer to enter into a Voluntary Planning Agreement with the Council prior to commencing mining operations ("**Condition 15**").

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- C. The Council and the Developer have agreed to enter into this agreement to satisfy Condition 15 of the Development Consent.
- D. The Developer agrees to provide the Development Contributions to the Council on the terms and conditions of this agreement.
- E. The Parent Company has agreed to guarantee the performance of this agreement by the Developer.

Operative part

1 Definitions

In this agreement, unless the context indicates a contrary intention:

Act means the *Environmental Planning and Assessment Act 1979* (NSW);

Address means a party's address set out in the Notices clause of this agreement;

Approval means any certificate, licence, consent, permit, approval or other requirement of any Authority having jurisdiction in connection with the activities contemplated by this agreement;

Authority means any government, semi-governmental, statutory, administrative, fiscal or judicial body, department, commission, authority, tribunal, public or other person;

Business Day means a day on which banks are open for general banking business in Sydney, excluding Saturdays and Sundays;

Claim means any claim, loss, liability, damage, proceeding, order, judgment or expense arising out of the operation of this agreement;

Construction Certificate means a construction certificate as defined in the Act;

Construction Date means the day on which construction commences as referred to in administrative condition 10 of the Development Consent.

Contributions Plan has the same meaning as under the Act;

CPI means the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics;

Damages means all liabilities, losses, damages, costs and expenses, including legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties;

Dealing, in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land;

Development means the development approved under the Development Consent, being the Broken Hill North Mine Project;

Development Application has the same meaning as in the Act;

Development Consent means development consent SSD7538, a copy of which is annexed to this agreement as Annexure 'A';

Development Contributions means the contributions described in clause 6 and Schedules 2 and 3 of this agreement.

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Fax Number means a party's facsimile number set out in the Notices clause of this agreement;

GST has the same meaning as in the GST Law;

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition of or administration of the GST;

Land means the land listed in Annexure A and that is the subject of the Development Consent;

Landowner means the registered owners of the Land as set out in Annexure A;

Law means:

- (a) any law applicable including legislation, ordinances, regulations, by-laws and other subordinate legislation;
- (b) any Approval, including any condition or requirement under it; and
- (c) any fees and charges payable in connection with the things referred to in paragraphs (a) and (b);

Modification Application means any application to modify the Development Consent under section 4.55 of the Act;

Monetary Contribution means the monetary contribution payable by the Developer under clause 6 of this agreement;

Occupation Certificate means an occupation certificate as defined in the Act;

Parent Company means Perilya Limited ACN 009 193 695;

Register means the Torrens title register maintained under the *Real Property Act 1900* (NSW);

Regulation means the *Environmental Planning and Assessment Regulation 2000*; and

Related Body Corporate has the meaning given to that term in s 9 of the *Corporations Act 2001* (Cth).

Term means the period of time for which the Developer may carry out the Development under the Consent which, as at the date of this agreement, is 25 years from the date construction is commenced under the Consent.

Tolerance Range means within a range of + or - 15% of the value of the works.

2 Interpretation

In this agreement, unless the context indicates a contrary intention:

- (a) **(documents)** a reference to this agreement or another document includes any document which varies, supplements, replaces, assigns or novates this agreement or that other document;
- (b) **(references)** a reference to a party, clause, paragraph, schedule or annexure is a reference to a party, clause, paragraph, schedule or annexure to or of this agreement;
- (c) **(headings)** clause headings and the table of contents are inserted for convenience only and do not affect interpretation of this agreement;

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- (d) **(person)** a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;
- (e) **(party)** a reference to a party to a document includes that party's personal representatives, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (f) **(president, CEO or managing director)** the president, CEO or managing director of a body or Authority means any person acting in that capacity;
- (g) **(requirements)** a requirement to do any thing includes a requirement to cause that thing to be done, and a requirement not to do any thing includes a requirement to prevent that thing being done;
- (h) **(including)** including and includes are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (i) **(corresponding meanings)** a word that is derived from a defined word has a corresponding meaning;
- (j) **(singular)** the singular includes the plural and vice-versa;
- (k) **(gender)** words importing one gender include all other genders;
- (l) **(parts)** a reference to one or more things includes each part and all parts of that thing or group of things but nothing in this clause implies that part performance of an obligation constitutes performance of that obligation;
- (m) **(rules of construction)** neither this agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting;
- (n) **(legislation)** a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (o) **(time and date)** a reference to a time or date in connection with the performance of an obligation by a party is a reference to the time and date in , Australia, even if the obligation is to be performed elsewhere;
- (p) **(joint and several)** an agreement, representation, covenant, right or obligation:
 - (i) in favour of two or more persons is for the benefit of them jointly and severally; and
 - (ii) on the part of two or more persons binds them jointly and severally;
- (q) **(writing)** a reference to a notice, consent, request, approval or other communication under this agreement or an agreement between the parties means a written notice, request, consent, approval or agreement;
- (r) **(replacement bodies)** a reference to a body (including an institute, association or Authority) which ceases to exist or whose powers or functions are transferred to another body is a reference to the body which replaces it or which substantially succeeds to its power or functions;
- (s) **(Australian currency)** a reference to dollars or \$ is to Australian currency;

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- (t) **(month)** a reference to a month is a reference to a calendar month; and
- (u) **(year)** a reference to a year is a reference to twelve consecutive calendar months.

3 Planning Agreement under the Act

- (a) The parties agree that this agreement is a planning agreement within the meaning of section 7.4 of the Act.
- (b) Schedule 1 of this agreement summarises the requirements for planning agreements under s 7.4 of the Act and the way this agreement addresses those requirements.

4 Application of this agreement

This agreement applies to:

- (a) the Development, and
- (b) the Land.

5 Operation of this agreement

This agreement commences on and from the date it is executed by all parties.

6 Contributions to be made under this agreement

6.1 *Monetary Contribution*

- (a) Subject to clause 6.1(g), the Developer must pay to Council the Monetary Contribution in the amounts set out in Schedule 2.
- (b) The purpose of the maintenance contributions is to mitigate the impact of heavy vehicles associated with the Development on Council's roads.
- (c) The following process will apply to determine the maintenance contribution payable by the Developer to the Council for the Gypsum Street/South Road intersection:
 - (i) Each year after the road widening works listed in Row 1 of Schedule 2 have been done the Council will assess the condition of the road.
 - (ii) If the Council is of the view that repairs and maintenance work is required Council will develop a repair schedule outlining the proposed works and an estimate of the costs of the works and provide this to the Developer.
 - (iii) If the estimated cost of the repair and maintenance works is less than \$20,000, the Developer must pay that amount to the Council in accordance with the process outlined below within 28 days of having received the repair schedule from the Council.
 - (iv) If the estimated cost of the repair and maintenance works is not less than \$20,000, the Developer must either:
 - (A) pay that amount to the Council in accordance with the process outlined below within 28 days of having received the repair schedule;
or
 - (B) if it objects to the nature of the work required or the estimated cost of the works, inform the Council of its objections within 28 days.

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- (v) If the Council and the Developer cannot agree on the maintenance amount payable under this clause for the Gypsum Street/South Road intersection then either may trigger the dispute resolution process in Clause 10.
- (d) The Monetary Contribution must be paid by way of bank cheque in favour of Council or by deposit by means of electronic funds transfer into an account specified by Council.
- (e) The Monetary Contribution will be taken to have been made when the Council receives the full, cleared amount of the contribution by bank cheque or by electronic funds transfer to the Council's bank account.
- (f) The Council and Developer agree and acknowledge that the Monetary Contribution will be used by the Council towards the matters set out in Schedule 2.
- (g) The Council and the Developer agree that the Developer's obligation to make ongoing Monetary Contributions as specified in Schedule 2 of this agreement will be suspended on the occurrence of the following:
 - (i) each time operation of the Development ceases for a period of more than 6 months; or
 - (ii) when the Development is placed on care and maintenance after mining operations have ceased in accordance with Condition 5 of the Consent.
- (h) The Council is not obliged to carry out any of the road works or road maintenance works contemplated by this agreement:
 - (i) during any financial year in which the Developer's obligations are suspended; and
 - (ii) which are not fully funded by the Developer's Monetary Contributions.

6.2 *CPI Adjustments*

- (a) Commencing on the first anniversary of the Construction Date and continuing for the Term of this agreement,
 - (i) the Monetary Contributions the Developer is required to make under clause 6.1 will be adjusted to reflect the annual change in the CPI from the prior anniversary of the Construction Date (or in the case of the first review, the Construction Date); and
 - (ii) the estimated value of the Community Enhancement Works Contributions which the Developer is to deliver under clause 6.3 will be adjusted to reflect the annual change in the CPI from the prior anniversary of the Construction Date (or in the case of the first review, the Construction Date)

6.3 *Community Enhancement Works Contributions*

- (a) The Developer must make the Community Enhancement Works Contributions described in Schedule 3 within the Tolerance Range.
- (b) Prior to 31 December each year the Developer must provide a Community Enhancement Works Report to the Council which:
 - (i) Describes the Community Enhancement Works which have been completed in that financial year;

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- (ii) Identifies any Community Enhancement Works which have been commenced but not completed in that financial year; and
 - (iii) Identifies the cost of each of the Community Enhancement Works carried out in that financial year.
- (c) If the Developer is unable to make a Community Enhancement Works Contribution because the location of the works specified in Schedule 3 ceases to exist, changes its name or nature or ceases to be available for use by the community (**closed facility**) then the Developer must:
- (i) notify the council in writing within 14 days of becoming aware of the change; and
 - (ii) identify an alternative community group, facility, location or purpose to which it will allocate the value of the relevant Community Enhancement Work obligation (**the new facility**).
- (d) In identifying a suitable new facility the Developer will consider the location and nature of the community benefit which was provided by the closed facility and the impacts of the Development on the community.
- (e) From the date of the notice issued by the Developer to the Council under clause 6.3(c) the new facility will be taken to replace the closed facility reference in Schedule 3.

6.4 *Suspension of Community Enhancement Works Contributions*

- (a) The Council and Developer agree that the Developer's obligation to carry out the Community Enhancement Works will be suspended in the following circumstances:
- (i) if the Developer's obligation to make ongoing Monetary Contributions is suspended under clause 6.1(g).
- (b) If the Developer suspends its Community Enhancement Works Contribution under clause 6.1(g), the Developer is required to give public notice of the suspension in a local newspaper. The notice is to be published in the Public Notices section of the newspaper on 2 separate occasions at least 2 weeks apart and is to contain the following information:
- (i) the name of the Developer;
 - (ii) the name and location of the mine project;
 - (iii) an explanation of the Developer's obligation under this agreement to carry out the Community Enhancement Works;
 - (iv) the expected period of the suspension; and
 - (v) the reason for the suspension.
- (c) The Developer's obligation to carry out the Community Enhancement Works will cease to be suspended when the Developer's obligation to make Monetary Contributions under clause 6.1 ceases to be suspended.

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7 Application of s 7.11, s 7.12A and s 7.24 of the Act to the Development

- (a) This agreement does not exclude the application of section 7.11 of the Act to the Development.
- (b) This agreement does not exclude the application of section 7.12 of the Act to the Development.
- (c) This agreement does not exclude the application of section 7.24 of the Act to the Development.
- (d) The benefits under this agreement are to be taken into consideration in determining a development contribution under section 7.11 of the Act.

8 Registration of this agreement

8.1 *Landowner Interest*

The Landowners are the registered proprietor of the Land as set out in Annexure A.

8.2 *Registration of this agreement*

- (a) The Developer agrees to procure the registration of this agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the Register of the Land in accordance with section 7.6 of the Act.
- (b) The Developer at its own expense will, promptly after the execution of this agreement, take all practical steps, and otherwise do anything that the Council reasonably requires to procure:
 - (i) The consent of each person who:
 - (A) has an estate or interest in the Land registered under the *Real Property Act 1900* (NSW); or
 - (B) is seized or possessed of an estate or interest in the Land,
 - (ii) An acceptance of the terms of this agreement and an acknowledgement in writing from any existing mortgagee in relation to the Land that the mortgagee will adhere to the provisions of this agreement if it takes possession of the Land as mortgagee in possession,
 - (iii) The execution of any documents; and
 - (iv) The production of the relevant duplicate certificates of title,to enable the registration of this agreement in accordance with clause 8.2.
- (c) Not used.
- (d) The Developer, at its own expense, will take all practical steps, and otherwise do anything that the Council reasonably requires:
 - (i) to procure the lodgement of this agreement with the Registrar-General as soon as reasonably practicable after this agreement comes into operation, but in any event, no later than 90 Business Days after that date; and
 - (ii) to procure the registration of this agreement by the Registrar-General in the relevant folios of the Register for the Land as soon as reasonably practicable after this agreement is lodged for registration.

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8.3 *Removal from Register*

The Council will provide a release and discharge of this agreement so that it may be removed from the folios of the Register for the Land (or any part of it) provided the Council is satisfied the Developer has duly fulfilled its obligations under this agreement, and is not otherwise in default of any of the obligations under this agreement.

8.4 *Caveat*

- (a) The Developer acknowledges and agrees that:
 - (i) when this agreement is executed, the Council is deemed to have acquired and the Developer is deemed to have granted, an equitable estate and interest in the Land for the purposes of section 74F(1) of the *Real Property Act 1900* (NSW) and consequently the Council will have a sufficient interest in the Land in respect of which to lodge a caveat over the Land notifying that interest.
 - (b) The Council must, at Developer's cost, register a withdrawal of any caveat in respect of the Land within five Business Days after the Developer complies with clause 8.2 and must not lodge any other caveats on the titles to any of the Land.

9 *Review of this agreement*

- (a) The Council and the Developer agree to review this agreement:
 - (i) every five years; and
 - (ii) if the Consent is modified.
- (b) This agreement may also be reviewed or modified by the parties at any time. Any review or modification of this agreement will be conducted in the circumstances and in the manner determined by the parties.
- (c) No modification or review of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.
- (d) A party is not in breach of this agreement if it does not agree to an amendment to this agreement requested by a party in, or as a consequence of, a review.

10 *Dispute Resolution*

10.1 *Reference to Dispute*

If a dispute arises between the Council and the Developer or the Council and the Parent Company or the Council and the Developer and the Parent Company (**the disputing parties**) in relation to this agreement, then those disputing parties must not commence any court proceedings relating to the dispute unless the disputing parties have first complied with this clause, except where a party seeks urgent interlocutory relief.

10.2 *Notice of Dispute*

The disputing party wishing to commence the dispute resolution process must give written notice (**Notice of Dispute**) to the other disputing party or parties of:

- (a) The nature of the dispute,
- (b) The alleged basis of the dispute, and

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- (c) The position which the party issuing the Notice of Dispute believes is correct.

10.3 *Representatives of Parties to Meet*

- (a) The representatives of the disputing parties must promptly (and in any event within 10 business days of the Notice of Dispute) meet in good faith to attempt to resolve the notified dispute.
- (b) The disputing parties may, without limitation:
- (i) resolve the dispute during the course of that meeting,
 - (ii) agree that further material or arbitration about a particular issue or consideration is needed to effectively resolve the dispute (in which event the parties will, in good faith, agree to a timetable for resolution); or
 - (iii) agree that the disputing parties are unlikely to resolve the dispute and, in good faith, agree to a form of alternative dispute resolution (including expert determination, arbitration or mediation) which is appropriate for the resolution of the relevant dispute.

10.4 *Further Notice if Not Settled*

If the dispute is not resolved within 20 Business Days after the nominated representatives have met, any disputing party or parties may give to the other a written notice calling for determination of the dispute (Determination Notice) by mediation under clause 10.5.

10.5 *Mediation*

If a disputing party gives a Determination Notice calling for the dispute to be mediated:

- (a) The disputing parties must agree to the terms of reference of the mediation within 20 Business Days of the receipt of the Determination Notice (or any further period agreed in writing by them) (the terms shall include a requirement that the mediation rules of the Institute of Arbitrators and Mediators Australia (NSW Chapter) apply;
- (b) The mediator will be agreed between the disputing parties, or failing agreement within 25 Business Days of receipt of the Determination Notice (or any further period agreed in writing by them), any disputing party may request the President of the Institute of Arbitrators and Mediators Australia (NSW Chapter) to appoint a mediator;
- (c) The mediator appointed pursuant to this clause 10.5 must:
- (i) Have reasonable qualifications and practical experience in the area of the dispute; and
 - (ii) Have no interest or duty which conflicts or may conflict with his or her function as a mediator he or she being required to fully disclose any such interest or duty before his or her appointment;
- (d) The mediator shall be required to undertake to keep confidential all matters coming to his or her knowledge by reason of his or her appointment and performance of his or her duties;
- (e) The disputing parties must within 20 Business Days of receipt of the Determination Notice notify each other of their representatives who will be

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- involved in the mediation (except if a resolution of the Council is required to appoint a representative, the Council must advise of the representative within 5 Business Days of the resolution);
- (f) The disputing parties agree to be bound by a mediation settlement and may only initiate judicial proceedings in respect of a dispute which is the subject of a mediation settlement for the purpose of enforcing that mediation settlement; and
 - (g) In relation to costs and expenses:
 - (i) Each disputing party will bear its own professional and expert costs incurred in connection with the mediation; and
 - (ii) The costs of the mediator will be shared equally by the disputing parties unless the mediator determines that a party has engaged in vexatious or unconscionable behaviour in which case the mediator may require the full costs of the mediation to be borne by that party.

10.6 *Litigation*

If the dispute is not *finally* resolved in accordance with this clause 0, then any disputing party is at liberty to litigate the dispute.

10.7 *No suspension of contractual obligations*

Subject to any interlocutory order obtained under clause 10.1, the referral to or undertaking of a dispute resolution process under this clause 0 does not suspend the parties' obligations under this agreement.

11 Enforcement

11.1 *Default*

- (a) In the event a party considers another party has failed to perform and fulfil an obligation under this agreement, it may give notice in writing to the other party (**Default Notice**) giving all particulars of the matters in respect of which it considers default has occurred and by such notice require the default to be remedied within a reasonable time not being less than 21 days.
- (b) In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it and whether or not the continuation of the default constitutes a public nuisance or raises other circumstances of urgency or emergency.
- (c) If a party disputes the Default Notice it may refer the dispute to dispute resolution under clause 0 of this agreement.

11.2 *Parent Company Guarantee*

- (a) The Parent Company agrees to be jointly and severally liable with the Developer to the Council for the due and punctual performance of all obligations of the Developer under this agreement.

11.3 *Restriction on the issue of Certificates*

Not applicable

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11.4 *General Enforcement*

- (a) Without limiting any other remedies available to the parties, this agreement may be enforced by any party in any Court of competent jurisdiction.
- (b) Nothing in this agreement prevents:
 - (i) a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this agreement or any matter to which this agreement relates; and
 - (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this agreement or any matter to which this agreement relates.

12 *Assignment and Dealings*

12.1 *Assignment*

- (a) A party must not assign or deal with any right under this agreement without the prior written consent of the other parties.
- (b) Any change of ownership or control (as defined in section 50AA of the *Commonwealth Corporations Act 2001*) of a party (excluding the Council) shall be deemed to be an assignment of this agreement for the purposes of this clause.
- (c) Any purported dealing in breach of this clause is of no effect.

12.2 *Arrangements with Mortgagee*

- (a) Not Used.

12.3 *Transfer of Land*

- (i) Not Used.

13 *Approvals and consents*

Except as otherwise set out in this agreement, and subject to any statutory obligations, a party may give or withhold an approval or consent to be given under this agreement in that party's absolute discretion and subject to any conditions determined by the party. A party is not obligated to give its reasons for giving or withholding consent or for giving consent subject to conditions.

14 *No fetter*

14.1 *Discretion*

This agreement is not intended to operate to fetter, in any manner, the exercise of any statutory power or discretion of the Council, including, but not limited to, any statutory power or discretion of the Council relating to the Development Application or any other application for Development Consent (all referred to in this agreement as a "Discretion").

14.2 *No fetter*

No provision of this agreement is intended to constitute any fetter on the exercise of any Discretion. If, contrary to the operation of this clause, any provision of this agreement is held by a court of competent jurisdiction to constitute a fetter on any Discretion, the parties agree:

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- (a) They will take all practical steps, including the execution of any further documents, to ensure the objective of this clause is substantially satisfied,
- (b) In the event that (a) cannot be achieved without giving rise to a fetter on the exercise of a Discretion, the relevant provision is to be severed and the remainder of this agreement has full force and effect, and
- (c) To endeavour to satisfy the common objectives of the parties in relation to the provision of this agreement which is to be held to be a fetter on the extent that is possible having regard to the relevant court judgment.

15 Notices

15.1 Notices

Any notice given under or in connection with this agreement (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be addressed as follows and delivered to the intended recipient by hand, by prepaid post or by email or fax at the address or fax number below, or at the address or fax number last notified by the intended recipient to the sender after the date of this agreement:
 - (i) to **Developer**: c/- Perilya Limited, Level 8, 251 Adelaide Terrace, Perth, Western Australia
Email: Company.Secretary@perilya.com.au
Attention: Company Secretary
 - (ii) to **Council**: Email: council@brokenhill.nsw.gov.au
Attention: Manager Planning Development and Compliance
- (c) is taken to be given or made:
 - (i) in the case of hand delivery, when delivered; and
 - (ii) in the case of delivery by post, three Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
- (d) if under clause (c) a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4.00 pm (local time), it is taken to have been given or made at the start of business on the next Business Day in that place.

15.2 Notices sent by email:

- (a) A party may serve a Notice by email if the Notice:
 - (i) includes a signature block specifying:
 - (A) the name of the person sending the Notice; and
 - (B) the sender's position within the relevant party;
 - (ii) states in the body of the message or the subject field that it is sent as a Notice under this agreement;

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- (iii) contains an express statement that the person sending the Notice has the authority to serve a Notice under this agreement;
- (iv) is sent to the email address below or the email address last notified by the intended recipient to the sender:

(A) to **Developer:** Attention: Company Secretary
Company.Secretary@perilya.com.au

(B) to **Council:** Attention: Manager Planning Development
and Compliance
council@brokenhill.nsw.gov.au

- (b) The recipient of a Notice served under this clause 15.2 must:
 - (i) promptly acknowledge receipt of the Notice; and
 - (ii) keep an electronic copy of the Notice,
- (c) Failure to comply with clause 15.2 does not invalidate service of a Notice under this clause.

15.3 *Receipt of Notices sent by email*

- (a) A Notice sent under clause 15.2 is taken to be given or made:
 - (i) when the sender receives an email acknowledgement from the recipient's information system showing the Notice has been delivered to the email address stated above;
 - (ii) when the Notice enters an information system controlled by the recipient;
or
 - (iii) when the Notice is first opened or read by the recipient,
whichever occurs first.
- (b) If under clause 15.3 a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent, or later than 4.00 pm (local time), it will be taken to have been given or made at the start of business on the next Business Day in that place.

16 Indemnity

- (a) Subject to clause 16(c), the Developer indemnifies the Council from and against all Claims for Damages that may be sustained, suffered, recovered or made against the Council within the period allowed under the Limitations Act 1969 but only to the extent that the Claims arise from any breach of the performance of the Developer's obligations under this agreement.
- (b) The Developer's liability in respect of any indemnity given under clause 16.2 shall be reduced proportionally to the extent that any unlawful, negligent or deliberately wrongful act or omission of the Council, its contractors, employees or agents contributed to any Damages.
- (c) The aggregate liability of the Developer to the Council for loss incurred by the Council under or in connection with this agreement is limited to the value of

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Perilya's annual spend obligation as adjusted in accordance with clause 6.2. At the date of this Agreement the annual spend obligation is \$650,000. .

17 Insurance

Prior to carrying out any works under this Agreement the Developer must take out and keep current the following insurances:

- (a) public liability insurance for at least \$20,000,000.00 for a single occurrence, which covers the Council, the Developer and any subcontractor of the Developer, for liability to any third party,
- (b) workers compensation insurance as required by law, and
- (c) any other insurance required by law.

18 General

18.1 *Relationship between parties*

- (a) Nothing in this agreement:
 - (i) constitutes a partnership between the parties; or
 - (ii) except as expressly provided, makes a party an agent of another party for any purpose.
- (b) A party cannot in any way or for any purpose:
 - (i) bind another party; or
 - (ii) contract in the name of another party.
- (c) If a party must fulfil an obligation and that party is dependent on another party, then that other party must do each thing reasonably within its power to assist the other in the performance of that obligation.

18.2 *Time for doing acts*

- (a) If the time for doing any act or thing required to be done or a notice period specified in this agreement expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5.00 pm on the specified day, it is taken to have been done on the following Business Day.

18.3 *Further assurances*

Each party must promptly execute all documents and do all other things reasonably necessary or desirable to give effect to the arrangements recorded in this agreement.

18.4 *Variation*

A provision of this agreement can only be varied by a later written document executed by or on behalf of all parties and in accordance with the provisions of the Act.

18.5 *No assignment*

A party cannot assign or otherwise transfer its rights under this agreement without the prior written consent of the other party.

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18.6 *Counterparts*

This agreement may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

18.7 *Legal expenses and stamp duty*

The Developer must pay the Council's reasonable legal costs and disbursements in connection with the negotiation, preparation, execution, carrying into effect and release and discharge of this agreement.

18.8 *Entire agreement*

The contents of this agreement constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this agreement, whether orally or in writing.

18.9 *Representations and warranties*

The parties represent and warrant that they have the power and authority to enter into this agreement and comply with their obligations under the agreement and that entry into this agreement will not result in the breach of any law.

18.10 *Severability*

If a clause or part of a clause of this agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this agreement, but the rest of this agreement is not affected.

18.11 *Invalidity*

- (a) A word or provision must be read down if:
 - (i) this agreement is void, voidable, or unenforceable if it is not read down;
 - (ii) this agreement will not be void, voidable or unenforceable if it is read down; and
 - (iii) the provision is capable of being read down.
- (b) A word or provision must be severed if:
 - (i) despite the operation of clause (a), the provision is void, voidable or unenforceable if it is not severed; and
 - (ii) this agreement will be void, voidable or unenforceable if it is not severed.
- (c) The remainder of this agreement has full effect even if clause 18.11(b) applies.

18.12 *Waiver*

- (a) A right or remedy created by this agreement cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right or remedy does not constitute a waiver of that right or remedy, nor does a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.
- (b) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this agreement, does not amount to a waiver of any obligation of, or

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breach of obligation by, another Party. A waiver by a Party is only effective if it is in writing. A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

18.13 *GST*

- (a) Words and expressions which are not defined in this agreement but which have a defined meaning in GST Law have the same meaning as in the GST Law.
- (b) Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this agreement are exclusive of GST.
- (c) If GST is imposed on any supply made under or in accordance with this agreement, the Developer must pay the GST or pay to the Council an amount equal to the GST payable on or for the taxable supply, whichever is appropriate in the circumstances.

18.14 *Governing law and jurisdiction*

- (a) The laws applicable in New South Wales govern this agreement.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

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Schedule 1 Summary of requirements (section 7.4)

Subject and subsection of the Act	Planning Agreement
<p>Planning instrument and/or Development Application – Section 7.4(1)</p> <p>The Developer has:</p> <p>(a) Sought a change to an environmental planning instrument</p> <p>(b) Made, or propose to make a Development Application</p> <p>(c) Entered into an agreement with, or are otherwise associated with, a person to whom paragraph (a) or (b) applies</p>	<p>No</p> <p>Yes</p> <p>No</p>
<p>Description of the land to which the planning Agreement applies – Section 7.4(3)(a)</p>	<p>See Annexure A</p>
<p>Description of the development – Section 7.4(3)(b)</p>	<p>See definition of Development in clause 1</p>
<p>The scope, timing and manner of delivery of contribution required by the Planning Agreement – Section 7.4(3)(c)</p>	<p>See Schedule 2</p>
<p>Applicability of s.7.11 of the Act – Section 7.4(3)(d)</p>	<p>See clause 7</p>
<p>Applicability of section 7.12 of the Act – Section 7.4(3)(d)</p>	<p>See clause 7</p>
<p>Applicability of section 7.24 of the Act – Section 7.4(3)(d)</p>	<p>See clause 7</p>
<p>Whether benefits are to be taken into account under section 7.11 – Section 7.4(3)(e)</p>	<p>See clause 7</p>
<p>Mechanism for dispute resolution – Section 7.4(3)(f)</p>	<p>See clause 10</p>
<p>Enforcement of the Planning Agreement – Section 7.4(3)(g)</p>	<p>See clause 11</p>
<p>Registration of the Planning Agreement – Section 7.6</p>	<p>See clause 8</p>
<p>No obligation to grant consent or exercise functions – Section 7.4(9)</p>	<p>See clause 14 (no fetter)</p>

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Schedule 2 Monetary Contributions (section 6.1)

Funding Area	Developer's Contribution		Details of works	Timing for making of contribution
	One off payment (ex GST)	Payment per year (as adjusted) ex GST		
Gypsum Street/South Road intersection (east bound left turn lane)	\$280,000	-	Contribution is to be used by the Council to fund road upgrades in the form of widening the formation and seal of the left turn lane of Gypsum Street at its intersection with South Street by 0.5m.	Contribution must be paid within 12 months of the Construction Date
	-	\$variable amount calculated in accordance with clause 6	Contribution is to be used by the Council to undertake road maintenance	Contribution must be paid by 30 August each year for the Term
Gypsum Street (westbound land from South Road)	-	\$20,000	Contribution is to be used by the Council to undertake road maintenance in accordance with the Transport Management Plan approved under Condition 27 of the Consent	Contribution must be paid by 30 August each year for the Term

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Schedule 3 Works contributions (clause 6.3)

Funding Area	Value of works to be done by Developer each year	Location of works	Details of works	Timing
Community Enhancement	\$215,670	Zinc Lakes	Gardening, slashing, garbage, maintenance, cleaning, payment of rates, water, electricity fees and charges	Annually
	\$64,295	Zinc ovals		
	\$10,100	Zinc Broken Hill Bowling Club		
	\$49,978	North Broken Hill Bowling Club		
	\$13,100	Pony Club		
	\$14,299	Rainbow Pre-school		
Total value of works	\$367,442			

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Executed as an agreement

Dated

Executed on behalf of the Council by

.....

General Manager

Mayor

.....

Witness

Witness

Executed on behalf of the Developer in accordance with s127(1) of the
Corporations Act 2001 (Cth)

.....

Name

.....

Name

.....

Position

.....

Position

Executed on behalf of the Parent Company in accordance with s127(1) of
the *Corporations Act 2001* (Cth)

.....

Name

.....

Name

.....

Position

.....

Position

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Annexure A Land

Lot Number	Deposited Plan	Registered Owner
7313 ¹	1185108	The State of NSW
7314 ¹	1185108	Willyama Common
7316	1185108	The State of NSW
7318 ¹	1185108	The State of NSW
7319 ¹	1185108	Willyama Common
3870	757298	The State of NSW
3871	757298	The State of NSW
4143 ¹	757298	Willyama Common

¹ part lot only

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Annexure B Development Consent

[Insert copy of development consent]

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Annexure C Draft Explanatory note

Explanatory Note

Exhibition of draft Voluntary Planning Agreement

.....

Environmental Planning & Assessment Regulation 2000 (clause 25E)

Planning Agreement

The purpose of this Explanatory Note is to provide a plain English summary to support the notification of a draft voluntary Planning Agreement (**the Planning Agreement**) under Section 7.4 of the *Environmental Planning and Assessment Act 1979 (the Act)*.

The Planning Agreement will require the Developer to make monetary contributions as well as undertake Community Enhancement Works in connection with operation of the North Mine on the Land described below

This Explanatory Note has been prepared jointly between the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000 (the Regulations)*.

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

Parties

Perilya Broken Hill Limited (**the Developer**) made an offer to Broken Hill City Council (**the Council**) to enter into a voluntary Planning Agreement, in connection with the Development.

Description of subject land

The land to which the Planning Agreement applies is as follows (**the Land**).

Lot Number	Deposited Plan
7313 ¹	1185108
7314 ¹	1185108
7316	1185108
7318 ¹	1185108
7319 ¹	1185108
3870	757298
3871	757298
4143 ¹	757298

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Description of the Development Application to which the Planning Agreement applies

The Planning Agreement relates to Development Consent SSD 7538 which allows the Developer to carry out mining operations on the Land for 25 years from the date of commencement of construction provided that no more than 4.2million tonnes of ore are extracted over the life of the Development.

The conditions of the Consent also impose an annual limit on the amount of ore which the Developer may extract of 300,000 tonnes, and restrict the number of laden truck movements which are permitted each day and the hours in which different mine activities may be carried out.

Summary of Objectives, Nature and Effect of the Planning Agreement

The Planning Agreement requires a one off monetary contribution in the amount of \$280,000 towards road works, as well as an annual contribution towards road maintenance costs.

The Planning Agreement also requires the Developer to carry out Community Enhancement Works every year to a value of approximately \$367,442 (as adjusted for CPI).

Assessment of the Merits of the Planning Agreement

How the Planning Agreement Promotes the Objects of the Act and the public interest

The draft Planning Agreement promotes the following objectives of the *Environmental Planning and Assessment Act 1979*:

Objective 1.3(a), to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources by facilitating appropriate and economically beneficial development and the proper management of the likely impacts of that development on the community.

Objective 1.3(b), to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment by requiring the Developer to make contributions which will mitigate the impact of the Development on public roads and enhance community facilities.

Objective 1.3(i), to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, by enabling the Council to obtain and enforce the making of contributions by the Developer to the Council in connection with the State approved Development.

How the draft Planning Agreement promotes the public interest

The Planning Agreement promotes the public interest by improving and providing funds for the maintenance of roads which form part of the transport route proposed to be used by the Development, as well as enhancing community facilities in the area which is likely to be most affected by the Development.

How the Planning Agreement promotes the objectives of the Local Government Act 1993 and the elements of the Council's Charter under s.8 of that Act

The Planning Agreement is consistent with the following purposes of the *Local Government Act 1993*:

- to facilitate engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government, and

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- to provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective by requiring the Developer to report on the contributions which are made and facilitating the review and amendment of the agreement if circumstances change.

The Planning Agreement is consistent with the following guiding principles for Councils in section 8A of the *Local Government Act 1993* (which have replaced the Council Charter):

- In exercising functions generally:
 - Councils should carry out functions in a way that provides the best possible value for residents and ratepayers.
 - Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way.
 - Councils should work with others to secure appropriate services for local community needs.
- In decision making:
 - Councils should recognise diverse local community needs and interests.
 - Councils should consider the long term and cumulative effects of actions on future generations.

The Planning Agreement is consistent with these principles in that it establishes a long term mechanism for mitigating the costs of the impacts of the Development on rate payers by requiring the Developer to contribute to the cost of works on roads impacted by the Development; and it secures the long term maintenance of community facilities through the obligation to carry out annual Community Enhancement Works.

The Planning Purposes served by the Planning Agreement

The planning purposes served by the planning agreement include mitigating the impact of the Development on road infrastructure and the local community by requiring the Developer to make a monetary contribution which will be used to upgrade and maintain roads impacted by the Development and to carry out Community Enhancement Works.

This Planning Agreement provides a reasonable means of achieving these purposes

Whether the Planning Agreement Conforms with the Council's Capital Works Program

The Planning Agreement conforms with the Council's Capital Works Program.

Whether the Planning Agreement specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

The Planning Agreement does **not** specify that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued.

ORDINARY MEETING OF THE COUNCIL

November 30, 2018

ITEM 3BROKEN HILL CITY COUNCIL REPORT NO. 209/18

SUBJECT: MINUTES OF THE LOCAL TRAFFIC COMMITTEE MEETING NO 387 HELD WEDNESDAY NOVEMBER 7, 2018. 11/397

Recommendation

1. That Broken Hill City Council Report No. 209/18 dated November 30, 2018, be received.
2. That the minutes for the Local Traffic Committee Meeting No.387, held November 7, 2018 be received.

Executive Summary:

Under Guidelines published in March 2009 by the Roads and Traffic Authority (now known as the Roads and Maritime Services), entitled '*A guide to the delegation to councils for the regulation of traffic states*':

"The Local Traffic Committee (LTC) has no decision-making powers and is primarily a technical review committee. It only advises the Council on matters for which the Council has delegated authority, being certain prescribed traffic control devices and traffic control facilities.

The Council must refer all traffic related matters to the LTC prior to exercising its delegated functions. Matters related to State Roads or functions that have not been delegated to the elected Council must be referred directly to Roads and Maritime Services or relevant organisation. Such matters must not be referred to the LTC.

Council is not bound by the advice given by its LTC. However if Council does wish to act contrary to the unanimous advice of the LTC or when the advice is not unanimous, it must notify Roads and Maritime Services and the NSW Police and wait 14 days before proceeding."

Report:

This report is to provide Council with the minutes and action list of the Local Traffic Committee meetings held November 7, 2018 which details recommendations to Council for consideration and adoption.

Strategic Direction:

Key Direction: 4. Our Leadership
Objective: 4.3 United We Stand
Function: Leadership & Governance
DP Action: 4.3.1.1 Develop committees and/or workgroups for key issues and projects impacting Council and the City

Relevant Legislation:

- *Road Transport (Safety and Traffic Management) Regulation 1999*, and
- Road Rules 2008
- A guide to the delegation to councils for the regulation of traffic (guidelines)

Financial Implications:

Financial implications for any of the recommendations to Council will be detailed in the LTC minutes, if relevant.

Attachments

1. [↓](#) Minutes - Local Traffic Committee - Meeting No 387, 7 October 2018

ANTHONY MISAGH
CHIEF OPERATIONS OFFICER

JAMES RONCON
GENERAL MANAGER

LOCAL TRAFFIC COMMITTEE MINUTES OF MEETING NO 387

Held 9.30am Wednesday, 7 November 2018
First Floor Meeting Room - Council Administration Building

The Chairperson Infrastructure Projects Engineer, David Zhao opened the meeting at 9:41 am and welcomed all representatives present.

387.1 Present

David Zhao	Infrastructure Works Engineer/Chairperson
Daniel Morris	Works Engineer
Joe Sulicich	Roads and Maritime Services (RMS) Representative
Peter Beven	Local Member's Representative
Inspector Yvette Smith	NSW Police
Marion Browne	Councillor
Penny Robinson	Minute Secretary/Administration Officer

387.2 Apologies

Constable Mat Whitelum NSW Police

387.3 Disclosure of interest – Nil

387.4 Adoption of previous minutes

Previous minutes of meeting No 386 held 2 October 2018 were confirmed via online voting as follows:

All in favour: RMS, Local Member's Representative, Council, NSW Police

387.5 Council Resolutions

The following Committee Recommendations were adopted by Council at its meeting held September and October 2018.

ITEM 13 - BROKEN HILL CITY COUNCIL REPORT NO. 157/18 - DATED SEPTEMBER 12, 2018 - MINUTES OF THE LOCAL TRAFFIC COMMITTEE MEETING NO 385 HELD TUESDAY SEPTEMBER 4, 2018. 11/387

Resolved:

1. That Broken Hill City Council Report No. 157/18 dated September 12, 2018, be received.
2. That the minutes for the Local Traffic Committee Meeting No.385, held September 4, 2018 be received.
3. Item Number 376.7.3 - That 16, two hour timed parks and appropriate signage be installed on the Far West Local Health District side of Thomas Street. The parks will be divided into eight timed parks on either side of the existing ramp and accessible parking.

RESOLUTION

Minute No. 35913

Councillor M. Browne moved)

Councillor C. Adams seconded)

CARRIED

<p>ITEM 11 - BROKEN HILL CITY COUNCIL REPORT NO. 177/18 - DATED OCTOBER 10, 2018 - MINUTES OF THE LOCAL TRAFFIC COMMITTEE MEETING NO 386 HELD TUESDAY OCTOBER 2, 2018.</p>		11/397
<p>Resolved</p>		
<p>1. That Broken Hill City Council Report No. 177/18 dated October 10, 2018, be received.</p> <p>2. That the minutes for the Local Traffic Committee Meeting No.386, held October 2, 2018 be received.</p>		
<p>RESOLUTION Minute No. 4594 Councillor M. Browne moved) Councillor C. Adams seconded)</p>		CARRIED

387.7 Correspondence In

Item No.	TRIM No.	Details
387.6.1	D18/48798	Street lighting concerns in Creedon Street – additional lighting requested to improve safety for vehicles
Discussion Notes		<p>NSW Police, Inspector Yvette Smith has advised that Creedon Street is a heavy vehicle route and additional street lighting would increase safety in the area.</p> <p>The Committee identified that Creedon Street is an RMS road.</p> <p>Council's Infrastructure Projects Engineer, David Zhao advised installation of street light poles are approximately \$20,000 per pole.</p> <p>The Committee discussed other relevant parties that may be able to assist in community awareness for safety and possibly be involved in a community consultation process such as, Compass Housing, Essential Energy, MaariMa. Councillor Browne also suggested the Aboriginal Working Party may be an appropriate contact.</p> <p>Inspector Smith offered to arrange Police staff who are trained in the Safer by Design Program to contact Council to discuss conducting a safety audit of the Creedon Street area. This audit will be the first step in identifying possible issues and resolutions.</p>
Recommendation		N/A

Item No.	TRIM No.	Details
387.6.2	D18/54191	Royal Flying Doctor Service - AGM and Year in Review Event
Discussion Notes		The event is noted by the Committee. The Committee agree to issue an acknowledgement letter noting no objections to the proposed event.
Recommendation		N/A
Item No.	TRIM No.	Details
387.6.3	N/A	CRM 32302/2018 – Request to Review the No Parking zone in Mica Lane
Discussion Notes		Councillor Browne advised the Committee that discussion and consultation occurred with the residents of Mica Street several years ago when the Mica Lane was made a one way road. The Committee queried what had happened in Union Street as similar issue. Councillor Brown advised that permits had been issued by Council. Administration Officer, Penny Robinson will to look into the Union Street history and provide this to the Chairperson, David Zhao for review prior to the next meeting. NSW Police, Inspector Yvette Smith suggested the implementation of 'No Parking' signage for certain times/days such as, 8am to 10am and 2pm to 4pm, Monday to Friday. Council's Infrastructure Projects Engineer, David Zhao will contact the proponent to discuss options.
Recommendation		N/A

387.7 Correspondence Out - Nil

387.8 General Business

Item No.	TRIM No.	Details
387.8.1	N/A	Christmas Pageant Road Closure - Council's Infrastructure Projects Engineer, David Zhao to discuss.
Discussion Notes		Council's Infrastructure Project Engineer, David Zhao advised that a road closure will be required for the Christmas Pageant 2018. David Zhao and Council's Works Engineer, Daniel Morris advised the Committee that they have reviewed the Traffic Control Plan (TCP) with no amendments from previous years' proposal/requirements. The Committee did not object to the road closure.

		NSW Police, Inspector Yvette Smith requested a copy of the TCP, David Zhao to provide. David Zhao queried if there will be increased Police presence at the event. Inspector Smith will advise David Zhao if rostering can facilitate this.
Recommendation		N/A
Item No.	TRIM No.	Details
387.8.2	N/A	Local Member's Representative, Peter Beven raised concern in relation to signage. He feels that the replacement of street signs/name blades has come to a halt.
Discussion Notes		Council's Infrastructure Projects Engineer, David Zhao advised Mr Beven that there is a replacement schedule.
Recommendation		N/A
Item No.	TRIM No.	Details
387.8.3	N/A	Local Member's Representative, Peter Beven queried the progress of the 'Welcome to Broken Hill' signage.
Discussion Notes		Councillor Browne advised Committee members, that signage has gone to public competition. Councillor Browne unsure of the status of the competition. This matter is still with Council.
Recommendation		N/A
Item No.	TRIM No.	Details
387.8.4	N/A	Local Member's Representative, Peter Beven queried the progress of the Tourist signage for the Pro Hart Gallery.
Discussion Notes		David Zhao has advised that signage has been approved by RMS and signs now ordered.
Recommendation		N/A
Item No.	TRIM No.	Details
387.8.5	N/A	Local Member's Representative, Peter Beven would like to congratulate Council staff for Williams/Chloride Street intersection road works.
Discussion Notes		Moved by Peter Beven and seconded by Councillor Browne.
Recommendation		Council's Infrastructure Projects Engineer, David Zhao thanked Mr Beven for the comment and advised that this feedback will be passed onto Council management.

387.9 Action Item List



Item No.	376.7.3
TRIM No.	D17/51769
CRM No.	N/A
Responsible Officer	Council's Infrastructure Works Engineer, Daniel Morris
Current Status	Complete – November 2018
Date	Item Details
November 2017	Request for a review of parking zone times in Thomas Street near the Hospital
Date	Committee Recommendation/s
September 2018	That 16, two hour timed parks and appropriate signage be installed on the Far West Local Health District side of Thomas Street. The parks will be divided into eight timed parks on either side of the existing ramp and accessible parking. Recommendation Moved: Council (Daniel Morris) Recommendation Seconded: RMS, NSW Police and Local Member's Representative noted 'all for'. Against: Nil
Action Date	Running Actions
November 2017	Council's Manager Infrastructure, Andrew Bruggy to contact the Far West Local Health District (FWLHD) Manager to discuss staff parking and parking options available in the Thomas Street/Sulphide Street area. Council's Manager Infrastructure, Andrew Bruggy will also discuss options for Crystal Street parking and requirements of the new hospital development in relation to numbers of parks required by hospital staff. The Committee have queried that as Crystal Street is a state highway, will this cause issues with increased parking in the area and trucks. RMS, Joe Sulicich will also request further information on this matter. Outcomes of the conversations to be brought back to the committee for further discussion.
December 2017	Council's Manager Infrastructure, Andrew Bruggy met with a representative from the FWLHD relating to parking for the new development in Crystal Street. It is suggested to the committee that there is adequate room in the street area for angle parking. This concept would provide 300 carparks. FWLHD advised there are 122 staff and approximately on average 80 employees requiring parking

	<p>per day. Council and RMS need to discuss a formal design for the area. Design would need to include a pedestrian crossing for the area and 45 degree angle parking. Council's Infrastructure to investigate the option of off Street parking adjacent to railway land.</p>
February 2018	<p>Pending - Clarification needed if Council's Manager Infrastructure discussed this matter relating to Thomas/Sulphide Street with the FWLHD.</p>
March 2018	<p>Council's Infrastructure Projects Engineer David Zhao will discuss this matter further with FWLHD to seek clarification relating to Thomas/Sulphide Street parking.</p>
April 2018	<p>This matter will be raised at the meeting to be held between Council and FWLHD when discussing Crystal Street parking matters relating to the new health development. A date for the meeting is yet to be set.</p>
May 2018	<p>Council's Infrastructure Projects Engineer David Zhao to arrange another meeting and advise committee of the outcome as this was not raised in the meeting held today, 1 May 2018 between FWLHD and LTC.</p>
June 2018	<p>Council to issue correspondence to the FWLHD, General Manager to arrange a meeting with Council's Infrastructure Projects Engineer David Zhao.</p>
July 2018	<p>Council's Infrastructure Projects Engineer, David Zhao advised that a letter will be issued to invite FWLHD representatives to attend the next meeting to discuss this item.</p>
August 2018	<p>Pending as per July 2018.</p>
September 2018	<p>Chairperson, Daniel Morris welcomed FWLHD representative, Ms Holtze and thanked her for attending to discuss this item.</p> <p>Ms Holtze discussed the parking nature of the FWLHD staff and parking culture. Staff are now utilizing the Sulphide Street and rear hospital car park area more to leave Thomas Street parks available for visitors and patients. Ms Holtze suggested that on the hospital side of Thomas Street that two hour timed parking be implemented to assist with people requiring shorter visits to the FWLHD. It is suggested that there be eight parks on either side of the existing ramp and accessible parking, totalling 16 timed parks.</p> <p>Ms Holtze said that the FWLHD still feel that some untimeed parking is required for patients visiting specialist clinics.</p> <p>The Committee discussed and agree with the suggested timed parking. The Committee advised Ms Holtze that the Committee will make a recommendation to Council as per the suggestion.</p>
October 2018	<p>Pending notification of Council recommendation.</p>
November 2018	<p>Council's Infrastructure Projects Engineer David Zhao advised that works are to be schedules and that this item can be noted as complete.</p>



Item No.	380.6.1
TRIM No.	D18/13851, D18/13854
CRM No.	N/A
Responsible Officer	Council's Infrastructure Works Engineer, Daniel Morris
Current Status	Pending – October 2018
Date	Item Details
April 2018	Wright and Warnock Streets Intersection - traffic safety concerns.
Date	Committee Recommendation/s
April 2018	N/A
July 2018	The Committee recommend that Council order and install temporary speed humps at Wright and Warnock Streets Intersection for a trial period. Recommendation Moved: Council (David Zhao) Recommendation Seconded: RMS, NSW Police and Local Member's Representative noted 'all for'. Against: Nil
Action Date	Running Actions
April 2018	Council's Asset Planner Transport, James Druitt discussed safety concerns and the correspondence received about a recent motor vehicle incident that occurred at the Wright and Warnock Streets intersection. Council has previously placed infrastructure at the intersection to reduce vehicle speed as a result from consultation via survey with the residents of the affected area. Previous traffic/speed counts conducted by Council indicated that 95% of traffic in the area drive within the designated speed limit. Council's Infrastructure Projects Engineer, David Zhao suggested that bollards could possibly be installed as an option to increase protection for the property primarily at the corner of Wright and Warnock Streets intersection. The Committee agree that this may be a suitable option. Council's Asset Planner Transport, James Druitt advised that the residents of the area previously requested the investigation of the intersection being closed. The Committee noted that a road closure is not feasible and there is not enough evidence in traffic/speed counts and incident history to justify a road closure.

	<p>A Council Officer will to contact the proponent to discuss other possibly safety infrastructure such as bollards.</p>
May 2018	<p>Council's Asset Planner Transport, James Druitt advised the Committee that he has undertaken several conversations with the proponent to try and find possible feasible solutions to resolve this matter.</p> <p>The Committee discussed that incident history in this areas is rare and current infrastructure in place is considered adequate. Council's Infrastructure Projects Engineer, David Zhao suggested highway barrier/chevron crash barrier as a final possible option to resolve this matter. Council's Asset Planner Transport, James Druitt to look into cost associated.</p>
June 2018	<p>Councillor Brown queried Council's Infrastructure Projects Engineer, David Zhao if there was any consideration given to works relating to removal of the S- Bend section on Warnock Street. David Zhao advised no, not at this stage.</p>
July 2018	<p>The committee discussed the crash history in this area with minimal incidents noted. Councillor Browne queried the option of speed humps, Council's Infrastructure Projects Engineer, David Zhao will now investigate the options and costing of speed humps.</p> <p>The Committee discuss this request and its discussion history.</p> <p>The Committee recommend that Council order and install temporary speed humps at Wright and Warnock Streets Intersection for a trial period.</p>
August 2018	<p>Pending as per July 2018.</p>
September 2018	<p>Council have received the July 2018 recommendation with no objections noted. Council's Works Engineer, Daniel Morris will arrange for a plan to be drafted in relation to the location for the temporary installation. The draft plan will be provided to the Committee for comment.</p>
October 2018	<p>Pending - Council's Works Engineer, Daniel Morris to provide draft plans.</p>
November 2018	<p>Council's Works Engineer, Daniel Morris provided plans for speed humps. The Committee commented, they would like the plan amended to move the speed humps from in front of the Central Football Club to the S bend closer to the Warnock Street Depot.</p> <p>Daniel Morris to provide amended plan for further review.</p>

Item No. 383.8.1

TRIM No. D17/54969

CRM No. N/A

Responsible Officer	Council's Infrastructure Projects Engineer, David Zhao
Current Status	Completed – November 2018
Date	Item Details
July 2018	Council's Infrastructure Projects Engineer, David Zhao to discuss Council's Draft Parking Strategy.
Date	Committee Recommendation/s
July 2018	N/A
Action Date	Running Actions
July 2018	The Draft Parking Strategy will be emailed out to Committee members for comment.
August 2018	<p>Council's Infrastructure Projects Engineer, David Zhao advised that the parking trialled in CBD has been successful.</p> <p>The Committee discussed the Draft document circulated for review and have provided comments.</p> <p>David Zhao has advised that the Draft Parking Strategy will be put up for Council review to this month's Council meeting and comments are appreciated.</p>
September 2018	Pending - September 2018.
October 2018	Pending – October 2018.
November 2018	<p>Council's Infrastructure Projects Engineer, David Zhao has advised it has been identified that the Draft Parking Strategy contains more operational actions that could be handled in smaller, more timely changes if implemented by Council's Infrastructure Division rather than, passing all required changes within the Strategy.</p> <p>David Zhao advised the Committee that the Draft Parking Strategy would not be revisited until the Cultural Precinct Project was progressed further.</p> <p>Councillor Browne advises that she will be able to explain this to other Councillors as the way forward with the Draft Parking Strategy.</p> <p>David Zhao advised Councillor Brown that he will have further discussion with Chief Operating Officer and General Manager and provide a report to Council for consideration.</p>



Item No.	385.6.1
TRIM No.	D18/42099
CRM No.	N/A
Responsible Officer	Council's Works Engineer, Daniel Morris
Current Status	Pending - November 2018
Date	Item Details
September 2018	Request to review the parking and driving conditions in Argent Lane Between Delamore and Oxide Streets.
Date	Committee Recommendation/s
September 2018	N/A
Action Date	Running Actions
September 2018	<p>The committee discussed the request and area.</p> <p>It was identified that mini busses from an Argent Street business may be using the lane to park busses and access the Broken Hill Regional Art Gallery (BHRAG).</p> <p>Further clarification is needed to identify:</p> <ul style="list-style-type: none"> • other residential exits that may be affected in the area • location of the bus zone area • placement of no stopping signs • other signage within the length of the lane.
October 2018	<p>Council's Works Engineer Daniel Morris to arrange a site visit and report back to the October 2018 meeting.</p> <p>The Argent Lane area for review has been visited by several Committee members since the September meeting. It was noticed that mini busses are parking in the Broken Hill Regional Art Gallery car park.</p> <p>Council's Works Engineer, Daniel Morris suggests the installation of no stopping signs in the lane area to assist in preventing vehicles blocking residential rear driveway access.</p>

It is noted that there is one no stopping sign at the Oxide Street end of Argent Lane. There needs to be another no stopping sign to identify the length of the zone.

Council's Works Engineer, Daniel Morris will inspect the area to identify where the secondary sign needs to be placed and place this on the works schedule.

November 2018

Council's Works Engineer, Daniel Morris identified that he will arrange for the missing stop sign to be replaced and install an additional no stopping sign for approximately five meters by the residential drive way area to allow for easier rear residential property access. Committee note no objections to Council scheduling this work.



Item No.	386.8.1
TRIM No.	N/A
CRM No.	N/A
Responsible Officer	Council's Works Engineer, Daniel Morris/Infrastructure Projects Engineer, David Zhao
Current Status	Pending – November 2018
Date	Item Details
October 2018	Local Member's Representative, Peter Beven raised concerns in relation to 17 shoves in the parking bays in Argent Street.
Date	Committee Recommendation/s
October 2018	Nil
Action Date	Running Actions
October 2018	Council's Works Engineer, Daniel Morris advised that Council are aware of the shoves and are looking for a solution resolve the issue.
November 2018	Local Member's Representative, Peter Beven again raised concerns about the Argent Street shoves as they are now said to be collecting debris from recent rain and continue to be a trip hazard. Daniel Morris and Council's Infrastructure Projects Engineer, David Zhao advised Mr Beven that Council is working on a possible resolution. David Zhao advised that patching is an option however there may be community complaints due to how the finished work will look. Another alternative is a full road reconstruction. The Committee members

commented that a reconstruction would be more disruptive to Argent Street traffic and Argent Street traders than the patch work option.

David Zhao advised Mr Beven that he will write a report on Argent Street shoves, patching vs reconstruction and provide for further committee consideration.



Item No.	386.6.1
TRIM No.	N/A
CRM No.	N/A
Responsible Officer	NSW Police, Inspector Yvette Smith
Current Status	Complete – November 2018
Date	Item Details
October 2018	Council's Event Coordinator, Rachael Merton has provided information on a road closure for comment - Protest March proposed for 3 November 2018.
Date	Committee Recommendation/s
October 2018	Nil
Action Date	Running Actions
October 2018	<p>NSW Police, Inspector Yvette Smith has advised that the public protest needs to be approved by the Police Commissioner, Council cannot approve the protest. Inspector Smith will arrange a meeting with Council's General Manager, James Roncon and Events Coordinator, Rachel Merton to discuss further details and the protest subject. Councillor Browne advised that the Darling River is the primary focus of the protest.</p> <p>Council's Works Engineer, Daniel Morris has provide Inspector Smith with the proposed Traffic Control Plan (TCP).</p> <p>The Committee reviewed the TCP and have some concerns in relation to the practicality and impacts of the road closure.</p> <p>Concerns noted are:</p> <ul style="list-style-type: none"> • With approximately 300 protesters (indicated on the Road Closure application), the Police are concerned that the Town Square may be too small of an area to host the protest.

- If 300 protesters meet at the Courthouse and walk to the Town Square, the Committee would prefer that the whole road be closed due to safety concerns for pedestrians/protestors and traffic.
- If Police get an emergency call out and the road is fully closed it may cause obstruction for the emergency vehicles.
- The proposed closure is only for two hours, 10am to 12pm. The Committee agree that this is not adequate notice for parked vehicles and vehicles may become blocked in. Police would prefer that the road be closed from earlier in the morning to reduce parked vehicles in the area and allow vehicles time to exit the area.
- It was suggested that protestors could alternatively march from the Courthouse via Sulphide Street into the Sturt Park area. The Sturt Park would be a larger area to hold 300 protestors.
- Inspector Smith advised that if the Argent Street closure does go ahead, the closure would need to be further down and close the road at the corner of Oxide/Argent Streets.
- An amended TCP would be required for review.

Inspector Smith will follow up with Council and advise the Committee of further details as required.

The Committee will not make a recommendation to Council at this time.

*Please note copy of the proposed TCP was provide to the Committee within the Agenda for the October 2018 meeting.

November 2018

NSW Police, Inspector Yvette Smith advised that this item is now complete as the protest went ahead with minimal issues.

Inspector Smith will provide feedback to Council Officers involved as the traffic control plan only detailed use of one side of the road however, both sides of the road were used. Inspector Smith advised that there also needed to be more advanced road closure signage.

387.10 Next Meeting Date – Tuesday, 4 December 2018

387.11 Meeting Closed – 10.31am

ORDINARY MEETING OF THE COUNCIL

November 23, 2018

ITEM 4**BROKEN HILL CITY COUNCIL REPORT NO. 210/18****SUBJECT:** **ACTION LIST REPORT** **11/21****Recommendation**

1. That Broken Hill City Council Report No. 210/18 dated November 23, 2018, be received.

Executive Summary:

The purpose of this report is to ensure that Council and the community are informed on the status of actions required by previous Council resolutions.

Report:

A new format Action List was presented to the June 2017 Council Meeting to provide Councillors with a clearer way of reporting on the progress of outstanding Council resolutions. As per Minute No. 45570, the Action List has been produced in the new colour coded format and shows the progress of Council' outstanding decisions (Green – completed, Yellow – in progress and Red – not yet commenced).

The Action Lists attached to this report cover decisions at Ordinary Council Meetings and Extraordinary Council Meetings; are for information only and will be provided to Council on a monthly basis.

Discussions have been held with staff regarding the long outstanding items on the Action List, most of which are leasing/licencing matters. Staff will be working to finalise these items as a priority and/or request Council to rescind resolutions where circumstances have changed.

Strategic Direction:

Key Direction: 4 - Our Leadership
Objective: 4.2 – Our Leaders Make Smart Decisions
Function: Leadership and Governance
DP Action: 4.2.1.1 - Decisions are made in a timely manner to ensure effective delivery.

Relevant Legislation:

Local Government Act 1993

Financial Implications:

Nil

Attachments

1. [↓](#) Action List

JAMES RONCON
GENERAL MANAGER

ACTION LIST – ORDINARY COUNCIL MEETINGS

Printed: Wednesday, 5 December 2018 3:08:19 PM

MEETING	FURTHER REPORT REQUIRED	SUBJECT
Ordinary Meeting of the Council 26 July 2017	False	Reports
<p>ITEM 9 - BROKEN HILL CITY COUNCIL REPORT NO. 125/17 - DATED JUNE 27, 2017 - PROPOSED COMPULSORY ACQUISITION OF CROWN LAND AND PART OF WILLYAMA COMMON FOR EXTENSION TO BROKEN HILL LANDFILL FACILITY 11/63</p> <p><u>Recommendation</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 125/17 dated June 27, 2017, be received. That Council resolution minute no. 42491 dated 29 September 2010 be rescinded. That the Willyama Common Trust raise no objection to the proposed acquisition of part of Willyama Common Reserve No. 2421, Lot 7300 in DP 1179131, under the terms of the <i>Local Government Act 1993</i> for the purpose of extension of Landfill. That Council make an application to the Minister and Governor for approval to acquire part of the Willyama Common Reserve No. 2421 described as Lot 7300 in DP 1179131 and Crown Land described as Lot 1974 in DP 757298 by compulsory process under section 186(1) of the <i>Local Government Act 1993</i> for the purpose of extension of Landfill in accordance with the requirements of the <i>Land Acquisitions (Just Terms Compensation) Act 1991</i>. That the land concerned once acquired be classified as operational land. That documents required to be sealed by the Willyama Common Trust be executed by the General Manager and Mayor under Council's Seal in the absence of a Trust Seal. 		
<p>RESOLUTION</p> <p>Minute No. 45588</p> <p>Councillor R. Page moved)</p> <p>Councillor B. Licul seconded)</p> <p>That the recommendation of item 9 be adopted.</p> <p style="text-align: right;">CARRIED</p>		
<p>09 Oct 2018 - 5:05 PM - Leisa Bartlett</p> <p>no change in status.</p> <p>11 Sep 2018 - 12:06 PM - Leisa Bartlett</p> <p>Approval received from Minister for Local Government. Council will now issue compulsory acquisition proposal notices.</p> <p>15 Aug 2018 - 3:26 PM - Leisa Bartlett</p> <p>MPDC advised - Awaiting on feedback from the OLG. All application forms now submitted with updated plans.</p> <p>16 May 2018 - 9:40 AM - Leisa Bartlett</p> <p>MPDC - advised still in progress. New acquisition plans being drawn up.</p> <p>15 Mar 2018 - 9:44 AM - Leisa Bartlett</p> <p>MPD&C advised: Council acquired extension of time to finalise compulsory acquisition. New acquisition plan is currently being prepared by Council's Land Surveyor.</p> <p>19 Sep 2017 - 9:15 AM - Francois VanDerBerg</p> <p>In progress, currently acquiring statements relating to Native Title</p>		
Ordinary Meeting of the Council 27 September 2017	False	Confidential Matters
<p>ITEM 26 - BROKEN HILL CITY COUNCIL REPORT NO. 178/17 - DATED SEPTEMBER 11, 2017 - APPLICATION FROM BROKEN HILL SCHOOL OF THE AIR - USE OF PART OF QUEEN ELIZABETH II PARK AS A PLAYGROUND AND OUTDOOR AREA - CONFIDENTIAL 12/180</p> <p>(General Manager's Note: This report considers a licence agreement and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</p>		
<p>RESOLUTION</p> <p>Minute No. 45655</p>		

ACTION LIST – ORDINARY COUNCIL MEETINGS

Printed: Wednesday, 5 December 2018 3:08:19 PM

MEETING	FURTHER REPORT REQUIRED	SUBJECT
Councillor C. Adams moved) Councillor J. Nolan seconded)		<ol style="list-style-type: none"> 1. That Broken Hill City Council Report No. 178/17 dated September 11, 2017, be received. 2. That Council seeks Ministerial approval to enter into a licence agreement with Broken Hill School of the Air for the use of part (approx. 1080 square metres) of Queen Elizabeth II Park Lot 1, DP914746 as an outdoor play and dining area. 3. That the licence agreement be for a period of 20 years. 4. That due to the Broken Hill School of the Air being a non-profit community organisation, the licence fee for the site be set at a peppercorn rental of \$1.00 per year (no CPI increase to apply) with the total fee for the 20 year licence to be paid in advance. 5. That Council be responsible for all legal costs in the set-up of the licence up to the value of \$500.00 and Broken Hill School of the Air be responsible for any additional costs over this amount. 6. That all other standard licence agreement terms apply. 7. That the Broken Hill School of the Air be responsible for the ongoing maintenance of the play and dining area for the duration of the licence agreement. 8. That the Mayor and General Manager be authorised to execute the licence documents under the Common Seal of Council. 9. That any media relating to the matter advises that the land to be occupied by the School as an outdoor play and dining area is the old tennis court area which is an underutilised part of the park.
		CARRIED
<p><i>05 Dec 2018 - 2:31 PM - Leisa Bartlett</i></p>		
<p>Council has received approval advice from SOTA and Solicitors have been approached to commence drafting the licence agreement.</p>		
<p><i>05 Dec 2018 - 1:52 PM - Leisa Bartlett</i></p>		
<p>Letter of acceptance received from SOTA. Solicitor has been engaged to draft up the licence agreement.</p>		
<p><i>09 Oct 2018 - 5:06 PM - Leisa Bartlett</i></p>		
<p>Awaiting advice from SOTA</p>		
<p><i>11 Sep 2018 - 12:07 PM - Leisa Bartlett</i></p>		
<p>Still no advice received from SOTA. Email reminder notice sent.</p>		
<p><i>15 Aug 2018 - 3:29 PM - Leisa Bartlett</i></p>		
<p>Still awaiting advice from SOTA</p>		
<p><i>16 May 2018 - 1:33 PM - Leisa Bartlett</i></p>		
<p>Action reassigned to Francois VanDerBerg by: Leisa Bartlett</p>		
<p><i>16 Mar 2018 - 3:40 PM - Leisa Bartlett</i></p>		
<p>SOTA advised that they are happy to proceed but are waiting for the Education Dept approval first.</p>		
<p><i>15 Feb 2018 - 10:27 AM - Leisa Bartlett</i></p>		
<p>Email reminder send to SOTA 15/2/18.</p>		

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MEETING	FURTHER REPORT REQUIRED	SUBJECT						
02 Nov 2017 - 4:18 PM - Leisa Bartlett								
Letter sent to the school requesting confirmation that the school wishes to enter a licence agreement with Council as the request came from the School's P&C Committee.								
Ordinary Meeting of the Council 28 February 2018	False	Reports						
<p>ITEM 25 - BROKEN HILL CITY COUNCIL REPORT NO. 19/18 - DATED NOVEMBER 15, 2017 - UPDATE ON ACTION LIST ITEM - RENEWAL OF LEASE AT THE AIRPORT TO THE AERO CLUB OF BROKEN HILL</p> <p style="text-align: right;">11/232</p> <p><u>Recommendation</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 19/18 dated November 15, 2017, be received. That the item be removed from the Action List as the amended lease renewal relating to the Council Resolution Minute No. 43222 has now expired, and noting the information contained in this report. That Council notes that staff will meet with the Broken Hill Aero Club regarding negotiating a new lease as per advice from Council's solicitor and a report regarding a new lease will be provided to Council in due course. <p>RESOLUTION</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Minute No. 45756</td> <td style="width: 50%;"></td> </tr> <tr> <td>Councillor J. Nolan moved)</td> <td>That the recommendation of item 25 be adopted.</td> </tr> <tr> <td>Councillor C. Adams seconded)</td> <td></td> </tr> </table> <p style="text-align: right;">CARRIED</p>			Minute No. 45756		Councillor J. Nolan moved)	That the recommendation of item 25 be adopted.	Councillor C. Adams seconded)	
Minute No. 45756								
Councillor J. Nolan moved)	That the recommendation of item 25 be adopted.							
Councillor C. Adams seconded)								
13 Nov 2018 - 9:28 AM - Leisa Bartlett								
In progress.								
09 Oct 2018 - 5:07 PM - Leisa Bartlett								
Assessment currently being carried out.								
11 Sep 2018 - 12:08 PM - Leisa Bartlett								
EOI for Property Management Services now closed. Council staff will assess submissions.								
15 Aug 2018 - 3:52 PM - Leisa Bartlett								
MPDC advised - Renewal of lease on hold while management of operations at the Airport are being reviewed. Lease continuing on a month by month basis.								
06 Jun 2018 - 1:56 PM - Leisa Bartlett								
Action reassigned to Francois VanDerBerg by: Leisa Bartlett								
13 Apr 2018 - 3:29 PM - Leisa Bartlett								
IPE advised: Matter on hold whilst Servcie Review of the Airport is conducted.								
16 Mar 2018 - 4:14 PM - Leisa Bartlett								
Advice being sought from Council's Solicitor re renewal of lease.								
Ordinary Meeting of the Council 26 April 2018	False	Reports						
<p>ITEM 13 - BROKEN HILL CITY COUNCIL REPORT NO. 59/18 - DATED APRIL 06, 2018 - COMPULSORY ACQUISITION OF WARNOCK GOSSAN STREET ROAD RESERVE</p> <p style="text-align: right;">11/199</p> <p><u>Resolved:</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 59/18 dated April 6, 2018, be received. That Council make an application to the Minister and Governor for approval to acquire the sections of Warnock and Gossan Street traversing Crown Land in Lot 7469 in Deposited Plan 1182254, under Section 177 of the <i>Roads Act 1993</i> and Section 186 of the <i>Local Government Act 1993</i>. That the acquisition be undertaken in accordance with the requirements of the <i>Land Acquisition (Just Terms Compensation) Act 1991</i>. That upon acquisition, Council to undertake required actions to open the subject road by registration of a plan in accordance with Section 7 of the <i>Roads Act 1993</i>. 								

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>RESOLUTION Minute No. 45805 Councillor C. Adams moved) Councillor D. Gallagher seconded)</p>		
		CARRIED
<p>13 Nov 2018 - 9:26 AM - Leisa Bartlett Still awaiting OLG advice due to Native Title. 09 Oct 2018 - 5:08 PM - Leisa Bartlett Awaiting OLG advice 11 Sep 2018 - 4:40 PM - Leisa Bartlett No change, still awaiting advice from OLG. 15 Aug 2018 - 3:32 PM - Leisa Bartlett MPDC advised - OLG advised that the land is subject to a Native Title Claim and that compulsory acquisition cannot go ahead at this stage. Council is waiting for further advice from OLG. 16 May 2018 - 9:45 AM - Leisa Bartlett In progress.</p>		
Ordinary Meeting of the Council 29 August 2018	False	Notice of Motion
<p>ITEM 4 - MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 12/18 - DATED AUGUST 24, 2018 - COUNCIL'S CODE OF MEETING PRACTICE 12/14</p>		
<p>RESOLUTION Minute No. 45874 Councillor T. Kennedy moved) Councillor B. Algate seconded)</p>		
		<p>1. That Motions of Which Notice has been Given No. 12/18 dated August 24, 2018, be received.</p> <p>2. That Broken Hill City Council re-establishes question time at the beginning and end of Council meetings and that question time at the beginning of meetings is open to any lawful question and advanced notice not to be required to ask a question.</p>
		CARRIED
<p>05 Dec 2018 - 2:41 PM - Leisa Bartlett GM advised: No action to date. Suggest rolling process into review of new Model Code of Meeting Practice. COMPLETE 14 Nov 2018 - 11:30 AM - Leisa Bartlett Still awaiting outcome. 10 Oct 2018 - 9:04 AM - Leisa Bartlett Awaiting outcome of Councillor Working Group. 10 Sep 2018 - 4:50 PM - Leisa Bartlett Report to September Council Meeting seeking guidance as to governance arrangements.</p>		
Ordinary Meeting of the Council 29 August 2018	False	Notice of Motion
<p>ITEM 5 - MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 13/18 - DATED AUGUST 24, 2018 - IMPERIAL LAKES 11/161</p>		
<p>RESOLUTION Minute No. 45875 Councillor B. Licul moved) Councillor M. Clark seconded)</p>		
		<p>1. That Motions of Which Notice has been Given No. 13/18 dated August 24, 2018, be received.</p> <p>2. That Council supports the reopening of the Imperial Lakes in principle, but rejects the idea of Council taking on the long term open ended financial commitment when Council is in a deficit financial position; and that Council investigates other</p>

ACTION LIST – ORDINARY COUNCIL MEETINGS

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>partners/sponsors or organisations to assist to fund the project.</p> <p>3. That a report is presented to Council, putting forward Council's options for opening the Imperial Lakes as a recreational facility for the City.</p> <p style="text-align: right;">CARRIED</p> <p><i>05 Dec 2018 - 2:42 PM - Leisa Bartlett</i></p> <p>GM advised: Awaiting advise from Essential Water. Given recent comments from the Local Member around cost, water quality and ongoing maintenance of Imperial Lake, matter not be pursued until Stephens Creek matter resolved. COMPLETE</p> <p><i>16 Nov 2018 - 11:00 AM - Leisa Bartlett</i></p> <p>Advice not yet received from Essential Water.</p> <p><i>10 Oct 2018 - 9:05 AM - Leisa Bartlett</i></p> <p>The General Manager met with Essential Water on 5/10/18. Awaiting advice from Essential Water about encumbrances that may exist.</p> <p><i>10 Sep 2018 - 4:51 PM - Leisa Bartlett</i></p> <p>Meeting arranged with Essential Water on 5 October 2018.</p>		
Ordinary Meeting of the Council 29 August 2018	False	Notice of Motion
<p>ITEM 15 - MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 23/18 - DATED AUGUST 24, 2018 - COUNCIL RATES DISTRIBUTION 17/206</p> <p><u>Resolved</u></p> <ol style="list-style-type: none"> That Motions of Which Notice has been Given No. 23/18 dated August 24, 2018, be received. That Broken Hill City Council prepares a report on how the Council can return rates distribution percentages across residential, business and mining rate areas consistent with rating percentages prior to the 2012/2013 Council budget. That this report be tabled before the February 2019 meeting of Council for consideration before preparations of the 2019/2020 budget begin. <p>RESOLUTION</p> <p>Minute No. 45880</p> <p>Councillor T. Kennedy moved)</p> <p>Councillor R. Page seconded)</p> <p style="text-align: right;">CARRIED</p> <p><i>13 Sep 2018 - 1:50 PM - Leisa Bartlett</i></p> <p>Noted - report to February 2019 meeting.</p>		
Ordinary Meeting of the Council 29 August 2018	False	Reports
<p>ITEM 23 - BROKEN HILL CITY COUNCIL REPORT NO. 121/18 - DATED AUGUST 16, 2018 - WASTE FEES AND CHARGES 14/197</p> <p><u>Resolved</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 121/18 dated August 16, 2018, be received. That Council note the report for information purposes. That Council note that past Waste Facility management practices under the direction and control of former senior management has resulted in an increased corporate risk to Council, substantial loss of revenue and resources wastage and potential financial implications if the current practice is allowed to continue. That Council note the Executive Leadership Team through the implementation of service reviews and ongoing reviews of Council's operations are establishing operational processes to mitigate the current risks and ensure best practice is achieved going forward. That a further report around waste and fee charges at the waste facility be presented to Council. 		

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>RESOLUTION Minute No. 45886 Councillor B. Licul moved) Councillor M. Clark seconded)</p>		
		CARRIED
<p>05 Dec 2018 - 2:44 PM - Leisa Bartlett GM advised: Matter to be included as part of 2019/2020 budget deliberations. COMPLETE 15 Nov 2018 - 2:19 PM - Jay Nankivell Further consultation being held on 19 November with commercial waste users. Report to December meeting. 19 Oct 2018 - 4:55 PM - Jay Nankivell Staff met with waste operators in October and will further meet again late October on a proposed way forward. A report to Council will follow. 10 Oct 2018 - 9:15 AM - Leisa Bartlett Commercial users meeting arranged for 10/10 to inform next steps. 13 Sep 2018 - 1:55 PM - Jay Nankivell Data being collected and consultation strategy being developed. Report will be presented to October Council Meeting.</p>		
Ordinary Meeting of the Council 26 September 2018	False	Reports
<p>ITEM 5 - BROKEN HILL CITY COUNCIL REPORT NO. 149/18 - DATED SEPTEMBER 18, 2018 - CHANGE TO PUBLIC FORUM 11/249, 11/632, 12/14</p>		
<p>Resolution:</p>		
<ol style="list-style-type: none"> That Broken Hill City Council Report No. 149/18 dated September 18, 2018, be received. That Councillors Clark, Browne and Kennedy be Council's Delegates on a working group to establish governance arrangements for the second public forum session to be held at the end of the monthly Ordinary Meetings of Council. The governance arrangements be endorsed by Council at the next available meeting and then placed into the draft Model Code of Meeting Practice to go out on public exhibition for 28 days. 		
<p>RESOLUTION Minute No. 459100 Councillor M. Clark moved) Councillor M. Browne seconded)</p>		
		CARRIED
<p>05 Dec 2018 - 2:45 PM - Leisa Bartlett GM advised: Suggest rolling the review into the new Model Code of Meeting Practice review. COMPLETE 14 Nov 2018 - 11:30 AM - Leisa Bartlett Awaiting outcome of Councillor meeting. 04 Oct 2018 - 3:34 PM - Leisa Bartlett Email sent to the 3 Councillors to set up a meeting to discuss.</p>		
<p>Proposed Sport Subsidy Program</p>		
<p>RESOLUTION Minute No. 1</p>		
<p>Councillor T. Kennedy moved) Councillor B. Licul seconded)</p>		<ol style="list-style-type: none"> That the Our Community Key Direction Working Group workshop the concept of introducing a sport subsidy program for school-aged children in Broken Hill who participate in organised sport (such as YMCA programs, netball, soccer, football, swimming, golf, cricket etc.)

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>2. That a report on the matter be presented to a future Council Meeting.</p>		
<p>14 Nov 2018 - 11:44 AM - Leisa Bartlett</p> <p>Our Community Key Direction Working Group Meeting held 7/11/18 discussed the concept of a pilot program and a report will be prepared for Council's consideration.</p>		
Ordinary Meeting of the Council 26 September 2018	False	Committee Reports
<p>ITEM 15 - BROKEN HILL CITY COUNCIL REPORT NO. 159/18 - DATED AUGUST 13, 2018 - SECTION 355 COMMITTEE ANNUAL REPORTS 2017-2018 16/94</p> <p><u>Resolved:</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 159/18 dated August 13, 2018, be received. That the Annual Reports 2017/18 received from Section 355 Committees be received and noted. That the Financial Reports 2017/18 received from Section 355 Committees be received and noted. That a further report be provided to Council to present the outstanding Annual and Financial Reports from Section 355 Committees. <p>RESOLUTION</p> <p>Minute No. 45920</p> <p>Councillor M. Browne moved)</p> <p>Councillor C. Adams seconded)</p> <p style="text-align: right;">CARRIED</p> <p>05 Dec 2018 - 2:49 PM - Leisa Bartlett</p> <p>complete</p> <p>14 Nov 2018 - 12:06 PM - Leisa Bartlett</p> <p>Ongoing - no further Annual Reports received to date.</p> <p>04 Oct 2018 - 3:51 PM - Razija Nu'man</p> <p>Still to be received from all Committees in order to finalise for the 17/18 year.</p>		
Ordinary Meeting of the Council 31 October 2018	False	Confidential Matters
<p>ITEM 17 - BROKEN HILL CITY COUNCIL REPORT NO. 183/18 - DATED OCTOBER 15, 2018 - SALE OF 55-59 GYPSUM STREET - CONFIDENTIAL 11/197</p> <p>(General Manager's Note: This report considers sale of property and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</p> <p><u>Resolved</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 183/18 dated October 15, 2018, be received. That Council rescinds minute number 45352 dated 28 September 2016 (transfer of ownership of 55-59 Gypsum Street to Broken Hill Family Day Care Committee Inc.) That Council engage a real estate agent to list the property at 55-59 Gypsum Street for sale. That the General Manager be authorised to negotiate and finalise the sale of 55-59 Gypsum Street. That the Mayor and General Manager be authorised to sign and execute any documents related to the sale under the Common Seal of Council. <p>RESOLUTION</p> <p>Minute No. 45946</p> <p>Councillor C. Adams moved)</p> <p>Councillor D. Gallagher seconded)</p> <p style="text-align: right;">CARRIED</p>		

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>16 Nov 2018 - 2:13 PM - Leisa Bartlett</p> <p>Broken Hill Family Day Care exited the premises 31/10/18. Staff are currently liaising with real estate agents.</p>		
Ordinary Meeting of the Council 31 October 2018	False	Confidential Matters
<p>ITEM 18 - BROKEN HILL CITY COUNCIL REPORT NO. 184/18 - DATED SEPTEMBER 28, 2018 - SALE OF PROPERTY - LOT 2 IN DEPOSITED PLAN 1067380 - CONFIDENTIAL 11/204</p> <p>(General Manager's Note: This report considers Sale of Property and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</p>		
<p>RESOLUTION</p> <p>Minute No. 45947</p> <p>Councillor M. Browne moved)</p> <p>Councillor C. Adams seconded)</p>		
<ol style="list-style-type: none"> That Broken Hill City Council Report No. 184/18 dated September 28, 2018, be received. That Council negotiate a new lease (with CPI increase) with the West Darling Machinery Preservation Society for use of 479 Crystal Street (Lot 2 in Deposited Plan 1067380) That the Mayor and General Manager be authorised to execute lease documents under the Common Seal of Council. 		
CARRIED		
<p>16 Nov 2018 - 2:13 PM - Leisa Bartlett</p> <p>New lease being discussed with tenant.</p>		
Ordinary Meeting of the Council 28 November 2018	False	Mayoral Minute
<p>ITEM 1 - MAYORAL MINUTE NO. 9/18 - DATED NOVEMBER 09, 2018 - REQUEST FOR FINANCIAL SUPPORT TOWARDS THE AUSTRALIA INSTITUTE'S REPORT "TRICKLE OUT EFFECT" 11/426</p>		
<p>Resolved</p>		
<ol style="list-style-type: none"> That Mayoral Minute No. 9/18 dated November 9, 2018, be received. That Council provides financial support of \$2,750.00 (inc GST) to the Australia Institute towards the development of a video to explain the "Trickle Out Effect" report. 		
<p>RESOLUTION</p> <p>Minute No. 45952</p> <p>Councillor M. Browne moved)</p> <p>Councillor J. Nolan seconded)</p>		
CARRIED		
<p>05 Dec 2018 - 2:54 PM - Leisa Bartlett</p> <p>GM advised: Financial support provided and advice issued. COMPLETE</p>		
Ordinary Meeting of the Council 28 November 2018	False	Mayoral Minute
<p>ITEM 2 - MAYORAL MINUTE NO. 13/18 - DATED NOVEMBER 14, 2018 - SAVE OUR RECYCLING CAMPAIGN 11/199</p>		
<p>Resolved</p>		
<ol style="list-style-type: none"> That Mayoral Minute No. 13/18 dated November 14, 2018, be received. That Council endorse Local Government NSW's campaign "Save Our Recycling", to realise the reinvestment of a 100% of the Waste Levy collected each year by the NSW Government in waste minimization, recycling and resource recovery. That Council make representation to the local State Member in support of this campaign objective for the NSW Government to commit to reinvest 100% of the Waste Levy in waste minimization, recycling and resource recovery. 		

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>4. That Council write to the Premier, the Hon Gladys Berejiklian MP, the Opposition Leader, the Hon Michael Daley MP, the Minister for Local Government and the Minister for the Environment, the Hon Gabrielle Upton MP, and the Shadow Minister for the Environment and Heritage, Penny Sharpe MLD, seeking bipartisan support for the 100% reinvestment of the Waste Levy collected each year into waste minimization, recycling and resource recovery.</p> <p>5. That Council take a lead role in activating the Local Government NSW Save Our Recycling campaign locally.</p> <p>6. That Council endorse the distribution and display of the Local Government NSW Save Our Recycling information on Council premises, as well as involvement in any actions arising from the initiative.</p> <p>7. That Council formally advise Local Government NSW that Council has endorsed the Save Our Recycling advocacy initiative.</p> <p>RESOLUTION Minute No. 45953 Councillor D. Turley moved) Councillor C. Adams seconded)</p> <p>05 Dec 2018 - 2:55 PM - Leisa Bartlett Correspondence being drafted</p>		<p>CARRIED</p>
<p>Ordinary Meeting of the Council 28 November 2018</p>	<p>False</p>	<p>Notice of Motion</p>
<p>ITEM 3 - MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 28/18 - DATED NOVEMBER 23, 2018 - OPPOSITION TO THE RECONFIGURATION OF THE MENINDEE LAKES 11/426</p>		
<p>RESOLUTION Minute No. 45954 Councillor M. Browne moved) Councillor C. Adams seconded)</p>		<p>1. That correspondence be sent to all current and any future State election candidates informing them that the Broken Hill City Council strongly opposes the current version of the Menindee Lakes Water Saving Plan and any lowering of the 480/640 trigger for the reasons that the implementation of the plan combined with a drastic decrease of the water required to be held in the lakes would have a destructive impact on the aboriginal communities who live along the river, that permanent damage to the environment and health of the whole river system would result and the opportunities for recreational enjoyment for the communities of Menindee and Broken Hill would be severely curtailed.</p> <p>2. That Council makes representations to the Government to have them consider the State Member for Barwon's "option 7" that is:</p> <p>a) Construct a regulator at Morton Boolka linking Menindee Lake and Lake Cawndilla via Cawndilla Creek. This would require associated earthworks to raise the height of the Menindee Lake banks adjacent to the regulator.</p> <p>b) Flow through rules (MDA supported) established that once Cawndilla reaches a certain capacity, for example 700G, the two</p>

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>05 Dec 2018 - 2:55 PM - Leisa Bartlett Advice being drafted</p>	<p>False</p>	<p>lakes are separated.</p> <p>c) Works would need to be undertaken to enlarge the capacity of Cawndilla Creek and the Panelco Channel offtake and Darling River delivery point.</p> <p>d) An additional consideration is additional storage in Weir 32 to support the fruit industry requirements. This could be achieved with either a top up from the Wetherell – Pamamaroo Lake system via the existing interconnecting channel, or raising the height of Weir 32. This would need further scoping to quantify.</p> <p style="text-align: right;">CARRIED On the casting vote of the Mayor</p> <p>Notice of Motion</p>
<p>Ordinary Meeting of the Council 28 November 2018</p>		
<p>ITEM 4- MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 29/18 - DATED NOVEMBER 23, 2018 - RESPONSIBILITY FOR THE COST OF THE WENTWORTH TO BROKEN HILL PIPELINE 11/426</p> <p><u>Resolved</u></p> <p>1. That Motions of Which Notice has been Given No. 29/18 dated November 23, 2018, be received.</p> <p>2. That Broken Hill City Council sends correspondence to the NSW State Government and the opposition requesting that the NSW State Government legislates that Broken Hill is not responsible for any costs associated with the delivery of water via the Wentworth to Broken Hill pipeline and that the NSW Government cover the costs for the life of the pipeline; and the pipeline be declared as State significant infrastructure.</p> <p>That to have the State Government of the day decide whether they subsidise the pipeline costs will cause great uncertainty in the community and to have the Broken Hill community begging the State Government every four years to pay a \$30m subsidy is unacceptable and impractical.</p> <p>3. That each of the candidates for the State election for the seat of Barwon be contacted and asked to provide a written letter of support for legislation that ensures the Broken Hill community does not pay for any costs associated with the delivery of water from the Wentworth to Broken Hill pipeline.</p> <p>RESOLUTION Minute No. 45955 Councillor T. Kennedy moved) Councillor B. Algate seconded)</p> <p style="text-align: right;">CARRIED</p> <p>05 Dec 2018 - 2:55 PM - Leisa Bartlett Correspondence being drafted</p>		
<p>Ordinary Meeting of the Council 28 November 2018</p>		
<p>ITEM 6 - BROKEN HILL CITY COUNCIL REPORT NO. 189/18 - DATED NOVEMBER 16, 2018 - DRAFT ANNUAL REPORT 2017/2018 17/110</p> <p><u>Resolved</u></p> <p>1. That Broken Hill City Council Report No. 189/18 dated November 16, 2018, be received.</p>		

ACTION LIST – ORDINARY COUNCIL MEETINGS

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>2. That the 2017/2018 Annual Report, inclusive of audited Annual Financial Statements, Delivery Program Key Performance Indicators Report and Disability Inclusion Action Plan Key Performance Indicators Report for the reporting period 1 July 2017 to 30 June 2018 (KPI reports adopted at Council meeting 26 September 2018, minute no. 45884 and minute no. 45885 respectively), be adopted.</p> <p>3. That the Annual Report, inclusive of audited Annual Financial Statements, Delivery Program Key Performance Indicators Report and Disability Inclusion Action Plan Key Performance Indicators Report for the reporting period 1 July 2017 to 30 June 2018, be posted on Council's website.</p> <p>4. That Council's web link of Annual Report, inclusive of audited Annual Financial Statements, Delivery Program Key Performance Indicators Report and Disability Inclusion Action Plan Key Performance Indicators Report for the reporting period 1 July 2017 to 30 June 2018, be provided to the Minister via the Office of Local Government and Minister for Disability Services, by 30 November 2018.</p>		
<p>RESOLUTION Minute No. 45957 Councillor M. Browne moved) Councillor C. Adams seconded)</p>		CARRIED
<p>03 Dec 2018 - 4:41 PM - Razija Nu'man</p> <p>Annual Report emailed to Office of Local Government and Minister for Disability 30 November 2018. Annual Report also placed on web.</p> <p>COMPLETE</p>		
Ordinary Meeting of the Council 28 November 2018	False	Reports
<p>ITEM 7 - BROKEN HILL CITY COUNCIL REPORT NO. 190/18 - DATED NOVEMBER 09, 2018 - COUNCILLOR ATTENDANCE AT THE WESTERN DIVISION COUNCILS OF NSW ANNUAL CONFERENCE 2019/11/173</p>		
<p>RESOLUTION Minute No. 45958 Councillor D. Gallagher moved) Councillor C. Adams seconded)</p>		<p>1. That Broken Hill City Council Report No. 190/18 dated November 9, 2018, be received.</p> <p>2. That Councillors advise their interest in representing Council at the 2019 Western Division Councils of NSW Annual Conference to be held in Bourke, 24-26 February 2019.</p> <p>3. That the February Council Meeting be re-scheduled to Wednesday, 20 February 2019 to allow Councillors attending the Western Division Councils of NSW Conference to attend the Council Meeting prior to the Conference.</p> <p>5. That Councillors submit motions to the Western Division Councils of NSW Annual Conference to the General Manager.</p>
<p>05 Dec 2018 - 1:54 PM - Leisa Bartlett</p> <p>Councillors emailed and placed on the HUB 3/12/18.</p> <p>COMPLETE</p>		
Ordinary Meeting of the Council 28 November 2018	False	Reports
<p>ITEM 8 - BROKEN HILL CITY COUNCIL REPORT NO. 191/18 - DATED NOVEMBER 14, 2018 - COMMUNITY ASSISTANCE GRANTS AWARDED FOR ROUND 2 OF 2018/2019 18/44</p>		
Resolved		
<p>1. That Broken Hill City Council Report No. 191/18 dated November 14, 2018, be received.</p>		

ACTION LIST – ORDINARY COUNCIL MEETINGS

Printed: Wednesday, 5 December 2018 3:08:19 PM

MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>2. That Council notes the Community Assistance Grants awarded for Round 2 of 2018/2019 which were approved by the Panel on 13 November 2018 and the Acting General Manager on 14 November 2018.</p> <p>3. That the Community Assistance Grants Policy and Application be amended: 1) to clarify the eligibility criteria 4.5.1(a) to read: <i>"Applicants must be an incorporated community association/organisation, or a registered not-for-profit association/charitable organisation with an ABN or ACN. Applications will not be accepted from individuals, businesses, government agencies, political parties or lobby groups."</i></p> <p>2) to include additional questions and evaluation by Council's Finance Department of an organisation/association's financial statements in order for the Panel to gain a clearer understanding of an organisation/association's financial position.</p> <p>4. That the balance from Round 2 of 2018/2019 of \$28,281.00 be rolled-over to Round 1 of 2019/2020.</p> <p>RESOLUTION Minute No. 45959 Councillor J. Nolan moved) Councillor D. Gallagher seconded)</p>		CARRIED
<p>05 Dec 2018 - 1:55 PM - Leisa Bartlett</p> <p>Policy amended and replaced on the website. Finance notified to roll-over balance to Round 1 2019/2020. Application form will be updated before next round opens to include additional questions regarding an organisation's financial position. COMPLETE</p>		
Ordinary Meeting of the Council 28 November 2018	False	Reports
<p>ITEM 9 - BROKEN HILL CITY COUNCIL REPORT NO. 192/18 - DATED NOVEMBER 08, 2018 - RECONCILIATION ACTION PLAN REPORT 14/59</p> <p><u>Resolved</u></p> <p>1. That Broken Hill City Council Report No. 192/18 dated November 8, 2018, be received.</p> <p>2. That Broken Hill City Council establish a Reconciliation Action Plan Working Group</p> <p>3. That Broken Hill City Council endorse the Terms of Reference for the Broken Hill City Council Reconciliation Action Plan Working Group</p> <p>RESOLUTION Minute No45960 Councillor J. Nolan moved) Councillor R. Page seconded)</p>		
<p>03 Dec 2018 - 4:40 PM - Razija Nu'man</p> <p>Advertisement seeking membership of Working Group placed in BDT on Saturday 1 December 2018. Emailed invitations to relevant service groups undertaken. COMPLETE</p>		
Ordinary Meeting of the Council 28 November 2018	False	Reports
<p>ITEM 10 - BROKEN HILL CITY COUNCIL REPORT NO. 193/18 - DATED OCTOBER 17, 2018 - ADOPTION OF DRAFT LIVING DESERT PLAN OF MANAGEMENT 11/141</p> <p><u>Resolved</u></p> <p>1. That Broken Hill City Council Report No. 193/18 dated October 17, 2018, be received.</p> <p>2. That Council adopts the Living Desert Plan of Management.</p> <p>RESOLUTION Minute No. 45961 Councillor M. Browne moved)</p>		

ACTION LIST – ORDINARY COUNCIL MEETINGS

Printed: Wednesday, 5 December 2018 3:08:19 PM

MEETING	FURTHER REPORT REQUIRED	SUBJECT									
Councillor C. Adams seconded) 05 Dec 2018 - 2:57 PM - Leisa Bartlett		CARRIED									
COMPLETE											
Ordinary Meeting of the Council 28 November 2018	False	Reports									
<p>ITEM 11 - BROKEN HILL CITY COUNCIL REPORT NO. 194/18 - DATED OCTOBER 30, 2018 - NOTIFICATION OF APPOINTMENT OF NATIVE TITLE MANAGER UNDER THE CROWN LAND MANAGEMENT ACT 2016 18/144</p> <p><u>Resolved</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 194/18 dated October 30, 2018, be received. That Council nominate Francois Van Der Berg (Manager Operations Planning Development and Compliance) as Council's Native Title Manager under the <i>Crown Land Management Act 2016</i>. That give notice to the Minister for Lands and Forestry of the name and contact details of Council's appointed Native Title Manager, as required under Section 8.8 of the <i>Crown Lands Management Act 2016</i>. <p>RESOLUTION</p> <table border="0"> <tr> <td>Minute No. 45962</td> <td></td> <td></td> </tr> <tr> <td>Councillor M. Browne moved)</td> <td></td> <td></td> </tr> <tr> <td>Councillor D. Gallagher seconded)</td> <td></td> <td>CARRIED</td> </tr> </table> <p>05 Dec 2018 - 2:57 PM - Leisa Bartlett</p> <p>Correspondence being prepared to advise Crown Lands.</p>			Minute No. 45962			Councillor M. Browne moved)			Councillor D. Gallagher seconded)		CARRIED
Minute No. 45962											
Councillor M. Browne moved)											
Councillor D. Gallagher seconded)		CARRIED									
Ordinary Meeting of the Council 28 November 2018	False	Reports									
<p>ITEM 12 - BROKEN HILL CITY COUNCIL REPORT NO. 195/18 - DATED NOVEMBER 14, 2018 - DEVELOPMENT APPLICATION TO OPERATE AN ANIMAL POUND FACILITY 11/467</p> <p><u>Resolved</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 195/18 dated November 14, 2018, be received. That consent be granted for Development Application 110/2018 for an animal pound facility at Lot 12 DP 1232493, No. 86 Airport Road, Broken Hill subject to the following conditions: <ol style="list-style-type: none"> This consent relates to an Animal Pound Facility at Part Lot 12 DP 1232493, No. 86 Airport Road, Broken Hill, comprising: <ul style="list-style-type: none"> Re-use of an existing single story brick workshop to accommodate 20 dog cages, a cattery and veterinary room, a kitchen, toilet and storage area, A ranger's office in a single story transportable building, A carport to provide parking for up to 4 vehicles, Additional unenclosed car parking for 4 vehicles, and Two dog exercise yards. <p>And as described and shown on the following documents submitted with the development application that are stamped as approved:</p> <ul style="list-style-type: none"> Statement of Environmental Effects prepared by Broken Hill City Council, Drawing No. 142018 A1 Site Plan by P. Oldsen, 19 August 2018, 											

ACTION LIST – ORDINARY COUNCIL MEETINGS

Printed: Wednesday, 5 December 2018 3:08:19 PM

MEETING	FURTHER REPORT REQUIRED	SUBJECT
<ul style="list-style-type: none"> • Drawing No. 212018 A1 Elevations by P. Oldsen, 11 November 2018, • Drawing No. 212018 A2 Floor Plan by P. Oldsen, 11 November 2018, and • Environmental Noise Assessment prepared by Sonus dated August 2018. <p>Notes:</p> <p>Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under section 4.55 of the Environmental Planning and Assessment Act 1979, or a fresh development application. No works, other than those approved under this consent, shall be out without the prior approval of Council.</p> <p>CONDITIONS THAT MUST BE COMPLIED WITH BEFORE WORK CAN COMMENCE</p> <p>2. Notice of Commencement</p> <p>Notice must be given to Council at least two (2) days prior to the commencement of building work.</p> <p>3. Principal Certifying Authority/Construction Certificate</p> <p>The following must be undertaken before any building works can commence:</p> <p>(a) A Principal Certifying Authority (PCA) must be appointed; and</p> <p>(b) A Construction Certificate must be obtained from either Council or an accredited certifier.</p> <p>4. Existing services and damage to public assets</p> <p>Prior to the commencement of any work(s) associated with this development:</p> <p>(a) The developer or his agent shall undertake a site inspection of the adjacent kerbs, gutters, carriageway, reserves and the like and document evidence of any damage to existing assets. Failure to identify existing damage will result in all damage detected after completion of the building work being repaired at the applicant's expense. Any damage to the adjacent kerb, gutter, footpath/road reserve area, carriageway and the like that occurs during development works shall be repaired by the applicant; and</p> <p>(b) The developer or his agent must check that the proposed works are not affected by any Council, energy utility, telecommunications, gas service or other services. Any required alterations to services will be at the developer's expense.</p> <p>5. Supervision of works</p> <p>Prior to the commencement of any works, Council shall be advised in writing of the name of the person/company nominated to be responsible for construction works including erosion and sediment control measures.</p> <p>6. Sign – Supervisor Contact Details</p> <p>The person/company responsible for the construction of site works must erect a sign at the site in a visible position with that person/company's name, license number, site address and contact number, and the name of the Principal Certifying Authority, accreditation number and telephone number, where the Principal Certifying Authority is not the Council.</p> <p>7. Protection of existing vegetation</p>		

ACTION LIST – ORDINARY COUNCIL MEETINGS

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>No vegetation is to be removed from Lot 12 DP 1232493 or adjoining land at any time other than is necessary to construct and operate the animal pound facility and ancillary works within the site area shown on the approved stamped drawings, to provide access to the facility and as a 10 metre defendable space surrounding the pound building in the event of bushfire. All other existing trees/vegetation that are within 6 metres of any works on the subject site, are to be marked with temporary barrier fencing external to the base of the tree. This must be inspected and approved by the Principal Certifying Authority.</p> <p>CONDITIONS THAT MUST BE COMPLIED WITH BEFORE A CONSTRUCTION CERTIFICATE CAN BE ISSUED</p> <p>8. Erosion and Sediment Control Plan</p> <p>An Erosion and Sediment Control Plan and accompanying specifications for the construction phase of the works based on the Landcom manual "Soils and Construction, Managing Urban Stormwater, Vol 1 4th Edition, March 2004", shall be lodged for approval with the application for a Construction Certificate. All controls must be implemented, inspected and approved prior to the commencement of any site works.</p> <p>9. Stormwater and wastewater management</p> <p>The stormwater and wastewater management system is to be designed to comply with the Trade Waste requirements of Essential Water. Details are to be submitted with the application for a Construction Certificate.</p> <p>10. Waste Minimisation and Management</p> <p>A Waste Management Plan must be prepared that complies with the NSW DECC Environmental Guidelines: Classification and Management of Liquid and Non-liquid Wastes and lodged for approval with the application for a Construction Certificate. A copy of the approved plan shall be lodged with Council prior to the issue of the Construction Certificate.</p> <p>11. Driveway access and car parking</p> <p>A plan that shows driveway entrances to the site of the animal pound facility and sealed car parking that is in accordance with Council's engineering specifications shall be lodged with Council prior to the issue of the Construction Certificate. A parking space for persons with disabilities is to be included within the public parking area in accordance with the Disability (Access to Premises - Buildings) Standard 2010.</p> <p>CONDITIONS RELATING TO THE APPROVED WORK AND SITE MANAGEMENT</p> <p>12. Soil and Water Management</p> <p>All site works shall be undertaken in accordance with the Erosion and Sediment Control Plan and measures must be taken to ensure erosion and subsequent sediment movement off-site does not occur.</p> <p>13. Waste Management</p> <p>All waste must be contained within the site during construction and then be recycled in accordance with the approved Waste Management Plan or removed to an authorised waste disposal facility. No waste shall be placed in any location or in any manner that would allow it to fall, descend, blow, wash, percolate or otherwise escape from the site.</p> <p>14. Construction hours/storage</p> <p>To limit the impact of the development on adjoining properties, the following must be complied with:</p> <p>(a) All construction work shall be restricted to the hours of 7:00am to 5:00pm Monday to Friday and 8:00am to 1:00pm Saturdays. No construction work shall take place on Sundays or Public Holidays,</p> <p>(b) The storing of construction equipment/materials, soil, spoil, or rubbish external to Lot 12 DP 1232493 is prohibited other than on the adjoining road reserve, and</p>		

ACTION LIST – ORDINARY COUNCIL MEETINGS

Printed: Wednesday, 5 December 2018 3:08:19 PM

MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>(c) The parking of machinery or vehicles shall only be on Lot 12 DP 1232493 in the immediate vicinity of the works area or on the adjoining road reserve.</p> <p>15. Building Code of Australia</p> <p>All building work must be out in accordance with the requirements of the Building Code of Australia.</p> <p>CONDITIONS THAT MUST BE COMPLIED WITH BEFORE AN OCCUPATION CERTIFICATE CAN BE ISSUED</p> <p>16. Occupation Certificate</p> <p>An Occupation Certificate must be issued by the Principal Certifying Authority (PCA) before the building is used or occupied. If Council is the appointed PCA for this project, a minimum of twenty four (24) hours' notice must be given to Council to make an inspection of the work.</p> <p>CONDITIONS THAT RELATE TO ONGOING MANAGEMENT OF THE PROPOSED DEVELOPMENT</p> <p>17. Site Management and Maintenance</p> <p>The proprietor shall at all times be responsible for on-going site management and maintenance in accordance with the following:</p> <p>(a) The use of the approved development must not:</p> <p>(i) cause transmission of vibration to any place of different occupancy,</p> <p>(ii) cause 'Offensive Noise' as defined in the Protection of the Environment Operations Act 1997, or</p> <p>(iii) Impact upon the amenity of any adjoining property or tenancy by reason of the emission of noise, dust, fumes, odour, vibration, electrical interference or otherwise.</p> <p>(b) Council must ensure that the facility is well maintained in consideration of the visual amenity of the area.</p> <p>18. Ongoing operations</p> <p>The ongoing care and management of animals kept within the facility should have regard to the standards set out in the NSW Animal Welfare Code of Practice No 5 – Dogs and Cats in animal boarding establishments.</p> <p>19. Signage</p> <p>Signage is to comprise a business identification sign, a warning sign citing penalties for abandonment of animals at the facility, and directional signs on Airport Road. All signage is to comply with the provisions of Broken Hill Development Control Plan 2016.</p> <p>20. Surveillance</p> <p>A CCTV monitoring and alarm system is to be installed that enables surveillance of the external perimeter of the facility.</p> <p>21. Fencing and security</p> <p>Fencing is to comprise a 1.8 metre high solid Colorbond metal fence to enclose all structures with internal 1.8 metre high chainmesh fencing to enclose the dog exercise areas. Other external areas are to remain unenclosed to retain the amenity of the immediate area.</p> <p>22. Bushfire protection</p>		

ACTION LIST – ORDINARY COUNCIL MEETINGS

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>The location of the animal pound is mapped as being category 3 bushfire prone land. A cleared defendable space of 10 metres surrounding the pound building is to be maintained at all times.</p> <p>REASONS FOR CONDITIONS</p> <p>Conditions of consent have been imposed to ensure that:</p> <ol style="list-style-type: none"> 1. The proposed development achieves the objects of the Environmental Planning and Assessment Act 1979 and complies with the provisions of relevant environmental planning instruments 2. The relevant public authorities have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities 3. The protection of the amenity and character of land adjoining and in the locality of the proposed development 4. Any potential adverse environmental, social or economic impacts of the proposed development are minimised or mitigated 5. All traffic, car parking and access requirements arising from the development are addressed 6. The development does not conflict with the public interest <p>RESOLUTION Minute No. 45963 Councillor C. Adams moved) Councillor J. Nolan seconded)</p> <p style="text-align: right;">CARRIED</p> <p><i>05 Dec 2018 - 2:58 PM - Leisa Bartlett</i> Applicant advised</p>		
Ordinary Meeting of the Council 28 November 2018	False	Reports
<p>ITEM 13 - BROKEN HILL CITY COUNCIL REPORT NO. 196/18 - DATED OCTOBER 25, 2018 - AFL BROKEN HILL - WAIVER OF DEVELOPMENT FEES ASSOCIATED WITH JUBILEE OVAL UPGRADE 16/154</p> <p>-</p> <p>RESOLUTION Minute No. 45964 Councillor B. Licul moved) Councillor M. Clark seconded)</p> <ol style="list-style-type: none"> 1. That Broken Hill City Council Report No. 196/18 dated October 25, 2018, be received. 2. That the request for waiver of development fees associated with the Jubilee Oval upgrade be referred to the Community Assistance Grants program for consideration. <p style="text-align: right;">CARRIED</p> <p><i>05 Dec 2018 - 1:56 PM - Leisa Bartlett</i> Letter sent to AFL Broken Hill advising of Council's resolution and encouraging them to apply to Round 1 2019/2020 of the Community Assistance Grants program. COMPLETE</p>		
Ordinary Meeting of the Council 28 November 2018	False	Reports
<p>ITEM 14 - BROKEN HILL CITY COUNCIL REPORT NO. 197/18 - DATED OCTOBER 31, 2018 - BOOK CALLED 'THE FATAL LODES' 11/254</p> <p>Resolved</p> <ol style="list-style-type: none"> 1. That Broken Hill City Council Report No. 197/18 dated October 31, 2018, be received. 2. That Council rescind Minute 44555 of the meeting held on 29 January 2014 and authorize the General Manager or his delegate, to make any future decisions on pricing and distribution of the content (including digital) of the book called, 'The Fatal Lodes' with consideration given to the author's wishes. 		

ACTION LIST – ORDINARY COUNCIL MEETINGS

Printed: Wednesday, 5 December 2018 3:08:19 PM

MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>RESOLUTION</p> <p>Minute No. 45965</p> <p>Councillor C. Adams moved)</p> <p>Councillor J. Nolan seconded)</p> <p style="text-align: right;">CARRIED</p> <p><i>03 Dec 2018 - 4:39 PM - Razija Nu'man</i></p> <p>Resolution noted for future distribution of book Fatal Lodes.</p> <p>COMPLETED</p>		
Ordinary Meeting of the Council 28 November 2018	False	Committee Reports
<p>ITEM 17 - BROKEN HILL CITY COUNCIL REPORT NO. 200/18 - DATED NOVEMBER 09, 2018 - NOMINATIONS FOR COMMUNITY MEMBERSHIP OF COUNCIL S355 COMMITTEES 12/52</p> <p><u>Resolved</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 200/18 dated November 9, 2018, be received. That Layne Ralph and Dinny Reardon be appointed as community representatives on the Memorial Oval Community Committee. <p><i>05 Dec 2018 - 1:58 PM - Leisa Bartlett</i></p> <p>Letters sent to new members and Committee Secretary to advise of new appointments.</p> <p>COMPLETE</p>		
Ordinary Meeting of the Council 28 November 2018	False	Confidential Matters
<p>ITEM 22 - BROKEN HILL CITY COUNCIL REPORT NO. 204/18 - DATED OCTOBER 17, 2018 - T18/5 - REQUEST FOR TENDER FOR ASPHALT RECONSTRUCTION OF FAILED FLEXIBLE PAVEMENT 2018/19 - AWARD - CONFIDENTIAL T18/5</p> <p>(General Manager's Note: This report considers a tender and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</p> <p><u>Resolved</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 204/18 dated October 17, 2018, be received. That GBM CONSULTING SERVICES PTY LTD be awarded the Contract for Tender T18/5 That Council accept the lump sum fee of \$1,100,519.90 ex. GST for all tendered works under T18/5. <p>RESOLUTION</p> <p>Minute No. 45970</p> <p>Councillor B. Algate moved)</p> <p>Councillor M. Browne seconded)</p> <p style="text-align: right;">CARRIED</p> <p><i>05 Dec 2018 - 3:01 PM - Leisa Bartlett</i></p> <p>GM advised: drat advice to award tender being written</p>		
Ordinary Meeting of the Council 28 November 2018	False	Confidential Matters
<p>ITEM 23 - BROKEN HILL CITY COUNCIL REPORT NO. 205/18 - DATED OCTOBER 25, 2018 - LEASE OF 72 GYPSUM STREET (HACC CENTRE) TO LIVEBETTER SERVICES LIMITED - CONFIDENTIAL 11/121</p> <p>(General Manager's Note: This report considers a lease and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</p> <p><u>Resolved</u></p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 205/18 dated October 25, 2018, be received. That Council accept the initial lease term for 72-74 Gypsum Street (HACC Centre) proposed by Livebetter Services Limited, being two (2) x two (2) year options, instead of the previous one (1) x three (3) year option. 		

ACTION LIST – ORDINARY COUNCIL MEETINGS

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MEETING	FURTHER REPORT REQUIRED	SUBJECT
<p>3. That the annual rent and other terms of the lease remain the same.</p> <p>4. That the General Manager be authorised to negotiate variations to the lease agreement as required with Livebetter Services Limited.</p> <p>5. That the Mayor and General Manager be authorised to sign and execute any documents as required under the Common Seal of Council.</p>		
<p>RESOLUTION</p> <p>Minute No. 45971</p> <p>Councillor C. Adams moved)</p> <p>Councillor B. Licul seconded)</p> <p style="text-align: right;">CARRIED</p>		
<p>05 Dec 2018 - 3:01 PM - Leisa Bartlett</p> <p>GM advised: draft advice advising meeting outcome being written</p>		
Ordinary Meeting of the Council 28 November 2018	False	Confidential Matters
<p>ITEM 22 - BROKEN HILL CITY COUNCIL REPORT NO. 206/18 - DATED NOVEMBER 09, 2018 - CONSOLIDATED BROKEN HILL HOLDINGS PROPOSED SUBLEASE OF AIRPORT HANGAR 30 - CONFIDENTIAL 11/218</p> <p>(General Manager's Note: This report considers a lease and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).</p> <p><u>Resolved</u></p>		
<p>1. That Broken Hill City Council Report No. 206/18 dated November 9, 2018, be received.</p> <p>2. That Council consent to the proposed sublease of Airport 'Hangar 30' (also known as Lot 13, or part 12/1232493), consenting to Consolidated Broken Hill Holdings subleasing the hangar to Consolidated Aviation Services Pty Ltd.</p> <p>3. That the General Manager be authorised to negotiate the terms and conditions of the sublease agreement.</p> <p>4. That Consolidated Broken Hill Holdings be responsible for any legal fees incurred by Council regarding the proposed sublease agreement.</p> <p>5. That the Mayor and General Manager be authorised to sign and execute any required documents under the Common Seal of Council.</p>		
<p>RESOLUTION</p> <p>Minute No. 45972</p> <p>Councillor B. Algate moved)</p> <p>Councillor J. Nolan seconded)</p> <p style="text-align: right;">CARRIED</p>		
<p>05 Dec 2018 - 3:02 PM - Leisa Bartlett</p> <p>GM advised: draft advice being prepared.</p>		

COMMITTEE REPORTS

1. BROKEN HILL CITY COUNCIL REPORT NO. 211/18 - DATED
DECEMBER 03, 2018 - MINUTES OF THE MEMORIAL OVAL
COMMUNITY COMMITTEE ANNUAL GENERAL MEETING HELD 27
NOVEMBER 2018 (12/52).....108

2. BROKEN HILL CITY COUNCIL REPORT NO. 212/18 - DATED
DECEMBER 04, 2018 - MINUTES OF THE BROKEN HILL REGIONAL
ART GALLERY ADVISORY COMMITTEE MEETING HELD 3 OCTOBER
2018 (12/46).....112

3. BROKEN HILL CITY COUNCIL REPORT NO. 213/18 - DATED
DECEMBER 03, 2018 - S355 ANNUAL AND FINANCIAL REPORTS
(16/94).....118

ORDINARY MEETING OF THE COUNCIL

December 3, 2018

ITEM 1**BROKEN HILL CITY COUNCIL REPORT NO. 211/18****SUBJECT:** **MINUTES OF THE MEMORIAL OVAL COMMUNITY COMMITTEE ANNUAL GENERAL MEETING HELD 27 NOVEMBER 2018** **12/52****Recommendation**

1. That Broken Hill City Council Report No. 211/18 dated December 3, 2018, be received.
2. That minutes of the Memorial Oval Community Committee Annual General Meeting held 27 November 2018 be received.

Executive Summary:

Council has received minutes from the Memorial Oval Community Committee Annual General Meeting held 27 November 2018 for endorsement by Council.

Report:

As per Council's Section 355 Asset Committee Framework Manual and the Constitution of the Memorial Oval Community Committee (both adopted March 2017), the Committee is required to provide Council with a copy of their meeting minutes following each Committee meeting.

Accordingly, the Memorial Oval Community Committee has submitted minutes from its Annual General Meeting held 27 November 2018 for Council's endorsement.

Strategic Direction:

Key Direction:	4. Our Leadership
Objective:	4.3 We Unite to Succeed
Function:	Leadership and Governance
DP Action:	4.3.1.2 Support Councils Section 355 Committees in undertaking their duties with Council

Relevant Legislation:

The Memorial Oval Community Committee operates under Council's S355 Asset Committee Framework Manual and Standard Constitution and the *Local Government Act, 1993* (Section 355).

Financial Implications:

Nil.

Attachments

1. [↓](#) Memorial Oval Community Committee Annual General Meeting - 27/11/2018

ANTHONY MISAGH
CHIEF OPERATIONS OFFICER

JAMES RONCON
GENERAL MANAGER

BROKEN HILL
CITY COUNCIL

**ANNUAL GENERAL MEETING MINUTES:
27th November 2018**

MEMORIAL OVAL COMMUNITY COMMITTEE.

Date	27/11/18	Time Meeting opened: 6.30PM	Time Meeting closed: 7.10PM
Location	Silver City Show Office – Memorial Oval.		
	Ray Steer (Pres), Jody Whitehair (Vice Pres), Dennis Cetinich (Treasurer), Bruce McIntosh (Caretaker), Lane Ralph/ Jonah Smith (CFC), Dave Gallagher (BHCC), Garry Schindler (BHCC), Tony Camilleri (BHHRC), Chris May (Dog Club), Tania Martyn (Dog Club Left at 6.50 pm). John Ralph (Secretary).		
Absent	AFL .		

AGENDA	MOVED BY	SECONDED
Welcome: The Chairman Ray Steer thanked all the Members for attending and opened the Meeting at 6.30.	Jody Whitehair.	Chris May.
Apologies: Jarrod Paul.		
Confirmation of Minutes from previous meeting: 06/11/2018 2017 AGM 06/02/2018	Tanya Martyn	Jody Whitehair.
Appointment of Executive positions: President: Ray Steer, Vice President: Jody Whitehair. Treasurer: Dennis Cetinich. Secretary; John Ralph. Caretaker: Bruce McIntosh. All the above were voted in Unopposed. All remaining Delegates retain their nominated Positions, CFC Lane Ralph replaces Tristen Savage, Dinny Rearden will be his Proxy. MOCC would like to thank Tristen for his service over many years.		
Correspondence: BHCC: Acknowledgement of November Minutes, Requesting updated activities on the MO, Rachel Merton requesting copy of Electricity read out for Rockfest Account. BHHRC: 2018/2019 Trials Dates, Racing Dates and Track Maintenance Dates have been read out for approval. Approval Granted, must work with CFC with their dates.	Chris May.	Garry Schindler.

BROKEN HILL
 CITY COUNCIL

AGENDA	MOVED BY	SECONDED
<p>Annual Financial Report: Bank Balance November 2018: \$24,126.19 Debtors: CBHFC; \$3,445.86</p>	Chris May.	Garry Schindler
<p>Review of Fee Structures: All Fees for the Memorial Oval are set by BHCC.</p>		
<p>General Business: Remove Grandstand Seating from the Minute Page. 2Dry FM; Talking with Council re Solar Panels at the Base of the Tower where they installed their Antenna. Garry Schindler: Request him to inform Rachel Merton to hold off Rockfest Account, Meter needs to be checked as it appears to be faulty.</p>		
<p>Next Meeting: Tuesday, 5th February 2019.</p>		
<p>Meeting Closed: There being no further business the Chairperson declared the meeting closed at 7.10 pm.</p>		

ORDINARY MEETING OF THE COUNCIL

December 4, 2018

ITEM 2**BROKEN HILL CITY COUNCIL REPORT NO. 212/18****SUBJECT: MINUTES OF THE BROKEN HILL REGIONAL ART GALLERY
ADVISORY COMMITTEE MEETING HELD 3 OCTOBER 2018 12/46****Recommendation**

1. That Broken Hill City Council Report No. 212/18 dated December 4, 2018, be received.
2. That minutes of the Broken Hill Regional Art Gallery Advisory Committee Meeting held 3 October 2018 be received.

Executive Summary:

Council has received minutes of the Broken Hill Regional Art Gallery Advisory Committee Meeting for endorsement by Council.

Report:

As per Council's Section 355 Advisory Committee Framework Manual and the Constitution of the Broken Hill Regional Art Gallery Advisory Committee (both adopted March 2017), the Committee is required to provide Council with a copy of their meeting minutes following each Committee meeting.

Accordingly, the Broken Hill Regional Art Gallery Advisory Committee has submitted minutes from its meeting held 3 October 2018 for Council's endorsement.

Strategic Direction:

Key Direction:	4. Our Leadership
Objective:	4.3 We Unite to Succeed
Function:	Leadership and Governance
DP Action:	4.3.1.2 Support Councils Section 355 Committees in undertaking their duties with Council

Relevant Legislation:

The Broken Hill Regional Art Gallery Advisory Committee operates under Council's s355 Advisory Committee Framework Manual, the Broken Hill Regional Art Gallery Advisory Committee Constitution and the *Local Government Act, 1993* (Section 355).

Financial Implications:

Nil.

Attachments

1. Minutes of the Broken Hill Regional Art Gallery Advisory Committee meeting
[↓](#) 03/10/2018

RAZIJA NU'MAN
DIRECTOR CORPORATE

JAMES RONCON
GENERAL MANAGER

BROKEN HILL
CITY COUNCIL

ORDINARY MEETING MINUTES TEMPLATE Confirmed Andrew Gosling, Seconded Clark Barret Endorsed Maureen Clark (Chairperson)

MINUTES – Art Gallery Advisory Committee

Date	03/10/2018	Time Meeting opened: 1715	Time Meeting closed: 1755
Location	Broken Hill Regional Art Gallery		
Present	Cr. Maureen Clark, Tara Callaghan (non-member), Paul Davies (non-member), Cr Licul, Clark Barrett, Jenny Cattonar, Andrew Gosling, Eve-lyn Kennedy, Robyn Taylor (on phone)		
Apologies	Rick Ball, Tracy Fraser, Prof Simon Molesworth, Sue Olsen		
Next Meeting	November 27		

AGENDA	MOVED BY	SECONDED
Welcome and Apologies		
Confirmation of Minutes from previous meeting held	Jenny Cattonar	Cr Licul
<p>Correspondence: ITEM 16 - BROKEN HILL CITY COUNCIL REPORT NO. 160/18 - DATED SEPTEMBER 04, 2018 - MINUTES OF THE BROKEN HILL REGIONAL ART GALLERY ADVISORY COMMITTEE MEETING HELD 15 AUGUST 2018 12/46 Resolved:</p> <ol style="list-style-type: none"> That Broken Hill City Council Report No. 160/18 dated September 4, 2018, be received. That the minutes of the Broken Hill Regional Art Gallery Advisory Committee Meeting held 15 August 2018 be received. That as per Minute No. 45847 (Council Meeting 27 June 2018 – reduction of Committee membership of the Broken Hill Regional Art Gallery Committee by natural attrition), Councillor membership on the Broken Hill Regional Art Gallery Advisory Committee be reduced from three to two Councillors and that the Constitution be amended accordingly. That Council now implement the clauses of the Constitution with regard to missed meetings without apology by a member of the Committee. <p>RESOLUTION Minute No. 45921 Councillor M. Clark moved CARRIED Councillor B. Licul seconded</p>		

AGENDA	MOVED BY	SECONDED
<p>2. Iris Dobbin has resigned as she is leaving Broken Hill and will permanently be in Adelaide now</p> <ul style="list-style-type: none"> • Correspondence Out 		
<p>Reports:</p> <ul style="list-style-type: none"> • 		
<p>General Business</p> <ol style="list-style-type: none"> 1. <i>Letter of support for Pro Hart Road</i> The Chair read out a letter (attached) that will be supplied to the Asset naming committee in support of the naming of a road in Broken Hill after Pro Hart. 2. <i>Paul Davies – Heritage Architect</i> Paul attended as an invited guest and introduced the type of work that he does in the town and with Council. He introduced some of the long term projects he would be working on including working out a colour scheme for the exterior of the building and assisting with advice on minor upgrade like interior painting and the new front counter in the Gallery retail space 3. <i>Artwork at the Civic Centre</i> Tara informed the committee that after conversations with Civic Centre staff/management/GM that hanging artwork had never originally been imagined or planned into the refurbishment and associated costs. Tara explained the lighting and hanging issues and that they would be costly to overcome. Cr Clark and Cr Licul questioned what would be happening to the 'May Harding Gallery' and the naming rights thereof... motion put forward for Tara to investigate this. <p>Other business:</p> <p>Front windows at the Gallery Clark Barrett queried how things were progressing with them. Tara informed that this was sitting with Andrew Bruggy (previous Manager of Infrastructure has now left Council) so she will need to investigate whether it has been re-allocated</p>	<p>All in favour</p> <p>Cr Licul</p>	<p>All in favour</p> <p>Clark Barrett</p>
<p>Work, Health and Safety From previous meeting: Cr. Licul raised a concern about patrons leaning over the railings at the exhibition openings during speeches, with drinks in their</p>		



AGENDA	MOVED BY	SECONDED
<p>hands. Tara agree this was an issue and will be discussing with Council this risk and the need to have a Gallery invigilator up there during big events for both the glassware and to ensure patrons are not getting too close to artworks with their drinks</p> <p>At this meeting: Tara updated that she made a recommendation for casual staff to be used during openings to monitor drinks with balcony and artworks, this has been approved by Risk Manager. Issue resolved.</p>		
<p>Future Agenda Items</p>		
<p>Next Meeting November 2018</p>		
<p>Meeting Closed There being no further business the Chairperson declared the meeting closed at 1755</p>		

BROKEN HILL
CITY COUNCIL

STATUTORY DECLARATION

I, MAUREEN CLARK (Full Name)-
of 461 CUMMINGS ST BROKEN HILL (Address)
in the State/Territory of NEW SOUTH WALES
do solemnly and sincerely declare that

The Broken Hill Regional Art Gallery Advisory Committee has declared its unanimous support for the Airport Road to be renamed Pro Hart Way in honour of Pro Hart.

Kevin Charles Hart was born in Broken Hill NSW on 30th May, 1928 and died of motor neurone disease on 28th March, 2006. He worked as an underground miner and was nicknamed "Pro" because he liked to invent different kinds of machines. He drew inspiration from the mining environment and the characters around him for his early artworks which included sculptures in welded steel, bronze and ceramics as well as paintings in oils. Pro believed in social justice and his works included themes supporting the working man and Aboriginal land rights.

Pro Hart was discovered by Adelaide gallery owner, Kim Bonython in 1962 and his fame spread around the world. His innovative method of cannon painting brought him more exposure and commercial success after he was featured in an advertisement for stain resistant carpet. It could be said that Pro Hart is a household name in Australia and Australian art and his name can be found on many artworks worldwide. Although famous, Pro is remembered fondly for his down to earth nature, his generosity to charities and individuals and his rejection of the pretentious "art mafia".

The Pro Hart Gallery is run by Pro's family and it is a drawcard for tourists to Broken Hill who come to see his extensive art collection, his sculptures and his collection of vintage cars. During his lifetime, Pro Hart donated paintings with a total value in excess of \$250,000 to the Broken Hill Regional Art Gallery (see attachment). Further paintings were donated from his estate after his death. His widow, Raylee, sponsors the annual Pro Hart Outback Art Prize in Broken Hill which attracts hundreds of entries from artists around Australia. Since his death 12 years ago, Broken Hill has honoured Pro Hart's contribution to the art world; his impact on tourism in Broken Hill, both when he was alive and after his death; and his generosity to anyone who needed a helping hand. It is widely accepted by the local community that it is time to honour our favourite son in a more meaningful way.

This is the end of my declaration

Maureen Clark,
Chairperson
BH Regional Art Gallery Advisory Committee

ORDINARY MEETING OF THE COUNCIL

December 3, 2018

ITEM 3BROKEN HILL CITY COUNCIL REPORT NO. 213/18SUBJECT: S355 ANNUAL AND FINANCIAL REPORTS 16/94**Recommendation**

1. That Broken Hill City Council Report No. 213/18 dated December 3, 2018, be received.
2. That the Annual Reports 2017/18 received from Section 355 Committees be received and noted.
3. That a further report be provided to Council to present the outstanding Annual and Financial Reports from Section 355 Committees.

Executive Summary:

In accordance with Section 355 of the *Local Government Act 1993* (the Act), Council has the ability to delegate some of its functions to a Committee of Council by way of appointment of community members to manage or advise on particular Council assets or functions. The committees are commonly known and referred to as Section 355 Committees.

There are currently 11 Section 355 Committees, made up of eight Asset Committees and three Advisory Committees.

Asset Committees:

- Alma Oval Community Committee
- BIU Band Hall Community Committee
- ET Lamb Memorial Oval Community Committee
- Friends of the Flora and Fauna of the Barrier Ranges Committee
- Memorial Oval Community Committee
- Norm Fox Sporting Complex Community Committee
- Picton Sportsground Community Committee
- Riddiford Arboretum Community Committee

Advisory Committees:

- Broken Hill Heritage Committee
- Broken Hill Regional Art Gallery Advisory Committee
- Community Strategic Plan Round Table

Report:

Council's Section 355 Advisory and Asset Committee Manuals state that all committees are in place for the term of the current Council (four years) and that committees are required to submit an Annual Report for period 2017/18; and Financial Report for period 2017/18, where relevant.

Reports specifically required include:

- Asset Committees: Annual Report 2017/18 and Financial Report 2017/18
- Advisory Committees: Annual Report 2017/18

These reports were required to be submitted to Council, for presentation to its September Council meeting. Report templates have previously been provided to all Committees. The initial written request was issued 14 August 2018, with subsequent written requests issued 4 September 2018 and 10 November 2018. Committees who had not submitted reports were contacted verbally on 26 November 2018.

It is important to highlight that during discussions with committees with outstanding reports, most committees have delayed submitting annual and financial reports as they had already scheduled to finalise reports in line with their Annual General Meetings, whose timeframes do not align with Council's reporting timeframe.

Reports have been received from the following committees and reported to the September 2018 ordinary Council meeting:

- Broken Hill Heritage Committee
- Broken Hill Regional Art Gallery Advisory Committee
- Riddiford Arboretum Community Committee
- Community Strategic Plan Round Table Committee

Further reports have now been received for the following committees:

- BIU Band Hall Community Committee – Annual Report only
- Friends of the Flora and Fauna of the Barrier Ranges Committee

Reports remain outstanding for the following committees and will be presented to Council once available:

- Alma Oval Community Committee
- BIU Band Hall Community Committee – Financial Report only
- Memorial Oval Community Committee
- Norm Fox Sporting Complex Community Committee
- Picton Sportsground Community Committee

It is recommended that as the ET Lamb Memorial Oval Community Committee has not established nor operated as a viable committee for the 2017/18 period (due to inability to achieve required level of committee membership) there is no requirement to submit an Annual Report 2017/18. Further review of this committee will be undertaken.

Strategic Direction:

Key Direction:	Our Leadership
Objective:	4.3 We Unite to Succeed in Australia's First Heritage Listed City
Function:	Corporate Support
DP Action:	4.3.1.02 Support Council's Section 355 Committees in undertaking their duties with Council

Relevant Legislation:

Local Government Act 1993 - Section 355 'How a council may exercise functions' and Section 377 'General power of the council to delegate'.

The Broken Hill Regional Art Gallery Advisory Committee operates under Council's S355 Advisory Committee Framework which includes the Section 355 Advisory Committee Manual (adopted 29 March 2017) and the Broken Hill Regional Art Gallery Advisory Committee Constitution (amended and adopted 27 June 2017).

Financial Implications:

There are no financial implications arising from the recommendations of this report. Where relevant, a Financial Report for period 2017/18 has been included.

Attachments

1. [!\[\]\(448bd415caa8b52d2aeb4d58499267b2_img.jpg\)](#) Friends of the Flora and Fauna of The Barrier Ranges
2. [!\[\]\(23be4c52910c50d5908bb101588c4f4e_img.jpg\)](#) BIU Band Hall Community Committee

RAZIJA NU'MAN
DIRECTOR CORPORATE

JAMES RONCON
GENERAL MANAGER

355 COMMITTEE ANNUAL REPORT

Please complete this form as accurately as possible and return to council@brokenhill.nsw.gov.au
If insufficient room please supply additional attachments.

SECTION 355 COMMITTEE

Name of Committee: The Flora and Fauna of The Barrier Ranges

Annual Report

Period: 2017-2018

ANNUAL REPORT

	Date of Meeting	Meeting conducted	No quorum, meeting not held
1. Number of meetings conducted and dates of meetings	10 July 2017	Yes	
	15 August 2017	Yes	
	19 September 2017	Yes	
	17 October 2017	Yes	
	21 November 2017	Yes	
	20 February 2018	Yes	
	20 March 2018	Yes	
	17 April 2018	Yes	
	15 May 2018	Yes	
	19 June 2018	Yes	

2. Attendance by Members

See attached

WORKING BEES

3. Activities / Projects / Achievements
- 19 August 2017 - Woodchip Flora Site and Cement new step at Ranger Hut
 - 14 October 2017 – Woodchips and Fix drippers
 - 4 November 2017
 - 2 December 2017
 - 24 March 2018

PROJECTS

- Albert Morris Regeneration Tour – 22/08/2017
- Film Night "War of the Worlds" - 02/09/2017
- Starview Primitive Campsite – Official Opening – 04/11/2017

4. Ongoing Issues

Nil

5. Completed

- Cold Set – Bitumen pouring over crushed paths

Maintenance

- 6.4 Re-seal – Picnic and BBQ Area – Completed
- MLC Volunteers have completed the fencing near roos, weeding, pulling droppers, fixing, drippers and digging holes for tree planting. A total of 126 MLC girls volunteered.

6. Financial Report

Not applicable

Please provide further relevant information:

PRIVACY STATEMENT

Council is collecting your personal information in accordance with the Privacy and Personal Information Protection Act 1998. The purpose for collecting your personal information is to obtain and record contact details and to assess your suitability for appointment to a S355 Committee.

The intended recipients of the personal information collected includes Council officers, S355 Committee members, and contractors or other agents contracted by Council. If appointed to a committee, your name and contact details will not be made public on Council's website and will be removed from all applications and reports in Council's Business Papers. The supply of the information is voluntary. If you cannot provide or do not wish to provide the information sought, Council may not be able to process your application.

You may make application for access or amendment to information held by Council. Council will consider any such application in accordance with the Act. Enquiries concerning this matter can be directed to the Public Officer council@brokenhill.nsw.gov.au or addressed to Broken Hill City 240 Blende Street.

Signature

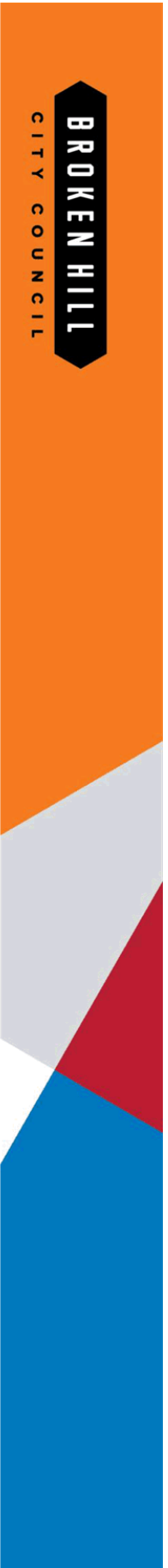
Date: 03/12/2018

Printed Name

On behalf of Darrell Ford

Position

Living Desert Ranger



Attendance
by Members

Member Name	10 Jul 2017	15 Aug 2017	19 Sep 2017	17 Oct 2017	21 Nov 2017	20 Feb 2018	20 Mar 2018	17 Apr 2018	15 May 2018	19 Jun 2018
Councillor Marion Browne	Y	Y	A	A	Y	Y	Y	Y	Y	A
David Spielvogel	Y	Y	Y	A	Y	Y	A	Y	Y	Y
Ronald Dean Fletcher	Y	A	A	A	Y	A	A	A	A	A
Geoffrey Hoare	Y	A	Y	Y	Y	Y	Y	Y	Y	Y
Jeff Crase	Y	Y	A	Y	Y	A	Y	Y	Y	Y
Ray Allen	Y	A	Y	A	A	A	Y	Y	A	Y
Ronald Turnes	Y	Y	Y	Y	Y	Y	Y	Y	Y	A
Jill Spielvogel	Y	Y	Y	A	A	Y	Y	Y	Y	Y
Lynette Campigli	A	Y	A	N	Y	A	A	N	N	Y
Susan Spangler	Y	A	Y	A	Y	Y	Y	Y	Y	Y
Nevada Ford	A	A	A	A	A	A	A	A	A	A
Alison Gander	A	A	A	N	N	N	N	N	N	N
Sandra Havran	Y	Y	Y	Y	Y	Y	Y	A	Y	Y
Paul Reed	Y	Y	Y	A	A	Y	A	A	A	Y
John Rogers	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Michael Ford	A	A	A	A	A	A	A	A	A	A
Gaylene Ford	A	A	Y	Y	Y	Y	Y	Y	A	Y
Eve-Lyn Kennedy	Y	Y	Y	N	N	N	N	N	N	N
Rosalind Molesworth	Y	A	Y	A	Y	Y	A	Y	Y	Y
Ann Evers	Y	Y	A	A	Y	A	Y	A	Y	Y
Kellie Scott	Y	A	Y	A	Y	Y	Y	Y	Y	Y
Jamie Scott	A	A	A	A	A	A	A	A	A	A
Darrell Ford (BHCC)	Y	Y	Y	Y	Y	Y	Y	Y	A	Y



355 committee annual report

Please complete this form as accurately as possible and return to council@brokenhill.nsw.gov.au
If insufficient room please supply additional attachments.

SECTION 355 COMMITTEE

Name of Committee: BIU Band Hall Community Committee

Annual Report Period: July 2017- June 2018

ANNUAL REPORT

	Date of Meeting	Meeting conducted	No quorum, meeting not held
1. Number of meetings conducted and dates of meetings	15/08/2017	BIU Band Hall	
	10/10/2017	BIU Band Hall	
	28/11/2017	BIU Band Hall	
	27/02/2018	BIU Band Hall	

03/04/18
Member Name

BIU Band Hall

	Date	Date	Date	Date	
Mark Curtis	15/08/2017	10/10/2017	28/11/2017	27/02/2018	03/04/18
Branko Licul	"	"	"	"	2/4/18
Kyla Vine	"	"	"	"	"
Robynne Sanderson	—	"	"	"	"
Annette Northey	15/08/2017	"	"	—	—
Lisa M. Atkinson					
Loene Crowley	—	—	28/11/2017	—	3/4/18

3. Activities / Projects / Achievements

- Prepared hall for hire by YMCA.
- Organised hire by Phil Holmden for a party.
- Reported several maintenance needs.
- Quoted on hire charges for other potential hirers.

4. Ongoing Issues

- Security lights in car park still not fixed.

5. Completed
Maintenance

- Fixed dripping air cooler.
- Fixed broken window.

6. Financial Report

To be submitted by treasurer.

Please provide further
relevant information:

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Signature

Kyla Vine

Date: 14/09/18

Printed Name

Kyla Vine

Position

Secretary

QUESTIONS TAKEN ON NOTICE FROM PREVIOUS COUNCIL MEETINGS

1. QUESTIONS ON NOTICE NO. 10/18 - DATED NOVEMBER 23, 2018 - COUNCILLOR QUESTIONS TAKEN ON NOTICE AT THE NOVEMBER 2018 COUNCIL MEETING (13/92).....127

2. QUESTIONS ON NOTICE NO. 11/18 - DATED DECEMBER 03, 2018 - PUBLIC FORUM QUESTIONS TAKEN ON NOTICE AT THE NOVEMBER 2018 COUNCIL MEETING (11/199).....129

ORDINARY MEETING OF THE COUNCIL

November 23, 2018

ITEM 1

QUESTIONS ON NOTICE NO. 10/18

SUBJECT: COUNCILLOR QUESTIONS TAKEN ON NOTICE AT THE
NOVEMBER 2018 COUNCIL MEETING 13/92

Summary

The report provides a response to a Councillor question raised at the November 2018 Council Meeting which was taken on notice.

Recommendation

1. That Questions On Notice No. 10/18 dated November 23, 2018, be received.

Background

Following are responses to questions raised by Councillors which the Mayor and/or General Manager took on notice at the November 2018 Council Meeting.

Question:	<p><u>Public Presentation of Council's 2017/2018 Financial Statements</u> The Mayor took a question on notice from Councillor Kennedy regarding when Council's External Auditor would be able to give the presentation of Council's financial statements to the public.</p>
Response:	<p>Section 419 of the <i>Local Government Act 1993</i> states that 'A council must present its audited financial reports, together with the auditor's reports, at a meeting of the council held on the date fixed for the meeting'. This was satisfied as part of the November Council report with the appropriate advertising of the Financials Statements occurring in the Barrier Daily Truth and on Council's website prior to the meeting.</p> <p>The Council may invite the auditor to attend the meeting that the Financial Statements are presented, which has been the previous practice of the Council, however this is not mandatory. Council's Auditor was asked to attend and present at a briefing session specifically for the Councillors prior to the Council meeting and then again at the Council Meeting for the public, however due to bad weather in Sydney the Auditor's flight was cancelled. The briefing session with Councillors was conducted via Video Conference however this was unfeasible for the Council Meeting.</p> <p>It is not recommended that the Auditor attend another meeting, due to the fact that the next Council meeting that the Auditor is available to attend is 20 February 2019 and that no questions or submissions have been received by the public whilst the Financial Statements were advertised or on public display.</p>

Attachments

There are no attachments for this report

JAMES RONCON
GENERAL MANAGER

ORDINARY MEETING OF THE COUNCIL

December 3, 2018

ITEM 2

QUESTIONS ON NOTICE NO. 11/18

SUBJECT: PUBLIC FORUM QUESTIONS TAKEN ON NOTICE AT THE NOVEMBER 2018 COUNCIL MEETING 11/199

Summary

This report provides responses to questions raised by members of the public during the Public Forum Session which the Mayor and/or General Manager took on notice at the November 2018 Council Meeting.

Recommendation

1. That Questions On Notice No. 11/18 dated December 3, 2018, be received.

Background

Following are responses to questions raised by members of the public during the Public Forum Session which the Mayor and/or General Manager took on notice at the November 2018 Council Meeting.

<p>Question:</p>	<p><u>Save Our Recycling Campaign</u> 11/199</p> <p>Ms Barbara Webster spoke about Lifeline scavenging for items to recycle and requested Council to allow Lifeline staff to inspect patron’s loads at the weighbridge and assist people with unloading.</p> <p>The Mayor took the question on notice.</p>
<p>Response:</p>	<p>BHCC acknowledges the importance of recycling and the services that Lifeline provides. Tip scavenging has always been a high risk activity not only for staff but also residents and as a result most councils have stopped this activity and have instead established a separate site.</p> <p>In reference to Broken Hill Waste Management Facility - Landfill Environmental Management Plan (LEMP), Recovery of reusable/recyclable materials, where feasible, will be performed by landfill personnel under the direct supervision of the Landfill Operator. Limitations here include:</p> <ul style="list-style-type: none"> - Staffing to support the supervision required. - We need to establish some common grounds with Lifeline on what materials are considered feasible and if staff are available to inspect the materials. <ul style="list-style-type: none"> o WH&S Officer will be organising a meeting with Lifeline to start conversations for a collaborative solution moving forward.

	<ul style="list-style-type: none">○ Post discussions and pending direction taken, a risk assessment will be conducted with procedures and processes implemented to mitigate any risks and also put in place a functional framework.
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Attachments

There are no attachments for this report

JAMES RONCON
GENERAL MANAGER

CLOSED

Council Meeting to be held **Wednesday, December 12, 2018**

1. **BROKEN HILL CITY COUNCIL REPORT NO. 214/18 - DATED**
NOVEMBER 28, 2018 - PROPOSED LICENCE FOR WATER MAIN OVER
PART WILLYAMA COMMON - CONFIDENTIAL

(General Manager's Note: This report considers a proposed licence agreement and is deemed confidential under Section 10A(2) (c) of the Local Government Act, 1993 which provides for information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business).