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ABN 84 873 116 132

February 26, 2018

ORDINARY MEETING OF THE COUNCIL MEETING

TO BE HELD

WEDNESDAY, FEBRUARY 28, 2018

SUPPLEMENTARY AGENDA NO. 1



JAMES RONCON  
GENERAL MANAGER

**FURTHER BUSINESS**

1. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 1/18 - DATED  
FEBRUARY 23, 2018 - \$10M LOAN BORROWINGS (13/21) ..... 3
2. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 2/18 - DATED  
FEBRUARY 23, 2018 - BHP FUNDED PROJECTS (14/181) ..... 6
3. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 3/18 - DATED  
FEBRUARY 23, 2018 - WORKPLACE HEALTH & SAFETY OFFICER  
POSITION (14/128) ..... 8
4. MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 4/18 - DATED  
FEBRUARY 23, 2018 - COUNCIL'S CAPACITY TO UNDERTAKE  
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ORDINARY MEETING OF THE COUNCIL

February 23, 2018

**ITEM 1**

MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 1/18

SUBJECT:                      \$10M LOAN BORROWINGS                      13/21

**Notice of Motion**

1. That Motions of Which Notice has been Given No. 1/18 dated February 23, 2018, be received.
2. That Broken Hill City Council prepared a report for the March 2018 Ordinary Meeting of Council explaining the following points in relation to the loan for \$10,000,000 from the Westpac Bank.
  - a) The cost in interest to the community over a 20 year fixed interest loan period for the \$10,000,000 and the refinanced \$3,600,000.
  - b) Why the report to Council used to base the majority decision of Councillors to borrow the initial \$10,000,000 was through T-Corp and was a matter of urgency also had a worst case scenario. Yet Council used this resolution based on those facts to borrow \$13,600,000 through Westpac Bank? This money could be borrowed on a needs basis as is required to improve or maintain infrastructure and should have been presented to Council via a report detailing the new circumstances.
  - c) How much additional interest will be paid for the refinancing of the \$3,600,000 as opposed to paying off the \$3,600,000 at the loan's maturity?
  - d) What specific infrastructure projects are likely to use the borrowed money and why isn't Council's budget adequate to cover these projects given the sound financial position we are in?
  - e) How will the loan be serviced; how much off the principle each year will be paid; and what effect will this have on the infrastructure budgets of future Councils?

**Summary**

Council received a Notice of Motion from Councillor Kennedy on February 23, 2018 regarding Council's \$10M loan borrowings. The Notice of Motion is as written above.

Councillor Kennedy's Notice of Motion is attached.

**General Manager's Comments**

The decision of Council in this matter occurred as part of the 2017/18 budget deliberations which were underpinned by extensive discussion, debate and community consultation in the lead up to Council adopting the budget. This included Council adopting a revised 10 Year - Long Term Financial Plan that included the loan borrowings which reflected their positive impact on Councils long term financial position. The relevant part of the Council resolution was:

Excerpt from *Minute No. 45561*

- “xiv. That Council delegate to the General Manager to organise a \$10M Loan for the purpose of additional Infrastructure Renewal as outlined in the 2017/2018 Operational Plan and 2018-2027 Long Term Financial Plan*
- xv. That if the terms and conditions of the loan as well as the forecasted impacts vary materially from those set out in the plans, a report to Council outlining this and recommendations going forward will be tabled at the next Ordinary Council Meeting.*
- xvi. That Council authorise the Mayor and General Manager to sign loan documents and apply the Common Seal of Council to loan documents as necessary.....”*

The loan has been drawn down in accordance with Councils resolution of June 2017 and as Councillors are aware, regular updates at Councillor briefing sessions were provided around Council access to TCorp borrowings and the alternatives that were being explored. As per the Council resolution (Minute No. 45561), if the decision to go with Westpac would have resulted in a material (negative) difference, the issue would have been brought back to Council for a further decision.

Council is in an improving financial position after a period from 1999 – 2016 that saw accumulated deficits of circa \$65m and an underspend on infrastructure renewal of circa \$54m. The borrowings (responsibly) assist Council to fast track its infrastructure renewal program with a proposed focus on footpaths, parks and gardens, roads etc. and will form part of the 2018/19 budget deliberations.

**Attachments**

1. [!\[\]\(e6ddc77b791299d975007937cebef274\_img.jpg\)](#) Councillor Kennedy's Notice of Motion

T. KENNEDY  
COUNCILLOR

## Notice of motion

### Ordinary meeting of the Broken Hill City Council

To be held on 28/02/2018

From Councillor Tom Kennedy

That Broken Hill City Council prepares a report for the March 2018 ordinary meeting of council explaining the following points in relation to the loan for \$10,000,000 from the Westpac Bank.

- The cost in interest to the community over 20 year fixed interested loan period for the \$10,000,000 and the refinanced \$3,600,000.
- Why the report to council used to base the majority decision of councillors to borrow the initial \$10,000,000 was through T-Corp and was a matter of urgency also had a worst case scenario. Yet council used this resolution based on those facts to borrow \$13,600,000 through Westpac Bank? This money could be borrowed on a needs basis as is required to improve or maintain infrastructure and should have been presented to council via a report detailing the new circumstances.
- How much additional interest will be paid for the refinancing of the \$3,600,000 as opposed to paying off the \$3,600,000 at the loans maturity?
- What specific infrastructure projects are likely to use the borrowed money and why isn't council's budget adequate to cover these projects given the sound financial position we are in?
- How will the loan be serviced, how much off the principle each year will be paid and what effect will this have on the infrastructure budgets of future councils?

Councillor Tom Kennedy



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20 FEB 2018  
BY: 9.34 am ja

ORDINARY MEETING OF THE COUNCIL

February 23, 2018

**ITEM 2**

MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 2/18

SUBJECT:                      BHP FUNDED PROJECTS                      14/181

**Notice of Motion**

1. That Motions of Which Notice has been Given No. 2/18 dated February 23, 2018, be received.
2. That a report be prepared for the April 2018 Ordinary Meeting of Council outlining the expenditure so far for all projects related to the BHP funding and how that expenditure has been incurred.

**Summary**

Council has received a Notice of Motion from Councillor Kennedy on 23 February 2018 regarding the BHP funded projects. The Notice of Motion is as written above.

See attached copy of Councillor Kennedy's Notice of Motion.

**General Manager's Comment**

We do not need to wait until April 2018 to deliver a report to Council, this information can be circulated to Councillors, out of session, through the Hub.

**Attachments**

1. [↓](#) Councillor Kennedy's Notice of Motion

T. KENNEDY  
COUNCILLOR

## Notice of motion

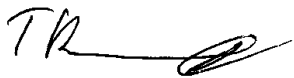
### Ordinary meeting of the Broken Hill City Council

To be held on 28/02/2018

From Councillor Tom Kennedy

That a report be prepared for the April 2018 ordinary meeting of council outlining the expenditure so far for all projects related to the BHP funding and how that expenditure has been incurred.

Councillor Tom Kennedy

A handwritten signature in black ink, appearing to be 'TK' followed by a stylized flourish.

## ORDINARY MEETING OF THE COUNCIL

February 23, 2018

**ITEM 3**MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 3/18SUBJECT:                      WORKPLACE HEALTH & SAFETY OFFICER POSITION                      14/128**Recommendation**

1. That Motions of Which Notice has been Given No. 3/18 dated February 23, 2018, be received.
2. That a report be prepared for the March 2018 Ordinary Meeting of Council detailing the necessity for the position of Workplace Health and Safety Officer. What consultation did the General Manager engage with Councillors before deciding the position was a necessity given Sections 332(1A) and 333 of the Local Government Act and how did this position give effect to Council's strategic planning given Council's adopted budgetary restraints, that Section 333 of the Act would mean this was a redetermination requiring a Council decision and given this was not stated as one of the priorities as identified by Council decision, why was money saved from workers insurances used for this position without Council approval?

**Summary**

Council received a Notice of Motion from Councillor Kennedy on February 23, 2018 regarding the necessity for the new position of Workplace Health and Safety Officer. The Notice of Motion is as written above.

Councillor Kennedy also provided the following reference information:

Please refer to the attached section of the NSW Local Government Act.

**332 Determination of structure**

- (1) A council must, after consulting the general manager, determine the following:
  - (a) the senior staff positions within the organisation structure of the council,
  - (b) the roles and reporting lines (for other senior staff) of holders of senior staff positions,
  - (c) the resources to be allocated towards the employment of staff.
- (1A) The general manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council.
- (1B) The positions within the organisation structure of the council are to be determined so as to give effect to the priorities set out in the strategic plans (including the community strategic plan) and delivery program of the council.
- (2) A council may not determine a position to be a senior staff position unless:



- (a) the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and
  - (b) the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3B of the *Statutory and Other Offices Remuneration Act 1975*) payable with respect to senior executives whose positions are graded Band 1 under the *Government Sector Employment Act 2013*.
- (3) For the purposes of subsection (2) (b), the total remuneration package payable with respect to a position within a council's organisation structure includes:
- (a) the total value of the salary component of the package, and
  - (b) the total amount payable by the council by way of the employer's contribution to any superannuation scheme to which the holder of the position may be a contributor, and
  - (c) the total value of any non-cash benefits for which the holder of the position may elect under the package, and
  - (d) the total amount payable by the council by way of fringe benefits tax for any such non-cash benefits.

### 333 Re-determination and review of structure

The organisation structure may be re-determined under this Part from time to time. The council must review, and may re-determine, the organisation structure within 12 months after any ordinary election of the council.

Councillor Kennedy's Notice of Motion is attached.

### General Manager's Comment

*The Local Government Act 1993* (The Act), s332(1c) states that, A Council must, after consultation with the General Manager, determine the resources to be allocated to the employment of staff. **This process occurs at budget time.**

Section 332(1A) states that, The General Manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council. **This process also occurs at budget time.**

Section 332(1B) states that, The positions within the organisation structure of the council are to be determined so as to give effect to the priorities set out in the strategic plans (including the community strategic plan) and delivery program of the council. **Council's adopted Strategic Workforce Management Plan, adopted as part of the Integrated Planning and Reporting Framework, places workplace health and safety at the forefront of Councils priorities.**

The email advice to Councillors on 3 January 2018 outlined the urgency of the role and how it was planned to handle the situation in the short and longer term. It was initially planned that the Council insurance savings could fund the position in the short term, with the position to be formally introduced to the structure and budget as per ss332(1c) and (1A) of The Act and as part of the 2018/19 budget process.

A review of the wages and salaries budget as part of Q2 has shown a savings in salaries due to unfilled positions, resignations etc. so the WH&S officer position is being funded from within the current salaries and wages budget allocation.

This position and any others that may be required to ensure the continuation of Council responsibilities will be presented to Council at the first draft budget meeting in April 2018.

In my view s333 of The Act does not apply as we are not restructuring; legislation is cumulative and must be read in conjunction with the aforementioned sections.

### Attachments

1. [!\[\]\(815df092dd722ee9268ef8e6d0193e3a\_img.jpg\)](#) Councillor Kennedy's Notice of Motion

T. KENNEDY  
COUNCILLOR

## Notice of motion

### Ordinary meeting of the Broken Hill City Council

To be held on 28/02/2018

From Councillor Tom Kennedy

That a report be prepared for the March 2018 ordinary meeting of council detailing the necessity for the position of WHS officer, what consultation did the General Manager engage with councillors before deciding the position was a necessity given 332) 1A and 333 of the Local Government Act and how did this position give effect to council's strategic planning given council's adopted budgetary restraints, that 333 of the Act would mean this was a redetermination requiring a council decision and given this was not stated as one of the priorities as identified by council decision, why was money saved from workers insurances used for this position without council approval?

Please refer to the attached section of the NSW Local Government Act.

#### **332 Determination of structure**

(1) A council must, after consulting the general manager, determine the following:

- (a) the senior staff positions within the organisation structure of the council,
- (b) the roles and reporting lines (for other senior staff) of holders of senior staff positions,
- (c) the resources to be allocated towards the employment of staff.

(1A) The general manager must, after consulting the council, determine the positions (other than the senior staff positions) within the organisation structure of the council.

(1B) The positions within the organisation structure of the council are to be determined so as to give effect to the priorities set out in the strategic plans (including the community strategic plan) and delivery program of the council.

(2) A council may not determine a position to be a senior staff position unless:

- (a) the responsibilities, skills and accountabilities of the position are generally equivalent to those applicable to the Executive Band of the Local Government (State) Award, and
- (b) the total remuneration package payable with respect to the position is equal to or greater than the minimum remuneration package (within the meaning of Part 3B of the *Statutory and Other Offices Remuneration Act 1975*) payable with respect to senior executives whose positions are graded Band 1 under the *Government Sector Employment Act 2013*.

(3) For the purposes of subsection (2) (b), the total remuneration package payable with respect to a position within a council's organisation structure includes:

- (a) the total value of the salary component of the package, and
- (b) the total amount payable by the council by way of the employer's contribution to any superannuation scheme to which the holder of the position may be a contributor, and
- (c) the total value of any non-cash benefits for which the holder of the position may elect under the package, and
- (d) the total amount payable by the council by way of fringe benefits tax for any such non-cash benefits.

#### **333 Re-determination and review of structure**

The organisation structure may be re-determined under this Part from time to time. The council must review, and may re-determine, the organisation structure within 12 months after any ordinary election of the council.

Councillor Tom Kennedy



## ORDINARY MEETING OF THE COUNCIL

February 23, 2018

**ITEM 4**MOTIONS OF WHICH NOTICE HAS BEEN GIVEN NO. 4/18

SUBJECT: COUNCIL'S CAPACITY TO UNDERTAKE CONTRACTED ROAD  
WORKS 14/6, 11/339

**Notice of Motion**

1. That Motions of Which Notice has been Given No. 4/18 dated February 23, 2018, be received.
2. That Broken Hill City Council commit to achieving a paid workforce that is adequate to carry out all Council paid for road maintenance and services and also potential contracted work from other providers such as RMS and other Councils.
3. That a report be submitted to the April Meeting of Council detailing what would be required for from a Council restructure as per 333 of the Local Government Act for the above to be achieved and that the General Manager begin to implement this immediately and for it to be completed within 18 months from the date of this meeting.

**Summary**

Council received a Notice of Motion from Councillor Kennedy on February 23, 2018 regarding Council's capacity to undertake contracted road works in addition to Council road works. The Notice of Motion is as written above.

Councillor Kennedy's Notice of Motion is attached.

**General Manager's Comment**

It was understood, through the GM performance review sessions, that the Council wished to fast track a service review of the road works area as part of Councils Service Review Framework. As further advised this has been scheduled for April 2018 at the end of the current resealing program.

The appropriate place to have these type of discussions is in the lead up to, and through, the budget process, not debating it and making ad hoc decisions in a Council meeting. This is how the Council will very quickly derail its good work and improving financial position. It is also worth noting that as part of the Strategic Planning workshop for Councillors and staff held in November 2017, this was not put forward as a strategic objective for the Council.

**Attachments**

1. [!\[\]\(3292f5442e3b4027aa0bb60988f9fc82\_img.jpg\)](#) Councillor Kennedy's Notice of Motion

T. KENNEDY  
COUNCILLOR

## Notice of motion

### Ordinary meeting of the Broken Hill City Council

To be held on 28/02/2018

From Councillor Tom Kennedy

That Broken Hill City Council commit to achieving a paid workforce that is adequate to carry out all council paid for road maintenance and services and also potential contracted work from other providers such as RMS and other councils.

That a report be submitted to the April meeting of council detailing what would be required for from a council restructure as per 333 of the Local Government Act for the above to be achieved and that General Manager begin to implement this immediately and for it to be completed within 18 months from the date of this meeting.

Councillor Tom Kennedy

