



## **EAST PILBARA SHIRE COUNCIL**

# **AGENDA**

## **SPECIAL COUNCIL MEETING**

**NOTICE IS HEREBY GIVEN** that an  
SPECIAL Meeting of the Council will be held,  
in Council Chambers, Newman,  
10:30AM, THURSDAY, 20 JUNE 2019.

**Jeremy Edwards**  
**CHIEF EXECUTIVE OFFICER**



# DISCLAIMER

No responsibility whatsoever is implied or accepted by the Shire of East Pilbara for any act, omission or statement or intimation occurring during Council or Committee Meetings. The Shire of East Pilbara disclaims any liability for any loss whatsoever and howsoever caused arising out of reliance by any person or legal entity on any such act, omission or statement or intimation occurring during Council or Committee Meetings.

Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council or Committee Meeting does so at that person's or legal entity's own risk.

In particular and without derogating any planning application or application of a licence, any statement or intimation of approval made by any member or Officer of the Shire of East Pilbara during the course of any meeting is not intended to be and is not taken as notice of approval from the Shire of East Pilbara.

The Shire of East Pilbara warns that anyone who has any application lodged with the Shire of East Pilbara must obtain and should only rely on

## WRITTEN CONFIRMATION

of the outcome of the application and any conditions attaching to the decision made by the Shire of East Pilbara in respect of the application.

Signed: \_\_\_\_\_  
Jeremy Edwards  
Chief Executive Officer

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**1 DECLARATION OF OPENING/ANNOUNCEMENT OF VISITORS**

**2 RECORD OF ATTENDANCES/APOLOGIES/LEAVE OF ABSENCE**

**2.1 ATTENDANCES**

Councillors

Cr Lynette Craigie  
Cr Anita Grace  
Cr Lang Coppin OAM  
Cr Geraldine Parsons  
Cr Bridget Schill  
Cr Dean Hatwell  
Cr Michael Kitchen  
Cr Carol Williams

Shire President  
Deputy Shire President  
Councillor  
Councillor  
Councillor  
Councillor  
Councillor  
Councillor

Officers

Mr Jeremy Edwards  
Mr Ben Lewis  
Ms Sian Appleton  
Ms Lisa Clack  
  
Mr Raees Rasool  
Mrs Gabrielle Anderson

Chief Executive Officer  
Executive Manager Commercial Services  
Executive Manager Corporate Services  
Executive Manager Customer and  
Community Services  
Executive Manager Infrastructure Services  
Governance Administration

Public Gallery

**2.2 APOLOGIES**

Councillor Apologies

Cr Anthony Middleton

Councillor

Officer Apologies

Mrs Kylie Bergmann

Coordinator Governance

**2.3 LEAVE OF ABSENCE**

**3 PETITIONS/DEPUTATIONS/PRESENTATIONS**

**4 CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING**

**4.1 CONFIRMATION OF MINUTES  
ITEMS FOR INFORMATION**

## **5 MEMBERS REPORTS**

### **5.1 CR LYNETTE CRAIGIE OAM**

#### **5.1.1 APPROVAL OF ATTENDANCE OF COUNCILLORS BY TELEPHONE/AUDIO CONTACT TO A SPECIAL COUNCIL MEETING**

##### **REPORT PURPOSE**

Pursuant to Regulation 14A (1) of the *Local Government (Administration) Regulations 1996*, approval is sought by Council for attendance of Councillors by telephone/audio contact for the Special Council Meeting at 10:30am on Thursday 20 June 2019

##### **STATUTORY IMPLICATIONS**

Regulations 14A (1) *Local Government (Administration) Regulations 1996*.

##### **VOTING REQUIREMENTS**

Absolute Majority

##### **MEMBERS RECOMMENDATION**

**THAT Council attendance by telephone/audio contact for the following Councillors and Officer for the Special Council Meeting at 10:30am on Thursday 20 June 2019, at the following places:**

- |                            |                                       |
|----------------------------|---------------------------------------|
| 1. CR. Lynette Craigie OAM | Place – Perth, Western Australia      |
| 2. CR. Michael Kitchin     | Place – Perth, Western Australia      |
| 3. CR. Dean Hatwell        | Place – Marble Bar, Western Australia |
| 4. CR. Bridget Schill      | Place – Nullagine, Western Australia  |
| 5. CR. Lang Coppin OAM     | Place –                               |
| 6. Mr Jeremy Edwards       | Place – Perth, Western Australia      |

## **6 OFFICER'S REPORTS**

### **6.1 EM CUSTOMER & COMMUNITY SERVICES**

#### **6.1.1 AFFIX COMMON SEAL TO BHP FUNDING AGREEMENT**

<b>Attachment:</b>	<b>Appendix 1 – Events Partnership Funding Agreement Appendix 2 – Newman Futures Project – Improved Safety and Liveability Funding Agreement.</b>
<b>Responsible Officer:</b>	<b>Ms Lisa Clack Executive Manager Customer &amp; Community Services</b>
<b>Author:</b>	<b>Ms Lisa Clack Executive Manager Customer &amp; Community Services</b>
<b>Proposed Meeting Date:</b>	<b>20 June 2019</b>
<b>Location/Address:</b>	<b>N/A</b>
<b>Name of Applicant:</b>	<b>N/A</b>
<b>Author Disclosure of Interest:</b>	<b>Nil</b>

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### **REPORT PURPOSE**

For Council to consider accepting two (2) BHP funding agreements totaling \$1.223m. Both of these agreements are required to be accepted by Council by 20 June 2019 in order for them to be funded within the 2019/20 financial year by BHP.

### **BACKGROUND**

The funding agreements to be consider are as follows:

#### **Events Partnership:**

The events partnership has been an ongoing arrangement with BHP for the past 2 years, this agreement has now expired and BHP have offered funding for a further 2 years in the order of \$300,000. The Shire of East Pilbara events program is well supported by the community. The funding is the equivalent of previous agreements, and has been included in the draft budget for 2019/20.

#### **Newman Futures Project – Improved Safety and Liveability:**

The second agreement provides an opportunity for the Shire of East Pilbara to deliver programs to improve the safety and liveability of Newman. These programs fall under the Newman Futures project that has been developed in consultation with

the Shire by Creating Communities. These proposed projects are not expected to be ongoing, and the funding agreement is for the full project and program costs. There would be minimal financial impact on the Shire of East Pilbara in accepting this agreement.

### **COMMENTS/OPTIONS/DISCUSSIONS**

The two agreements (Attached) for Council to consider are:

1. Event Partnership Agreement (\$300,000 over two years)  
An extension to the existing BHP Event partnership agreement which provides \$150,000 per annum over two years to deliver a number of events within Newman, in partnership with the Shire of East Pilbara. It should be noted that the total events program per annum is approximately \$305,000 per annum with \$155,000 being made up from other grants sources and the Shire municipal fund.
2. Newman Future Project – Short term initiatives (\$923,000 for one year).  
Funding \$923,000 across 3 initiatives to improve the safety and livability of Newman, which the Shire of East Pilbara is the most appropriate agency to deliver.
  - a. Place based precinct planning for Newman –Newman Town Centre, and East Newman (\$250,000).
  - b. Review and upgrade of CCTV infrastructure and lighting to target anti-social behavior (\$500,000).
  - c. Funding for immediate, short-term interventions, delivered by the Shire of East Pilbara, targeting current social issues (\$173,000).

The details of the agreements are:

#### **Events Partnership:**

The Shire of East Pilbara has partnered with BHP since 2013 to deliver a calendar of events for the Newman Community. These community events improve community wellbeing by providing an opportunity for inclusion, participation, and entertainment for residents and visitors.

The funding continues this partnership over two financial years, specifically for the following community events:

- Outback Fusion Festival
- Welcome to Newman ( 2 events per year)
- Harmony Week
- Newman Triathlon
- Reconciliation Week Ball
- Newman Concert Series
- NAIDOC week
- Twilight Movie Series

These key events support community connectedness, attracts visitors, and delivers social, economic, environmental and community outcomes.

**Newman Futures Project – Improved Safety and Liveability:**

The Shire of East Pilbara has been in discussions with BHP to partner on the delivery of some elements of the BHP Newman Futures Project over the last 12 months.

The Newman Futures project is a collective impact approach, funded by BHP supporting local organisations and agencies to address economic and social challenges and opportunities in Newman, and build the long-term sustainability of the town.

While this is a long term approach, which will be subject to a separate agreement on funding with BHP once the model is further refined - there are a number of initiatives which the Shire of East Pilbara are complementary to both the Shires strategic community plan objectives and the objectives of the Newman Futures project which can be conducted now. These are:

- a. Place based precinct planning for Newman – priority areas of Newman Town Centre, and East Newman.*

A place based precinct planning approach will define the vision and development intent for land use in specific areas within Newman, allowing for long term plans to address the revitalisation of key areas to address economic diversification, livability and anti-social behavior.

The Newman Futures project seeks to develop an increasingly diverse economy in Newman that is innovative, connected and digital. A place based precinct planning approach will allow the Shire of East Pilbara to develop a framework plan, develop and manage our town both targeting existing issues, and to provide the opportunity to make the most of the opportunities presented for the emerging economic options aligned with the objectives of the Newman Futures Project.

An amount of \$250,000 has been allocated for the engagement of consultants to develop a place based precinct planning framework, including consultation with the Newman Futures Steering Committee and alignment with the Newman Futures project objectives.

This precinct plan will then be submitted to Council, and once adopted, will provide the framework for the structural economic and social reform of the Newman Town Centre and East Newman.

- b. Review and upgrade of CCTV infrastructure and lighting to target anti-social behavior.*

\$500,000 in funding to address crime and anti-social behaviour through the implementation of crime prevention and security initiatives such as CCTV and lighting in hot spot areas in Newman.



The funding will be used to conduct a review of CCTV in Newman and identify areas for improved lighting using the principles of Crime Prevention through Environmental Design and Management (CPTED/M). The process used to identify priority areas will be a combination of WA Police and Shire of East Pilbara data. Improvements will focus on the improved safety of community members in public spaces and reducing damage and antisocial behavior.

- c. Funding for immediate intervention projects, delivered by the Shire of East Pilbara, targeting current social issues.*

While the Newman Futures Collective Impact approach is in the pipeline, the Shire of East Pilbara is in the position to provide immediate action in providing short term increased support, leveraging off our existing community services to provide short term services. The total allocated is \$173,000 in the 2019/20 financial year. It is not anticipated this will continue beyond one year, as this will be considered as part of the overall Collective Impact framework in the future.

Funding is for the following programs:

- Extension of Youth Centre operating hours - \$83,000. Increasing youth centre contact hours provides an immediate increase in services for these young people and an opportunity to reduce offending and anti-social behavior impacting on the community.
- Kidsport mentor program (\$50,000) and informal sport & recreation program (\$10,000). Facilitate the entry of disengaged young people into established sports programs and clubs within Newman. Proposed program funding includes staff time, sporting club fees for young people participating and uniforms or other costs as required.
- Extended informal sport & recreation program - \$10,000. Informal night time sport programs to offer opportunities for Martu young people that are not ready for the formal structures of sporting clubs to participate in sport in an informal environment on a regular basis. To include aquatic sports, night time basketball and other recreation programs.
- Mural Arts project at Junior Sports Pavillion - \$30,000 Working alongside a professional street artist, engage with young people to design and paint a wall mural at the Junior Sports Pavillion. The project will seek to create a sense of ownership of the pavillion, with the objective of reducing the damage and graffiti to the pavillion (\$270,000 of damage to this public facility in the 2018 calendar year).

## **STATUTORY IMPLICATIONS/REQUIREMENTS**

Local Government Act 1995 – Section 6.15(1) A Local Government may receive revenue or income from various sources authorised by the act or another written law or from dealings in property or grants or gifts.

Part 6 - Financial management (Division 5 - Financing local government activities) (Subdivision 1 - Introduction) 6.15. Local government's ability to receive revenue and income.

Part 9 – Miscellaneous provisions (Division 3 – Documents) 9.49A. Execution of documents.

### **POLICY IMPLICATIONS**

Delegation 5.5 – Grants and Subsidies – Application and Acceptance. The CEO has delegated authority to accept to accept grants and subsidies with a condition that Council approval is required prior to acceptance unless the grant or subsidy is included in the budget. As both of these items are being presented to Council prior to the acceptance of the 2019/20 budget it is considered good governance for these matter to be presented to Council.

## **STRATEGIC COMMUNITY PLAN**

### **2: Social**

S1 Promote and facilitate safe and healthy communities.

S1.1 Support healthy and safe lifestyle choices

Harmonious communities sharing strong community connections.

S2 Build a vibrant community.

S2.1 Facilitate community connectedness and inclusion.

### **3: Built Environment**

B1 Optimise places to live, work and enjoy.

B1.1 Improve local amenity.

Connected and accessible communities.

B2 Plan for the future.

B2.1 Create liveable places through local area planning.

**RISK MANAGEMENT CONSIDERATIONS**

If Council were not to accept these funding agreements by BHP then there could be a reputational risk of not being able to meet community expectations in these areas. An additional risk could be associated with financial resources and the ability for the Shire to fund such projects.

**FINANCIAL IMPLICATIONS**

Resource requirements will be in accordance with the Shire's 2019/20 budget.

**VOTING REQUIREMENTS**

Absolute.

**OFFICER'S RECOMMENDATION**

That Council

1. **Accepts the Events Partnership Funding Agreement (appendix 1), allocates the partnership funding within the 2019/20 and 2020/21 budget and authorises the Chief Executive Officer to apply the common seal to this funding agreement.**
2. **Accepts the Newman Futures Project – Improved Safety and Liveability Funding Agreement (appendix 2, allocates the partnership funding within the 2019/20 budget and authorises the Chief Executive Officer to apply the common seal to this funding agreement.**

## **Appendix 1 Newman Events Partnership**

## Iron Ore



BHP Billiton Iron Ore Pty Ltd  
ABN 46 006 700 981  
125 St Georges Terrace  
Perth WA 6000 Australia  
PO Box 7122 Cloisters Square  
Perth WA 6850 Australia  
Tel +61 8 93210000 Fax +61 8 93229978  
bhpbilliton.com

5 June 2019

Reference: CIA\_1303

Simone Van Buerle, Manager Recreation and Events  
Shire of East Pilbara  
Cnr Newman and Kalgan Drive  
Newman WA 6753

Dear Simone

### **COMMUNITY DEVELOPMENT PROJECT CONTRACT - Newman Events Partnership 2019-2021 ("the Project")**

I am pleased to confirm that the request for Funding for the Project received from Shire of East Pilbara, ABN: 47854334350 ("You") has been successful, subject to Your agreement to the terms and conditions set out in this letter.

This letter sets out the terms and conditions upon which BHP Billiton Iron Ore Pty Ltd ("BHP Billiton" or "Company") will provide You with the Funding for the purposes of carrying out the Project.

#### **1. PURCHASE ORDER TERMS AND CONDITIONS**

1.1 BHP Billiton's Standard Terms and Conditions apply to this Contract and, unless defined in this Contract, words defined in the Standard Terms and Conditions have the same meaning when used in this Contract except that, for the purposes of this Contract:

- (a) "Services" as defined in the Standard Terms and Conditions means "the carrying out of the Project";
- (b) "Price" as defined in the Standard Terms and Conditions means "the Funding"; and
- (c) "Contractor" as defined in the Standard Terms and Conditions means "You".

1.2 The terms of this letter prevail to the extent of any inconsistency with the Standard Terms and Conditions.

#### **2. PERIOD OF THE PROJECT**

2.1 This Contract commences on the Start Date and expires on the End Date.

A member of the BHP Billiton Group, which is headquartered in Australia  
Registered Office: Level 16, 171 Collyer Street, Melbourne, Victoria 3000, Australia  
ABN 46 004 028 077 Registered in Australia

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**3. FUNDING**

- 3.1 Notwithstanding the Standard Terms and Conditions, subject to You complying with Your obligations under this Contract, the Company will provide You with the Funding at the times and in the manner specified in the Payment Schedule.
- 3.2 You acknowledge and agree that the Funding must only be expended for the Project and that the Funding represents the whole contribution agreed to be made by the Company and that the Company (or any of its related entities) has not agreed to make any future or further funding or other form of contribution to You in respect of the Project or for any other purpose. You are also responsible for any Tax payable in respect of the Project.
- 3.3 If the Project is completed and the Funding has not been fully utilised or this Contract is terminated prior to the date that the funds are fully utilised, then You shall immediately notify the Company and the surplus shall, at the discretion of the Company, be returned to the Company, applied to such other project or purpose as the Company may in its absolute discretion approve, or be transferred to another association or organisation which is not carried out for the purposes of profit or gain to its individual members, and which association or organisation is nominated or approved by the Company in its absolute discretion.

**4. YOUR OBLIGATIONS**

In consideration of the Company entering into this Contract, and in addition to the Standard Terms and Conditions, You agree to:

- (a) carry out the Project in accordance with the Project Plan to meet the Project Deliverables within the Project Period;
- (b) provide the Company with the Project Rights;
- (c) subject to You first obtaining the Company's consent, ensure that the Company is acknowledged and recognised as a contributor to the Project by:
  - (i) recognising the Company's contribution in any reference to the Project in any public medium (as appropriate); and
  - (ii) incorporating the Company's Trade Identification in any visual public medium reference to the Project and giving the Company the opportunity to provide a speaker to any launch or public event in connection with the Project;
- (d) during the course of the Project regularly report to the Company on the progress of the Project and use of the Funding in accordance with Project Deliverables, and otherwise at such times and in such format and with such particulars as the Company may from time to time require; and
- (e) not do, or permit any of Your Personnel to do, anything which, in the Company's reasonable opinion, would, or is likely to:
  - (i) decrease the value or quality of the Project to the Company; or
  - (ii) impair the public image of the Company or otherwise have the effect of bringing the Company's name or reputation into disrepute.

**5. INSURANCE**

- 5.1 You must effect and maintain, for as long as any obligations remain in connection with the Project, the Insurances and, if required, provide the Company with evidence of the currency of the Insurances prior to commencing the Project, and at any other time as requested by the Company.

**6. CONFIDENTIAL INFORMATION**

6.1 You must not permit or enable any other person to, without the prior written approval of the Company:

- (a) use Confidential Information other than as necessary for the performance this Contract; or
- (b) subject to Clause 6.2, disclose Confidential Information.

6.2 Subject to Clause 6.4, Your obligation not to disclose Confidential Information without the Company's prior written approval does not apply to disclosures to the extent they are:

- (a) required by Law, including disclosure to any stock exchange; or
- (b) made to its legal advisers.

6.3 Even if You are entitled to disclose Confidential Information without the prior written approval of the Company, You must:

- (a) otherwise keep the Confidential Information confidential; and
- (b) ensure as far as possible that any person to whom the Confidential Information is disclosed keeps the Confidential Information confidential in accordance with this Contract.

6.4 Before making any disclosure pursuant to Clause 6.2, You must:

- (a) give the Company details of the reasons for the disclosure and a copy of the information You propose to disclose; and
- (b) provide the Company with all assistance and co-operation which the Company considers necessary to prevent or limit that disclosure including by making such amendments (if any) as requested by the Company to the terms of the disclosure.

6.5 You must inform the Company immediately if You become aware or suspect that there has been a breach of Your obligations under this Contract.

6.6 You must take reasonable steps to protect the Confidential Information and keep it secure from unauthorised persons.

6.7 You must, at the end of this Contract or within seven days after a written direction by the Company to do so, return or destroy, at the election of the Company, all Confidential Information in Your possession, custody or control.

6.8 The obligations under this clause continue after the End Date.

6.9 For the purposes of this Contract:

**Confidential Information** means the terms of this Contract and any information that concerns the business, operations, finances, plans or customers of the Company and is disclosed to or acquired by You and which:

- (a) is by its nature confidential;
- (b) is designated by the Company as confidential; or
- (c) You know or ought to know is confidential,

but does not include information which:

- (d) is or becomes public knowledge other than by a breach of this Contract;
- (e) is in Your possession without restriction in relation to disclosure on or before the date on which it is disclosed to or acquired by You; or
- (f) has been independently developed or acquired by You.

**7. INTELLECTUAL PROPERTY**

- 7.1 Subject to the terms and conditions of this clause, all Intellectual Property Rights in Your Background IP remain vested in You.
- 7.2 You grant to the Company a non-exclusive, perpetual, royalty-free, irrevocable, transferable licence (with the right to assign and sub-license) to use Your Background IP to the extent necessary to use the Project IP.
- 7.3 You hereby assign to the Company all Intellectual Property Rights (including future copyright) in all Project IP upon the creation of that Project IP or, to the extent that any Intellectual Property Rights are not created at the time of the creation of the Project IP, upon the later creation of the Intellectual Property Rights in that Project IP.
- 7.4 You must, if required by the Company, do all further things necessary to assign Intellectual Property Rights in the Project IP to the Company.
- 7.5 All Intellectual Property Rights in the Company's Background IP remain vested in the Company.
- 7.6 The Company hereby grants to You a non-exclusive, royalty-free, revocable, non-transferable licence to use the Project IP and the Company's Background IP to the extent required to perform this Contract.
- 7.7 You warrant that:
  - (a) You are able to license the Intellectual Property Rights in Your Background IP and assign the Intellectual Property Rights in Project IP as described in Clauses 7.2 and 7.3;
  - (b) use by the Company, or by another person at the direction or with the permission of the Company, of Your Background IP and Project IP in accordance with this Contract will not infringe the Intellectual Property Rights of any third party or breach any Law;
  - (c) neither the Company, nor any other person acting at the direction or with the permission of the Company, is liable to pay any third party any licence or other fee in respect of the use of Your Background IP and Project IP; and
  - (d) You have obtained from any third party involved in the creation of, or whose Intellectual Property Rights form part of, the Project IP, all necessary written consents to ensure the Company and any person claiming an interest in the Project IP through the Company do not infringe any Intellectual Property Rights.
- 7.8 The Company warrants that:
  - (a) the Company is able to license the Intellectual Property Rights in the Company's Background IP as described in Clause 7.6;
  - (b) use by You, or by another person at the direction or with Your permission, of the Company's Background IP in accordance with this Contract will not infringe the Intellectual Property Rights of any third party or breach any Law; and



- (c) neither You, nor any other person acting at the direction or with Your permission, is liable to pay any third party any licence or other fee in respect of the use of the Company's Background IP.

7.9 You must:

- (a) notify the Company as soon as You become aware of any suspected, threatened or actual infringement of any Intellectual Property Rights arising by reason of the provision of the Project Deliverables; and
- (b) at the Company's direction in writing:
  - (i) either:
    - (A) modify the Project Deliverables or the affected part of them so as to overcome the infringement of the Intellectual Property Right concerned;
    - (B) replace the affected part of the Project Deliverables, so as to overcome the infringement of the Intellectual Property Rights concerned; or
    - (C) remove the affected part of the Project Deliverables and compensate the Company for any cost, loss, expense or damage incurred by the Company as a result;

and any such modification, replacement or removal will not constitute a variation to the Contract, nor will it entitle You to an extension to the End Date; and

- (ii) defend, protect and hold harmless, at Your cost, the Company from and against any claim for infringement of any Intellectual Property Rights arising by reason of the provision of the Project Deliverables and provide all reasonable assistance the Company may request to protect the Intellectual Property Rights in the Project IP and the Company's Background IP.

7.10 The rights and obligations under this clause continue after the End Date.

**8. ENDING THIS CONTRACT**

8.1 The Company may, in its absolute discretion, and without being obliged to give any reasons, end this Contract at any time by giving not less than 7 days written notice to You. In the event of termination under this clause, subject to Your compliance with Clause 8.3, the Company will be liable for:

- (a) payments under the payment provisions of this Contract that were due before the effective date of termination; and
- (b) any reasonable costs incurred by You and directly attributable to the termination of this Contract.

8.2 A Party may end this Contract by notice in writing to the other Party:

- (a) if the other Party materially breaches its obligations under this Contract and fails to remedy that default within the time specified (being not less than 7 days) by the non-defaulting Party by notice in writing;
- (b) immediately if an insolvency event occurs in relation to the other Party; or

- (c) immediately by the Company in the event that the Company has reason to believe that a breach by You of any of the representations, warranties or undertakings made by You in this Contract relating to compliance with Applicable Anti-Corruption Laws has occurred or is imminent.

8.3 On termination or expiry of this Contract:

- (a) subject to this clause, the Company will have no further liability for any funding or other form of contribution to You under this Contract;
- (b) the Company must stop exercising the Project Rights;
- (c) You must cease publishing any material which makes reference to the Company;
- (d) You must stop using any of the Company's Background IP in performing any of the work contemplated by this Contract; and
- (e) You must take all reasonable steps to minimise loss resulting from that termination.

**9. LIABILITY AND INDEMNITY**

- 9.1 You agree to indemnify, and keep indemnified, the Company from and against all claims, proceedings, expenses, costs, damages, losses and other liabilities of any kind arising from any breach of any warranty or any of the other terms and conditions of this Contract by You, except to the extent of a liability which is caused by a willful or negligent act or omission of the Company or its Personnel.

- 9.2 Neither Party will be liable to the other Party in any circumstances for any indirect, special or consequential loss or damage, including but not limited to loss of revenue, loss of production, loss of product, loss of contract or loss of profit howsoever arising and whether in an action in contract, tort (including without limitation, negligence), in equity, product liability, under statute or on any other basis.

**10. ANTI-CORRUPTION REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

- 10.1 Each Party, in performing this Contract, must comply with all Applicable Anti-corruption Laws.

- 10.2 In performing this Contract, You represent and warrant and agree that neither You nor any of Your owners, affiliates, officers, directors, employees nor agents taking actions in furtherance of this Contract authorised, offered, promised, or gave nor will authorize, offer, promise or give anything of value or any other improper payment to:

- (a) any "Government Official" (meaning any person employed by or acting on behalf of a government, government-controlled entity or public international organization; any political party, party official or candidate; any individual who holds or performs the duties of an appointment, office or position created by custom or convention; or any individual who holds him/herself out to be the authorized intermediary of a Government Official) in order to influence official action;
- (b) any person (whether or not a Government Official) to influence that person to act in breach of a duty of good faith, impartiality or trust ("acting improperly"), to reward the person for acting improperly, or in circumstances where the recipient would be acting improperly by receiving the thing of value; or
- (c) any person while knowing or having reason to know that all or any portion of the Funding or other thing of value will be offered, promised or given to a Government Official in order to influence or reward official action or to any person to influence or reward such person to act improperly.

- 10.3 In performing this Contract, neither You or Your owners, affiliates, officers, directors, employees or agents will receive or agree to accept any payment, gift or other advantage which violates any Applicable Anti-corruption Laws.
- 10.4 If any owner, officer, director, employee or shareholder of Yours becomes a Government Official during the term of this Contract, You will promptly notify the Company.
- 10.5 You will not, without prior written consent of the Company, assign or delegate any of Your rights or obligations under this Contract to a third party or sub-contract or otherwise enter into any arrangement to share the Funding.
- 10.6 You will keep and maintain accurate and reasonably detailed books and financial records in connection with performance of this Contract, and payments made in connection with this Contract. Upon request, the Company will have the right to audit and examine relevant books and financial records to test compliance with this Contract and the representations, warranties and undertakings given by You. You will provide any information and assistance reasonably required by the Company in connection with such an audit, including access to Your key personnel.
- 10.7 In the event that the Company has reason to believe that a breach of any of the representations, warranties or undertakings in this Contract relating to compliance with Applicable Anti-corruption Laws has occurred or is imminent, the Company may withhold further payments under this Contract until such time as it has received confirmation to its satisfaction that no breach has occurred or is likely to occur.
- 10.8 In the event of a breach of any of the representations, warranties or undertakings in this Contract relating to compliance with Applicable Anti-corruption Laws, any claims for Funding shall be void to the extent permitted by law and You shall indemnify and hold the Company harmless against any and all claims, losses or damages arising from or related to such breach.
- 11. GOVERNING LAW**
- 11.1 This Contract is legally binding. Any dispute arising out of or in connection with it or its subject matter or formation (including non-contractual disputes) will be governed by, construed and take effect in accordance with the law in force in the Jurisdiction.
- 12. SPECIAL CONDITIONS**
- 12.1 The Parties acknowledge and agree that the special terms and conditions (if any) specified in the Schedule (**Special Conditions**) apply to this Contract.
- 12.2 The terms of the Special Conditions will prevail to the extent of any inconsistency with the provisions of this Contract.
- 13. GENERAL**
- 13.1 If the Company enters into this Contract as agent for and on behalf of joint venture partners, the liability of each of those joint venture partners under this Contract is several and not joint, nor joint and several.
- 13.2 Where You comprise more than one person, the terms, conditions and warranties of this Contract will bind all such persons jointly and each of them severally. The persons comprising You will be jointly and severally entitled to the benefits and rights conferred by this Contract.
- 13.3 Each person signing this Contract as an authorised officer of a Party hereby represents and warrants that he or she is duly authorised to sign this Contract for that Party, and that this Contract will, upon having been so executed, be binding on that Party in accordance with its terms.

14. **DEFINITIONS**

In this Contract (unless the context otherwise requires):

**Company** means the BHP Billiton entity listed in the Contract Specifics.

**Contract** means this letter including all attachments hereto.

**Contract Specifics** means the schedule of contract information with that name forming part of this Contract at Attachment A.

**End Date** means the date specified as such in the Contract Specifics.

**Funding** means the funding for the Project specified as such in the Contract Specifics.

**Intellectual Property** means any subject matter, whether tangible or intangible, that attracts, or is susceptible to protection by, Intellectual Property Rights.

**Intellectual Property Rights** means all copyright and analogous rights, all rights in relation to inventions (including patent rights), registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets), know-how, circuit layouts and all other rights throughout the world resulting from intellectual activity in the industrial, scientific or artistic fields. These rights include all rights in all applications to register these rights and all renewals and extensions of these rights.

**Insurances** means each of the insurances required by the Company for the Project and specified in the Contract Specifics.

**Jurisdiction** has the meaning set out in the Contract Specifics.

**Party** means a party to this Contract and **Parties** means all parties to this Contract.

**Payment Schedule** means the schedule at Attachment C to this Contract specifying the time and manner that the Funding is to be paid to You.

**Project** means the community development project described in Attachment B.

**Project Deliverables** means the Project deliverables as more particularly described in Attachment C.

**Project Period** means the period commencing on the Start Date and ending on the End Date or, if this Contract is terminated early, the period ending on the day on which this Contract terminates.

**Project Plan** means the plan for the Project set out in Attachment B.

**Project Rights** means the community development project rights in respect of the Project as set out in Attachment D.

**Schedule** means the schedule to this Contract.

**Start Date** means the date specified as such in the Contract Specifics.

**Standard Terms and Conditions** means the Company's standard purchase order terms and conditions applying to this Contract and accompanying the purchase order issued by the Company for the Project, a copy of which is attached to this Contract as Attachment E.

**Trade Identification** means corporate, business and product names, trademarks, service marks, symbols, logos and other trade indicia.

**You** means the community development project party to whom this document is addressed and  
**Your** has a corresponding meaning.

By execution of this letter, the Company agrees to the terms and conditions of this Contract. Please execute and return a copy of this Contract, similarly acknowledging your acceptance of these terms and conditions.

Yours sincerely



Meath Hammond

Head of Corporate Affairs WAIO, NIW, PetAu

Signed for and executed on behalf of **Shire of East Pilbara** by its duly authorised representative:

\_\_\_\_\_  
Signature of Authorised Representative

\_\_\_\_\_  
Print Full Name of Authorised Representative

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Position of Authorised Representative

ATTACHMENT A  
CONTRACT SPECIFICS

<b>Funding</b>	\$300,000
<b>Company</b>	BHP Billiton Iron Ore Pty Ltd, ABN 46 006 700 981, 125 St. Georges Terrace, Perth, Western Australia 6000
<b>Start Date</b>	1 July 2019
<b>End Date</b>	The earlier of: (a) 30 June 2021; and (b) the date this Contract is ended under Clause 8.
<b>Insurances</b>	<p>Workers compensation insurance where required by law of the Jurisdiction and which complies with the relevant law covering all claims and liabilities at law for an amount as required by relevant Jurisdiction legislation.</p> <p>Public and products liability insurance covering all locations where the Project is to be performed, written on an occurrence basis with a limit of indemnity of not less than \$20,000,000 for each and every occurrence, and which covers You, any of Your Personnel and the Company in respect of:</p> <p>(iii) loss of, damage to, or loss of use of, any real or personal property; and</p> <p>(iv) the bodily injury of, disease or illness to, or death, of any person, arising out of the performance of this Contract by You.</p> <p>Motor vehicle insurance, covering all mechanically propelled vehicles that are registered, or capable of being registered, for road use and are at any time used in connection with this Contract, including:</p> <p>1. insurance that is compulsory under applicable laws governing the use of motor vehicles and liability for personal injury or death; and</p> <p>(v) liability insurance for third party property damage with a sum insured of not less than \$20,000,000 per occurrence.</p>
<b>Jurisdiction</b>	Western Australia
<b>Project Deliverables</b>	Those Project timelines & Key Performance Indicators more particularly described in Attachment C – Payment, Milestone & Reporting Schedule.

ATTACHMENT B

PROJECT PLAN

<b>Project Name</b>	<b>Newman Events Partnership 2019-2021</b>
<b>Community Partner</b>	Shire of East Pilbara
<b>BHPBIO Project Manager</b>	Natalie Iannaci-Mejia
<b>Community Investment Pillar</b>	Strong Communities
<b>Quality of Life Indicator</b>	n/a

**I. Project Description**

The Shire of East Pilbara (SOEP) has partnered with BHP since 2013 to deliver a calendar of events for the Newman community. These community events improve community wellbeing by providing an opportunity for inclusion, participation, and entertainment for residents and visitors.

Funding provided is for the continuation of this partnership, specifically for the delivery of the following community events over two financial years (\$150,000 per financial year):

1. Outback Fusion Festival
2. Welcome to Newman (two events per year)
3. Harmony Week
4. Newman Triathlon
5. Reconciliation Week Ball
6. Newman Concert Series
7. NAIDOC week
8. Twilight Movie Series

The Shire of East Pilbara recognises the importance of social, cultural and recreational events as a means of ensuring that Newman residents are given the opportunity to participate in a diverse range of vibrant and stimulating events and community based activities. The Project has a number of objectives:

- To increase the vibrancy and liveability of Newman
- To increase capacity of volunteers and community organisations involved in the events
- To provide economic benefits to local business
- To maximise the number of people attending events to support community connectedness
- To develop an inclusive, welcoming community
- To break down feelings of isolation due to Newman's remote location
- To leverage additional funding (grants and sponsorship) to build event sustainability

The requested BHP funding will afford financial stability for events to allow long term planning towards sustainability. This will help the Shire achieve its vision of a viable, strategically balanced calendar of events that will support community connectedness, attract visitors and deliver social, economic, environment and community outcomes.

## II. Community Partner Background

The SoEP is the local government body for the town of Newman. The SoEP was formed by an amalgamation of the Shires of Marble Bar and Nullagine in 1972. Upon the amalgamation the Shire became the largest Shire in the world comprising an area of over 371,696 square kilometers.

The main town sites are Newman, Marble Bar and Nullagine. The Shire area also contains numerous Aboriginal communities, the largest being Jigalong, Punmu and Parngurr. Aboriginal communities are also located in Nullagine (Irungadji community) and Marble Bar (Pipunya and Goodabinya communities).

As a key provider of community services in Newman, the Shire is well aligned to the purpose and objectives of delivering Newman events.

## III. Budget

Year	1	2	Total
Dates	01/07/19 – 30/06/20	01/07/20 – 30/06/21	
Income	\$	\$	\$
BHP Funding	150,000	150,000	300,000
<b>Total income</b>	<b>150,000</b>	<b>150,000</b>	<b>300,000</b>
Expenditure			
Program Delivery:			
Outback Fusion Festival	80,000	80,000	160,000
Welcome to Newman	4,000	4,000	8,000
Harmony Week	15,000	15,000	30,000
Newman Triathlon	8,000	8,000	16,000
Reconciliation Week Ball	15,000	15,000	30,000
Newman Concert Series	5,000	5,000	10,000
NAIDOC Week	15,000	15,000	30,000
Twilight Movie Series	8,000	8,000	16,000
<b>Total expenditure</b>	<b>150,000</b>	<b>150,000</b>	<b>300,000</b>
<i>Result (surplus /deficit)</i>	<b>0</b>	<b>0</b>	



ATTACHMENT C

PAYMENT, MILESTONE & REPORTING SCHEDULE

I. Schedules

Funding, milestone, and reporting schedules are as follows:

	Project Deliverables/ Project Milestones	Description	Due Date	Payment \$	Reporting
1	Contract Execution	Signing of finalised agreement by BHP and SoEP	15/06/19		
2	Payment	Submission of invoice for 2019/2020 events	15/06/19	150,000	
3	Event delivery	Delivery of Year 1 events	30/06/20		
4	Evaluation	End of Year 1 project reports to be submitted to BHP	31/07/20		x
5	Payment	Payment on submission of invoice for Year 2 events (on condition of completed Year 1 End of Project Reports)	31/08/20	150,000	
6	Event delivery	Delivery of Year 2 events	30/06/21		
7	Evaluation	End of Year 2 project reports to be submitted to BHP	30/07/21		x
	Total			300,000	

All Funding payments are subject to Your satisfactory achievement of the KPIs (as determined by the Company at its discretion).

II. Key Performance Indicators

The Company will measure Your performance of the Project in accordance with the following KPIs:

	Key Performance Indicators	Metric	Due Date
1	2019 Outback Fusion Festival	Minimum 500 participants	30/06/20
		Minimum 20 visitors to town	30/06/20
		Minimum 5 community/cultural groups involved	30/06/20
		Minimum 3 local businesses involved	30/06/20
		Greater than 70% attendee satisfaction as measured in feedback survey	30/06/20
		Press and media coverage	30/06/20
2	2019 Welcome to Newman	Minimum 100 participants	30/06/20
		Minimum 2 community partnerships in the event delivery	30/06/20
		Minimum 50% local spend	30/06/20
3	2020 Harmony Week	Minimum 150 participants	30/06/20
		Minimum 6 community/cultural group partnerships in the event delivery	30/06/20
		Minimum 10 volunteers	30/06/20
4	2020 Newman Triathlon	Minimum 100 participants	30/06/20
		Minimum 20 volunteers	30/06/20
		Minimum one community partnership	30/06/20
		Safety – zero serious accident or incident	30/06/20
5	2020 Reconciliation Week	Minimum 150 participants	30/06/20
		Minimum 5 community partnerships	30/06/20

	Key Performance Indicators	Metric	Due Date
		Positive engagement of Aboriginal elders and community	30/06/20
		Press and Media coverage	30/06/20
6	Newman Concert Series	Minimum 100 participants each concert	30/06/21
		Minimum two community partnerships formed for the event delivery	30/06/21
		Minimum 60% attendee satisfaction as measured by post-concert surveys	30/06/21
7	2019 NAIDOC Week	Minimum 150 participants	30/06/20
		Minimum three community partnerships formed for the event delivery	30/06/20
		Positive engagement of Aboriginal elders and community	30/06/20
8	Twilight Movie Screenings	Minimum 100 participants per event	30/06/21
		Minimum of one community partnership per event	30/06/21
9	2020 Outback Fusion Festival	Minimum 500 participants	30/06/21
		Minimum 20 visitors to town	30/06/21
		Minimum 5 community/cultural groups involved	30/06/21
		Minimum 3 local businesses involved	30/06/21
		Greater than 70% attendee satisfaction as measured in feedback survey	30/06/21
		Press and media coverage	30/06/21
10	2020 Welcome to Neman	Minimum 100 participants	30/06/21
		Minimum 2 community partnerships in the event delivery	30/06/21
		Minimum 50% local spend	30/06/21
11	2021 Harmony Week	Minimum 150 participants	30/06/21
		Minimum 6 community/cultural group partnerships in the event delivery	30/06/21
		Minimum 10 volunteers	30/06/21
12	2021 Newman Triathlon	Minimum 100 participants	30/06/21
		Minimum 20 volunteers	30/06/21
		Minimum one community partnership	30/06/21
		Safety – zero serious accident or incident	30/06/21
13	2021 Reconciliation Week	Minimum 150 participants	30/06/21
		Minimum 5 community partnerships	30/06/21
		Positive engagement of Aboriginal elders and community	30/06/21
		Press and Media coverage	30/06/21
14	2020 NAIDOC Week	Minimum 150 participants	30/06/21
		Minimum three community partnerships formed for the event delivery	30/06/21
		Positive engagement of Aboriginal elders and community	30/06/21

### III. End of Project Reporting Requirements

At the completion of the Project, BHP Billiton will provide You with an End of Project Evaluation Report template. This must be completed within three months of the completion of the Project and returned to BHP Billiton. This report will provide a written account of how Funding provided by BHP Billiton was used.

**IV. Roles & Responsibilities**

The Company may support the Project as follows:

- a) Monitor and manage the relationship between you and BHP Billiton Iron Ore.
- b) Manage all internal communications to target BHP Billiton Iron Ore employees, including volunteering opportunities.
- c) Provide high resolution logos and current BHP Billiton brand guidelines for use in artwork preparation.
- d) Manage all brand and artwork approvals that incorporate the BHP Billiton logo.
- e) Manage all approvals for media and communications collateral that mention BHP Billiton.
- f) Provide consultation and advice where appropriate.
- g) Provide updates on internal contacts.

ATTACHMENT D  
PROJECT RIGHTS

You agree to provide the following non-exclusive benefits to the Company as sponsor to the Project:

Type of Recognition	Comments
Acknowledgement in press releases.	
Placement of BHP Billiton logo on all program collateral, including all communications materials.	
Placement of BHP Billiton logo on all promotional items developed by the funding recipient, for the project.	
Acknowledgement of BHP Billiton Iron Ore's contribution in newsletters and other communications materials.	
Acknowledgement of BHP Billiton Iron Ore's contribution in on-line/web based communications and branding, including the placement of logos on the recipient's/project website.	
Placement of BHP Billiton logo on uniforms/clothing.	Where applicable
Acknowledgement of BHP Billiton Iron Ore's contribution in all speeches related to the project.	
Invitation to BHP Billiton Iron Ore to present a speech (e.g. opening event/launch).	Where applicable
Development of joint project branding that includes BHP Billiton Iron Ore, which is to be used with all activities, events and promotional materials.	
Provision of BHP Billiton Iron Ore merchandise for distribution at events (e.g. hats, shirts).	
Insertion of the label "Proudly supported by" on all print and communications materials – to include BHP Billiton logo.	Approval for all logo placement to be sought by BHP Community team
Provision of additional advertising opportunities across the media (i.e. radio; television; print; outdoor).	
Acknowledgement of BHP Billiton Iron Ore in photos and published materials regarding the project.	
Provision of BHP Billiton Iron Ore temporary signage at events (e.g. marquee, banner, flags). (Note – some of these items may be provided by BHP Billiton Iron Ore as part of a sponsorship support package).	
Placement of BHP Billiton logo on temporary signage. Provision of invitations, tickets or entrance to key events or activities related to the sponsorship.	

**ATTACHMENT E**

**STANDARD PURCHASE ORDER TERMS AND CONDITIONS**

Please print out the most current form of BHPBIO's standard purchase order terms and conditions from here <http://www.bhpbilliton.com/info/supplying-to-bhp-billiton> and attach behind this page

**Appendix 2**  
**Newman Futures Project – Improved Safety and  
Liveability Funding Agreement**



## Iron Ore

BHP Billiton Iron Ore Pty Ltd  
ABN 46 005 700 951  
125 St Georges Terrace  
Perth WA 6000 Australia  
PO Box 7122 Cloisters Square  
Perth WA 6050 Australia  
Tel +61 8 63210050 Fax +61 8 63229978  
bhpbilliton.com

20 June 2019

Reference: CIA\_1309

Jeremy Edwards, Chief Executive Officer  
Shire of East Pilbara  
Cnr Newman and Kalgan Drives  
Newman WA 6753

Dear **Jeremy Edwards**,

### **COMMUNITY DEVELOPMENT PROJECT CONTRACT - Newman Futures Community Safety Component FY 2020 ("the Project")**

I am pleased to confirm that the request for Funding for the Project received from Shire of East Pilbara, ABN: 47854334350 ("You") has been successful, subject to Your agreement to the terms and conditions set out in this letter.

This letter sets out the terms and conditions upon which BHP Billiton Iron Ore Pty Ltd ("**BHP**" or "**Company**") will provide You with the Funding for the purposes of carrying out the Project.

#### **1. PURCHASE ORDER TERMS AND CONDITIONS**

1.1 BHP's Standard Terms and Conditions apply to this Contract and, unless defined in this Contract, words defined in the Standard Terms and Conditions have the same meaning when used in this Contract except that, for the purposes of this Contract:

- (a) "Services" as defined in the Standard Terms and Conditions means "the carrying out of the Project";
- (b) "Price" as defined in the Standard Terms and Conditions means "the Funding"; and
- (c) "Contractor" as defined in the Standard Terms and Conditions means "You".

1.2 The terms of this letter prevail to the extent of any inconsistency with the Standard Terms and Conditions.

A member of the BHP Billiton Group, which is headquartered in Australia  
Registered Office: Level 16, 171 Collins Street, Melbourne, Victoria 3000, Australia  
ABN 49 504 025 077 Registered in Australia

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**2. FUNDING**

- 2.1 Notwithstanding the Standard Terms and Conditions, subject to You complying with Your obligations under this Contract, the Company will provide You with the Funding at the times and in the manner specified in the Payment Schedule.
- 2.2 You acknowledge and agree that the Funding must only be expended for the Project and that the Funding represents the whole contribution agreed to be made by the Company and that the Company (or any of its related entities) has not agreed to make any future or further funding or other form of contribution to You in respect of the Project or for any other purpose. You are also responsible for any Tax payable in respect of the Project.
- 2.3 If the Project is completed and the Funding has not been fully utilised or this Contract is terminated prior to the date that the funds are fully utilised, then You shall immediately notify the Company and the surplus shall, at the discretion of the Company, be returned to the Company, applied to such other project or purpose as the Company may in its absolute discretion approve, or be transferred to another association or organisation which is not carried out for the purposes of profit or gain to its individual members, and which association or organisation is nominated or approved by the Company in its absolute discretion.

**3. YOUR OBLIGATIONS**

In consideration of the Company entering into this Contract, and in addition to the Standard Terms and Conditions, You agree to:

- (a) carry out the Project in accordance with the Project Plan to meet the Project Deliverables within the Project Period;
- (b) provide the Company with the Project Rights;
- (c) subject to You first obtaining the Company's consent, ensure that the Company is acknowledged and recognised as a contributor to the Project by:
  - (i) recognising the Company's contribution in any reference to the Project in any public medium (as appropriate); and
  - (ii) incorporating the Company's Trade Identification in any visual public medium reference to the Project and giving the Company the opportunity to provide a speaker to any launch or public event in connection with the Project;
- (d) during the course of the Project regularly report to the Company on the progress of the Project and use of the Funding in accordance with Project Deliverables, and otherwise at such times and in such format and with such particulars as the Company may from time to time require; and
- (e) not do, or permit any of Your Personnel to do, anything which, in the Company's reasonable opinion, would, or is likely to:
  - (i) decrease the value or quality of the Project to the Company; or
  - (ii) impair the public image of the Company or otherwise have the effect of bringing the Company's name or reputation into disrepute.

**4. INSURANCE**

- 4.1 You must effect and maintain, for as long as any obligations remain in connection with the Project, the Insurances and, if required, provide the Company with evidence of the currency of the Insurances prior to commencing the Project, and at any other time as requested by the Company.



**5. CONFIDENTIAL INFORMATION**

5.1 You must not permit or enable any other person to, without the prior written approval of the Company:

- (a) use Confidential Information other than as necessary for the performance this Contract; or
- (b) subject to Clause 6.2, disclose Confidential Information.

5.2 Subject to Clause 6.4, Your obligation not to disclose Confidential Information without the Company's prior written approval does not apply to disclosures to the extent they are:

- (a) required by Law, including disclosure to any stock exchange; or
- (b) made to its legal advisers.

5.3 Even if You are entitled to disclose Confidential Information without the prior written approval of the Company, You must:

- (a) otherwise keep the Confidential Information confidential; and
- (b) ensure as far as possible that any person to whom the Confidential Information is disclosed keeps the Confidential Information confidential in accordance with this Contract.

5.4 Before making any disclosure pursuant to Clause 6.2, You must:

- (a) give the Company details of the reasons for the disclosure and a copy of the information You propose to disclose; and
- (b) provide the Company with all assistance and co-operation which the Company considers necessary to prevent or limit that disclosure including by making such amendments (if any) as requested by the Company to the terms of the disclosure.

5.5 You must inform the Company immediately if You become aware or suspect that there has been a breach of Your obligations under this Contract.

5.6 You must take reasonable steps to protect the Confidential Information and keep it secure from unauthorised persons.

5.7 You must, at the end of this Contract or within seven days after a written direction by the Company to do so, return or destroy, at the election of the Company, all Confidential Information in Your possession, custody or control.

5.8 The obligations under this clause continue after the End Date.

5.9 For the purposes of this Contract:

**Confidential Information** means the terms of this Contract and any information that concerns the business, operations, finances, plans or customers of the Company and is disclosed to or acquired by You and which:

- (a) is by its nature confidential;
- (b) is designated by the Company as confidential; or
- (c) You know or ought to know is confidential,

but does not include information which:

- (d) is or becomes public knowledge other than by a breach of this Contract;
- (e) is in Your possession without restriction in relation to disclosure on or before the date on which it is disclosed to or acquired by You; or
- (f) has been independently developed or acquired by You.

**6. INTELLECTUAL PROPERTY**

- 6.1 Subject to the terms and conditions of this clause, all Intellectual Property Rights in Your Background IP remain vested in You.
- 6.2 You grant to the Company a non-exclusive, perpetual, royalty-free, irrevocable, transferable licence (with the right to assign and sub-license) to use Your Background IP to the extent necessary to use the Project IP.
- 6.3 You hereby assign to the Company all Intellectual Property Rights (including future copyright) in all Project IP upon the creation of that Project IP or, to the extent that any Intellectual Property Rights are not created at the time of the creation of the Project IP, upon the later creation of the Intellectual Property Rights in that Project IP.
- 6.4 You must, if required by the Company, do all further things necessary to assign Intellectual Property Rights in the Project IP to the Company.
- 6.5 All Intellectual Property Rights in the Company's Background IP remain vested in the Company.
- 6.6 The Company hereby grants to You a non-exclusive, royalty-free, revocable, non-transferable licence to use the Project IP and the Company's Background IP to the extent required to perform this Contract.
- 6.7 You warrant that:
  - (a) You are able to license the Intellectual Property Rights in Your Background IP and assign the Intellectual Property Rights in Project IP as described in Clauses 7.2 and 7.3;
  - (b) use by the Company, or by another person at the direction or with the permission of the Company, of Your Background IP and Project IP in accordance with this Contract will not infringe the Intellectual Property Rights of any third party or breach any Law;
  - (c) neither the Company, nor any other person acting at the direction or with the permission of the Company, is liable to pay any third party any licence or other fee in respect of the use of Your Background IP and Project IP; and
  - (d) You have obtained from any third party involved in the creation of, or whose Intellectual Property Rights form part of, the Project IP, all necessary written consents to ensure the Company and any person claiming an interest in the Project IP through the Company do not infringe any Intellectual Property Rights.
- 6.8 The Company warrants that:
  - (a) the Company is able to license the Intellectual Property Rights in the Company's Background IP as described in Clause 7.6;
  - (b) use by You, or by another person at the direction or with Your permission, of the Company's Background IP in accordance with this Contract will not infringe the Intellectual Property Rights of any third party or breach any Law; and

- (c) neither You, nor any other person acting at the direction or with Your permission, is liable to pay any third party any licence or other fee in respect of the use of the Company's Background IP.

6.9 You must:

- (a) notify the Company as soon as You become aware of any suspected, threatened or actual infringement of any Intellectual Property Rights arising by reason of the provision of the Project Deliverables; and
- (b) at the Company's direction in writing:
  - (iii) either:
    - (A) modify the Project Deliverables or the affected part of them so as to overcome the infringement of the Intellectual Property Right concerned;
    - (B) replace the affected part of the Project Deliverables, so as to overcome the infringement of the Intellectual Property Rights concerned; or
    - (C) remove the affected part of the Project Deliverables and compensate the Company for any cost, loss, expense or damage incurred by the Company as a result;

and any such modification, replacement or removal will not constitute a variation to the Contract, nor will it entitle You to an extension to the End Date; and

- (iv) defend, protect and hold harmless, at Your cost, the Company from and against any claim for infringement of any Intellectual Property Rights arising by reason of the provision of the Project Deliverables and provide all reasonable assistance the Company may request to protect the Intellectual Property Rights in the Project IP and the Company's Background IP.

6.10 The rights and obligations under this clause continue after the End Date.

**7. ENDING THIS CONTRACT**

7.1 The Company may, in its absolute discretion, and without being obliged to give any reasons, end this Contract at any time by giving not less than 7 days written notice to You. In the event of termination under this clause, subject to Your compliance with Clause 8.3, the Company will be liable for:

- (a) payments under the payment provisions of this Contract that were due before the effective date of termination; and
- (b) any reasonable costs incurred by You and directly attributable to the termination of this Contract.

7.2 A Party may end this Contract by notice in writing to the other Party:

- (a) if the other Party materially breaches its obligations under this Contract and fails to remedy that default within the time specified (being not less than 7 days) by the non-defaulting Party by notice in writing;
- (b) immediately if an insolvency event occurs in relation to the other Party; or



- (c) immediately by the Company in the event that the Company has reason to believe that a breach by You of any of the representations, warranties or undertakings made by You in this Contract relating to compliance with Applicable Anti-Corruption Laws has occurred or is imminent.

7.3 On termination or expiry of this Contract:

- (a) subject to this clause, the Company will have no further liability for any funding or other form of contribution to You under this Contract;
- (b) the Company must stop exercising the Project Rights;
- (c) You must cease publishing any material which makes reference to the Company;
- (d) You must stop using any of the Company's Background IP in performing any of the work contemplated by this Contract; and
- (e) You must take all reasonable steps to minimise loss resulting from that termination.

**8. LIABILITY AND INDEMNITY**

- 8.1 You agree to indemnify, and keep indemnified, the Company from and against all claims, proceedings, expenses, costs, damages, losses and other liabilities of any kind arising from any breach of any warranty or any of the other terms and conditions of this Contract by You, except to the extent of a liability which is caused by a willful or negligent act or omission of the Company or its Personnel.
- 8.2 Neither Party will be liable to the other Party in any circumstances for any indirect, special or consequential loss or damage, including but not limited to loss of revenue, loss of production, loss of product, loss of contract or loss of profit howsoever arising and whether in an action in contract, tort (including without limitation, negligence), in equity, product liability, under statute or on any other basis.

**9. ANTI-CORRUPTION REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

- 9.1 Each Party, in performing this Contract, must comply with all Applicable Anti-corruption Laws.
- 9.2 In performing this Contract, You represent and warrant and agree that neither You nor any of Your owners, affiliates, officers, directors, employees nor agents taking actions in furtherance of this Contract authorised, offered, promised, or gave nor will authorize, offer, promise or give anything of value or any other improper payment to:
  - (a) any "Government Official" (meaning any person employed by or acting on behalf of a government, government-controlled entity or public international organization; any political party, party official or candidate; any individual who holds or performs the duties of an appointment, office or position created by custom or convention; or any individual who holds him/herself out to be the authorized intermediary of a Government Official) in order to influence official action;
  - (b) any person (whether or not a Government Official) to influence that person to act in breach of a duty of good faith, impartiality or trust ("acting improperly"), to reward the person for acting improperly, or in circumstances where the recipient would be acting improperly by receiving the thing of value; or
  - (c) any person while knowing or having reason to know that all or any portion of the Funding or other thing of value will be offered, promised or given to a Government Official in order to influence or reward official action or to any person to influence or reward such person to act improperly.

- 9.3 In performing this Contract, neither You or Your owners, affiliates, officers, directors, employees or agents will receive or agree to accept any payment, gift or other advantage which violates any Applicable Anti-corruption Laws.
- 9.4 If any owner, officer, director, employee or shareholder of Yours becomes a Government Official during the term of this Contract, You will promptly notify the Company.
- 9.5 You will not, without prior written consent of the Company, assign or delegate any of Your rights or obligations under this Contract to a third party or sub-contract or otherwise enter into any arrangement to share the Funding.
- 9.6 You will keep and maintain accurate and reasonably detailed books and financial records in connection with performance of this Contract, and payments made in connection with this Contract. Upon request, the Company will have the right to audit and examine relevant books and financial records to test compliance with this Contract and the representations, warranties and undertakings given by You. You will provide any information and assistance reasonably required by the Company in connection with such an audit, including access to Your key personnel.
- 9.7 In the event that the Company has reason to believe that a breach of any of the representations, warranties or undertakings in this Contract relating to compliance with Applicable Anti-corruption Laws has occurred or is imminent, the Company may withhold further payments under this Contract until such time as it has received confirmation to its satisfaction that no breach has occurred or is likely to occur.
- 9.8 In the event of a breach of any of the representations, warranties or undertakings in this Contract relating to compliance with Applicable Anti-corruption Laws, any claims for Funding shall be void to the extent permitted by law and You shall indemnify and hold the Company harmless against any and all claims, losses or damages arising from or related to such breach.
- 10. GOVERNING LAW**
- 10.1 This Contract is legally binding. Any dispute arising out of or in connection with it or its subject matter or formation (including non-contractual disputes) will be governed by, construed and take effect in accordance with the law in force in the Jurisdiction.
- 11. SPECIAL CONDITIONS**
- 11.1 The Parties acknowledge and agree that the special terms and conditions (if any) specified in the Schedule (**Special Conditions**) apply to this Contract.
- 11.2 The terms of the Special Conditions will prevail to the extent of any inconsistency with the provisions of this Contract.
- 12. GENERAL**
- 12.1 If the Company enters into this Contract as agent for and on behalf of joint venture partners, the liability of each of those joint venture partners under this Contract is several and not joint, nor joint and several.
- 12.2 Where You comprise more than one person, the terms, conditions and warranties of this Contract will bind all such persons jointly and each of them severally. The persons comprising You will be jointly and severally entitled to the benefits and rights conferred by this Contract.
- 12.3 Each person signing this Contract as an authorised officer of a Party hereby represents and warrants that he or she is duly authorised to sign this Contract for that Party, and that this Contract will, upon having been so executed, be binding on that Party in accordance with its terms.

13. DEFINITIONS

In this Contract (unless the context otherwise requires):

**Applicable Anti-corruption Laws** means any anti-corruption Laws that are applicable to either Party or this Contract, including the US Foreign Corrupt Practices Act and the UK Bribery Act

**Company** means the BHP entity listed in the Contract Specifics.

**Contract** means this letter including all attachments hereto.

**Contract Specifics** means the schedule of contract information with that name forming part of this Contract at Attachment A.

**End Date** means the date specified as such in the Contract Specifics.

**Funding** means the funding for the Project specified as such in the Contract Specifics.

**Intellectual Property** means any subject matter, whether tangible or intangible, that attracts, or is susceptible to protection by, Intellectual Property Rights.

**Intellectual Property Rights** means all copyright and analogous rights, all rights in relation to inventions (including patent rights), registered and unregistered trademarks (including service marks), registered designs, confidential information (including trade secrets), know-how, circuit layouts and all other rights throughout the world resulting from intellectual activity in the industrial, scientific or artistic fields. These rights include all rights in all applications to register these rights and all renewals and extensions of these rights.

**Insurances** means each of the insurances required by the Company for the Project and specified in the Contract Specifics.

**Jurisdiction** has the meaning set out in the Contract Specifics.

**Party** means a party to this Contract and **Parties** means all parties to this Contract.

**Payment Schedule** means the schedule at Attachment C to this Contract specifying the time and manner that the Funding is to be paid to You.

**Project** means the community development project described in Attachment B.

**Project Deliverables** means the Project deliverables as more particularly described in Attachment C.

**Project Period** means the period commencing on the Start Date and ending on the End Date or, if this Contract is terminated early, the period ending on the day on which this Contract terminates.

**Project Plan** means the plan for the Project set out in Attachment B.

**Project Rights** means the community development project rights in respect of the Project as set out in Attachment D.

**Schedule** means the schedule to this Contract.

**Start Date** means the date specified as such in the Contract Specifics.

**Standard Terms and Conditions** means the Company's standard purchase order terms and conditions applying to this Contract and accompanying the purchase order issued by the Company for the Project, a copy of which is attached to this Contract as Attachment E.

**Trade Identification** means corporate, business and product names, trademarks, service marks, symbols, logos and other trade indicia.

**You** means the community development project party to whom this document is addressed and **Your** has a corresponding meaning.

By execution of this letter, the Company agrees to the terms and conditions of this Contract. Please execute and return a copy of this Contract, similarly acknowledging your acceptance of these terms and conditions.

Yours sincerely

Meath Hammond,  
Head of Corporate Affairs, Western Australia

Signed for and executed on behalf of **Shire of East Pilbara** by its duly authorised representative:

\_\_\_\_\_  
Signature of Authorised Representative

\_\_\_\_\_  
Print Full Name of Authorised Representative

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Position of Authorised Representative



ATTACHMENT A  
CONTRACT SPECIFICS

<b>Donation</b>	\$923 000 AUD
<b>Donation Purpose</b>	Shire of East Pilbara – Newman Futures Community Safety Component FY 2020
<b>Company</b>	BHP Billiton Iron Ore Pty Ltd, ABN 46 008 700 981, 125 St. Georges Terrace, Perth, Western Australia 6000
<b>Jurisdiction</b>	Western Australia
<b>Start Date</b>	1 <sup>st</sup> July 2019
<b>End Date</b>	The earlier of: (a) 30 <sup>th</sup> June 2020 (b) The date this Contract is ended under Clause 8.
<b>Insurances</b>	Workers compensation insurance where required by law of the Jurisdiction and which complies with the relevant law covering all claims and liabilities at law for an amount as required by relevant Jurisdiction legislation.
	Public and products liability insurance covering all locations where the Project is to be performed, written on an occurrence basis with a limit of indemnity of not less than \$20 ,000 ,000 for each and every occurrence, and which covers You, any of Your Personnel and the Company in respect of:  (iii) loss of, damage to, or loss of use of, any real or personal property; and  (iv) the bodily injury of, disease or illness to, or death, of any person  Arising out of the performance of this Contract by You.
	Motor vehicle insurance, covering all mechanically propelled vehicles that are registered, or capable of being registered, for road use and are at any time used in connection with this Contract, including:  1. Insurance that is compulsory under applicable laws governing the use of motor vehicles and liability for personal injury or death; and  (v) liability insurance for third party damage with a sum insured of not less than \$20 ,000 ,000 per occurrence
<b>Jursidiction</b>	Western Australia
<b>Project Deliverables</b>	Those Project timelines & Key Performance Indicators more particularly described in Attachment C – Payment, Milestone and Reporting Schedule



ATTACHMENT B

PROJECT PLAN

Project Name	Newman Futures Partnership – Phase 1
Community Partner	Shire of East Pilbara
BHP Project Manager	Sue Michoff
Community Investment Pillar    CDM Theme	Strong Communities; Local Economic Development; Indigenous Sub Plan (Community Engagement, High Impact, Tri-Sector Collaboration)
Quality of Life Indicator	Public Safety, Economic Activity

I. Project Description

The key initiatives and BHPBIO Contributions are:

1) Place Based Precinct Planning (\$250 000)

**Summary:** A place based precinct planning approach will define the vision and development intent for land use in specific areas within Newman (East Newman and Town Centre), allowing for long term plans to address the revitalisation of key areas to address economic diversification, liveability and anti-social behaviour.

Details	Engagement of consultants to develop a place based precinct planning framework, including consultation with the Newman Futures Steering Committee and alignment with the Newman Futures project objectives.
Outcomes Sought	<ul style="list-style-type: none"> <li>Engagement and alignment with the Newman Futures project</li> <li>Demonstrated experience and understanding of place-making for disadvantaged and ATSI populations</li> <li>Formation of a steering committee to provide direction and scope for the project</li> <li>Development and Endorsement of Precinct plans for East Newman and Town Centre</li> <li>Activation plans developed to accompany Precinct Plans</li> </ul>
Key Performance Indicators	<ul style="list-style-type: none"> <li>Project scope developed with key/identified stakeholders of Newman Futures project and approved by BHP</li> <li>Consultant engaged through Steering Committee guidelines</li> <li>Qualitative and Quantitative community consultation outcomes</li> <li>Delivery of endorsed (SoEP and Newman Futures) precinct plans for East Newman and Newman Town Centre</li> <li>Development of guiding Activation plans/initiatives for each precinct plan</li> </ul>
Beneficiaries	Consultants will be engaged through a Tender process in line with the WA Local Government Act 1994
Total Funding Sought	\$ 250 000

**2) Review and upgrade of CCTV Infrastructure and lighting to target anti-social behaviour (\$500 000)**

**Summary:** To address crime and anti-social behaviour through the review and implementation of additional CCTV and lighting in hot spot areas in Newman. Principles of Crime Prevention through Environmental Design and Management (CPTED/M) will be combined with WA Police, Shire of East Pilbara and BHP NPI Housing data to identify high priority areas for improvement. Improvements will focus on the improved safety of community members in public spaces and reducing damage and anti-social behaviour.

<b>Details</b>	Address current crime and anti-social behaviour trends through the review of current lighting and CCTV data and installation of improved lighting and CCTV networks in targeted public spaces.
<b>Outcomes Sought</b>	<ul style="list-style-type: none"> <li>• Review of local WAPOL, SOEP and BHP data to develop hot spot/high priority areas</li> <li>• Consideration of energy efficiency and climatic considerations in recommended infrastructure</li> <li>• Report outlining rationale for hot spot/high priority areas</li> <li>• Review of State CCTV strategy for potential alignment</li> <li>• Improved community safety through lighting and CCTV infrastructure</li> <li>• Connection to developing Precinct plans</li> <li>• Consultation through Newman Futures Project</li> </ul>
<b>Key Performance Indicators</b>	<ul style="list-style-type: none"> <li>• Delivery of report and recommendations to identify high priority areas and required infrastructure</li> <li>• Evidence of consultation and endorsement of report recommendations through Newman Futures Project</li> <li>• Installation of infrastructure to Federal, State and Local Government standards.</li> </ul>
<b>Beneficiaries</b>	Tenders to be developed as per WA Local Government Act 1994 for infrastructure requirements to implement CCTV and Lighting.
<b>Total Funding Sought</b>	<b>\$500 000</b>

**3. Additional Youth Engagement and Intervention Programs (\$173 250)**

**Summary:** Shire of East Pilbara will provide immediate short-term support to increase the range of intervention and engagement programs currently offered through the Newman Youth Centre. These programs will aim to improve incidences of anti-social behaviour and drug and alcohol abuse by disengaged youth in the Newman town ship.

<b>Details</b>	Implement a range of short-term prevention and diversion activities to re-engage Young people residing and visiting Newman. Increase the range and availability of outreach, planned and informal recreational activities.
<b>Outcomes Sought</b>	<ul style="list-style-type: none"> <li>• Extension of Newman Youth Centre Opening Hours</li> <li>• Increased homework club hours</li> <li>• Martu Specific strategies implemented at Newman Youth Centre</li> </ul>

	<ul style="list-style-type: none"> <li>• Kidsport Mentor Program youth worker and Martu engagement workers facilitating entry to established local programs</li> <li>• Extended informal sport and recreation programs</li> <li>• Mural Arts program at Junior Sports Pavillion</li> </ul>
<b>Key Performance Indicators</b>	<ul style="list-style-type: none"> <li>• # Attendance at Youth Centre activities</li> <li>• # Additional hours of opening of Newman Youth Centre</li> <li>• Qualitative and Quantitative reporting of activities and projects</li> <li>• Number of events held, evaluation of events to key targets</li> <li>• Professional Development of Martu engagement workers</li> <li>• # Participants/hours/in Kidsport Mentor Program</li> <li>• Delivery and evaluation of Junior Sports Pavillion project</li> <li>• Comparative data on anti-social trends and costs</li> <li>• Evaluation of programs</li> </ul>
<b>Beneficiaries</b>	<p>Youth residing/visiting the Newman community will benefit through increased access to Newman Youth Centre and associated activities.</p> <p>Shire of East Pilbara Newman Youth Centre staff, including Martu engagement workers will have financial benefit through increased hours of employment.</p>
<b>Total Funding Sought</b>	<b>\$173 500</b>

## II. Community Partner Background

The Shire of East Pilbara is the largest Shire in the Australia covering approximately 372,571 square kilometres; larger than the state of Victoria. Driving will take 2 days to cross from east to west and 6 hours from north to south. It's main town sites are Newman, Marble Bar and Nullagine, with a number of Aboriginal Communities throughout the Western Desert. The Shire of East Pilbara's administrative centre is located in Newman.

The Shire of East Pilbara and BHP have partnered together to deliver outcomes to East Pilbara communities since the Newman townsite was sold by BHP in 1980.

The Shire of East Pilbara provides a range of services including; Community Wellbeing Services, Community Infrastructure, Youth Services, Town Planning Services, Community Safety and Ranger, Airport services, Waste Management services and public and Environmental health services.

The Shire of East Pilbara is collaborating with BHP to design, develop and drive the Newman Futures project through a tri-sector collaboration process.

### Vision and Achievements:

A cohesive community providing an economic hub for the region linked by vibrant local centres and shared spaces – *a place to live and call home*

Our towns have survived fluctuations of fortune for more than a century. Resourcefulness and resilience, along with planning, will hold them in good stead throughout the 21<sup>st</sup> century. The energy of our people will ensure that the heart of the Pilbara will beat on, and will beat strong.

The Shire of East Pilbara is not just about resources - *it's also about resourcefulness.*

From our Indigenous people to early pastoralists and miners, and through to the present day, people have shown their capacity to not only survive but thrive in the heart of the Pilbara.

III. Budget

Funding Component	Activity Breakdown		FY 19/20
Place Based Precinct Planning			\$500,000
CCTV and Community Lighting Review and Upgrades			\$250 000
Additional Youth Engagement and Intervention Activities	Extension of Youth Centre Opening Hours	\$83 000	\$173 000
	Extension of Kidsport Program	\$50 000	
	Extended Informal Sport + Rec Program	\$10 000	
	Mural Arts Project	\$30 000	
TOTAL			\$923 000



ATTACHMENT C

Schedules

Funding, Reporting and Milestone payments are as follows:

	Phase	Project Deliverables	Description	Due Date	Payment	Reporting
1	Contract Execution	Execution of Contract	Contract between BHPBIO and SOEP signed	20/6/2019	\$923 000	Invoice and payment receipt
2	Establishment of Project	Project Steering Committee activated and operational	Committee established with TOR and meeting schedules	31/7/2019		ToR and Minutes of meetings held
3	Precinct Plan Scope	Tender document established	Both parties agree on scope and outcomes for Tender	31/8/2019		Tender process documented
4	Infrastructure Review	Review completed	Data analysed and report formed with scoped parameters	31/9/2019		Review finalised and adopted
5	Infrastructure upgrades scoped	Tender document established	Both parties agree on scope and outcomes for Tender	31/9/2019		Tender process documented
6	6 Monthly Review	Project review undertaken	Parties meet and review progress to date. Objectives reviewed and adjusted as required	31/1/2020		Financial report Report against project KPI's
7	Precinct Plan Completed	Report adopted by SoEP Council	Final drafts endorsed by both parties and presented to Council	30/6/2020		Council Meeting Minutes
8	Infrastructure upgrades completed	Infrastructure installed and operational	Infrastructure installed to approved compliant	30/4/2020		Certificates of Installation
9	Projects Completed		Project Reporting	14/07/2020		Annual report on contract, Financial report

ATTACHMENT D

**IV. Roles & Responsibilities**

The Company may support the Project as follows:

- a) Monitor and manage the relationship between you and BHP.
- b) Manage all internal communications to target BHP employees, including volunteering opportunities.
- c) Provide high resolution logos and current BHP brand guidelines for use in artwork preparation.
- d) Manage all brand and artwork approvals that incorporate the BHP logo.
- e) Manage all approvals for media and communications collateral that mention BHP.
- f) Provide consultation and advice where appropriate.
- g) Provide updates on internal contacts.

- 7     MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
- 8     NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY A  
DECISION OF COUNCIL**
- 9     CONFIDENTIAL MATTERS BEHIND CLOSED DOORS**
- 10    DATE OF NEXT MEETING**
- 11    CLOSURE**