

CITY OF PALMERSTON

**Minutes of Council Meeting
held in Council Chambers
Civic Plaza, Palmerston
on Tuesday 7 February 2017 at 6.30pm.**

Mayor Ian Abbott
Chair

Any member of Council who may have a conflict of interest, or a possible conflict of interest in regard to any item of business to be discussed at a Council meeting or a Committee meeting should declare that conflict of interest to enable Council to manage the conflict and resolve it in accordance with its obligations under the Local Government Act and its policies regarding the same.

Audio Disclaimer

An audio recording of this meeting is being made for minute taking purposes as authorised by City of Palmerston Policy MEE3 Recording of Meetings, available on Council's Website.

Acknowledgement of Traditional Ownership

I respectfully acknowledge the past and present Traditional Custodians of this land on which we are meeting, the Larrakia people. It is a privilege to be standing on Larrakia country.

1 PRESENT

Elected Members:	His Worship the Mayor Ian Abbott (Chair) Deputy Mayor Seranna Shutt Alderman Athina Pascoe-Bell Alderman Paul Bunker Alderman Sue McKinnon Alderman Andrew Byrne
Staff:	Ricki Bruhn, Chief Executive Officer Ben Dornier, Director of Corporate and Community Services Mark Spangler, Director of Technical Services Gary Boyle, Major Projects Officer Maxie Smith, Acting Finance Manager Alyce Breed, Minute Secretary
Gallery:	1 member of the public

2 APOLOGIES

Nil.

3 CONFIRMATION OF MINUTES

Moved: Deputy Mayor Shutt
Seconded: Alderman McKinnon

THAT the minutes of the Council Meeting held Tuesday, 17 January 2017 pages 8913 to 8919, be confirmed.

CARRIED 8/2435 – 07/02/2017

The Chair suspended the Council meeting at 6.31pm for a Lion Dance, blessing of the Council Chambers for the Chinese New Year. The meeting recommenced at 6.40pm.

4 MAYOR'S REPORT

M8-34

Moved: Deputy Mayor Shutt
Seconded: Alderman Pascoe-Bell

THAT Council receives Report Number M8-34.

CARRIED 8/2436 – 07/02/2017

5 REPORT OF DELEGATES

Nil.

6 QUESTIONS (WITHOUT DEBATE) FOR WHICH NOTICE HAS BEEN GIVEN

6.1 City Centre Car Parking Fees

In response to the Questions raised by Alderman Pascoe-Bell "That the CEO clearly identify the powers that Council currently has for the enforcement of the collection of car parking charges, in relation to Northern Territory Traffic Regulations, the Australian Road Rules and any relevant NT Local Government Legislation or Regulations?" and "That Council does not currently have enforcement powers, what action needs to be taken, with an estimated time frame for implementing these enforcement powers, e.g. the introduction of specific parking by-laws?"

The Chief Executive Officer provided the following response:-

"Consistent with the legal advice obtained from the Council's solicitors, the Council is currently authorised by Rule 207 of the Australian Road Rules, Section 13 of the Traffic Act, Regulation 47 of the Traffic Regulations and Clause 2 of the Palmerston (Charges) By-Laws,

- *to establish paid on-street and off-street parking areas by way of erecting traffic control devices for this purpose (including installing parking meters and / or ticket vending machines and parking bays);*
- *to determine the parking fees; and*
- *to enforce a failure to pay the required fee by way of issuing a parking infringement.*

Whilst the City of Darwin currently has by-law 121 and 121A in place for regulating on-street and off-street paid parking, the introduction of the Australian Road Rules in the Northern Territory in 1999, along with subsequent amendments to the NT Traffic Act and Traffic Regulations have reached the point where

the use of by-laws as the mechanism for managing pay and display car parking is no longer necessary. Indeed, neither the City of Darwin or the City of Palmerston use any existing by-laws for regulating traffic offences, including car parking. This is evidenced by examining an infringement notice from either council where the legislation regarding offences is clearly stated – the Australian Road Rules (as required by the Fines Recovery Act). In relation to the actual powers of local government with respect to parking, Section 3 of the Traffic Act reads: -

- **Competent authority**, in relation to a public street or public place, means the person, body or authority (which shall include the Territory) having the care, control and management of that street or place.

Section 186 of the Local Government Act establishes that roads owned by the City of Palmerston are under its “care, control and management”. As such, the City of Palmerston is a “Competent Authority” under the Traffic Act.

Section 13 of the Traffic Act – Competent authority may erect traffic control devices – reads:-

- (1) Subject to subsection (2), a competent authority may: -
 - a. Erect, establish, place or display a traffic control device on, near or above a public street or public place;
 - b. Erect or establish a traffic island or reservation on a public street or public place;
 - c. Mark a road marking on a carriageway or kerb of a public street or public place; or
 - d. Alter or remove a traffic control device, traffic island, reservation or road marking
- (2) A traffic control device shall be in the prescribed form.

Section 13 of the Traffic Act provides that the Council, as a competent authority, has the care, control and management of a public street and hence the power to install traffic control devices. A traffic control device is defined to include “a mark, structure or item placed, erected or displayed for the purpose of regulating traffic” and sub-sections 13(1)(a) and (c) give specific authority for the Council to “erect, establish, place or display a traffic control device on or near a public street or public place” and to road mark on a carriageway or kerb in a public street. Given the broad nature of the definition, it is sufficient legislative authority for the Council to install meters or ticket vending machines and to line mark for the purpose of designating parking bays.

Divisions 7, 8, 9 and 10 of the Traffic Regulations – Australian Road Rules, provide power for the Council to erect permissive parking signs and for parking fees to be payable by buying a ticket or putting money into a parking meter. Rule 207 under Division 7 includes an offence provision. This means that if a fee is not paid or a driver fails to “obey any instructions on or with the sign, meter, ticket or ticket-vending machine”, it is a contravention of the rule, and amounts to an offence. If this occurs, an officer of a competent authority (the Council) can issue a parking infringement notice in accordance with Regulation 47 of the Traffic Regulations (under Division 3 Parking Infringement Scheme). The penalty for a parking infringement is \$40 if there is contravention of Rule 207.

The Council, as a defined enforcement agency, can rely upon the powers conferred on the Fines Recovery Unit established under Section 27 of the Fines and Penalties and (Recovery) Act to recover an amount due to the Council arising from the issue of an infringement notice under the Traffic Regulations.”

and

“It is not necessary for the Council to adopt a By-Law to be in a position to enforce paid parking areas. As the Traffic Act, Australian Road Rules and related regulations provide sufficient powers for the Council to regulate the ‘pay and display’ system, for infringement notices to be issued and for the Fines Recovery Unit to recover amounts owing to the Council, there is nothing more required of the Council as far as legislation. Given the legislative regime that already exists, Council does not need to take any additional action to enforce the ‘pay and display’ system. This response is supported by legal advice.”

7 QUESTIONS (WITHOUT DEBATE) FOR WHICH NOTICE HAS NOT BEEN GIVEN

Nil.

8 PETITIONS

Nil.

9 DEPUTATIONS/PRESENTATIONS

Nil.

10 CONSIDERATION OF MOTIONS FOR WHICH NOTICE HAS BEEN GIVEN

Nil.

11 COMMITTEE RECOMMENDATIONS

11.1 Governance and Organisation

Nil.

11.2 Economic Development and Infrastructure

Nil.

11.3 Community Culture and Environment

Moved: Alderman McKinnon
Seconded: Alderman Pascoe-Bell

THAT the minutes from the Community, Culture and Environment Committee meeting held on 1 February 2017, be received and noted and that Council adopts the recommendations made by the Committee and accordingly resolves as follows:-

11.3.1 Financial Support – Touch Football NT CCE/0654

THAT Council approve a three (3) year sponsorship to Touch Football NT to the total value of \$43,000, being \$17,000 in 2016/17, \$13,000 in 2017/18 and \$13,000 in 2018/19.

11.3.2 City of Palmerston Scholarships CCE/0656

THAT Council approve FIN18 Grants Donations, Scholarships and Sponsorships Policy.

11.3.3 Financial Support – Variation of Terms of Funding Lung Foundation Australia CCE/0657

THAT Council approve the variation in allocation of funds to Lung Foundation Australia.

CARRIED 8/2437 – 07/02/2017

11.4 CEO Performance Appraisal

Moved: Alderman Bunker
Seconded: Alderman McKinnon

THAT the minutes from the CEO Performance Appraisal Committee meeting held on 27 January 2017, be received and noted.

CARRIED 8/2438 – 07/02/2017

12 INFORMATION AGENDA

12.1 Items for Exclusion

Nil.

12.2 Receipt of Information Reports

Moved: Deputy Mayor Shutt
Seconded: Alderman Pascoe-Bell

THAT the information items contained within the Information Agenda, be received.

CARRIED 8/2439 – 07/02/2017

The Chair invited the Chief Executive Officer, Director of Corporate and Community Services and Director of Technical Services to provide a verbal update on the outstanding matters contained within the Action Report.

Officers provided a verbal report to the meeting and answered questions from the Elected Members.

13 DEBATE AGENDA

13.1 Officer Reports

13.1.1 City of Palmerston Library Closure – Easter Weekend 2017 8/1073

Moved: Deputy Mayor Shutt
Seconded: Alderman Pascoe-Bell

1. THAT Council receives Report Number 8/1073.
2. THAT Council approves the City of Palmerston Library closure on Sunday 16 April 2017.

CARRIED 8/2440 – 07/02/2017

13.1.2 Appointment of Chair to the Committees of Council 2017 8/1074

Moved: Alderman Pascoe-Bell
Seconded: Alderman McKinnon

1. THAT Council receives Report Number 8/1074.

CARRIED 8/2441 – 07/02/2017

Moved: Alderman Bunker
Seconded: Alderman Byrne

2. THAT Deputy Mayor Seranna Shutt be appointed as Chair to the Community, Culture and Environment Committee, taking effect on 19 February 2017.
3. THAT Alderman Andrew Byrne be appointed as Chair to the Governance and Organisation Committee, taking effect on 19 February 2017.

CARRIED 8/2442 – 07/02/2017

Nominations from Alderman Bunker and Alderman Pascoe-Bell were received for the position of Chair to the Economic Development and Infrastructure Committee.

The Mayor requested a show of hands, the voting being;

Alderman Bunker - 5
Alderman Pascoe-Bell - 1

Moved: Deputy Mayor Shutt
Seconded: Alderman Byrne

4. THAT Alderman Bunker be appointed as Chair to the Economic Development and Infrastructure Committee, taking effect on 19 February 2017.

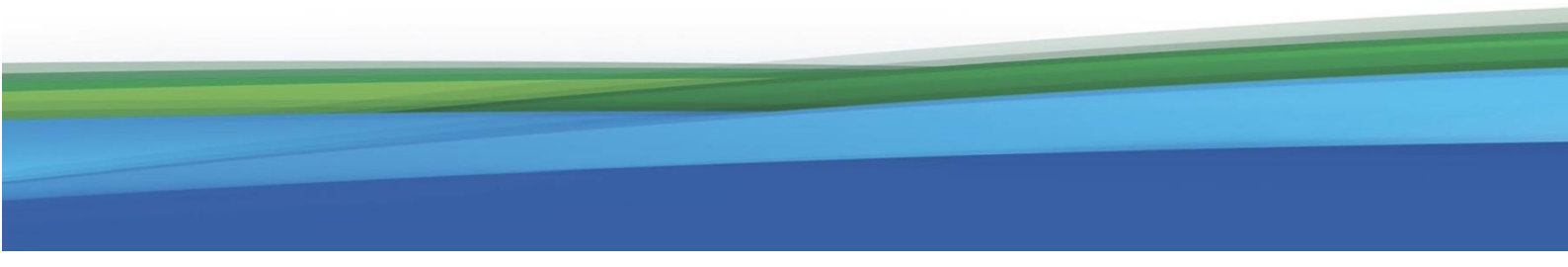
CARRIED 8/2443 – 07/02/2017

13.1.3 Capital Works for Disability Access 2016/17 8/1079

Moved: Deputy Mayor Shutt
Seconded: Alderman McKinnon

1. THAT Council receives Report Number 8/1079.
2. THAT Council approve disability access improvement works for the sites recommended in Table 1.0 of Report Number 8/1079.

CARRIED 8/2444 – 07/02/2017



13.1.4 Extinguishment of Easement in Gross over Lot 11511, Town of Palmerston
8/1080

Moved: Alderman Byrne
Seconded: Alderman Bunker

1. THAT Council receives Report Number 8/1080.
2. THAT Council consents to extinguish a drainage easement over Lot 11511, Town of Palmerston.
3. THAT Council authorises the Mayor and Chief Executive Officer to sign and seal Form 53, Extinguishment of Easement in Gross to extinguish the redundant drainage easement over Lot 11511, Town of Palmerston.

CARRIED 8/2445 – 07/02/2017

13.1.5 Development Application PA2017/004 - Mixed use development comprising of 12 x 2 and 24 x 3 bedroom multiple dwellings, ground and first floor commercial tenancies and a car parking facility in an 8 storey building plus one level of basement car parking on Lot 9609 & 10024 (11) The Boulevard and (7) Palmerston Circuit, Palmerston City
8/1081

Moved: Deputy Mayor Shutt
Seconded: Alderman Bunker

1. THAT Council receives Report Number 8/1081.
2. THAT Council endorses Attachment A to Report Number 8/1081.

CARRIED 8/2446 – 07/02/2017

DIVISION

Alderman Byrne called a division – as a consequence the result of the above motion was set aside.

Upon dividing, 5 members voted in the affirmative, 1 member voted in the negative.

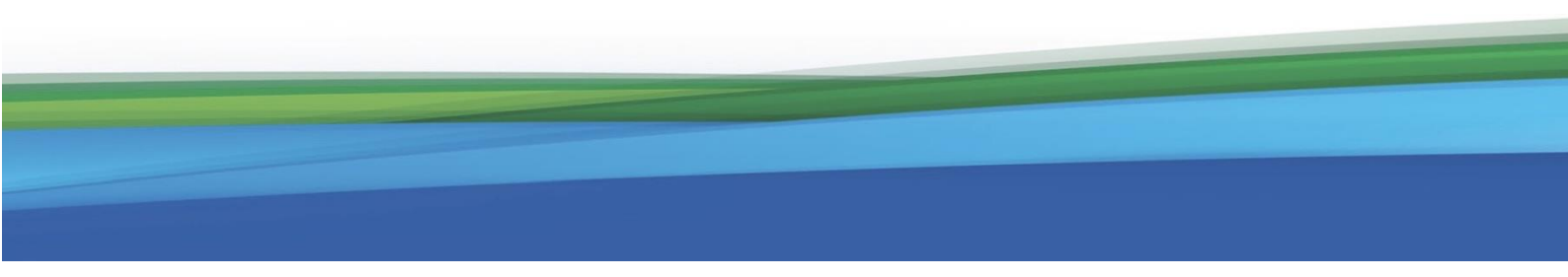
Members Voting in the Affirmative

Mayor Abbott
Deputy Mayor Shutt
Alderman Bunker
Alderman Byrne
Alderman McKinnon

Members Voting in the Negative

Alderman Pascoe-Bell

The Chair declared the motion CARRIED



13.1.6 Creation of a Drainage Easement over Lot 12087, Town of Palmerston 8/1082

Moved: Alderman Pascoe-Bell

Seconded: Alderman McKinnon

1. THAT Council receives Report Number 8/1082.

CARRIED 8/2447 – 07/02/2017

Moved: Alderman McKinnon

Seconded: Alderman Pascoe-Bell

2. THAT Council consents to create a drainage easement over Lot 12087, Town of Palmerston for Stage 2 of Zuccoli subdivision as shown on the Attachment A to Report Number 8/1082.
3. THAT Council grants consent to the Mayor and Chief Executive Officer to sign and seal the Form 51 - Creation of Easement (Attachment B) to Report Number 8/1082.

CARRIED 8/2448 – 07/02/2017

13.1.7 LGANT nomination to the Administration and Legislation Advisory Committee (ALAC) 8/1084

Moved: Alderman Byrne

Seconded: Deputy Mayor Shutt

1. THAT Council receives Report Number 8/1084.

CARRIED 8/2449 – 07/02/2017

Moved: Alderman Pascoe-Bell

Seconded:

2. THAT Alderman Pascoe-Bell be nominated as a member to the LGANT Administration and Legislation Advisory Committee.

MOTION LAPSED FOR WANT OF A SECONDER

14 CORRESPONDENCE

Nil.

15 RESPONSE TO PREVIOUS QUESTIONS TAKEN ON NOTICE

Nil.

16 PUBLIC QUESTION TIME

Nil.



17 OTHER BUSINESS

17.1 Alderman McKinnon/Byrne

Alderman Byrne suggested a separate budget line for large sponsorships. Discussions will continue throughout upcoming workshops for the 2017/18 budget.

17.2 Alderman Byrne

Passed on praise for a well-run and organised 2017 Australia Day Event and Citizenship Ceremony.

18 CONFIDENTIAL REPORTS

Moved: Alderman Bunker
Seconded: Alderman McKinnon

18.1 Financial Hardship Application Assessment 100114 8/1075

1. THAT pursuant to Section 65 of the Local Government Act, Council orders that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director of Corporate and Community Services, Director of Technical Services, Acting Finance Manager and Minute Secretary on the basis that Council considers it necessary and appropriate to act in a manner closed to the public in order to receive, discuss and consider the report and associated documents in relation to confidential agenda item 18.1 Financial Hardship Application Assessment 100114 and that Council is satisfied that the meeting should be conducted in a place open to the public is outweighed in relation to the matter because receiving involves:

- (b) information about the personal circumstances of a resident or ratepayer;

This item is considered confidential pursuant to Regulation 8 (b) of the Local Government (Administration) Regulations.

2. THAT Council orders that the minutes from the Confidential Council meeting held on 7 February 2017, in relation to confidential item number 18.1 Financial Hardship Application Assessment 100114, the report and associated documents remain confidential and not available for public inspection for a period of 12 months from the date of this meeting or a lesser period as determined by the Chief Executive Officer.

18.2 Financial Hardship Application Assessment 104388 8/1076

1. THAT pursuant to Section 65 of the Local Government Act, Council orders that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director of Corporate and Community Services, Director of Technical Services, Acting Finance Manager and Minute Secretary on the basis that Council considers it necessary and appropriate to act in a manner closed to the public in order to receive, discuss and consider the report and associated documents in relation to confidential agenda item 18.2 Financial Hardship Application Assessment 104388 and that Council is satisfied that the meeting should be conducted in a place open to the public is outweighed in relation to the matter because receiving, considering and discussing the report and associated documentation involves:

18.2 Financial Hardship Application Assessment 104388 (continued) 8/1076

- (b) information about the personal circumstances of a resident or ratepayer;

This item is considered confidential pursuant to Regulation 8 (b) of the Local Government (Administration) Regulations.

2. THAT Council orders that the minutes from the Confidential Council meeting held on 7 February 2017, in relation to confidential item number 18.2 Financial Hardship Application Assessment 104388, the report and associated documents remain confidential and not available for public inspection for a period of 12 months from the date of this meeting or a lesser period as determined by the Chief Executive Officer.

18.3 Financial Hardship Application Assessment 107951 8/1077

1. THAT pursuant to Section 65 of the Local Government Act, Council orders that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director of Corporate and Community Services, Director of Technical Services, Acting Finance Manager and Minute Secretary on the basis that Council considers it necessary and appropriate to act in a manner closed to the public in order to receive, discuss and consider the report and associated documents in relation to confidential agenda item 18.3 Financial Hardship Application Assessment 107951 and that Council is satisfied that the meeting should be conducted in a place open to the public is outweighed in relation to the matter because receiving, considering and discussing the report and associated documentation involves:

- (b) information about the personal circumstances of a resident or ratepayer;

This item is considered confidential pursuant to Regulation 8 (b) of the Local Government (Administration) Regulations.

2. THAT Council orders that the minutes from the Confidential Council meeting held on 7 February 2017, in relation to confidential item number 18.3 Financial Hardship Application Assessment 107951, the report and associated documents remain confidential and not available for public inspection for a period of 12 months from the date of this meeting or a lesser period as determined by the Chief Executive Officer.

18.4 Hillson Street and Archer Recycling Centre and Waste Transfer Station Funding Agreement 8/1083

1. THAT pursuant to Section 65 of the Local Government Act, Council orders that the public be excluded from the meeting with the exception of the Chief Executive Officer, Director of Corporate and Community Services, Director of Technical Services, Acting Finance Manager and Minute Secretary on the basis that Council considers it necessary and appropriate to act in a manner closed to the public in order to receive, discuss and consider the report and associated documents in relation to confidential agenda item 18.4 Hillson Street and Archer Recycling Centre and Waste Transfer Station Funding Agreement and that Council is satisfied that the meeting should be conducted in a place open to the public is outweighed in relation to the matter because receiving, considering and discussing the report and associated

18.4 Hillson Street and Archer Recycling Centre and Waste Transfer Station Funding Agreement (continued) 8/1083

documentation involves:

- (c) information that would, if publicly disclosed, be likely to:
 - (i) cause commercial prejudice to, or confer an unfair commercial advantage on, any person; or

This item is considered confidential pursuant to Regulation 8 (c)(i) of the Local Government (Administration) Regulations.

2. THAT Council orders that the minutes from the Confidential Council meeting held on 7 February 2017, in relation to confidential item number 18.4 Hillson Street and Archer Recycling Centre and Waste Transfer Station Funding Agreement, the report and associated documents remain confidential and not available for public inspection for a period of 12 months from the date of this meeting or a lesser period as determined by the Chief Executive Officer.

18.5 CEO Remuneration Review 2016 - CEO Performance Appraisal Committee Recommendation

1. THAT pursuant to Section 65 of the Local Government Act, Council orders that the public be excluded from the meeting with the exception of the Minute Secretary on the basis that Council considers it necessary and appropriate to act in a manner closed to the public in order to receive, discuss and consider the Committee Recommendation in relation to confidential agenda item 18.5 CEO Remuneration Review 2016 and that Council is satisfied that the meeting should be conducted in a place open to the public is outweighed in relation to the matter because receiving, considering and discussing the report and associated documentation involves:

- (a) information about the employment of a particular individual as a member of the staff or possible member of the staff of the council that could, if publicly disclosed, cause prejudice to the individual;

This item is considered confidential pursuant to Regulation 8 (c)(i) of the Local Government (Administration) Regulations.

2. THAT Council orders that the minutes from the Confidential Council meeting held on 7 February 2017, in relation to confidential item number 18.5 CEO Remuneration Review 2016 remain confidential and not available for public inspection.

CARRIED 8/2450 - 07/02/2017

The meeting moved into the Confidential Session at 7:31pm.



18.6 Moving decisions from the Confidential Session into the Open Session

In accordance with the resolutions of Council, the following decisions from the Confidential Session are moved into the Open Session:

4.1 Financial Hardship Application Assessment 100114 8/1075

1. THAT Council receives Report Number 8/1075.
2. THAT Council approves remission of interest for the period 15 December 2016 to June 30 2017 for assessment 100114 under the conditions of the rates concession policy FIN17.
3. THAT the resolutions only come back to the open session.

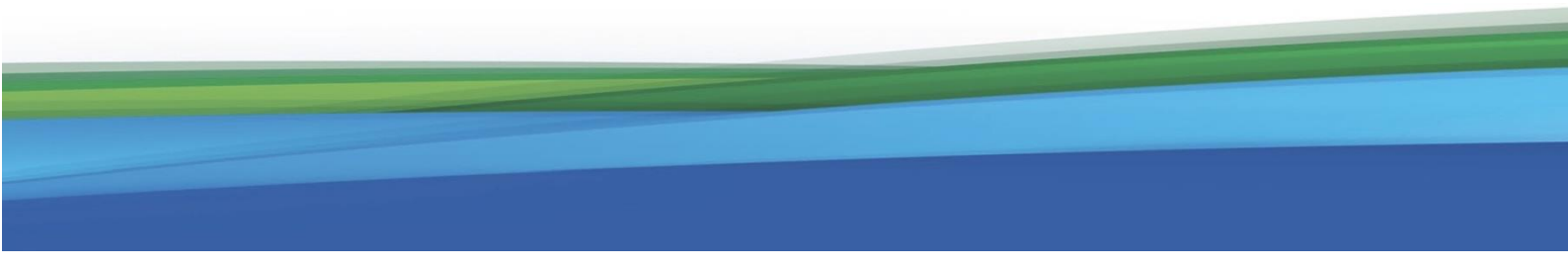
4.2 Financial Hardship Application Assessment 104388 8/1076

1. THAT Council receives Report Number 8/1076.
2. THAT Council approves remission of interest for the period 15 December 2016 to June 30 2017 for assessment 104388 under the conditions of the rates concession policy FIN17.
3. THAT the resolutions only come back to the open session.

4.3 Financial Hardship Application Assessment 107951 8/1077

1. THAT Council receives Report Number 8/1077.
2. THAT Council approves remission of interest for the period 3 January 2017 to 30 June 2017 for assessment 107951 under the conditions of the rates concession policy FIN17.
3. THAT the resolutions only come back to the open session.

4.4 Hillson Street and Archer Recycling Centre and Waste Transfer Station Funding Agreement 8/1083

1. THAT Council receives Report Number 8/1083.
 2. THAT Council authorises the Chief Executive Officer and Mayor to sign and seal documents related to the funding agreement with the Northern Territory Government for the Hillson Street upgrade and the Archer Recycling Centre and Waste Transfer Station.
 3. THAT the resolutions and Attachment A to Report Number 8/1083 come back to the open session.
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4.4 Hillson Street and Archer Recycling Centre and Waste Transfer Station Funding Agreement (continued) 8/1083

4. THAT Report Number 8/1083 remain confidential and not available for public inspection for the period of time as indicated in Decision Number 8/2239 – 06/09/2016.

19 CLOSURE

Meeting closed at 7.53pm

