



NOTICE OF MEETING

Pursuant to the provisions of section 83 (2) of the
Local Government Act 1999,

that

Special Meeting of the District Council of Mallala

will be held in

**Council Chambers
Redbanks Road
Mallala**

on

Monday, 7 March 2016 at 6.30 PM

James Miller

ACTING - CHIEF EXECUTIVE OFFICER

AGENDA

1. ATTENDANCE

- 1.1 Present
- 1.2 Apologies
- 1.3 Not Present / Leave of Absence

2. DECLARATION OF OFFICE

- 2.1 By Mayor Tony Flaherty OAM JP (CON16/25)

3. ITEMS FOR DECISIONS

- 3.1 Mayoral Supplementary Election Results (CON12/572)
- 3.2 Governance Advisory Panel Membership (CON12/543)
- 3.3 Policy Review - Elected Members Code of Conduct and Complaints Handling Procedure (CON12/1199)
- 3.4 Mallala Pinery Fire Recovery Fundraiser (CON12/193)

4. CLOSURE

MONDAY 7 March 2016**Items:****DECLARATION OF OFFICE**

2.1 By Mayor Tony Flaherty OAM JP (CON16/25)

 District Council of Mallala	Form 2 – Undertaking to be made by a member of a council before assuming office
Report Date: 7 March 2016	Container No: CON16/25

Form 2 – Undertaking to be made by a member of a council before assuming office

I, *Anthony John Flaherty OAM JP*, having been elected or appointed to the office of a member of the *District Council of Mallala*, undertake to faithfully and impartially fulfil the duties of office in the public interest, to the best of my judgment and abilities and in accordance with the *Local Government Act 1999*.

Signature:

This undertaking was made before me on:

Signature:

Note –

The undertaking must be made before a Justice of the Peace or other person authorised to take declarations under the *Oaths Act 1936* (being a Commissioner for Taking Affidavits, or a proclaimed manager of an office of a bank, building society or credit union, or a proclaimed member of the police force).

MONDAY 7 March 2016**Items:****ITEMS FOR DECISION**

- 3.1 Mayoral Supplementary Election Results (CON12/572)
- 3.2 Governance Advisory Panel Membership (CON12/543)
- 3.3 Policy Review - Elected Members Code of Conduct and Complaints Handling Procedure (CON12/1199)
- 3.4 Mallala Pinery Fire Recovery Fundraiser (CON12/193)

 District Council of Mallala	3.1 Mayoral Supplementary Election Results
	Container No: CON 12/572 Document No: D16/3411
Report Date: 7 March 2016	Prepared by: Governance Officer
Corporate Objective:	5.2 Informed and engaged community, stakeholders and staff.

Purpose:	To provide Council with the official Results in relation to the District Council of Mallala's Supplementary Election of Mayor.
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Recommendation 1:	"that Council, having considered Item 3.1 – <i>Mayoral Supplementary Election Results</i> dated 7 March 2016, receive and note the report."
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Impact Summary

Organisational and Governance

Financial	Nil
Legislation	<i>Local Government (Elections) Act 1999</i>
Risk	Nil
Consultation	Nil
Asset Management Plans	Nil
Service Standards	Nil

Background

The District Council of Mallala's Supplementary Election of Mayor was conducted by the Electoral Commission of South Australia (ECSA). Voting closed at 12 noon on Monday 29 February 2016, with the scrutiny and count commencing at 1:00pm at the Mallala Council Chambers.

Discussion

At the conclusion of voting, Mr Tony Flaherty received 788 1st preference ballot papers, while Mr Marcus Strudwicke received 620 1st preference ballot papers. Overall, four informal ballot papers were received. 1412 ballot papers were received in total.

Summary

On 3 March 2016 the formal results were received from ECSA (**Attachment 1**), with Deputy Returning Officer, Leanne Redpath, declaring that Mr Tony Flaherty has been elected to the position of Mayor of the District Council of Mallala.

Attachment 1
to report 3.1
dated 7 March 2016

Mayoral Supplementary Election Results

Results Report from the Electoral Commission of South Australia dated 3 March 2016

In reply please quote:
431-6/2014

3 March 2016

Mr James Miller
Acting Chief Executive Officer
District Council of Mallala
PO Box 18
MALLALA SA 5502

P 08 7424 7400
F 08 7424 7444
W www.ecsa.sa.gov.au

Dear Mr Miller

Re: Supplementary Election
District Council of Mallala – Mayor

In accordance with the *Local Government (Elections) Act 1999*, I enclose the result of the supplementary election.

The supplementary election was conducted entirely by post. Voting material comprising a ballot paper, candidate profiles, a postal voting guide, a ballot paper envelope containing the elector's declaration and return envelope was sent to electors, bodies corporate and groups whose names appeared on the certified voters roll.

Voting closed at 12 noon on Monday 29 February 2016 with the scrutiny and count commencing at 1.00pm at the Council Chambers, Redbanks Road, Mallala.

In accordance with the *Local Government (Elections) Act 1999 [s50]*, I Leeanne Redpath, Deputy Returning Officer for the District Council of Mallala acting on behalf of the Returning Officer, David Gully, hereby declare Tony Flaherty elected.

All candidates have been notified in writing of the result of the election.

Yours sincerely

Leeanne Redpath
Deputy Returning Officer
District Council of Mallala

Electoral Commission of South Australia
Level 6 / 60 Light Square Adelaide SA 5000
Postal Address: GPO Box 646 Adelaide SA 5001
ABN 99 891 752 468

Local Government Supplementary Election



Final Results for election conducted on Monday 29 February 2016

District Council of Mallala

Ballot Papers

<i>Election</i>	<i>Formal</i>	<i>Informal</i>	<i>Quota</i>			
Mayoral <i>2 candidates contesting 1 vacancy</i>	1408	4	705			
<i>Candidate</i>			<i>1st Preference Votes</i>	<i>Elected or Excluded</i>	<i>Votes at Conclusion of Election</i>	<i>Count No</i>
STRUDWICKE, Marcus			620		620	
FLAHERTY, Tony			788	Elected 1	Quota	1

Council Returns Final Received Report

	<i>Received</i>	<i>Roll Total</i>	<i>%age</i>	
MALLALA				
<i>Mallala/Dublin Ward</i>				
Accepted	542	1885	28.75%	
Accepted - Omission in Error	0	1885	0.00%	
Rejected	4	1885	0.21%	
Rejected - Omission in Error	0	1885	0.00%	
Returned Unclaimed	90	1885	4.77%	
Original Removed (Reissued)	0	1885	0.00%	
Duplicate Removed	0	1885	0.00%	
Declaration Missing	3	1885	0.16%	
Late Returns	0	1885	0.00%	
<i>Mallala/Dublin Ward Summary</i>		549 *	1885	29.12%
<i>Two Wells Ward</i>				
Accepted	475	1660	28.61%	
Accepted - Omission in Error	1	1660	0.06%	
Rejected	15	1660	0.90%	
Rejected - Omission in Error	0	1660	0.00%	
Returned Unclaimed	81	1660	4.88%	
Original Removed (Reissued)	0	1660	0.00%	
Duplicate Removed	0	1660	0.00%	
Declaration Missing	1	1660	0.06%	
Late Returns	0	1660	0.00%	
<i>Two Wells Ward Summary</i>		492 *	1660	29.64%
<i>Lewiston Ward</i>				
Accepted	397	2150	18.47%	
Accepted - Omission in Error	0	2150	0.00%	
Rejected	8	2150	0.37%	
Rejected - Omission in Error	0	2150	0.00%	
Returned Unclaimed	71	2150	3.30%	
Original Removed (Reissued)	0	2150	0.00%	
Duplicate Removed	0	2150	0.00%	
Declaration Missing	1	2150	0.05%	
Late Returns	0	2150	0.00%	
<i>Lewiston Ward Summary</i>		406 *	2150	18.88%
MALLALA TOTALS		1447 *	5695	25.41%

* Election Summary = Accepted + Rejected Only

Number on Roll - 5695
Total Formal Ballot Papers - 1408
% of Electors Voting – 25.41
Total Informal Ballot Papers - 4

1 to be elected
Quota $\frac{1408}{1+1} + 1 = 705$

Table 1 – Distribution of Ballot Paper Preferences

Table 2 – Distribution of the Effective Votes

Count number	Description of the next available preference	STRUDWICKE	FLAHERTY	Ballot papers exhausted at count	Total ballot papers counted	Transfer value	Votes transferred to Table 2	Count number	STRUDWICKE	FLAHERTY	Exhausted votes	Votes lost through fractional remainder	Total number of votes counted	Remarks
1	1 st preferences distribution	620	788	-	1408	1	1408	1	620	788	-	-	1408	1 st preferences distributed. FLAHERTY elected over quota.
2								2						
3								3						
4								4						
5								5						
6								6						
7								7						
8								8						
9								9						
10								10						
11								11						
12								12						

Date and Time of Provisional Declaration

3.30pm, Monday 29 February 2016

Signature of Deputy Returning Officer

	3.2 Governance Advisory Panel Membership
	Container No: CON 12/543 Document No: D16/3371
Report Date: 7 March 2016	Prepared by: Chief Executive Officer
Corporate Objective:	5.1 Effective governance, leadership and teamwork

Purpose:	To endorse the Acting Chief Executive Officer's recommended appointments of membership to the Governance Advisory Panel.
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Recommendation 1:	“that Council, having considered Item 3.2 – <i>Governance Advisory Panel Membership</i> dated 7 March 2016, receive and note the report.”
Recommendation 2:	“that Council, having considered Item 3.2 – <i>Governance Advisory Panel Membership</i> dated 7 March 2016, appoints the following independent members to the Governance Advisory Panel:- <ul style="list-style-type: none"> i. Mr Graham Gunn; ii. Ms Judith Jones; and iii. Mr Edward Byrt.”
Recommendation 3:	“that Council, having considered Item 3.2 – <i>Governance Advisory Panel Membership</i> dated 7 March 2016, appoints Norman Waterhouse Lawyers to the role of providing legal advice at meetings.”

Impact Summary

Organisational and Governance

Financial	Sitting fees for independent members mirroring sitting fees for Council's independent Audit Committee members will apply. It is considered that this outlay, when weighed against legal fees incurred through engaging independent legal advisors on a regular basis to assess and investigate governance issues, is negligible.
Legislation	<i>Local Government Act 1999 - Section 41</i>
Risk	The implementation of a Governance Advisory Panel that comprises of three independent members will manage and reduce political, financial and reputation risks for Council.
Consultation	Nil.
Asset Management Plans	Nil.
Service Standards	The appointment of three independent members will ensure the effective management of governance issues and will at all times act responsibly and in the public interest.

Background

At Ordinary Council Meeting held on 15 February 2016, Council endorsed the establishment of a Governance Advisory Panel for the District Council of Mallala. At the same meeting, Council resolved as follows:-

“that Council, having considered Item 16.1 – Establishment of a Governance Advisory Panel Pursuant to Section 41 of the Local Government Act, dated 15 February 2016, hereby endorses its Acting Chief Executive Officer to commence a recruitment process for the three independent members and that Council endorse the Acting Chief Executive Officer’s recommended appointments at the March 2016 Council meeting.”

Discussion

The Acting Chief Executive Officer recommends that the following independent members be appointed to the Governance Advisory Panel:-

i. Mr Graham Gunn

Graham McDonald Gunn, Australian politician, was a member of the South Australian House of Assembly. He represented Eyre 1970 to 1997 and Stuart 1997 to 2010; he was a member of the Liberal Party of Australia. First elected to Parliament at the 1970 state election, Graham was the longest-serving member of any Parliament throughout Australia in the last years of his term.

Attending Adelaide's prestigious Scotch College, Graham pursued a career as a farmer and grazier. He served on the Streaky Bay Council between 1966 and 1970. In 1970, he was elected to the House of Assembly as a member of the Liberal and Country League (which became the South Australian division of the Liberal Party in 1974) for Eyre in South Australia's vast northern outback. Aged 27 at the time, he was one of the youngest politicians in Australia at the time.

Graham served as Speaker of the South Australian House of Assembly from 1994 to 1997 during the Brown Liberal Government but lost it upon the ascendancy to the leadership of John Olsen.

Graham retired at the 2010 state election, having spent half of his life in parliament. He was the last surviving parliamentarian from the LCL, as well as the last parliamentary survivor of the Dunstan, Corcoran and Tonkin governments.

On Australia Day 2011, Graham was appointed a Member of the Order of Australia.

ii. Ms Judith Jones

Judith Jones (Senior Lecturer in Law) has been a member of the ANU College of Law and the Australian Centre for Environmental Law (ACEL) since 1996. She is a graduate in science from the University of Sydney and in law from the University of New South Wales.

Judith has extensive knowledge and experience within the Local Government sphere. She has worked for a number of South Australian Councils, and held the role of Chief Executive Officer at Barossa Council for approximately 20 years.

Judith currently teaches environmental law to postgraduate students, Australian Legal History and also Foundations of Australian Law to first year law students.

With her dual qualifications, Judith's particular interest has been the connection between science and law including environmental law. She has published on regulatory design for risk assessment contexts and precautionary approaches. More recently her research has focussed on Australia's environmental and legal history.

Judith is the current Director of the LLB Program.

iii. Mr Edward (Ted) Byrt

Ted Byrt is a company director with over 30 years experience in commerce, corporate governance and international business. He is a specialist strategic advisor for major development and infrastructure projects within Australia and offshore.

Ted is a business advisor and Board member of several leading organisations in South Australia. He is Presiding Member of the Development Assessment Commission, Chairman of the China Cluster, The Australian Advanced Manufacturing Centre Pty Ltd and SMAC Technologies Pty Ltd, a Director of Treyo Leisure & Entertainment Ltd (ASX listed) and a Board member of the Aboriginal Foundation of SA Inc.

He is also a member of the Company's Audit committee and has been a Director of Papyrus since 2004.

Ted's past board positions include Senior Partner and Chairman at Norman Waterhouse Lawyers (Partner 1975-2007, Chairman 1987-2007), the Australia China Business Council Ltd (Director 1994-2005 and National Vice President 2000-2004), Australian Pulse Traders Pty Ltd (Director 2005-2008), Bedford Industries Inc. (Director 1994-2009), Bedford Industries Co-operative Housing Association Inc. (Chairman 1995-2009), Business SA - Chamber of Commerce & Industry (Director 1995-2007), Commonwealth Foreign Affairs Council (Member 2003-2007), Jigsaw Services Pty Ltd (Director 2003-2006), Port Adelaide Football Club Ltd (Director 1995-2007), PAFC Foundation Ltd (Director 1996 – 2003), SirsiDynix Pty Ltd (Director 2007-

2011), South Australian Housing Trust (Board Member 2007-2011) and South Australian Affordable Housing Trust (Board Member 2006-2010).

Summary

The appointment of the above independent members to the Governance Advisory Panel will ensure the effective and impartial management of governance issues across the organisation.

	3.3 Policy Review - Elected Members Code of Conduct and Complaints Handling Procedure
	Container No: CON 12/1199 Document No:
Report Date: 7 March 2016	Prepared by: Governance Officer
Corporate Objective:	5.1.3 Ensure governance and operational policies, procedures and activities align with organisational, legislative requirements and best practice.

Purpose:	To seek council's endorsement of the revised Elected Members Code of Conduct and revised Council Member Code of Conduct Breaches Procedure.
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Recommendation 1:	“that Council, having considered Item 3.3 – <i>Policy Review - Elected Members Code of Conduct and Complaints Handling Procedure</i> dated 7 March 2016, receive and note the report.”
Recommendation 2:	“that Council, having considered Item 3.3 – <i>Policy Review - Elected Members Code of Conduct and Complaints Handling Procedure</i> dated 7 March 2016, adopts the revised Elected Members Code of Conduct to reflect the current version published in Gazette on 29 August 2013.”
Recommendation 3:	“that Council, having considered Item 3.3 – <i>Policy Review - Elected Members Code of Conduct and Complaints Handling Procedure</i> dated 7 March 2016, adopts the revised Council Member Code of Conduct Breaches Procedure subject to requested amendments.”

Impact Summary

Organisational and Governance

Financial	Nil.
Legislation	<i>Local Government Act 1999 – Section 63</i> <i>Local Government (General) Regulations 2013 – Regulation 7</i> <i>Independent Commissioner Against Corruption Act 2012</i>
Risk	The legislation mandates the implementation and observance of the Code of Conduct for Council Members as published by the Minister in the Gazette on 29 August 2013. It is also mandated by the Local Government Association of South Australia for Councils to have in place a Complaints handling Process under the Council Members' Code of Conduct.
Consultation	This policy has been consulted upon with Executive staff as well as the Governance Manager at Light Regional Council Governance Manager.
Asset Management Plans	Nil.
Service Standards	Will strengthen Council's governance role, teamwork and performance, thereby improving service standards.

Background

Attached (Attachment 1) is the current 'Elected Members Code of Conduct' with suggested track changes for Council's consideration.

Section 63 of the *Local Government Act 1999* ('the Act') provides that all Councils must have a Code of Conduct for Council Members, and all Councils must observe the Code that has been published by the Minister in the Gazette on 29 August 2013 (Attachment 2).

Also attached (Attachment 3) is the current adopted 'Council Member Code of Conduct Breaches Procedure' with suggested tracked changes for Council's consideration. The Local Government Association of South Australia (LGA) have made it mandatory for all Councils to have a Complaints Process under the Council Members' Code in order to ensure good governance practices.

The above policies have been reviewed following the establishment of Council's Governance Advisory Panel, and consultation with executive staff together with Light Regional Council's Governance Manager has been undertaken.

Discussion

Elected Members Code of Conduct

The body of our current Elected Members Code of Conduct is aligned with the mandated Code published in the Gazette on 29 August 2013. However, the format needs to be amended so that it appears exactly as the Gazetted version. The only changes are font style and the insertion of the applicable legislation at the beginning of the Code.

Council Member Code of Conduct Breaches Procedure

The current Council Member Code of Conduct Breaches Procedure was adopted by Council in 2013. The Procedure applies when the Council receives a formal complaint against a Council Member under the Code of Conduct for Council Members.

The current version provides that complaints relating to an alleged breach of Part 2 of the Code of Conduct will be addressed to the Chief Executive Officer for investigation. However, the Governance Advisory Panel will now be dealing with such complaints.

The revised Council Member Code of Conduct Breaches Procedure has therefore been amended based on a template provided by Light Regional Council. Light Regional Council's policy has been approved by its Governance Advisory Panel with input from Norman Waterhouse Lawyers.

Summary

In light of the establishment of the Governance Advisory Panel, it is recommended that Council adopts the Code of Conduct for Council Members published in Gazette on 29 August 2013. It is further recommended that Council adopts the suggested amendments to the Council Member Code of Conduct Breaches Procedure to ensure alignment and consistency across the organisation. This will strengthen Council's governance role, teamwork and performance.

Attachment 1
to report 3.3
dated 7 March 2016

**Policy Review - Elected Members Code of Conduct and Complaints Handling
Procedure**

Elected Members Code of Conduct(Current)

This Code of Conduct is to be observed by all Council members

Council members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

Part 1 Principles

1. Higher Principles - Overarching Statement

This part does not constitute separate enforceable standards of conduct.

Council members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist members to meet their responsibilities under the *Local Government Act 1999*.

Council members will comply with all legislative requirements of their role and abide by this Code of Conduct.

Part 2 Behavioural Code

2. Behavioural Code

In line with 'Part 1—Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council members that does not meet the reasonable community expectations of the conduct of Council members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election.

Council members must:

General behaviour

- 2.1 Show commitment and discharge duties conscientiously.
- 2.2 Act in a way that generates community trust and confidence in the Council.
- 2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
- 2.4 Show respect for others if making comments publicly.
- 2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.

Responsibilities as a member of Council

- 2.6 Comply with all Council policies, codes and resolutions.
- 2.7 Deal with information received in their capacity as Council members in a responsible manner.
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.

Relationship with fellow Council Members

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council members.

Relationship with Council staff

- 2.11 Not bully or harass Council staff.
- 2.12 Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
- 2.13 Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
- 2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

Requirement to Report Breach of Part 3

- 2.15 A Council member who is of the opinion that a breach of Part 3 of this Code (Misconduct) — has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 2.16 A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

Complaints

- 2.17 Any person may make a complaint about a Council member under the Behavioural Code.

2.18 Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.

2.19 A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.

2.20 A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.

2.21 A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.

2.22 A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.

2.23 Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.

2.24 A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

Findings

2.25 If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:

2.25.1 Take no action;

2.25.2 Pass a censure motion in respect of the Council member;

2.25.3 Request a public apology, whether written or verbal;

2.25.4 Request the Council member to attend training on the specific topic found to have been breached;

2.25.5 Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);

2.25.6 Request the member to repay monies to the Council.

Part 3 Misconduct

3. Misconduct

Failure by a Council member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the *Local Government Act 1999*. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under *Section 263 of the Local Government Act 1999*, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Council member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions that give effect to any recommendations received from the

Ombudsman, within two (2) ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

Member duties

Council members must:

3.1 Act honestly at all times in the performance and discharge of their official functions and duties;

3.2 Perform and discharge their official functions and duties with reasonable care and diligence at all times;

3.3 Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence;

3.4 Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;

3.5 Not attempt to improperly direct a member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;

3.6 Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

Gifts and benefits

3.7 Council members must not:

3.7.1 Seek gifts or benefits of any kind;

3.7.2 Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;

3.7.3 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.

3.8 Notwithstanding Code 3.7, Council members may accept campaign donations as provided for in the *Local Government (Elections) Act 1999*.

3.9 Notwithstanding Code 3.7.3, Council members may accept hospitality provided in the context of performing their duties, including:

3.9.1 Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:

3.9.1.1 Council work related events such as training, education sessions workshops and conferences;

3.9.1.2 Council functions or events;

3.9.1.3 Social functions organised by groups such as Council committees and community organisations.

3.9.2 Invitations to, and attendance at, local social, cultural or sporting events.

3.10 Where Council members receive a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

Register of Interests

3.11 Council members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

Campaign donation returns

3.12 Council members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

Conflict of interest

3.13 Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the *Local Government Act 1999*.

Misuse of Council resources

3.14 Council members using Council resources must do so effectively and prudently.

3.15 Council members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.

3.16 Council members must not use public funds or resources in a manner that is irregular or unauthorised.

Repeated or Sustained Breaches of Part 2

3.17 At the discretion of the Council to which the member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.

3.18 A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

Appendix - Criminal Matters

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999

Member Duties

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (3)).

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (4)).

Provision of False Information

A member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the Local Government Act 1999, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 69).

Restrictions on publication of information from Register of Interests

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (Section 71).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by Section 5 of the Independent Commissioner Against Corruption Act 2012, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;

- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- conspiring with others to effect the commission of the offence.

Attachment 2
to report 3.3
dated 7 March 2016

**Policy Review - Elected Members Code of Conduct and Complaints Handling
Procedure**

Code of Conduct for Council Members
(published by the Minister in Gazette on 29 August 2013)

CODE OF CONDUCT FOR COUNCIL MEMBERS

Local Government Act 1999: Section 63 (1)

NOTICE under Clause 3.10 of the Code of Conduct for Council Members published by the Minister for Planning for the purposes of Section 63 (1) of the Local Government Act 1999.

For the purposes of Clause 3.10 of the Code of Conduct for Council Members adopted for the purposes of Section 63 (1) of the Local Government Act 1999 and published in the *Gazette* on the day on which this Notice is made, the value of \$100 is specified.

Dated 18 August 2013.

JOHN RAU, Deputy Premier, Minister for Planning

Code of Conduct for Council Members

*Published by the Minister for Planning for the purposes of Section 63 (1) of the
Local Government Act 1999.*

This Code of Conduct is to be observed by all Council members.

Council members must comply with the provisions of this Code in carrying out their functions as public officials. It is the personal responsibility of Council members to ensure that they are familiar with, and comply with, the standards in the Code at all times.

PART 1—PRINCIPLES

1. Higher principles—Overarching Statement

This part does not constitute separate enforceable standards of conduct.

Council members in South Australia have a commitment to serve the best interests of the people within the community they represent and to discharge their duties conscientiously, to the best of their ability, and for public, not private, benefit at all times.

Council members will work together constructively as a Council and will uphold the values of honesty, integrity, accountability and transparency, and in turn, foster community confidence and trust in Local Government.

As representatives of open, responsive and accountable government, Council members are committed to considering all relevant information and opinions, giving each due weight, in line with the Council's community consultation obligations.

In the performance of their role, Council members will take account of the diverse current and future needs of the local community in decision-making, provide leadership and promote the interests of the Council.

Council members will make every endeavour to ensure that they have current knowledge of both statutory requirements and best practice relevant to their position. All Councils are expected to provide training and education opportunities that will assist members to meet their responsibilities under the Local Government Act 1999.

Council members will comply with all legislative requirements of their role and abide by this Code of Conduct.

PART 2—BEHAVIOURAL CODE

2. Behavioural Code

In line with 'Part 1—Higher Principles' of this Code, the following behaviour is considered essential to upholding the principles of good governance in Councils.

This Part is for the management of the conduct of Council members that does not meet the reasonable community expectations of the conduct of Council members. It deals with conduct that does not, and is not likely to, constitute a breach of Part 3—Misconduct or criminal matters such as those contained in the Appendix to this document.

Robust debate within Councils that is conducted in a respectful manner is not a breach of this Part.

It is intended that each Council will adopt a process for the handling of alleged breaches of this Part. This process will be reviewed within 12 months of a general Local Government election.

Council members must:

General behaviour

- 2.1 Show commitment and discharge duties conscientiously.
- 2.2 Act in a way that generates community trust and confidence in the Council.
- 2.3 Act in a reasonable, just, respectful and non-discriminatory way when dealing with people.
- 2.4 Show respect for others if making comments publicly.
- 2.5 Ensure that personal comments to the media or other public comments, on Council decisions and other matters, clearly indicate that it is a private view, and not that of the Council.

Responsibilities as a member of Council

- 2.6 Comply with all Council policies, codes and resolutions.
- 2.7 Deal with information received in their capacity as Council members in a responsible manner.
- 2.8 Endeavour to provide accurate information to the Council and to the public at all times.

Relationship with fellow Council Members

- 2.9 Endeavour to establish and maintain a respectful relationship with all Council members, regardless of differences of views and opinions.
- 2.10 Not bully or harass other Council members.

Relationship with Council staff

- 2.11 Not bully or harass Council staff.
- 2.12 Direct all requests for information from the Council administration to the Council's Chief Executive Officer or nominated delegate/s.
- 2.13 Direct all requests for work or actions by Council staff to the Council's Chief Executive Officer or nominated delegate/s.
- 2.14 Refrain from directing or influencing Council staff with respect to the way in which these employees perform their duties.

Requirement to report breach of Part 3

- 2.15 A Council member who is of the opinion that a breach of Part 3 of this Code (Misconduct)— has occurred, or is currently occurring, must report the breach to the Principal Member of the Council or Chief Executive Officer, the Ombudsman or the Office for Public Integrity.
- 2.16 A failure to report an alleged or suspected breach of Part 3 of this Code is in itself a breach under this Part (Behavioural Code).

Complaints

- 2.17 Any person may make a complaint about a Council member under the Behavioural Code.
- 2.18 Complaints about behaviour alleged to have breached the Behavioural Code should be brought to the attention of the Principal Member or Chief Executive Officer of the Council, or nominated delegate/s.
- 2.19 A complaint may be investigated and resolved in any manner which that Council deems appropriate in its process for handling alleged breaches of this Part. This can include, but is not limited to: a mediator or conciliator, the Local Government Governance Panel, a regional governance panel or an independent investigator.
- 2.20 A complaint may be considered within this process to be trivial, vexatious or frivolous, and accordingly not investigated.
- 2.21 A failure of a Council member to cooperate with the Council's process for handling alleged breaches of this Part may be referred for investigation under Part 3.
- 2.22 A failure of a Council member to comply with a finding of an investigation under this Part, adopted by the Council, may be referred for investigation under Part 3.
- 2.23 Repeated or sustained breaches of this Part by the same Council member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.
- 2.24 A breach of the Behavioural Code must be the subject of a report to a public meeting of the Council.

Findings

- 2.25 If, following investigation under the Council's complaints handling process, a breach of the Behavioural Code by a Council member is found, the Council may, by resolution:
- 2.25.1 Take no action;
 - 2.25.2 Pass a censure motion in respect of the Council member;
 - 2.25.3 Request a public apology, whether written or verbal;
 - 2.25.4 Request the Council member to attend training on the specific topic found to have been breached;
 - 2.25.5 Resolve to remove or suspend the Council member from a position within the Council (not including the member's elected position on Council);
 - 2.25.6 Request the member to repay monies to the Council.

PART 3—MISCONDUCT

3. Misconduct

Failure by a Council member to comply with this Part constitutes misconduct. The provisions within this Part may refer to statutory matters under the Local Government Act 1999. Any breach of these provisions will be investigated under that legislation.

Any person may report an alleged breach of this Part to the Council, the Ombudsman, the Electoral Commissioner (for alleged breaches of Code 3.8) or the Office for Public Integrity. Alleged breaches of this Part made to a Council or to the Office for Public Integrity may be referred to the Ombudsman for investigation under Section 263 of the Local Government Act 1999, by the Council's Chief Executive Officer or by the Independent Commissioner Against Corruption, where he or she so determines.

A report from the Ombudsman that finds a Council member has breached this Part (Misconduct) of the Code of Conduct must be provided to a public meeting of the Council. The Council must pass resolutions, that give effect to any recommendations received from the Ombudsman, within two ordinary meetings of the Council following the receipt of these recommendations.

An investigation under Part 3 of this Code does not preclude an investigation being launched as a potential breach of the criminal matters listed in the Appendix to this document.

Member duties

Council members must:

- 3.1 Act honestly at all times in the performance and discharge of their official functions and duties;
- 3.2 Perform and discharge their official functions and duties with reasonable care and diligence at all times;
- 3.3 Not release or divulge information that the Council has ordered be kept confidential, or that the Council member should reasonably know is information that is confidential, including information that is considered by Council in confidence;
- 3.4 Not exercise or perform, or purport to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform;
- 3.5 Not attempt to improperly direct a member of Council staff to act in their capacity as a Local Government employee for an unauthorised purpose;
- 3.6 Ensure that relationships with external parties cannot amount to interference by improper influence, affecting judgement, decisions and/or actions.

Gifts and benefits

3.7 Council members must not:

- 3.7.1 Seek gifts or benefits of any kind;
 - 3.7.2 Accept any gift or benefit that may create a sense of obligation on their part or may be perceived to be intended or likely to influence them in carrying out their public duty;
 - 3.7.3 Accept any gift or benefit from any person who is in, or who seeks to be in, any contractual relationship with the Council.
- 3.8 Notwithstanding Code 3.7, Council members may accept campaign donations as provided for in the Local Government (Elections) Act 1999.

- 3.9 Notwithstanding Code 3.7.3, Council members may accept hospitality provided in the context of performing their duties, including:
- 3.9.1 Free or subsidised meals, beverages or refreshments of reasonable value provided in conjunction with:
 - 3.9.1.2 Council work related events such as training, education sessions workshops and conferences;
 - 3.9.1.3 Council functions or events;
 - 3.9.1.4 Social functions organised by groups such as Council committees and community organisations.
 - 3.9.2 Invitations to, and attendance at, local social, cultural or sporting events.
- 3.10 Where Council members receive a gift or benefit of more than a value published in the *Government Gazette* by the Minister from time to time, details of each gift or benefit must be recorded within a gifts and benefits register maintained and updated quarterly by the Council's Chief Executive Officer. This register must be made available for inspection at the principal office of the Council and on the Council website.

Register of Interests

- 3.11 Council members must lodge with the Council a complete and accurate primary return of their interests, and subsequent ordinary returns, as required by legislation.

Campaign donation returns

- 3.12 Council members must ensure that following each election an accurate campaign donation return is provided to the Chief Executive Officer of the Council as required by legislation.

Conflict of interest

- 3.13 Council members must be committed to making decisions without bias and in the best interests of the whole community and comply with the relevant conflict of interest provisions of the Local Government Act 1999.

Misuse of Council resources

- 3.14 Council members using Council resources must do so effectively and prudently.
- 3.15 Council members must not use Council resources, including services of Council staff, for private purposes, unless legally or properly authorised to do so, and payments are made where appropriate.
- 3.16 Council members must not use public funds or resources in a manner that is irregular or unauthorised.

Repeated or sustained breaches of Part 2

- 3.17 At the discretion of the Council to which the member is elected, repeated or sustained inappropriate behaviour, as listed in Part 2, may be escalated to an allegation of misconduct under this Part.
- 3.18 A failure to comply with a finding of inappropriate behaviour (by the Council, independent investigator or Ombudsman) under Part 2 is also grounds for a complaint under this Part.

APPENDIX—CRIMINAL MATTERS

The matters within this Appendix are matters for which a criminal penalty attaches. As separate legislation operates to cover such conduct, this part does not form part of the Code of Conduct for Council Members.

Allegations of conduct breaching these matters will be investigated in accordance with the legislation governing that conduct and they are included within this document only in order to provide a complete overview of the standards of conduct and behaviour expected of Council members.

Alleged breaches of matters outlined in this Appendix should be reported to the Office for Public Integrity in the first instance.

Breaches of the Local Government Act 1999

Member duties

A member of a Council must not, whether within or outside the State, make improper use of information acquired by virtue of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (3)).

A member of a Council must not, whether within or outside the State, make improper use of his or her position as a member of the Council to gain, directly or indirectly, an advantage for himself or herself or for another person or to cause detriment to the Council (Section 62 (4)).

Provision of false information

A member of a Council who submits a return under Chapter 5 Part 4 (Register of interest) and Schedule 3 of the Local Government Act 1999, that is to the knowledge of the member, false or misleading in a material particular (whether by reason of information included in or omitted from the return) is guilty of an offence (Section 69).

Restrictions on publication of information from Register of Interests

A Council member must not publish information, or authorise publication of information, derived from a Register unless the information constitutes a fair and accurate summary of the information contained in the Register, and is published in the public interest, or comment on the facts set forth in a Register, unless the comment is fair and published in the public interest and without malice (Section 71).

Breaches of other Acts

Acting in his or her capacity as a public officer, a Council member shall not engage in conduct, whether within or outside the state, that constitutes corruption in public administration as defined by Section 5 of the Independent Commissioner Against Corruption Act 2012, including:

An offence against Part 7 Division 4 (Offences relating to public officers) of the Criminal Law Consolidation Act 1935, which includes the following offences:

- bribery or corruption of public officers;
- threats or reprisals against public officers;
- abuse of public office;
- demanding or requiring benefit on basis of public office;
- offences relating to appointment to public office.

Any other offence, including an offence against Part 5 (Offences of dishonesty) of the Criminal Law Consolidation Act 1935, committed by a public officer while acting in his or her capacity as a public officer, or by a former public officer and related to his or her former capacity as a public officer, or by a person before becoming a public officer and related to his or her capacity as a public officer, or to an attempt to commit such an offence.

Any of the following in relation to an offence referred to in a preceding paragraph:

- aiding, abetting, counselling or procuring the commission of the offence;
- inducing, whether by threats or promises or otherwise, the commission of the offence;
- being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
- conspiring with others to effect the commission of the offence.

Attachment 3
to report 3.3
dated 7 March 2016

**Policy Review - Elected Members Code of Conduct and Complaints Handling
Procedure**

Revised Council Member Code of Conduct Breaches Procedure

	Complaints Handling Process under Council Members' Code of Conduct Council Member Code of Conduct Breaches Procedure	
	Version Adoption by Council: 2013 Resolution Number: 2013/478 Current Version: V3.02.0	
	Administered by: Chief Executive Officer	Last Review Date: 20163 Next Review Date: 20175
TRIM CON: 12/570	Strategic Outcome 5.1: Effective governance, leadership and teamwork.	

1. Objective

The District Council of Mallala has declared through the Mandatory Code of Conduct ~~for Council Members (the Code)~~ the principles of good conduct, maturity respectability, sincerity and ethical and behavioural standards that Council have agreed its community can reasonably expect both personally and professionally from its Council Members in the course of their roles and responsibilities.

The Code ~~of Conduct~~ applies to all Council Members across the Local Government sector and may be the subject of a Council investigation or an Ombudsman investigation, depending on the nature of the issue.

The Code ~~of Conduct~~ also contains sanctions which may be imposed by Council on a Council Member where a breach of the Code is found to be ~~sustained~~ substantiated.

In 2016 the District Council of Mallala established the Governance Advisory Panel as an independent body to deal with matters pertaining to issues related to the Code of Conduct for Council Members.

2. Purpose and Scope

This procedure applies when the Council receives a formal complaint against a Council Member under ~~Part 2 of~~ the Code of Conduct for Council Members. (A copy of the code may be accessed on Council's website www.mallala.sa.gov.au).

This procedure also applies to the appointed Independent Members of Council's Section 41 Committee's, with the exception of Council's Development Assessment Panel (CDAP) which is administered by its Complaints Handling Policy.

For the purpose of these procedures the independent membership of the Governance Advisory Panel is referred to herein as 'the Panel'.

Field Code Changed

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1

~~3. Definitions~~

~~**Complainant**— A person who has lodged a grievance against the Code and under the provisions contained within this procedure.~~

~~**Conciliator**— A person familiar with the Code and this Grievance Procedure, and skilled in the facilitation of conflict resolution.~~

~~**Conciliation**— The process that enables the complainant and the respondent to discuss fully all issues relating to the grievance and, if possible, reach resolution of the grievance through negotiation. Conciliation seeks to ensure that there is no recurrence of the behaviour that gave rise to the grievance, and that no victimisation occurs. As most respondents are genuinely unaware that their actions have given offence, conciliation provides the opportunity for them to understand the nature and impact of their behaviour and thereby modify it.~~

~~**Confidentiality**— Confidentiality is defined here to ensure any information provided under this procedure is only disclosed to those legitimately involved in resolving the grievance or as required by the *Local Government Act 1999*.~~

~~Confidentiality must be maintained to:~~

- ~~– prevent victimisation or defamation of the parties involved,~~
- ~~– facilitate prompt resolution of the grievance.~~

~~It is a breach of confidentiality to:~~

- ~~– discuss the matter with individuals not legitimately involved in the process,~~
- ~~– unnecessarily disclose information pertaining to any enquiry or grievance.~~

~~**Discrimination**— Unlawful discrimination means treating an individual and/or groups less favourably because of their sex, marital status, pregnancy, sexuality, race, disability, age, or political or religious beliefs.~~

~~**Informant**— Any person who appropriately discloses public interest information about Council that concerns:~~

- ~~– illegal activity or corruption,~~
- ~~– mal administration, including impropriety, negligence or waste.~~

~~**Investigation**— A search for evidence connecting or tending to connect a person (either a natural person or body corporate) with conduct that infringes the criminal law or the policies and standards set by Council.~~

~~**Local Government Governance Panel (LGGP Chair)**— means the independent Panel established by the Local Government Association (LGA) to assist Councils to deal with complaints made in relation to the Code of Conduct.~~

~~**Natural Justice**— Natural justice refers to a due process that displays fairness to all parties. It includes the right to be heard, the right of reply, the right to be treated fairly and the right to be informed of allegation(s) being made.~~

~~**Public Officer**— A member of a local government body or an officer or employee of a local government body.~~

~~**Repeated**— done or occurring again several times (three (3) or more) in any calendar year, in the same way.~~

~~**Reportable Conduct**— Conduct by a person or persons connected with Council which is, but not limited to:~~

- ~~– dishonest;~~
- ~~– fraudulent;~~

- ~~- illegal (including theft, drug sale/use, violence, or threatened violence and criminal damage against property);~~
 - ~~- in breach of commonwealth or state legislation or local by laws;~~
 - ~~- unethical (either representing a breach of the Mandatory Code of Conduct or generally);~~
 - ~~- an unsafe work practice.~~
- ~~**Respondent** – The person who is, or each of the persons who are, alleged to have done the act(s) to which the grievance relates.~~

~~4. Policy Statement~~

~~This procedure is based on the philosophy of using conciliation, education and training as the principal approach to the prevention of grievances against the Mandatory Code of Conduct, it is designed to assist in the resolution of grievances by:~~

- ~~— providing a consistent and transparent process for managing alleged breaches,~~
- ~~— investigating, and dealing with alleged breaches promptly impartially and professionally.~~

~~5. General Requirements~~

~~Where the matter is pursued through an external authority, including but not limited to, the Independent Commissioner Against Corruption, State Ombudsman's Office, SA Police or an external Governance Panel, internal action will cease.~~

3. Breaches of the Code of Conduct

Breaches of the Code of Conduct may relate to behaviour (Part 2 of the Code) or misconduct (Part 3 of the Code).

Criminal or corruption matters, which are subject to separate legislation, do not form part of the Code of Conduct for Council Members but are referred to in the appendix to that Code. This procedure covers referral of these types of complaints to other agencies.

3.1 Alleged Breach

~~Where an alleged breach occurs the complainant should report the allegation, in writing, to the Council, addressed to the CEO.~~

~~Written disclosures must be addressed to:~~

~~**CONFIDENTIAL**~~

~~**Chief Executive Officer**~~

~~**2A Wasleys Rd**~~

~~**Mallala, SA 5502.**~~

3.1.1 A person making a complaint that relates to an alleged breach of Part 2 of the Code of Conduct must:

- a. Submit the complaint, in writing, to the Panel who will be responsible for receiving and managing the complaint as the nominated delegate pursuant to clause 2.18 of the Code.

3

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Complaints should be marked 'Confidential' and addressed to:

The Independent Members
District Council of Mallala Governance Advisory Panel
PO Box 18
MALLALA SA 5502

The Chief Executive Officer (CEO) may participate as an advisor if requested by the Panel.

The Panel will determine whether the complaint relates to:

- behaviour which falls under Part 2 of the Code
- misconduct which triggers action under Part 3 of the Code or
- criminal or corrupt behaviour

b. Identify the provision(s) of the Code of Conduct that have allegedly been breached accompanied by any supporting material.

c. Observe strict confidentiality while the complaint is investigated.

3.1.2 The allegation should:

- be specific;
- provide as much supporting evidence as possible to assist an investigation;
- provide the name of the Member who has allegedly breached the Code, ~~and~~
- ~~• must be made within three (3) months of the alleged breach having occurred.~~

~~Complainants can, at any time, take the alternative option of lodging the complaint with the Office of Public Integrity (OPI), which will direct the complaint in accordance with the Independent Commissioner Against Corruption Act.~~

~~Anonymous complaints will not be investigated by Council.~~

~~5.2.2 The CEO will be responsible for the receiving and referral of a complaint and will advise the Principal Member (or if it relates to the Principal Member, their deputy) of receipt of a complaint. The Principal Member (or deputy) will determine whether the complaint relates to:~~

- ~~• behavior which falls under Part 2 of the Code;~~
- ~~• misconduct which triggers action under Part 3 of the Code; or~~
- ~~• criminal or corrupt behavior.~~

3.1.3 Having regard to the seriousness of the allegation and information provided, the Principal Member Panel may:

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- a) seek to resolve the matter internally, including through conciliation or mediation;
- b) investigate the complaint;
- c) refer the complaint for independent investigation; ~~or~~
- d) refer the complaint to the Local Government Governance Panel ~~(or similar independent entity) where one exists within the region with Council as a partner, alleged breaches and subsequent complaints against the Code should be investigated and actioned by this body in the first instance; or~~
- e) dismiss the allegation.

3.1.4 Council maintains jurisdiction where the complaint deals with conduct that falls into Part 2 of the Code. Part 2 deals with conduct that reflects reasonable community expectations of how Council Members should conduct themselves. Robust debate within Council which is conducted in a respectful manner is not considered a breach of this Part.

Person making the complaint can, at any time, take the alternative option of lodging the complaint with the Office of Public Integrity (OPI), which will direct the complaint in accordance with the ICAC Act.

3.1.5 Complaints relating to misconduct or criminal behaviour must be referred to the appropriate authorities immediately. (See below at clauses 5 and 6)

3.1.6 Within three (3) days of receipt of an allegation, the Council Member who is the subject of the complaint will be advised by the ~~Principal Member Panel~~ of the complaint and provided with a copy of the complaint. The Council Member and the Person making the complaint will be advised of the manner in which the ~~Principal Member Panel~~ intends to deal with the complaint.

3.1.7 The Complaint handling procedures are as follows:

- a. Receipt of the complaint will be acknowledged to the Person making the complaint within five (5) day of receiving the complaint.
- b. The Member about whom the complaint has been made will be notified within five (5) days of receipt of the complaint and of its content.
- c. Where, after consideration, the matter is found to have merit, the complaint will be investigated.

~~5.4 Alleged Breach of Part 2 – Internal Response~~

~~5.4.1 Only matters which are determined to be of a minor nature will be dealt with internally and only with the agreement of the parties. The Principal Member may hold meetings with the complainant and the Council Member and may seek mediation and conciliation between the parties in an attempt to resolve the matter to the satisfaction of all parties. This may be appropriate, for example, where the complainant is also a Council Member.~~

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~~5.4.2 The Principal Member must ensure that the principles of natural justice and procedural fairness are observed.~~

~~5.4.3 Where the matter is resolved by the Principal Member to the satisfaction of all the parties, the matter will be closed and no further action will be taken. The Principal Member will send written confirmation within five (5) business days to all the parties confirming that the matter has been resolved and provide a report to the next available Ordinary meeting of the Council.~~

~~5.4.4 Where the matter cannot be resolved, the Principal Member will, in the first instance, refer the original complaint to a Local Government Regional Governance Panel (or similar independent entity) where one exists within the region or alternatively the Local Government Governance Panel or an independent person qualified in conflict resolution. Neither the Principal Member, CEO nor any other employee of Council will investigate a complaint.~~

~~5.5 Part 2 Referral to the Local Government Governance Panel~~

~~5.5.1 Where there has been an allegation that a Council Member has breached Part 2 of the Code the complaint may be referred to a Local Government Regional Governance Panel (or similar independent entity) where one exists within the region, an independent person qualified in conflict resolution, or alternatively the independent Local Government Governance Panel by the Principal Member under this procedure, without further reference to Council.~~

~~Where a preference for referral cannot be reached the decision may be made by a resolution of Council.~~

~~Complaints referred to a Local Government Regional Governance Panel or Local Government Association Governance Panel will specify the grounds of the complaint, set out the circumstances of the complaint and be accompanied by any other material that is available to support the complaint.~~

~~The matter will be assessed initially by the Panel Chairperson who will determine the process to be followed and the person who will deal with the matter. The matter may be dismissed if it is frivolous, vexatious, misconceived or lacking in substance. Where a complaint progresses to an investigation, a report will be prepared by the specific Panel and will be provided to the Council. The report may recommend to the Council appropriate action in relation to the matter, including the imposition of any of the sanctions available to a Council under the Code of Conduct.~~

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~~5.5.2 A breach of Part 2 of the Code must be the subject of a report to a public meeting of the Council.~~

3.2 Alleged Breach of Part 2 – ~~Internal Response~~ Referral to the Panel

3.2.1 Only matters which are determined to be related to Part 2 of the Code of Conduct will be dealt with internally and only with the agreement of the parties.

3.2.2 The Panel must ensure that the principles of natural justice and procedural fairness are observed.

3.2.3 The matter will be assessed initially by the Panel Chairperson who will determine the process to be followed and the appropriate person and/or authority who will deal with the matter. The matter may be dismissed if it is frivolous, vexatious, misconceived or lacking in substance.

3.2.3 Where a complaint progresses to an investigation, the Panel may engage an independent consultant(s) to assist with the investigation.

3.2.4 Where the matter is resolved by the Panel to the satisfaction of all the parties, the matter will be closed and no further action will be taken. The Panel will send written confirmation to all the parties confirming that the matter has been resolved.

3.2.5 Where the matter cannot be resolved, the Panel may refer the original complaint for independent investigation (see 3.2.3) by an appropriate authority.

3.2.6 Neither the Mayor nor the Chief Executive Officer will investigate a complaint.

3.2.7 If, following investigation by the Panel, a breach of Part 2 of the Code is found, the breach must be the subject of a report to the Council (clause 2.24 of the Code). The report may recommend to the Council, and the Council may take, appropriate action in relation to the matter, including the imposition of any of the sanctions available to a Council under clause 2.25 of the Code of Conduct as follows:-:

- Take no action;
- Pass a censure motion in respect of the Council Member;
- Request a public apology, whether written or verbal;
- Request the Council Member to attend training on the specific topic found to have been breached;
- Resolve to remove or suspend the Council Member from a position within the Council (not including the Member's elected position on Council)
- Request the member to repay monies to the Council.

7

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4. Appeals

Council will not enter into any process of appeal in relation to Part 2 of the Code.

~~5.7 Repeated Breaches of Part 2 of the Code~~

~~Where a Council Member breaches Part 2 of the Code on three (3) or more occasions in any one (1) calendar year they will be in breach of Part 3 of the Code, irrespective of the nature of the behaviour. By resolution of Council the matter will be referred to the appropriate authority.~~

5. Part 3 - Mandatory Code (Misconduct)

5.1 Any person may report an alleged breach of Part 3 of the Code to the Council Panel as the Council's delegate, the Ombudsman or the Office for Public Integrity. Alleged breaches of ~~this Part made to Council~~ Part 3 made to the Panel or to the Office for Public Integrity may be referred to the Ombudsman for investigation.

5.2 Under the Code of Conduct, a Council Member who is of the opinion that a breach of Part 3 of the Code has occurred, or is currently occurring, must report the breach to the ~~Principal Member of the Council or CEO, Panel~~, the Ombudsman or the Office for Public Integrity.

5.3 A failure to report an alleged or suspected breach of Part 3 of the Code is in itself a breach under Part 2 of the Code.

5.4 A failure of a Council Member to co-operate with the Council's process for handling alleged breaches of Part 2 of the Code may be referred for investigation under Part 3.

5.5 A failure of a Council Member to comply with a finding of an investigation under Part 2 of the Code, adopted by the Council, may be referred for investigation under Part 3.

5.6 Repeated or sustained breaches of Part 2 of the Code by the same Council Member may be referred, by resolution of the Council, to the relevant authority as a breach of Part 3.

5.7 A report from the Ombudsman that finds a Council Member has breached Part 3 of the Code of Conduct must be the subject of a report to a public meeting of the Council.

5.8 The Council must pass a resolution to give effect to any recommendations received from the Ombudsman, within two (2) ordinary meetings of the Council following the receipt of these recommendations.

6. Criminal Matters – Appendix to the Code of Conduct

6.1 The matters within the Appendix to the Code of Conduct are matters for which a criminal penalty attaches. These matters must be reported to the Office of Public Integrity. In addition, allegations of a breach of any of the offence provisions in the *Local Government Act 1999* must also be reported to the Office of Public Integrity.

6.2 In compliance with the *Independent Commissioner against Corruption Act 2012*, referral of such complaints to the Office of Public Integrity will remain confidential.

7. References/Related Documents

Local Government Act 1999, s59-63

Local Government (General) Variation Regulations 2013

Code of Conduct for Council Members as published in the SA Gazette, 29 August 2013.

Independent Commissioner Against Corruption Act 2012

Code of Conduct for Council Members, as published in the South Australian Government Gazette 29 August 2013, Directions and Guidelines issued by ICAC

Caretaker Policy

8. Records Management

All documents relating to this Procedure will be registered in Council's Record Management System and remain confidential where identified.

9. Document Review

In order to ensure Council continues to provide the best possible complaints handling service for its customers, this policy will be subject to periodic evaluation and annual review.

10. Further Information

Members of the public may inspect this Procedure free of charge on Council's website at www.mallala.sa.gov.au or at Council's Principal Office at:

2a Wasleys Rd, Mallala SA 5502

On payment of a fee, a copy of this Procedure may be obtained.

Any queries in relation to this Procedure must be in writing and directed to the Governance Officer.

	3.4 Mallala Pinery Fire Recovery Fundraiser
	Container No: CON12/193 Document No: D16/3416
Report Date: 7 March 2016	Prepared by: Community Services
Corporate Objective:	1.2.1 Investigate, develop and promote activities and facilities which enhance the identity of individual communities and the district as a whole 1.5.1 Support the community in planning, responsiveness and recovery for emergencies

Purpose:	To provide for Council's information, a request from the Mallala Lions Club to hold a Pinery Fire Recovery Fundraiser in conjunction with Adelaide Hot Rodders on community land and public roads.
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Recommendation 1:	"that Council, having considered Item 3.4 - <i>Mallala Pinery Fire Recovery Fundraiser</i> dated 7 March 2016, receives and notes the report."
Recommendation 2	"that Council, having considered Item 3.4 - <i>Mallala Pinery Fire Recovery Fundraiser</i> dated 7 March 2016, endorses this event on the conditions provided below: <ul style="list-style-type: none"> • Any damage that is caused to Council assets by the running of this event is the responsibility of the Lions Club and to be repaired by Council approved contractors; • Approval of a Risk Event Management Plan; • Approval from the Mallala Sporting clubs and Returned Services League; • Relevant and compliant insurance and licensing; • Temporary food outlets permit approval."

<p>Recommendation 3:</p>	<p>“that Council, having considered Item 3.4 – <i>Mallala Pinery Fire Recovery Fundraiser</i> report dated 7 March 2016, agrees in principle that Council administration temporarily close Marshman Road, Mallala to all vehicles with the exception of Council, Utility Services Agency and Emergency Services vehicles and contractors engaged by the Mallala Lions and the Adelaide Hot Rodders Clubs on Saturday 23rd April, 2016 from 8am to 5pm in accordance with <i>Section 33 of the South Australian Road Traffic Act 1961.</i>”</p>
<p>Recommendation 4:</p>	<p>“that Council, having considered Item 3.4 - <i>Mallala Pinery Fire Recovery Fundraiser Report</i>, dated 7 March 2016, authorises administration to conduct Level One Consultation in accordance with the adopted Public Consultation Policy.”</p>
<p>Recommendation 5:</p>	<p>“that Council, having considered Item 3.4 – <i>Mallala Pinery Fire Recovery Fundraiser report</i>, dated 7 March 2016, delegates authority to Acting Chief Executive Officer to consider any written submissions received, and in the absence of any objects the Acting Chief Executive Officer can formerly commence the Road Closure process.”</p>

Impact Summary

Organisational and Governance

Financial	Administration hours; event holders to cover monetary obligations.
Legislation	Temporary road closure as per the <i>Road Traffic Act 1961 (section 33)</i>
Risk	Some inherent risk involved, to be further identified and controls implemented.
Consultation	In accordance with Council's Public Consultation Policy
Asset Management Plans	Nil
Service Standards	Nil

Background

The Mallala Lions Club, in collaboration with the Adelaide Hot Rodders Club would like to hold a bush fire recovery fundraiser at the Mallala Oval Sporting Complex and the new Marshman Street on Saturday 23rd April, 2016.

This family oriented event will include a static vehicle display on the oval and a 60 meter time trial event on Marshman Street called 'Go to Whoa'. The expectation is that it will create economic activity for local business in addition to raising funds for the Mallala – Pinery Fire Recovery Fund (**Attachment 1**). It is anticipated that this event may develop into a major annual event for Mallala and further develop Mallala as the 'Home of Motorsport'.

Discussion

The Acting Chief Executive Officer and Acting General Manager, Assets and Infrastructure Services met with members of the Mallala Lions-Motorsport Committee and Adelaide Hot Rodders on Thursday the 25 February to discuss the scope of the *Mallala – Pinery Fire Recovery Fund Raiser* planned to be held on Council land.

Staff determined it appropriate that Council consider endorsing, in principle, a temporary road closure for Saturday 23 April 2016 (from 8.00am to 5.00pm) subject to public consultation, as per the requirements of Council endorsed Public Consultation Policy. Written submissions received prior to the consultation closure date will be included in a report to Council for consideration at the 18 April Meeting.

The public consultation process includes placing advertisements in 'The Bunyip', 'Plains Producer' and council website. The cost of placing these notices is to be invoiced to the Mallala Lions Club and is estimated to cost up to \$1,000. As per Council Community Event Application form, costs incurred by Council will be recovered from the applying community group. Council will be seeking advice from the Local Government Association Mutual Liability Scheme during the consultation period.

The proposed temporary road closure (**Attachment 2**) of Marshman Street, Mallala will be from Wasleys Road to Redbanks Road inclusive. It is anticipated that there will be minimum disruption to local business; however, residential properties on Redbanks Road may be indirectly affected.

Mallala Football Club, Mallala Netball Club, Mallala Returned Services League will need to be consulted, as all community and sporting organisations make use of the oval sporting complex during this time of year, however there is no football/netball match scheduled for that day. The Adelaide Plains Football League has elected to play this particular match round at the Mallala Oval on ANZAC Day on Monday 25 April.

Overnight guests at the Mallala Camping Ground will require notices placed strategically to ensure they are fully aware of intended events and possible impact.

A trained officer is required to regulate the road closure procedure during the proposed road closure hours. The Adelaide Hot Rodders has advised they will have Police trained traffic controllers to manage traffic and other aspects of the event. Council will need to sight relevant documentation to authenticate these competencies. If insufficient qualifications are available, Council will need to provide staff to manage road closures which will be at cost to the Mallala Lions Club.

The Mallala Lions Club will need to complete and submit an Event Risk Management Plan prior to the event.

Potential risks Identified are:

- Damage to the newly constructed Marshman Street, the oval surface and the irrigation system
- Public Risk during the running of the Go to Whoa road time trial on Marshman Street’.
- Liability claims on Council Property
- The oval playing surface condition for the ANZAC Day Football game on Monday

Senior staff have discussed the proposal with the lion’s club members on Thursday the 25 of February, and was assured that the event would be managed by trained and licenced Marshalls. It was also pledged that if any Council assets are damaged by this event the organisers will be responsible to repair at no cost to Council. The option of this becoming an annual event will require a fit for purpose road surface on Marshman Street to facilitate the ‘Go to Whoa’ time trial event.

Summary

Administration are seeking support in principle for the Mallala Lions Club — Pinery Fire Recovery event to be conducted on Saturday 23 April, 2016 at the Mallala Oval Complex and including a temporary road closure for Marshman Street, Mallala between the hours of 8am and 5pm, and to proceed with community consultation.

Attachment 1
to report 3.4
dated 7 March 2016

Mallala Pinery Fire Recovery Fundraiser

BY: *ld*
MALLALA FIRE RECOVERY FUND RAISER

Mr James Miller

The Mallala Motorsport Committee and the Adelaide Hot Rod Club would like hold a bush fire recovery fund raiser on the Mallala oval and a "Go to Whoa" event on Marshman road. (see attached flyer).

The event is to be held in the town to create some economic activity for local businesses and raise funds for Pinery fire recovery fund.

The longer term view is to make this an annual event and further develop the image of Mallala being the "HOME OF MOTORSPORT".

It is therefore very important that this event is a success and that we can attract further interest to run Motorsport activities here in Mallala.

To run this event we would require the use of the oval and the closure of Marshman Rd. 23rd April.

The events would be a Show and Shine on the oval and a Go to Whoa on Marshman rd. This is designed to be a family day with the Adelaide Hot Rod Club controlling the motor events and the Lions club coordinating the catering. The Marshman rd would be strictly controlled with no road damaging burnouts allowed with Hot Rod officials controlling all aspects of the event.

This event will be run over 60 metres only to limit speed and be safe.

All vehicles are registered and street legal.

The Show and Shine would be held by static displays of cars on the oval and there will be prizes for various categories of cars.

The Hot Rod Club will have police trained traffic controllers to manage traffic and other aspects of the event.

It is anticipated that over time this may grow into a major event for Mallala and be a catalyst for further activities of this nature

It is planned to have spectators on the western side of Marshman rd with safety barriers between them and the cars.

As it is an official Lions Club activity it is covered by their insurance.

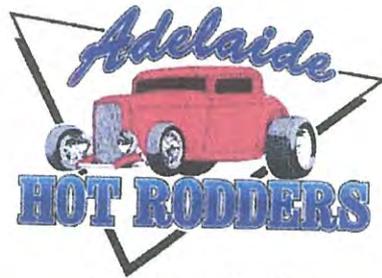
Attendance is hard to estimate for a first event but it is expected to be well attended with up to 100 Hot Rods and street cars plus a few hundred ? people.

We would like DCM support for this event and I would like to address council on the 7th of March to present this proposal for your consideration.

Please see attached map for event layout.

Yours

John Lush Chair of the Mallala Lions Motorsport Committee



Established 1997

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29 FEB 2016

BY: km



Mallala & District Lions Club

Mallala - Pinery Fire Recovery Fund Raiser

Saturday 23rd April

Go Whoa & Show n Shine

Sponsored by Mallala & District Lions Club & Adelaide Hot Rodders

Venue – Mallala Oval & Marshman Rd

Time - 9.30 – 3.00 – Trophy presentation – 3.30

Cost – Entry to public – \$5 – Children free

Show n Shine - \$10 – plus Go Whoa - \$10

Enter on Day

Trophies & Money for Show n Shine & Go Whoa

Entrant Vehicles

- Street Rods, Customs, Classics, Street Machines, Daily Drivers & Historic
- Must be registered & legal
- Helmets for Go Whoa
- No Burn outs
- Guided in public areas by a marshal

Proceeds to Mallala – Pinery Recovery Fund

See Face Book for Regular updates - "Mallala Fire Recovery Event"

Attachment 2
to report 3.4
dated 7 March 2016

Mallala Pinery Fire Recovery Fundraiser

