District Council of Mallala

THE ORDINARY MEETING OF THE DISTRICT COUNCIL OF MALLALA WILL BE HELD IN THE COUNCIL CHAMBERS, REDBANKS ROAD, MALLALA ON MONDAY 28 JULY 2014, COMMENCING AT 7:00PM

.....
Charles Mansueto
CHIEF EXECUTIVE OFFICER

AGENDA

1. ATTENDANCE

1.1 Present

1.2 Councillors Apologies

1.3 Councillors Absent

2. CONFIRMATION OF MINUTES

2.1 Council Meeting held on Monday 14 July 2014 (MB Folios 12807 to 12817, inclusive).

3. BUSINESS ARISING

3.1

4. DECLARATION OF MEMBERS' INTEREST

4.1

5. OPEN FORUM

5.1 Speakers

6. BRIEFINGS

6.1 Recreation Precinct Plans – WAX Designs / Suter Planners

7. MAYOR'S REPORT

7.1 Meetings Attended and / or Discussions Held (CON12/1199)

8. MINUTES AND/OR RECOMMENDATIONS

8.1 Economic Development Advisory Committee

8.1.1 No minutes

8.2 Community Development Advisory Committee

8.2.1 No minutes

8.3 Audit Committee

8.3.1 No minutes

8.4 Mallala and Districts Museum Committee

8.4.1 No minutes

8.5 Mallala and Districts Homes Committee

8.5.1 No minutes

9. QUESTIONS WHICH NOTICE HAS BEEN GIVEN

9.1 Questions on Notice

9.1.1 Salt Creek Bridge (CON12/537)

9.1.2 Salt Creek Bridge Repair Work (CON12/537)

9.1.3 Salt Creek Bridge Repair Work – Two Wells (CON12/537)

9.2 Notice of Motion

9.2.1 No Notice of Motion

10. QUESTIONS WHICH NOTICE HAS NOT BEEN GIVEN

Rules from Local Government Act Regulations:-

* Questions and replies are not entered in the minute book unless expressly required by resolution.
* No debate shall be allowed on any question or reply to any question.

11. PETITIONS

11.1 No Petitions

12. DEPUTATIONS

12.1 No Deputations

13. ITEMS FOR NOTING / INFORMATION / ACTIVITY REPORTS

13.1 Items for Information / Noting

13.1.1 Finance Report (CON12/491)

13.1.2 Gawler Water Re-Use Project Update (CON12/1199)

13.1.3 Ombudsmen Investigation Outcome (CON12/592)

13.2 Activity Reports

13.2.1 Corporate and Community Services Status Report (CON12/1199)

14. ITEMS FOR DECISIONS

14.1 Treasury Management Review Report (CON12/473)

14.2 Fraud and Corruption Policy Review Report (CON12/473)

14.3 Representations and Regional Boards and Associations (CON12/1199)

14.4 Mallala CWMS – Grant of Easements (CON12/334)

15. URGENT BUSINESS

15.1

16. CONFIDENTIAL ITEMS

15.1 No Confidential Items

17. CLOSURE

District Council of Mallala	2. CONFIRMATION OF MINUTES
MONDAY 28 July 2014	

Items:

2.1 Council Meeting held on Monday 14 July 2014 (MB Folios 12807 to 12817, inclusive).

District Council of Mallala

MINUTES OF THE ORDINARY MEETING OF THE DISTRICT COUNCIL OF MALLALA HELD IN THE MALLALA COUNCIL CHAMBERS, REDBANKS ROAD, MALLALA ON MONDAY 14 JULY 2014, COMMENCING AT 7:00 PM

Subject to confirmation

1. ATTENDANCE

1.1 Present

Crs D Kennington (Mayor), T Keen, P Daniele, B Summerton, M Wasley, S Jones, Y Howard, J Heley, A Picard and M Strudwicke and Messrs C Mansueto (Chief Executive Officer), P Sellar (General Manager, Corporate and Community) and Mr G Mavrinac (General Manager, Infrastructure and Planning).

1.2 Councillors Apologies

Cr McColl

1.3 Councillors Absent

Nil

2. CONFIRMATION OF MINUTES

Moved Cr Daniele Seconded Cr Heley

"that the minutes of meeting held on Monday 23 June 2014 (MB Folios 12789 to 12806, inclusive), be accepted as read and confirmed."

CARRIED (2014/317)

3. BUSINESS ARISING

Nil

4. DECLARATION OF MEMBERS' INTEREST

4.1 Nil

5. OPEN FORUM

The Mayor sought leave of the meeting to suspend Part 2 of the Local Government (Procedures at Meetings) Regulations 2000 for 'Open Forum'. The meeting was suspended at 7.01 pm.

5.1 Mick Tennant *Resident Two Wells*

- Gawler Two Wells Road, Two Wells drainage issues.

Jo Spurling *Resident Two Wells*

- Two Wells RSL Memorial – Community Consultation.

Meeting resumed at 7.10 pm

6. BRIEFINGS

Nil

7. MINUTES AND/OR RECOMMENDATIONS

7.1 *Facilities and Infrastructure Advisory Committee*

Minutes of Meeting held on 16 June 2014 (CON12/1102)

Information received and noted.

7.2 *Environmental Management Advisory Committee*

Minutes of Meeting held on 2 June 2014 (CON12/1101)

Information received and noted.

Moved Cr Keen Seconded Cr Picard

"that Council correspond with the Coast Protection Board on concerns of a man made channel at Parham and the environmental consequences."

CARRIED (2014/318)

7.3 *Strategic Planning and Development Policy Committee (new)*

No minutes

Subject to confirmation

8. QUESTIONS WHICH NOTICE HAS BEEN GIVEN

8.1 Questions on Notice

8.1.1 Parham Sports and Social Club Car Park (CON12/537)

Question 1:	Do the two loads of gravel that were spread across the car park more than 12 months ago constitute the planned upgrade associated with levels and measurements taken?
Answer:	No.
Question 2:	If the two loads of gravel are only an interim measure when will an upgrade occur that would satisfy a longer term approach to issue of drainage of car park?
Answer:	Council's infrastructure department has no plans to carry out an upgrade of the Parham club car park, as no funding has been allocated by council for the project. The two loads of rubble and the associated grading carried out approximately 14 months ago has solved the water pooling issues, shown in the June 2012 photo submitted with the questions and no customer requests regarding the issue are outstanding. Observations carried out after recent wet conditions have noted the car park drains reasonable well.

8.1.2 Salt Creek Bridge Water Affecting Activities (CON12/537)

Question 1:	Under requirements of NRM Act 2004 Water Affecting Activities, What planning evaluation and environmental assessment process (EIAR) was undertaken prior to the placement of these new culverts in Salt Creek watercourse shown in image?
Answer:	No planning evaluation or environmental assessment process was undertaken.
Question 2:	What planning approvals in line with NRM Act and Development Plan were given to undertake this new construction across Salt Creek watercourse?
Answer:	No planning approval is required under the NRM Act. The activity does not constitute 'development' for the purpose of an assessment against the Development Plan. The NRM Board are aware of the project and have given approval for the project to be carried out.

Subject to confirmation

Question 3:	With above regard to NRM Act 2004, what is nature of large amount of what appears waste material dumped upstream east of railway bridge across considerable area of Salt Creek flood plain?
Answer:	It is presumed the question is referring to the privately owned on Hayman road Two Wells. Council has no records regarding the source of the fill. Discussions held with long term council staff have revealed the fill had been deposited at the site more than 15 years ago. Consequently, it appears that the material pre-dates the operation of the NRM Act.
Question 4:	Is this stockpiled material dumped on public or private property?
Answer:	Private property.
Question 5:	If Salt Creek Bridge is some 260 meters inside township zone, Is this stockpiled material deposited within that Township Zone?
Answer:	Salt Creek Bridge and said material are located within the Rural Living Zone as identified in Council's Development Plan. The Township Zone is only applicable to Dublin.
Question 6:	Has there been Development approval for deposition stockpiling of this material in, adjacent to and on floodplain of a known defined watercourse namely Salt Creek , when was approval given and under what land use provisions was that approval given?
Answer:	Records do not indicate any approval issued. The activity may not have constituted 'development' pursuant to the Development Act for the purpose requiring a development approval.
Question 7:	Has the above stockpiled material been tested for any contaminants under EPA guidelines for contaminated demolition waste or other specified wastes?
Answer:	Not known.
Question 8:	Has any water sampling or other testing been done at any time adjacent to or downstream to ensure that leaching of any harmful chemical or other contaminants have not leached into Riverine Environment?
Answer:	Not known.

Subject to confirmation

Question 9:	If there is no record of application or approval for the stockpiling of what appears large waste material deposition in Salt Creek and adjacent floodplain, what action or options does Council have for the removal of the constricting stockpiled deposition and complete remediation of this site under EPA guidelines for contaminated sites?
Answer:	Council currently has no proposal to remove the waste. Staff will liaise with the land owner and relevant State authorities prior to carrying out any action if required.

8.1.3 Salt Creek Bridge (CON12/537)

Question 1:	Has soil testing been carried out prior to works being given approval in regard to Salt Creek Bridge as part of usual requirement before any construction, what did those tests include?
Answer:	Response to be provided next meeting
Question 2:	What approval process was undertaken that allowed external material used in filling of section Salt Creek adjacent to Salt Creek Bridge?
Answer:	Response to be provided next meeting
Question 3:	When was approval process given?
Answer:	Response to be provided next meeting
Question 4:	If approval given what external agencies provided comment during the process and is that information available?
Answer:	Response to be provided next meeting
Question 5:	Do on ground site work plans exist that could show extent of external earth material infill into Salt Creek adjacent to bridge?
Answer:	Response to be provided next meeting
Question 6:	Is there record of what material Salt Creek earth infill comprises?
Answer:	Response to be provided next meeting

Subject to confirmation

Question 7:	Has it been ascertained if any demolition material was used during the infilling of Salt Creek ?
Answer:	Response to be provided next meeting
Question 8:	If any demolition or waste material was used as part of infill what was it comprised of and does it pose any chemical or other leaching risk to riverine environment , has testing been carried out in past?
Answer:	Response to be provided next meeting

8.2 Notice of Motion

8.2.1 No Notices of Motion.

9. QUESTIONS WHICH NOTICE HAS NOT BEEN GIVEN

Rules from Local Government Act Regulations:-

* Questions and replies are not entered in the minute book unless expressly required by resolution.

* No debate shall be allowed on any question or reply to any question.

10. PETITIONS

10.1 No Petitions

11. DEPUTATIONS

11.1 No Deputations

Subject to confirmation

12. ITEMS FOR NOTING / INFORMATION / ACTIVITY REPORTS

12.1 Items for Information / Noting

12.1.1 Local Government Elections 2014 Summary Update (CON12/568)

Moved Cr Summerton Seconded Cr Strudwicke

"that the Council, having considered Item 12.1.1 *Local Government Elections 2014 Summary Update* dated 14 July 2014, receives and notes the report."

CARRIED (2014/319)

12.2 Activity Reports

12.2.1 Infrastructure Services Activity Report (CON12/1191)

Moved Cr Keen Seconded Cr Wasley

"that the Council, having considered Item 12.2.1 *Infrastructure Services Activity Report* dated 14 July 2014, receive the report."

CARRIED (2014/320)

12.2.2 Planning Services Activity Report (CON12/1191)

Moved Cr Summerton Seconded Cr Heley

"that the Council, having considered Item 12.2.2 *Planning Services Activity Report* dated 14 July 2014, receive the report."

CARRIED (2014/321)

12.2.3 Development Plan Amendment Activity Report (CON12/248)

Moved Cr Summerton Seconded Cr Heley

"that the Council, having considered Item 12.2.3 *Development Plan Amendment Activity Report* dated 14 July 2014, receive the report."

CARRIED (2014/322)

13. ITEMS FOR DECISIONS

13.1 Funding Policy Review Report (CON12472)

Moved Cr Daniele Seconded Cr Wasley

"that the Council having considered Item 13.1 *Funding Policy Review Report dated 14 July 2014*, recommends Council ratify the Funding Policy."

CARRIED (2014/323)

Subject to confirmation

13.2 Council Members Allowances and Benefits Policy Review Report (CON12/543)

Moved Cr Summerton Seconded Cr Daniele

"that the Council having considered Item 13.2 *Draft Council Members Allowances and Benefits Policy Report* dated 14 July 2014, recommends Council ratify the Council Members Allowances and Benefits Policy."

CARRIED (2014/324)

13.3 Two Wells Town Centre – Extension of Memorandum of Understanding (CON12/250)

Moved Cr Heley Seconded Cr Wasley

"that Council, having considered Item 13.3 *Two Wells Town Centre - Extension of Memorandum of Understanding* dated 14 July 2014, endorse the extension of the life of the Memorandum of Understanding for a further eighteen months from the date of resigning."

CARRIED (2014/325)

Moved Cr Summerton Seconded Cr Heley

"that Council, having considered Item 13.3 *Two Wells Town Centre - Extension of Memorandum of Understanding* dated 14 July 2014, authorises the Mayor and the Chief Executive Officer to place the Council Seal to the Two Wells Town Centre Memorandum of Understanding."

CARRIED (2014/326)

13.4 Short Stay Concept Plan Post Consultation Report (CON12/233)

Moved Cr Strudwicke Seconded Cr Keen

"that the Council having considered Item 13.4 - *Short Stay and Recreation Facility - Post Public Consultation* dated 14 July 2014, receives and notes the public submissions on the draft Concept Plan and endorses the responses to the submissions as detailed in the Summary of Submissions table."

CARRIED (2014/327)

Moved Cr Strudwicke Seconded Cr Keen

"that Council having considered Item 13.4 *Short Stay and Recreation Facility - Post Consultation*, dated 14 July 2014 authorises the Chief Executive Officer to amend the draft Concept Plan in line with the recommendations as listed in the report."

CARRIED (2014/328)

Subject to confirmation

Moved Cr Summerton Seconded Cr Strudwicke

"that the Council having considered *Item 13.4 Short Stay and Recreation Facility - Post Public Consultation* dated 14 July 2014, authorises Council Administration to seek development approval pursuant to the Development Act 1993 for the Short Stay Concept Proposal."

CARRIED (2014/329)

13.5 Schedule of Fees and Charges 2014-2015 (CON12/1131)

Moved Cr Strudwicke Seconded Cr Picard

"that the Council, having considered Item 13.5 *Schedule of Fees and Charges 2014-2015* dated 14 July 2014, adopts the Schedule of Fees and Charges as presented, for the 2014-2015 financial year."

CARRIED (2014/330)

14. URGENT BUSINESS

14.1

15. CONFIDENTIAL ITEMS

15.1 Chief Executive Officer – Resignation (CON12/1199)

Moved Cr Keen Seconded Cr Wasley

"that the Council

1) Pursuant to Sections 90(2) and 90(3) of the Local Government Act 1999 and having considered Item 15.1 Chief Executive Officer - Resignation, including Attachments 1,2,3 and 4, dated 14 July 2014, orders that the public be excluded from the meeting, with the exception of the Minute Secretary, as the matters pertaining to this report and associated documents contains / involves–

(a) information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).

2) Accordingly, on this basis, the principle that the meeting of the Council should be conducted in a place open to the public has been outweighed by the need to keep the information and/or discussion confidential.

CARRIED (2014/331)

At this juncture, 7.48 pm Chief Executive Officer, General Manager, Infrastructure & Planning Services and General Manager, Corporate & Community Services left the Chamber.

Subject to confirmation

Moved Cr Wasley Seconded Cr Keen

"that the Council having considered *Item 15.1 Chief Executive Officer - Resignation* dated *14 July 2014*, authorises the Mayor to finalise the end date of the current Chief Executive Officer's contract to be 22 August 2014 "

CARRIED (2014/332)

The Mayor sought leave of the meeting to suspend Part 2 of the Local Government (Procedures at Meetings) Regulations 2000. The meeting was suspended at 7.51 pm.

Meeting resumed at 8.15 pm.

Moved Cr Danielle Seconded Cr Summerton

"that the Council having considered *Item 15.1 Chief Executive Officer - Resignation* dated *14 July 2014*, authorises that the current Chief Executive Officer salary be adjusted in line with the 30 June 2014 CPI – Australia only (no adjustment for performance outcomes) effective 10 August 2014."

CARRIED (2014/333)

Moved Cr Summerton Seconded Cr Daniele

"that the Council having considered *15.1 Chief Executive Officer - Resignation* dated *14 July 2014*, authorises the Mayor to finalise arrangements to appoint Mr Sellar as acting Chief Executive Officer within existing financial parameters and that he commences immediately after the agreed final day for the existing Chief Executive Officer, or
that the Council having considered *15.1 Chief Executive Officer - Resignation* dated *14 July 2014*, authorises the Mayor to finalise arrangements to seek an external party to undertake the duties of the Acting Chief Executive Officer, and the Mayor report back to Council on the recommended applicant for authorisation."

Division

Councillor Strudwicke called a Division

Those voting in the affirmative are Crs Daniele, Keen, Jones, Heley, Wasley, Summerton and Kennington.

Those voting in the negative are Crs Howard, Strudwicke and Picard.

Subject to confirmation

"that the Council having considered *15.1 Chief Executive Officer - Resignation* dated *14 July 2014*, authorises the Mayor to finalise arrangements to appoint Mr Sellar as acting Chief Executive Officer within existing financial parameters and that he commences immediately after the agreed final day for the existing Chief Executive Officer, or
that the Council having considered *15.1 Chief Executive Officer - Resignation* dated *14 July 2014*, authorises the Mayor to finalise arrangements to seek an external party to undertake the duties of the Acting Chief Executive Officer, and the Mayor report back to Council on the recommended applicant for authorisation."

CARRIED (2014/334)

Moved Cr Keen Seconded Cr Heley

"that the Council having considered *Item 15.1 Chief Executive Officer - Resignation* dated *14 July 2014*, notes that a further report be brought back to Council to address the appointment of a new Chief Executive Officer."

CARRIED (2014/335)

At this juncture, 8.19 pm Chief Executive Officer, General Manager, Infrastructure & Planning Services and General Manager, Corporate & Community Services returned to the Chamber.

16. CLOSURE

There being no further business, the Mayor declared the meeting closed at 8:20 pm

Subject to confirmation

Confirmed as a true record.

Mayor: .....

Date: ____/____/___

District Council of Mallala	7. MAYOR'S REPORT
MONDAY 28 July 2014	

Items:

7.1 Activities and Meetings attended

District Council of Mallala	7.1 Meetings Attended and / or Discussions Held
	Container No: CON12/1199
Report Date: 28 July 2014	Prepared by: Cr Duncan Kennington
Corporate Objective: N/A	

Activities and Meetings attended

Monday 23 June 2014

Ordinary Council Meeting

Tuesday 24 June 2014

CEO and Deputy Mayor Briefing

Economic Development Advisory Committee

Friday 27 June 2014

Wakefield Group

Two Wells RSL

CEO and Deputy Mayor Briefing

Tuesday 1 July 2014

CEO and Deputy Mayor Briefing

Thursday 3 July 2014

Mallala Bowling Club – Bendigo Bank Grant Cheque Presentation

Friday 4 July 2014

Light Beach Community Revegetation

Library Author Event Two Wells

Saturday 5 July 2014

Community Concert Two Wells “High Tea”

Tuesday 8 July 2014

CEO and Deputy Mayor Briefing

Monday 14 July 2014

Ordinary Council Meeting

Tuesday 15 July 2014

CEO and Deputy Mayor Briefing

Monday 21 July 2014

Mount Lofty Ranges Natural Resource Management Board Workshop

Tuesday 22 July 2014

CEO and Deputy Mayor Briefing

Thursday 24 July 2014

Site Inspection – Gawler Two Wells Road / Williams Road - Two Wells

Friday 25 July 2014

Local Government Association

District Council of Mallala	8. MINUTES AND/OR RECOMMENDATIONS
MONDAY 28 July 2014	

Items:

8.1 Economic Development Advisory Committee Reports

8.1.1 No minutes

8.2 Community Development Advisory Committee

8.2.1 No minutes

8.3 Audit Committee

8.3.1 No minutes

8.4 Mallala and Districts Museum Committee

8.4.1 No minutes

8.5 Mallala and Districts Homes Committee

8.5.1 No minutes

District Council of Mallala	9. QUESTIONS WHICH NOTICE HAS BEEN GIVEN
MONDAY 28 July 2014	

Items:

9.1 Questions on Notice

9.1.1 Salt Creek Bridge (CON12/537)

9.1.2 Salt Creek Bridge Repair Work (CON12/537)

9.1.3 Salt Creek Bridge Repair Work – Two Wells (CON12/537)

District Council of Mallala	9.1.1 Salt Creek Bridge
	Container No: CON12/537
Report Date: 28 July 2014	Prepared by: Cr Jones
Corporate Objective:	

Preamble	As it is generally known that adjacent to and extending eastward from Salt Creek bridge along southern bank a large amount of outside fill was deposited some time ago along and into natural flow path of Salt Creek , with the commencement of safety upgrade and other works in relation to Salt Creek Bridge. (These questions and answers deferred from 14 July 2014 meeting)
Question 1: Answer:	Has soil testing been carried out prior to works being given approval in regard to Salt Creek Bridge as part of usual requirement before any construction, what did those tests include? No.
Question 2: Answer:	What approval process was undertaken that allowed external material used in filling of section Salt Creek adjacent to Salt Creek Bridge? Answered as part of 'Questions on Notice' 14 July 2014 meeting.
Question 3: Answer:	When was approval process given? See above.
Question 4: Answer:	If approval given what external agencies provided comment during the process and is that information available? See above.
Question 5: Answer:	Do on ground site work plans exist that could show extent of external earth material infill into Salt Creek adjacent to bridge? No.
Question 6: Answer:	Is there record of what material Salt Creek earth infill comprises? Not known.

Question 7: Answer:	Has it been ascertained if any demolition material was used during the infilling of Salt Creek? Not known.
Question 8: Answer:	If any demolition or waste material was used as part of infill what was it comprised of and does it pose any chemical or other leaching risk to riverine environment ,has testing been carried out in past? As above.

District Council of Mallala	9.1.2 Salt Creek Bridge Repair Work
	Container No: CON12/537
Report Date: 28 July 2014	Prepared by: Cr Keen
Corporate Objective:	

Preamble	
Question 1: Answer:	What risk assessment was done prior to putting in a pedestrian walkway with a 900mm Drop? No formal risk assessment has been undertaken by Council, however, a consultant engineer was engaged to assess and determine the condition of the Salt Creek Bridge and associated infrastructure. The report recommended an upgrade to the existing pathway on eastern side with 900 x 300 BC (2.4 m long), 50 metres of textured concrete footpath 1.8 metres wide. Consequently, a budget bid was presented and endorsed by Council to undertake the works.
Question 2: Answer:	Can guard rails be put in place that would not impede floodwater but would protect anyone from falling off the council sanction walkway? The consultant report had not recommended any guard rails as part of the upgrade. However, it may be possible to install rails, noting that any design would need to factor in flood water debris.
Question 3: Answer:	Has any risk assessment been done re railing to protect anyone falling off the said walkway? No, as railing not considered as part of the recommendation to upgrade the pathway.
Question 4: Answer:	Also is Council now obliged to put path closed signage or a caution sign when salt creek in flood? Council does not currently monitor and advise community of water levels within the creek. The upgrade intends to raise the pathway above known water levels thereby maintaining access on a regular basis. As with all road users there is a degree of due diligence required that is consistent with requirements of the Road Traffic Act 1961. Notwithstanding this, Council intends to install depth markers adjacent to the pathway.

Question 5:	If the water backs up and floods private property will council be responsible for damages?
Answer:	The *Local Government Act 1999* sets out a Council's duty of care toward public safety. In order to discharge this duty a Council has to take "reasonable" steps. When considering what is "reasonable", factors such as available resources, costs, funding, governance, existing policy/management plans, other legislation has to be taken into account.

District Council of Mallala	9.1.3 Salt Creek Bridge Repair Work – Two Wells
	Container No: CON12/537
Report Date: 28 July 2014	Prepared by: Cr Jones
Corporate Objective:	

Preamble	
Question 1: Answer:	In the heading of Salt Creek Bridge Report of 5th April 2012 reference is made to "the housing development south of the Town". What housing development is being referred to in the report, where is it and what is proximity distance to Salt Creek bridge? It is presumed that the consultant engineer is referring to the rural living allotments along Hayman Road.
Question 2: Answer:	What assessment has been done to establish how many pedestrians are currently accessing Salt Creek path? Nil.
Question 3: Answer:	Has there ever been approval given for safe pedestrian access across Salt Creek, if so please specify? Unknown, given that the bridge would have possibly been constructed by the former Highways Department when Old Port Wakefield Road was constructed. As noted by the consultant report, there is no provision nor width available for a footpath at road level.
Question 4: Answer:	In the interests of equity, why is a pedestrian path being constructed only on one side of Salt Creek Bridge? In accordance with Council's Roads Manual residential streets, collector and arterial roads shall have a footpath (minimum 1.5 m wide) on one side of the road. For footpaths in high pedestrian usage areas Council may provide a wider footpath or on both sides of the road. Anecdotal evidence would suggest that the majority of users would come from the east side which is where the majority of housing is.

Question 5: Answer:	How is it considered safe for residents having to cross Old Pt Wakefield Road to access creek path? Pursuant to Section 87 of the *Road Traffic Act 1961* a person must not walk without due care or attention or without reasonable consideration for other persons using the road.
Question 6: Answer:	Is crossing a main road with no pedestrian island or other protection measures, putting residents and general public in harms way by virtue of having to cross a busy road to access creek path? See above.
Question 7: Answer:	What liability issues have been considered or identified in respect of residents crossing the road just south of Salt Creek Bridge? See above.
Question 8: Answer:	What protection measures will be in place to protect residents, in particular any children, that may cross Old Pt Wakefield Road to access pedestrian creek path? See above.

District Council of Mallala	9.2 Notice of Motion
MONDAY 28 July 2014	

Items:

9.2 Notice of Motion

9.2.1 Nil

District Council of Mallala	11 PETITIONS
MONDAY 28 July 2014	

Items:

11.1 No Petitions

District Council of Mallala	12 DEPUTATIONS
MONDAY 28 July 2014	

Items:

12.1 No Deputations

District Council of Mallala	13 ITEMS FOR NOTING / INFORMATION / ACTIVITY REPORTS
MONDAY 28 July 2014	

Items:

13.1 Items for Information / Noting

13.1.1 Finance Report (CON12/491)

13.1.2 Gawler Water Re-Use Project Update (CON12/1199)

13.1.3 Ombudsmen Investigation Outcome (CON12/592)

13.2 Activity Reports

13.2.1 Corporate and Community Services Status Report (CON12/1199)

District Council of Mallala	13.1.1 Finance Report	
	Container No: CON12/491 Document No: D14/16203	
Report Date: 28 July 2014	Prepared by: Finance Co-ordinator	
Corporate Objective:	5.5.2	Develop and maintain long term financial planning, management and reporting ensuring resources are provided to deliver services and manage Council's assets.

Purpose:	To provide Council with an update of Financial Position as at 30 June 2014 including funds and performance against budget:

Recommendation:	"that Council, having considered Item 13.1.1 *Finance Report* dated 28 July 2014, recommends to Council that it notes and receives the Finance Report as at 30 June 2014."

Impact Summary

Strategic	
Economic	Nil
Built Environment	Nil
Community	Nil

Organisational & Governance	
Financial	Provision of a total cash balance to enable Council to meet their monthly financial commitments and monitor financial performance.
Legislation	Nil
Risk	Nil
Consultation	Nil
Asset Management Plans	Nil
Service Standards	Nil

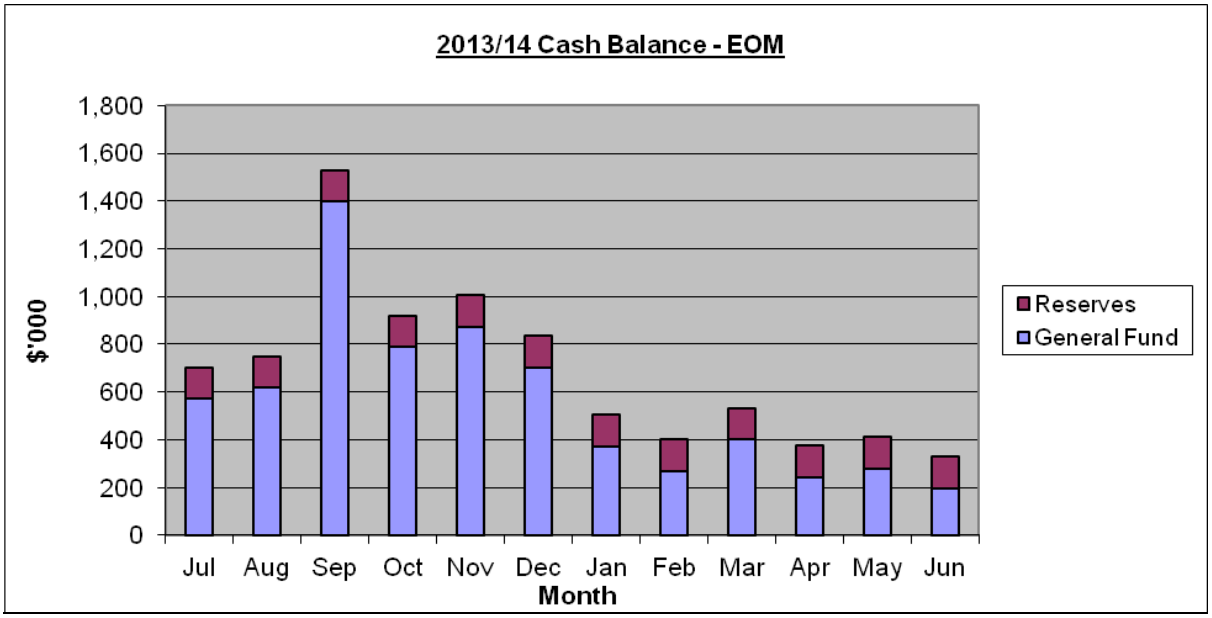
The Bank Reconciliation Statements show the following account balances, inclusive of investments and overdraft, as 30 June 2014:

	Account	$ Balance
(1)	District Fund Account	112,755
(1.a)	LGFA 24hr Investment	80,898
	Sub total	$ 193,653
(2)	Other	132,988
	Sub total	$ 132,988
TOTAL		$ 326,641

Note

(1.b)	*LGFA Overdraft Debenture**	*$(1,725,000)*

Cash balance at the end of each month:



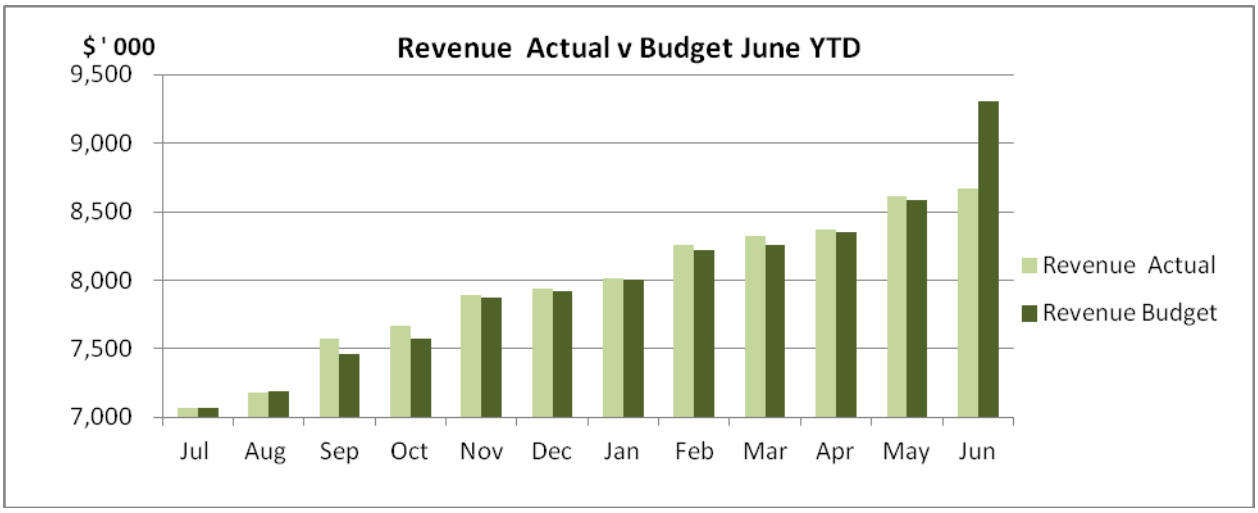
District Council of Mallala
Capital Work Projects For Period Ending June 2014

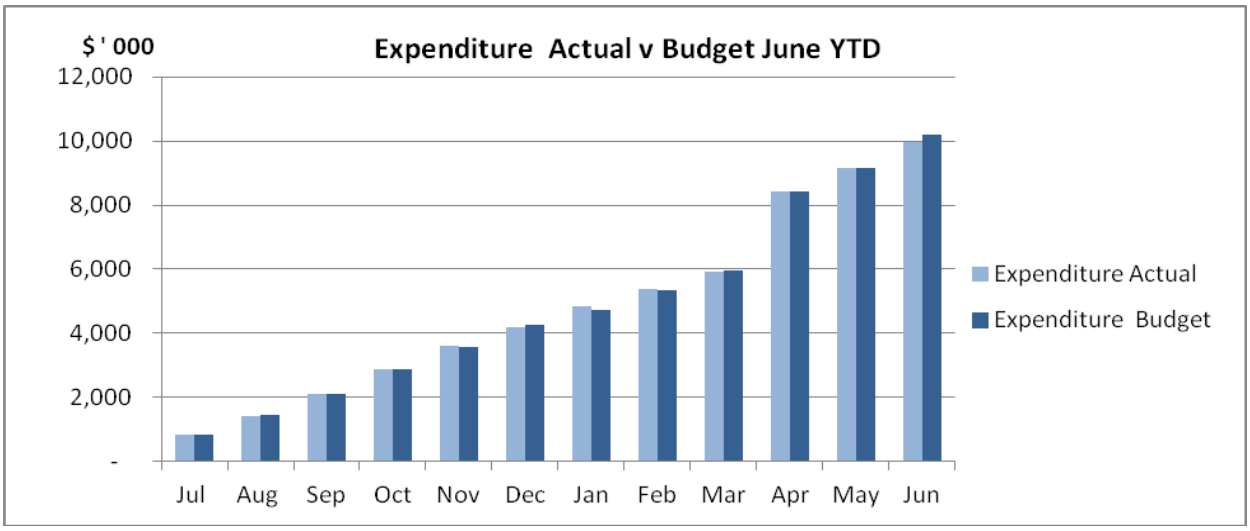
Capital Project	YTD Actuals	Annual Current Budget
Foot Paths	82,548	64,400
Land & Buildings	43,894	60,000
Office & ICT Equipment	46,417	44,000
Minor Capital Projects	238,993	306,250
Plant, Machinery & Vehicles	41,235	142,000
Roads - Arterial Construction	1,633,861	1,936,433
Roads - Sealed	80,129	235,000
Roads - Unsealed Re-sheeting	515,039	657,000
Reserves & Playgrounds	0	0
Mallala CWMS	1,973,256	2,500,000
Total	**4,655,372**	**5,945,083**

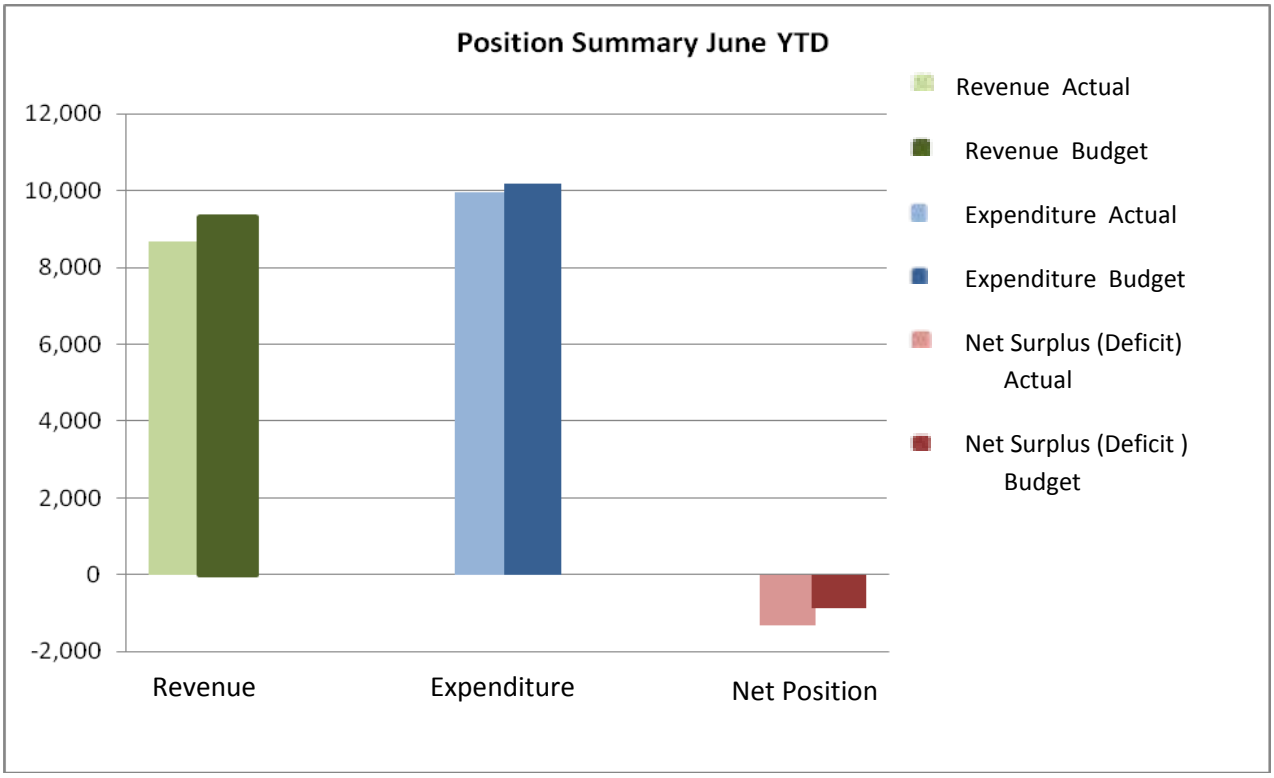
District Council of Mallala

Income Statement for Period Ending June 2014

	YTD Actual $ ' 000	YTD Budget $ ' 000	YTD Variance $ ' 000	Original Budget $ ' 000	Current Budget $ ' 000
Revenue					
Rates	7,011	7,004	7	7004	7004
Statutory Charges	360	356	4	356	356
User Charges	83	79	4	79	79
Operating Grants & Subsidies	759	1,432	(673)	1,432	1,432
Investment Income	12	12	0	8	12
Reimbursements	352	352	0	274	352
Other Revenue	90	93	(3)	33	93
Total Revenue	**8,667**	**9,329**	**(661)**	**9,186**	**9,329**
Expenses					
Employee Costs	4,534	4,554	20	4,634	4,554
Materials, contracts & other expenses	3,010	2,991	(18)	2,846	2,991
Finance Charges	341	347	6	502	347
Depreciation	2,086	2,086	0	2,086	2,086
Total Expenses	**9,971**	**9,978**	**8**	**10,067**	**9,978**
NET SURPLUS /(DEFICIT)	**(1,304)**	**(649)**	**(653)**	**(881)**	**(649)**


$ ' 000
Revenue Actual v Budget June YTD
9,500
9,000
8,500
8,000
7,500
7,000
Jul
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Mar
Apr
May
Jun
Revenue Actual
Revenue Budget


$ ' 000
Expenditure Actual v Budget June YTD
12,000
10,000
8,000
6,000
4,000
2,000
-
Jul
Aug
Sep
Oct
Nov
Dec
Jan
Feb
Mar
Apr
May
Jun
Expenditure Actual
Expenditure Budget


Position Summary June YTD
12,000
10,000
8,000
6,000
4,000
2,000
0
-2,000
Revenue
Expenditure
Net Position
Revenue Actual
Revenue Budget
Expenditure Actual
Expenditure Budget
Net Surplus (Deficit) Actual
Net Surplus (Deficit) Budget

Year to Date Variances Explanations (Variances over $40,000)

June 2014 Full Year Preliminary

The most significant variance to report for June is to operating grants, the Federal Government decided in June to end the prepayment of the financial assistance grant (FAG) from this year. The FAG is normally paid in 4 equal installments quarterly, half of the total FAG for 2013-14 was paid in 2012-13 resulting in an unfavourable variance of $673,000. If grant issue was excluded Council would have finished with a better than budge result.

District Council of Mallala	13.1.2 Gawler Water Re-Use Project Update
	Container No: CON 12/1199 Document No: D14/16185
Report Date: 28 July 2014	Prepared by: Chief Executive Officer
Corporate Objective:	5.1.4 Support strategic alliances, stakeholder forums and advisory committees that assist Council in policy development and service planning

Purpose:	To update Council on the status of the Gawler Water Re-Use project.

Recommendation 1:	"that the Council having considered Item 13.1.2 *Gawler Water Re-Use Project Update* dated *28 July 2014* notes and receives the report."

Impact Summary

Organisational and Governance	
Financial	At this stage no financial impact
Legislation	No impact
Risk	The management of risks has been encapsulated within agreements to date. Further discussions with SA Water and any progession of agreements will need to be reviewed to ensure any risks are identified and managed effectively.
Consultation	No impact
Asset Management Plans	At this stage no impact. Any arrangement that results in the creation of assets may impact on Council's plans
Service Standards	No immediate impact but has the potential to enhance service levels through access to a sustainable water supply.

Update

Council has been involved with the Light Regional Council, Town of Gawler and the Barossa Council in development and delivery of water re-use scheme across the Barossa Region. Light Regional Council has been the lead council entering into an agreement with the Federal Government to access $10.7m of funding to support the scheme. A private partner, Aqua Australis Group (AAG) was brought into the scheme to construct and operate the scheme. The Councils also provided in principle support to the formation of a regional subsidiary that was subject to a number of precedents occurring. At this stage these precedents have not yet been addressed.

Further Council administration have been actively pursuing access to 'winter water" from the Bolivar Sewerage Treatment facility. A draft Memorandum of Understanding (MOU) has been developed but not yet finalised.

Since the last update to Council, Light Regional Council was advised by AAG that they are unable to continue with the project.

Since this notification the Chief Executive Officers have met to discuss the implications and how the project can be progressed to still achieve the positive social, economic and environmental outcomes. As the lead Council, Light Regional Council is pursuing its obligations under the agreement with the Commonwealth Government.

The District Council of Mallala is continuing through administration to finalise the MOU with SA Water and it is intended to seek formal Council consideration of the MOU in August. The current focus of the discussions with SA Water is to seek a longer period to allow more time to finalise any new arrangements in delivering the Gawler Water Re-Use Scheme or any alternate arrangement that may result from the withdrawal of AAG.

Implications to Council

At this stage there are no major implications for Council apart from a delay in delivering on the project outcomes. There are no commitments or obligations by Council that it needs to address at this point in time as no formal agreements have been entered into apart from the Project Agreement with AAG which is no longer valid since AAG withdrawal.

It will be important for Council to continue supporting the project and in particular the access to the "winter water" from SA Water. Access to this water will support the expansion of the horticultural industry and create economic investment in the region. As noted above administration will continue working on finalising the MOU and seek Council consideration and endorsement in August.

District Council of Mallala	13.1.3 Ombudsman Investigation Outcome	
	Container No: CON 12/592 Document No: D14/16504	
Report Date: 28 July 2014	Prepared by: Chief Executive Officer	
Corporate Objective:	5.1.2 Strengthen the governance role and teamwork of Councillors through induction, training and development	

Purpose:	To update Council on the outcome of an investigation undertaken by the Ombudsman.

Recommendation 1:	"that the Council having considered Item 13.1.3 *Ombudsman Investigation Outcome* dated *28 July 2014* notes and receives the report."

Impact Summary

Organisational and Governance	
Financial	No impact
Legislation	No impact
Risk	No impact
Consultation	No impact
Asset Management Plans	No impact
Service Standards	No impact

Background

Council recently received the attached letter from the Ombudsman into the investigation of Cr Heley that they completed following a complaint received from Cr Jones.

The Ombudsman is of the view that there is a public interest in the disclosure of the report and therefore has been tabled for Councils noting.

Attachment 1
to report 13.1.3
dated 28 July 2014

Ombudsman Investigation Outcome

OmbudsmanSA

Enquiries: Ms Martha Savva
Telephone: (08) 8226 8699
Ombudsman reference: 2014/02135
Agency reference:

Mr Charles Mansueto
Chief Executive Officer
District Council of Mallala
PO Box 18
MALLALA SA 5502

Dear Mr Mansueto

Preliminary investigation of complaint by Councillor Steve Jones

I refer to my provisional report dated 23 May 2014.

I have now concluded my investigation; and the purpose of this letter is to provide you with my final views about your complaint. They are set out in the enclosed report. I have sent a copy to Cr Jones and Cr Heley.

As you may be aware, the Ombudsman Act imposes certain obligations[1] on my office and others, including complainants, officers and members of the department, to keep information about my investigation confidential. However, if I consider that disclosure of that information is in the public interest, then I may authorise or require its disclosure.

In my opinion, there is a public interest in disclosure of my final reports under the Ombudsman Act. Therefore, I authorise disclosure of this report by the parties as they see fit. I advise that I may publish my report on the Ombudsman SA and AustLII websites.

Yours sincerely

Megan Philpot
ACTING SA OMBUDSMAN

1 July 2014

[1] *Ombudsman Act 1972*, section 26.

Ordinary Council - Agenda - Page 41 of 63 - 28 July 2014

OmbudsmanSA

Report

Preliminary investigation - *Ombudsman Act 1972*

Complainant	**Councillor Steve Jones**
Council member	**Councillor Jan Heley**
Council	**District Council of Mallala**
Ombudsman reference	**2014/02135**
Date complaint received	**3 March 2014**
Issues	**Whether Councillor Jan Heley breached the conflict of interest provisions of the *Local Government Act 1999*** **Whether Councillor Jan Heley breached clause 3.13 of Part 3 of the Code of Conduct**

Jurisdiction

The complaint alleges a breach of Part 3 of the Code of Conduct for Council Members made pursuant to section 63 of the *Local Government Act 1999* (**the Code of Conduct**).[1] An act of a council member that may constitute grounds for complaint under the Local Government Act is taken to be an 'administrative act' for the purposes of the Ombudsman Act.[2]

I consider that the complaint about Cr Heley falls within this definition; and I am also satisfied that in relation to the complaint, Cr Heley was 'engaged in the work of ... [the] agency' within the meaning of section 3 of the Ombudsman Act.

Investigation

My investigation has involved:

- assessing the information provided by the complainant
- seeking information from the District Council of Mallala's Chief Executive Officer Mr Charles Mansueto
- considering the Local Government Act and the Code of Conduct
- interviewing Cr Heley
- considering further information from Cr Heley
- providing the complainant, Cr Heley and the agency with my provisional report for comment, and considering their responses
- preparing this report.

---

1 The Code of Conduct was gazetted on 29 August 2013.
2 Section 263A(4) Local Government Act; section 3, Ombudsman Act.

Level 5 East Wing
50 Grenfell Street
Adelaide SA 5000
Telephone 08 8226 8699
Facsimile 08 8226 8602
Toll free 1800 182 150
PO Box 3651 Rundle Mall SA 5000
www.ombudsman.sa.gov.au
ombudsman@ombudsman.sa.gov.au

Response to my provisional report

In response to my provisional report, Cr Heley advised me that she did not wish to make any comments.

I did not receive any comments from the complainant or the agency.

Standard of proof

The standard of proof I have applied in my investigation and report is on the balance of probabilities. However, in determining whether that standard has been met, in accordance with the High Court's decision in *Briginshaw v Briginshaw* (1938) 60 CLR 336, I have considered the nature of the assertions made and the consequences if they were to be upheld. That decision recognises that greater care is needed in considering the evidence in some cases.[3] It is best summed up in the decision as follows:

> The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, or the gravity of the consequences flowing from a particular finding, are considerations which must affect the answer to the question whether the issue has been proved ... .[4]

Background

1. Cr Heley is an elected member of the District Council of Mallala (**the council**).

2. The complainant alleges that Cr Heley improperly voted in relation to an agenda item about a spoon drain upgrade of Gameau Road, Two Wells without declaring a conflict of interest due to:
   - her ownership of land known as 3 Walter Avenue, situated within a housing estate situated on Gameau Road
   - the spoon drain on Gameau Road being the only entry point into the housing estate.

3. It is alleged that while Cr Heley declared an interest in the matter:
   - she did not consider her interest to be a 'conflict of interest'
   - she remained in the chamber
   - she moved a motion in relation to the matter; and
   - she voted in relation to the matter (contrary to section 74 of the Local Government Act).

4. At the council meeting on 24 February 2014, the council considered item 12.10.1 - Spoon Drain Upgrade of Gameau Road, Two Wells. Two motions were moved in relation to the item. I consider that the purpose of the first motion, which was moved by Cr Heley was procedural, and intended to have consideration of the item brought on. This motion was passed. The purpose of the second motion was for the council to consider the upgrade of the spoon drain as part of its 2014-15 budget considerations. The minutes record:

> **12.10 Infrastructure Services**
> 12.10.1 Spoon Drain Upgrade - Gameau Road Two Wells (CON12/763)
> Moved Cr Heley/Seconded Cr McColl
> 'that the motion be moved off the table'
>
> Division

[3] This decision was applied more recently in *Neat Holdings Pty Ltd v Karajan Holdings Pty Ltd* (1992) 110 ALR 449 at pp449-450, per Mason CJ, Brennan, Deane and Gaudron JJ.

[4] *Briginshaw v Briginshaw* at pp361-362, per Dixon J.

Cr Heley called for a division
Councillors voting in the affirmative are Strudwicke, Keen, Daniele, Summerton, McColl and Heley

Councillors voting in the negative are Picard, Kennington, Jones and Wasley

Moved Cr Strudwicke/Seconded Cr Wasley

That council, having considered item 12.10.1 Spoon Drain Upgrade - Gameau Road Two Wells dated 10 February 2014, considers the reconstruction of the spoon drain to a standard that improves vehicle access gradient as part of the 2014-15 budget consideration

Division
Cr Heley called for a division
Councillors voting in the affirmative are Strudwicke, Jones, Summerton, McColl, Heley, Wasley and Kennington

Councillors voting in the negative are Picard, Daniele and Keen

5. Mr Mansueto has advised me that there are approximately 100 houses within the housing estate.

Legislation

6. Section 73 of the Local Government Act defines the circumstances in which an elected member has 'an interest in a matter' as follows:

> 73–Conflict of interest
>
> (1) A member of a council has an interest in a matter before the council if–
>
> (a) the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, receive or have a reasonable expectation of receiving a direct or indirect pecuniary benefit or suffer or have a reasonable expectation of suffering a direct or indirect pecuniary detriment; or
>
> (b) the member or a person with whom the member is closely associated would, if the matter were decided in a particular manner, obtain or have a reasonable expectation of obtaining a non-pecuniary benefit or suffer or have a reasonable expectation of suffering a non-pecuniary detriment,
>
> (not being a benefit or detriment that would be enjoyed or suffered in common with all or a substantial proportion of the ratepayers, electors or residents of the area or a ward or some other substantial class of persons).

7. Section 74(1) provides:

> A member of a council who has an interest in a matter before the council must disclose the interest to the council.

8. Section 74(4) provides:

> A member of a council who has an interest in a matter before the council must not:
>
> (a) propose or second a motion relating to the matter; or

(b) take part in discussion by the council relating to that matter; or

(c) while such discussion is taking place, be in, or in the close vicinity of, the room in which or other place at which that matter is being discussed; or

(d) vote in relation to that matter.

Whether Cr Heley breached the conflict of interest provisions of the Local Government Act

9. The complainant alleges that Cr Heley had an interest that she was required by law to declare, and remained in the room, moved a motion, and voted on item 12.10.1 at the council meeting of 24 February 2014.

10. Cr Heley declared an interest in the matter; however, what lies for my decision is whether Cr Heley was conflicted. That is, I must be satisfied that by participating in the council's voting as she did, Cr Heley would receive a benefit or suffer a detriment or would have a reasonable expectation of receiving a benefit or suffering a detriment of the type described in section 73. Such benefit or detriment should not be shared with all or a substantial proportion of ratepayers, electors or residents of the council area, or with some other substantial class of persons.

11. In the recent case of *Petrovski v Dolling*,[5] the District Court emphasised that the legislation is confined to the type of interest referred to in section 73 and 'not to conflicts of interest at large'.[6] The disclosure requirement in section 74 is confined to disclosure of the type of interest in a matter described in section 73.

12. Further, the court said that the question of whether a council's resolution gives rise to a section 73 interest, must be determined by a consideration of the actual terms of the resolution.[7] In addition, the test is that the elected member 'would' receive a benefit or suffer a detriment or 'would have a reasonable expectation' of receiving a benefit or suffering a detriment. Speculation about the consequences of the matter being decided in a particular manner is not sufficient.

13. The outcome of the *Dolling* decision must be confined to its particular facts.

14. I am of the view that the motion of the 24 February 2014 council meeting gave rise to a section 73(1) interest on the part of Cr Heley. I consider that the 'matter' for the purposes of the section was the council's consideration of budgeting for an upgrade of the spoon drain at the entrance to the housing estate in which Cr Heley resides. I consider that by voting to budget for the upgrade (the second motion), Cr Heley had a reasonable expectation of receiving a non-pecuniary benefit or detriment.

15. Cr Heley does not deny this; however, she is of the view that any benefit or detriment 'would be enjoyed or suffered in common with all or a substantial proportion of the ratepayers, electors or residents of the area or a ward or some other substantial class of persons.' She notes that any benefit or detriment would be enjoyed or suffered in common with the other land owners and residents of the estate, as well as visitors to the estate.

16. When this exemption applies council members can continue to fully perform their normal role without disclosing the interest or abstaining from voting.

17. I have previously expressed my concern in other investigations about the degree of clarity in this provision. While it is clearly intended to relate to interests held in common

5 *Petrovski v Dolling* [2013] SADC 27 (5 March 2013).
6 Ibid, [41].
7 Ibid, [34].

with a substantial proportion of sections of the community, it can often be difficult to determine how many people must share the interest before it can apply.

18. The Macquarie Dictionary includes the following in its definition of 'substantial':

> Of ample or considerable amount ... [8]

19. The Local Government Association has acknowledged the difficulty in determining how many people must share the interest before the exemption can apply:

> At the extreme ends of the continuum, it is clear when a benefit or detriment will be enjoyed or suffered in common with a substantial proportion of prescribed person or class of persons.
>
> ...
>
> However, between the extremes, there are many shades of grey, and Part A Summary and Examples explores this issue further. however, as general advice:
> - there is no 'golden or magical number' or 'golden percentage' of persons which constitute 'substantial class' of persons; and
> - it will always be a question of fact depending on the circumstances - for example, a Court may consider that a lower threshold number of persons may be more appropriate in a small rural area compared to an area in metropolitan Adelaide.[9]

20. I note that the Local Government Association also recommends that elected members take a conservative approach when dealing with conflict of interest matters:

> If an affected person remains unsure about whether or not a conflict exists after considering all the issues, it is recommended that in the interests of probity, the affected person disclose the interest and take the necessary action.[10]

21. With respect to the statement made by Cr Heley, I note that the council has a population of 8 343 residents with 2 293 residing in Two Wells.[11] At the 2010 council elections 1 477 of the 5 583 on the electoral roll voted (26.5%). I am advised that 466 votes were received in the Two Wells ward. The council undertook a representation review in 2013 which showed that as of 30 April 2013, the Two Wells ward had 1 513 electors.

22. Having considered the figures above and the facts of this matter, including the size of the council area, I consider that it is reasonable to say that any benefit to Cr Heley would be shared with a substantial proportion of the Two Wells Ward (15%) or some other substantial class of persons. On this basis, it is my view that she did not have an interest in the matter to declare. It follows that she was not required to leave the chamber, nor was she prevented from moving a motion or voting on the matter.

23. Having said that, I am not satisfied that at the time Cr Heley had a robust understanding of her obligations as a council member regarding conflicts of interest:
    - she told my investigation that she did not remove herself from the meeting based on a previous experience where she declared an interest in a similar type of matter (and abstained from voting) and was subsequently told by other members that she did not have to
    - she believes that conflict is unavoidable when living in a small rural area, and referred to other examples of council members proceeding to vote in similar circumstances
    - though relying on the 'substantial proportion or class' exemption, she was unable to tell my investigation how many people reside in Mallala, how many of those

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8 The Macquarie Dictionary, Third Edition, 1999.
9 Local Government Association of South Australia, Conflict of Interest Provisions - Guidelines and Examples, updated October 2010, p11.
10 Ibid, p11.
11 http://www.censusdata.abs.gov.au/services/getproduct/census/2011/quickstat/UCL415043?opendocument&navpos=220.

reside in Two Wells; how many are on the electoral role or how many voted in the last election.

24. While I appreciate that this is Cr Heley's first term as an elected member, the difficulties with the 'substantial proportion or class' exemption, and that the conflict of interest issues raise special challenges for elected members in regional council areas, I expect council members to be committed to understanding their obligations. Cr Heley has been cooperative during the course of my investigation; and it is my impression that she now has a better appreciation of the conflict of interest provisions.

25. I am aware that over the past year, the elected members of the council have been reminded of their obligations in this regard:
    - on 18 April 2013 a letter was received by the Mayor of the council from Hon Gail Gago MLC. The purpose of the letter was to remind the elected members of the council of their obligations with respect to section 74 of Local Government Act. This letter was circulated to all elected members.
    - the letter stated 'it is crucial that Elected Members understand their obligations in relation to conflicts of interest and remove themselves from the meeting upon declaring an interest.'
    - training in conflict of interest for elected members was provided on 19 March 2013. Cr Heley attended.
    - training in the Code of Conduct was provided for elected members in September 2013. Cr Heley did not attend.
    - training in Part 2 of the Code of Conduct was provided for elected members in November 2013. Cr Heley did attend.

Code of Conduct for Council Members

26. I have turned my mind to whether the allegations against Cr Heley show a breach of clause 3.13 of the Code of Conduct. That clause provides:

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

27. The common law rules of natural justice or procedural fairness require that public officers make decisions free from bias. They must bring an open mind and approach their decision-making impartially. This is a separate, additional requirement from the conflict of interest obligations (although a bias may be based on an interest or arise out of prejudgment). Bias focuses on the conduct of the decision-maker rather than the interests.[12]

28. I cannot be satisfied that Cr Heley's conduct indicates that Cr Heley's motions and votes were made with actual bias. There is no evidence before me that Cr Heley was not committed to making a decision on the matter without bias. In particular, there is no evidence before me that she had a preconceived view about the desirability of budgeting for the spoon drain upgrade, and that she was not open to persuasion.

29. I note that clause 3.13 does not capture apprehended or perceived bias. I query whether this accords with community expectations; and for this reason have turned my mind to whether or not Cr Heley has demonstrated apprehended bias.

30. The test for determining if a public officer has an apprehended bias is:

[12] NSW Ombudsman, Good Conduct and Administrative Practice Guidelines (2nd Edition), p A-31.

whether a fair-minded, lay observer might reasonably apprehend that the decision-maker might not bring an impartial and unprejudiced mind to the resolution of the question which must be decided.[13]

31. The application of the bias rule for elected municipal councillors is much less onerous than for judicial officers.[14] The reason for this is that elected members will often be familiar with issues that they are expected to vote on, and may indeed hold strong views in relation to them. The law has recognised this reality and taken the view that such circumstances should not invoke a strict application of the rule against bias.

32. The test to be applied is whether a fair-minded lay observer might reasonably apprehend that Cr Heley might not have brought an impartial and unprejudiced mind to her decision-making responsibilities. In the context, considering the size of the council area and the nature of the matter I think that a fair-minded observer might reasonably accept that Cr Heley brought an impartial and unprejudiced role to her decision making responsibilities, representing the residents of her estate and having regard to the practical need for the upgrade.

Opinion

In light of the above, my is that:

- Cr Heley did not breach the provisions of section 73 of the Local Government Act and did not act in a manner that was unlawful, unreasonable or wrong within the meaning of section 25(1) of the Ombudsman Act
- Cr Heley did not breach clause 3.13 of Part 3 of the Code of Conduct for council members.

Megan Philpot
ACTING SA OMBUDSMAN

1 July 2014

[13] *Johnson v Johnson* [2000] HCA 48 at 11.

[14] This paragraph and the next draw from the following publication by the Victorian Crown Solicitor's Office: http://vgso.vic.gov.au/content/administrative-decision-making-delegations-and-avoiding-bias-appendix#municipal.

District Council of Mallala	13.2.1 Corporate & Community Services Status Report
	Container No: CON12/1199 Document No: D14/16327
Report Date: 28 July 2014	Prepared by: General Manager, Corporate & Community Services

Corporate Objective:	1.2.2	Support and strengthen volunteers, community groups and organisations.
	1.3.1	Promote District sporting and community organisations and the availability and advantages of Council sporting and recreational facilities and programs.
	1.4.1	Promote and develop library services that support quality educational opportunities
	5.1.3	Ensure governance policies, procedures and activities align with legislative requirements and best practice.
	5.3.1	Provide and promote professional corporate and administrative services supporting Council operations and the needs of the community.
	5.5.2	Develop and maintain long term financial planning, management and reporting ensuring resources are provided to deliver services and manage Council's assets

Purpose:	To inform the Committee on the progress of Corporate and Community projects being undertaken by Council.

Recommendation:	"that the Council, having considered Item13.2.1 *Corporate & Community Services Status Report* dated 28 July 2014, receive the report."

Background

This report details the activities of the Corporate and Community Services team up to the month of July 2014

CORPORATE & COMMUNITY SERVICES		Status	Due Date
Special Projects			
Mallala CWMS	After authorisation from Council negotiations have been finalised with the Landowner for the sale of land & a right of entry to the property prior to settlement	Complete	Feb 2014
	Treatment Plant & Civil Works tenders & contracts have been approved with final sign off achieved	Complete	Feb 2014
Two Wells CWMS	Septic Tank Survey conducted from 25 to 28 September 2013 Final summary report to Council in the December round of meetings Resolution to consult community via a community meeting and Survey Project put on hold pending information from an external wastewater provider	In Progress	Unknown
Finance/IT			
Budget Reviews	1st Budget Review for the 2013/2014 financial year due as at 30 September 2013 2nd Budget Review as at 31 January 2014 adopted at the February 2014 Meeting 3rd Budget Review as at 30 April 2014 adopted at the 26 May 2014 Meeting	Complete	May 2014
Draft Annual Business Plan	Draft Timetable for the 2014/15 Annual Business Plan (ABP) adopted at the February Meetings Elected Member Workshop on Tuesday 22 April & 12 May to consider Budget Bids & Rating options for inclusion in Draft ABP Draft ABP presented for adoption for consultation at 26 May Council Meeting Consultation concluded Wednesday 18 June At the 23 June 2014 Ordinary Meeting the Annual Business Plan 2014/15 was adopted	In Progress	July 2014
Council IT Review	Council have committed to remain with Civica with a renewal of a managed service agreement for a period of 3 years on their new 'Cloud Solution'. Council has now been migrated to the new platform with testing continuing	In Progress	July 2014
Long Term Financial Plan	An updated Long Term Plan was adopted at the December 2013 Council Meeting	Complete	Dec 2013

Community Services			
Library Services Operating System	One Library Management System state wide project is underway in groups of councils DC Mallala went live with One LMS system (Horizon) 4 March 2014 One LMS Launch held Tuesday 25 March	Complete	Mar 2014
Library Events	Latest Library Author Event: Jane Paech presented on Friday 4 July at the Two Wells Bowling Club Very good feedback received from those that attended	In Progress	Jul 2014
Citizenship Ceremony	Citizenship Ceremony was held on Friday 21 March 2014 at the Council Chambers with eleven new citizens welcomed No citizenship ceremony was held on the scheduled day being Wednesday 9 July	In Progress	Jul 2014
Governance & Other			
Audit Committee	Audit Committee meeting held Thursday 1 May to consider second budget review, progress of the Draft Annual Business Plan 2014/15, Internal Controls Update etc Next meeting proposed to be scheduled August 2014 to consider adopted Annual Business Plan, Final Budget Review, 2013/14 financial statements and governance matters	In Progress	Aug 2014
Sale of Council Land	Back in March 2011 Council resolved to place Lot 3 Germantown Road, Redbanks on the market. The proposed sale is nearing finalisation with a confidential report tabled at the 28 April and 10 June Council meetings to authorise the signing of the land transfer documentation Settlement is expected during August 2014	In Progress	Jul 2014
Local Government Elections 2014	Local Government Elections are due to be held in November 2014. Summary information provided to members April 2014 meetings with a follow up report to the 14 July 2014 meeting	In Progress	Nov 2014

Summary

The activity report is presented to provide an indication as to the progress of projects being undertaken within the Corporate and Community Services team

District Council of Mallala	14 ITEMS FOR DECISSION
MONDAY 28 July 2014	

Items:

14.1 Treasury Management Review Report (CON12/473)

14.2 Fraud and Corruption Policy Review Report (CON12/473)

14.3 Representations and Regional Boards and Associations (CON12/1199)

14.4 Mallala CWMS – Grant of Easements (CON12/334)

District Council of Mallala	14.1 Treasury Management Policy Review Report	
	Container No: CON12/472 Document No: D14/11660	
Report Date: 28 July 2014	Prepared by: Governance Coordinator	
Corporate Objective:	5.5 Effective financial management that ensures Council's financial sustainability.	

Purpose:	To seek Councils endorsement of the Draft Treasury Management Policy (attached).

Recommendation 1:	"that the Council having considered Item 14.1 *Treasury Management Policy Report*, dated 28 July 2014, ratifies the Treasury Management Policy."

Impact Summary

Organisational and Governance	
Financial	While there are no financial implications, the policy review will provide improved administrative management and guidance for Council Members and staff.
Legislation	The review of this policy will ensure Council continues to meet the requirements of the *Local Government Act 1999* and Local Government (Financial Management) Regulations 1999.
Risk	The review of this policy is important in the risk and financial management of Councils financial administration. It will provide better guidance to Council Members and staff ensuring that Councils financial management is effectively managed, in-particular relating to treasury management.
Consultation	This policy has been consulted upon with Financial Management staff and at Councils 1 May 2014 Audit Committee meeting. Recommendations from that consultation are included in the attached draft.
Asset Management Plans	Nil.
Service Standards	The review of this policy will ensure the continued management of Councils financial and risk administration practices with the view to achieving best practice standards.

Background

Council adopted its current Treasury Management Policy in 2009 in accordance with the *Local Government Act 1999*.

Discussion

The changes within the draft Policy, as supported by the Audit Committee, are considered minor and of an administrative nature.

Summary

The review of this policy will ensure consistent and improved administrative practices in respect to Council's financial management.

Attachment 1
to report 14.1
dated 28 July 2014

Treasury Management Policy Review Report

District Council of Mallala	Treasury Management Policy	
	Version Adoption by Council: 2014 Resolution Number: 2014/ Current Version: V1.4	
	Administered by: General Manager Corporate & Community Services	Last Review Date: 2014 Next Review Date: 2016
TRIM CON: 12/472	Strategic Outcome 5.5: Effective financial management that ensure Council's financial sustainability.	

1. Objective

Council is committed to adopting and maintaining a Long Term Financial Plan and operating in a financially sustainable manner.

This Policy establishes a decision framework to ensure that:

- funds are available as required to support approved outlays;
- interest rate and other risks (e.g. liquidity and investment credit risks) are acknowledged and responsibly managed; and
- the net interest costs associated with borrowing and investing are reasonably likely to be minimised on average over the longer term.

2. Scope

This Policy provides clear direction to Council and staff in relation to the treasury function of Council. It underpins Council's decision-making regarding the financing of its operations as documented in its Annual Budget and Long Term Financial Plan and associated projected and actual cash flow receipts and outlays.

3. Specific Provisions / Responsibilities

3.1 Treasury Management Strategy

Councils operating and capital expenditure decisions are made on the basis of:

- identified community need and benefit relative to other expenditure options;
- cost effectiveness of the proposed means of service delivery; and
- affordability of proposals having regard to Councils long-term financial sustainability (including consideration of the cost of capital and the impact of the proposal on Councils Net Financial Liabilities and Interest Cover ratios).

Council will manage its finances in accordance with its overall financial sustainability strategies and targets. This means Council will:

- maintain target ranges for both its Net Financial Liabilities and Interest Cover ratios;
- not retain and quarantine money for particular future purposes unless required by legislation or agreement with other parties;
- borrow funds in accordance with the requirements set out in its Long Term Financial Plan; and
- apply any funds that are not immediately required to meet approved expenditure (including funds that are required to be expended for specific purposes but are not required to be

kept in separate bank accounts) to reduce its level of borrowings or to defer and/or reduce the level of new borrowings that would otherwise be required.

3.2 Interest Rate Risk Exposures

Council has set range limits for both fixed and variable interest rate borrowings in order to minimise net interest costs on average over the longer term and at the same time manage interest rate movement risks within acceptable limits.

3.3 Fixed Interest Rate Borrowings

To ensure an adequate mix of interest rate exposures, Council will restructure its portfolio of borrowings, as old borrowings mature and new ones are raised, to progressively achieve and thereafter maintain on average in any year, of not less than 30% of its gross debt in the form of fixed interest rate borrowings.

In order to spread its exposure to interest rate movements, Council will aim to have a variety of maturity dates on its fixed interest rate borrowings over the available maturity spectrum.

In circumstances where Council needs to raise new fixed interest rate borrowings it will consider using medium to long term borrowings (3 years or more duration) that:

- have a fixed interest rate;
- require interest payments only; and
- allow the full amount of principal to be repaid (or rolled over) at maturity.

Council will ensure that no more than 25% of its fixed interest rate borrowings mature in any year.

3.4 Variable Interest Rate Borrowings

Council will restructure its portfolio of borrowings, as old borrowings mature and new ones are raised, to progressively achieve, and then maintain, not less than 30% of its gross debt on average in any year in the form of variable interest rate borrowings.

Council will establish, and make extensive use of, a long term variable interest rate borrowing facility / LGFA's Cash Advance Debenture facility, that requires interest payments only and that enables any amount of principal to be repaid or redrawn at call. The redraw facility will provide Council with access to liquidity when needed.

3.5 Investments

Council funds that are not immediately required for operational needs and cannot be applied to either reduce existing borrowings or avoid the raising of new borrowings will be invested. The balance of funds held in any operating bank account that does not provide investment returns at least consistent with 'at call' market rates shall be kept at a level that is no greater than is required to meet immediate working capital requirements.

Council funds available for investment will be lodged 'at call' or, having regard to differences in interest rates for fixed term investments of varying maturity dates, may be invested for a fixed

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term. In the case of fixed term investments the term should not exceed a point in time where the funds otherwise could be applied to cost-effectively either defer the need to raise a new borrowing or reduce the level of Councils variable interest rate borrowing facility.

When investing funds Council will select the investment type that delivers the best value, having regard to investment returns, transaction costs and other relevant and objectively quantifiable factors.

Staff may from time to time invest surplus funds in:
- deposits with the Local Government Financing Authority; and/or
- bank interest bearing deposits.

Any other investment requires the specific approval of Council. Where Council authorises any investments of a type outside of those specified above, the amount so invested will be cumulatively limited to no more than 20% of the average level of funds expected to be available for investment by Council over the duration of the specific authorised investments.

3.6 Reporting

At least once a year Council shall receive a specific report regarding treasury management performance relative to this Policy. The report shall highlight:
- for each Council borrowing and investment - the quantum of funds, its interest rate and maturity date, and changes in the quantum since the previous report; and,
- the proportion of fixed interest rate and variable interest rate borrowings at the end date of the reporting period and an estimate of the average of these proportions across this period along with key reasons for significant variances compared with the targets specified in this Policy.

4. Related Documents

Annual Budget
Long Term Financial Plan

5. Records Management

All documents relating to this Policy will be registered in Councils Record Management System and remain confidential where identified.

6. Document Review

This Policy will be reviewed periodically to ensure legislative compliance and that it continues to meet the requirements of Council its activities and programs.

References

Local Government Act 1999

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Further Information

Members of the public may inspect this Policy free of charge on Councils website at www.mallala.sa.gov.au or at Councils Principal Office at:

2a Wasleys Rd, Mallala SA 5502
On payment of a fee, a copy of this policy may be obtained.

Any queries in relation to this Policy must be in writing and directed to the Finance Coordinator.

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District Council of Mallala	14.2 Fraud and Corruption Policy Review Report
	Container No: CON12/472 Document No: D14/11651
Report Date: 28 July 2014	Prepared by: Governance Coordinator
Corporate Objective:	5.5 Effective financial management that ensures Council's financial sustainability.

Purpose:	To seek Councils endorsement of the Draft Fraud and Corruption Policy (attached).

Recommendation 1:	"that the Council having considered Item 14.2 *Fraud and Corruption Policy Review Report*, dated 28 July 2014, ratifies the Fraud and Corruption Policy."

Impact Summary

Organisational and Governance	
Financial	While there are no financial implications, the implementation of this policy will provide improved administrative management and guidance for Council Members and staff in the area of fraud and corruption and will assist staff with regard to internal controls.
Legislation	This policy will ensure Council meets the requirements of the *Local Government Act 1999* and the *Independent Commissioner for Corruption Act 2012.*
Risk	This policy is designed to protect public funds and assets and the integrity, security and reputation of the Council. This policy outlines Council's approach to the prevention or minimisation, identification and control of fraudulent and/or corrupt activity and, summarises the associated responsibilities of Council Members and staff. It will provide guidance to Council Members and staff ensuring that Councils financial management is effectively managed.
Consultation	This policy has been consulted upon with Financial Management staff and at Council's 1 May 2014 Audit Committee meeting. Recommendations from that consultation are included in the attached draft.
Asset Management Plans	Nil.
Service Standards	This policy will ensure the continued management of Councils financial and risk administration practices with the view to achieving best practice standards.

Background

The Fraud and Corruption Policy is a newly proposed policy for Council and has been drafted following a circular from the LGA in September 2013 recommending that Council's update / implement their Fraud and Corruption Policies and associated framework, following the introduction of ICAC and proposed changes to the Mandatory Code of Conduct – Council Members. In addition, there were specific recommendations within the Tony Lawson Consulting Governance Audit in late 2013, which focused on fraud and corruption.

The recommendations from within that Audit have been considered within the draft policy. The draft has been developed following a review of the LGA Model Policy and documents from other Council's, and has been supported by the Audit Committee of Council.

Discussion

Nil.

Summary

The implementation of this policy will ensure consistent and improved administrative practices in respect to Council's financial management.

Attachment 1
to report 14.2
dated 28 July 2014

Fraud and Corruption Policy Review Report

District Council of Mallala	Fraud and Corruption Policy	
	Version Adoption by Council: 2014 Resolution Number: 2014/ Current Version: V1.0	
	Administered by: General Manager Corporate & Community Services	Last Review Date: 2014 Next Review Date: 2016
TRIM CON: 12/472	Strategic Outcome 5.5: Effective financial management that ensures Council's financial sustainability.	

1. Objective

Council is committed to acting in the best interest of the community and upholding the principles of honesty, integrity and transparency, which are all key components of good governance. Council recognises that fraud and corruption in public administration has the potential to cause significant financial and non-financial harm and that, therefore, the prevention and control of fraud and corruption should feature predominantly within the systems and procedures of Council.

2. Scope

This Policy applies to all disclosures that relate to the actual or suspected occurrence of fraud and/or corruption within Council.

3. Definitions

Appropriate Authority - one that receives disclosure of public interest information and includes:

- a Minister of the Crown;
- a member of the police force - where the information relates to an illegal activity;
- the Auditor-General – where the information relates to the irregular or unauthorised use of public money;
- the Ombudsman – where the information relates to a public officer;
- a Responsible Officer, where the information relates to a matter falling within the sphere of responsibility of a Local Government body; or
- any other person[1] to whom, in the circumstances of the case, it is reasonable and appropriate to make the disclosure[2].

Appropriate Disclosure - a person makes an appropriate disclosure of public interest information if:

(a) the person:

i. believes on reasonable grounds that the information is true: or

ii. is not in a position to form a belief on reasonable grounds about the truth of the information but believes on reasonable grounds that the information may be true and is of sufficient significance to justify its disclosure so that its truth may be investigated; and

(b) the disclosure is made to the Appropriate Authority.

[1] Such a person may include an independent company that offers an anonymous whistleblower call service.

[2] Where the disclosure relates to fraud and corruption, the Appropriate Authority must pass the information as soon as practicable to the Anti-Corruption Branch of the SA Police.

Corruption - in public administration means:

a) an offence against *Part 7 Division 4* (Offences relating to public officers) of the *Criminal Law Consolidation Act 1935*, which includes the following offences:
   (i) bribery or corruption of public officers;
   (ii) threats or reprisals against public officers;
   (iii) abuse of public office;
   (iv) demanding or requiring benefit on basis of public office;
   (v) offences relating to appointment to public office.
b) 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 an attempt to commit such an offence; or
c) any of the following in relation to an offence referred to in a preceding paragraph:
   (i) aiding, abetting, counselling or procuring the commission of the offence;
   (ii) inducing, whether by threats or promises or otherwise, the commission of the offence;
   (iii) being in any way, directly or indirectly, knowingly concerned in, or party to, the commission of the offence;
   (iv) conspiring with others to effect the commission of the offence.

Deception - means deceiving another to obtain a benefit or to cause detriment to a person.

Employee - is any person who is employed by the Council, but also includes any contractors, volunteers and consultants undertaking work for, or on behalf of the Council.

False Disclosure - is a disclosure of information involving actual or suspected fraud or corruption that is made by a person who knows the information to be false or, who is reckless as to whether it is false.

Fraud - is the use of misrepresentations, deception or dishonest conduct in order to obtain an unjust advantage over another or, to cause detriment to the Council. Examples of fraudulent conduct include:

- theft of assets;
- unauthorised and/or illegal use of assets, information or services for private purposes;
- misappropriation of funds; and/or
- falsification of records.

Independent Commissioner Against Corruption - means the person holding or acting in the office of the Independent Commissioner Against Corruption (ICAC).

Maladministration - in public administration defined at *Section 4* of the *Independent Commissioner Against Corruption Act 2012*,

(a) means:
   (i) conduct of a public officer, or a practice, policy or procedure of a public authority, that results in an irregular and unauthorised use of public money or substantial mismanagement of public resources; or
   (ii) conduct of a public officer involving substantial mismanagement in or in relation to the performance of official functions; and
(b) includes conduct resulting from impropriety, incompetence or negligence; and
(c) is to be assessed having regard to relevant statutory provisions and administrative instructions and directions.

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Misconduct - in public administration defined at *Section 4* of the *ICAC Act* 2012 means:

(a) contravention of a code of conduct by a public officer while acting in his or her capacity as a public officer that constitutes a ground for disciplinary action against the officer; or

(b) other misconduct of a public officer while acting in his or her capacity as a public officer.

Management - means any employee of Council who is responsible for the direct supervision of other employees, and/or, for the management of a Council Department.

Office for Public Integrity (OPI) - is the office established under the *ICAC Act 2012* that has the function to:

(a) receive and assess complaints about public administration from members of the public;

(b) receive and assess reports about corruption, misconduct and maladministration in public administration from the Ombudsman, the Council and public officers;

(c) make recommendations as to whether and by whom complaints and reports should be investigated;

(d) perform other functions assigned to the Office by the Commissioner.

Public Administration - defined at *Section 4* of the *ICAC Act 2012* means without limiting the acts that may comprise public administration, an administrative act within the meaning of the *Ombudsman Act 1972* will be taken to be carried out in the course of public administration.

Public Officer - defined under the *ICAC Act 2012* includes:

- a Council Member;
- an employee or Officer of the Council;
- a person who is a member of the State Executive of the Local Government Association; and
- an officer or employee of the Local Government Association.

Responsible Officer - is a person (or persons) authorised to receive and act upon public interest information provided by a Whistleblower[3]. Each Council must ensure that a member of the staff of the Council (with qualifications prescribed by the Regulations[4]) is designated as a Responsible Officer for the Council for the purposes of the *Whistleblowers Protection Act 1993*.

SAPOL - means the Anti-Corruption Branch of the South Australian Police Force.

Whistleblower - is any person who makes an appropriate disclosure of public interest information under the *Whistleblowers Protection Act 1993*.

Waste - refers to the waste of public resources (including public money), which occurs as a result of the substantial mismanagement, irregular or, unauthorised use of public resources.

[3] The LGA Model Policy recommends that the Responsible Officer is one or two Council Officers (with qualifications prescribed by the Regulations, as required under s.302B of the *Local Government Act 1999*) and is not the Chief Executive Officer, the Mayor or Council Member or a Council Committee. A Council Member should not be appointed as a Responsible Officer as Council Members are not equipped to properly deal with an appropriate disclosure in terms of the roles and responsibilities of office. Furthermore the Responsible Officer is an administrative role and the principles of good governance require division between the administrative and governing bodies of a Council.

[4] Regulation 21B of the *Local Government (General) Regulations 1999*, states that the prescribed qualifications are the qualifications determined by the Minister. The Minister has not yet made any determination.

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4. Policy Statement

This Policy is designed to protect public funds and assets and the integrity, security and reputation of the Council. This Policy outlines Councils approach to the prevention or minimisation, identification and control of fraudulent and/or corrupt activity and, summarises the associated responsibilities of Council Members and employees. A breach of this policy is a breach against the respective Mandatory Code of Conduct – Council Members and Mandatory Code of Conduct - Council Employees.

Council will not tolerate fraudulent or corrupt activity and is committed to its control and prevention by:

- complying with the requirements of the *ICAC Act 2012*;
- establishing and maintaining an effective system of internal controls and enforcing compliance with those controls;
- regularly undertaking risk assessments to identify circumstances in which fraud and corruption could potentially occur;
- implementing fraud and corruption prevention and mitigation strategies in its day to day operations;
- taking appropriate action in response to allegations of fraudulent and/or corrupt activity including, reporting allegations in accordance with the *ICAC Act 2012* and the reporting system established by the Independent Commissioner Against Corruption under *Section 18* of the *ICAC Act 2012* and where allegations are substantiated, in addition to applicable criminal sanctions, may take disciplinary action in accordance with the respective Mandatory Codes of Conduct;
- ensuring all Council Members and employees are aware of their obligations in regards to the prevention of fraud and corruption within Council and its inclusion in the induction process;
- active participation in training, development and evaluation of practices relevant to fraud and corruption;
- fostering an ethical environment in which dishonest and fraudulent behaviour is actively discouraged; and
- generating community awareness of the Council's commitment to the prevention of fraud and corruption.

5. Specific Provisions / Responsibilities

The Council recognises that:

- the occurrence of fraud and corruption will prevail in an administrative environment where opportunities exist for waste, abuse and maladministration; and
- the most effective way to prevent the occurrence of fraud and corruption is to promote an ethical environment in which internal control mechanisms have been implemented.

Council expects that Council Members and employees will assist in preventing fraud and corruption within Council by:

- understanding the responsibilities of their position;
- familiarising themselves with the Councils policies and procedures and adhering to them;

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- understanding what behaviour constitutes fraudulent and/or corrupt conduct;
- maintaining an awareness of the strategies that have been implemented by Council to minimise fraud and corruption;
- being continuously vigilant to the potential for fraud and corruption to occur; and
- reporting suspected or actual occurrences of fraud or corruption, in the first instance, to the OPI in accordance with its reporting requirements or in the absence of any specific required reporting requirement, to either a Responsible Officer, or directly to SAPOL.

6. Specific Responsibilities

Collectively, Council Members are responsible for ensuring that Council:

- promotes community awareness of the Councils commitment to the prevention of fraud and corruption;
- provides adequate security for the prevention of fraud and corruption. This includes the provision of secure facilities for storage of assets, and procedures to deter fraudulent or corrupt activity from occurring;
- provides mechanisms for receiving allegations of fraud or corruption, including by ensuring a Responsible Officer is appointed;
- ensures that, where appropriate, proper investigations are conducted into allegations that involve fraud or corruption;
- forwards information relating to the occurrence of fraud or corruption to SAPOL or the OPI (as required) and facilitates cooperation with any investigation;
- promotes a culture and environment in which fraud and corruption is actively discouraged and is readily reported should it occur; and
- undertakes a fraud and corruption risk assessment on a regular basis.

Management is responsible for:

- ensuring that all employees are aware of their responsibilities in relation to fraud and corruption through the provision of appropriate and regular induction and training;
- the conduct of any employee whom they supervise and, will be held accountable for such;
- any property under their control and, will be held accountable for such;
- reporting any suspected or actual occurrences of fraud or corruption within the Council in accordance with any mandatory reporting obligations for such matters as established by the Commissioner or otherwise to the CEO, unless the disclosure falls within the ambit of the *Whistleblowers Protection Act 1993* and, in which case, is to be made to the Responsible Officer;
- creating an environment in which fraud and corruption is discouraged and readily reported by employees. Such an environment shall be fostered by the Leadership Groups own attitude and behaviours to fraud and corruption and, by the accountability and integrity they display and encourage from other employees;
- ensuring that new employees for whom they are responsible are aware of their responsibilities in relation to fraud and corruption and, of the standard of conduct expected from all employees; and
- identifying potential fraud and corruption risks.

Employees are responsible for:

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- performing their functions and duties with care, diligence, honesty and integrity;
- conducting themselves in a professional manner at all times;
- adhering to this Policy and any associated procedures that have been established to prevent fraud or corruption;
- taking care for Councils property which includes avoiding the waste or misuse of the Councils resources;
- maintaining and enhancing the reputation of Council;
- remaining scrupulous in the use of Council information, assets, funds, property, goods or services; and
- reporting any occurrence of fraud or corruption within the Council in any manner required by any applicable mandatory reporting obligations established by the Commissioner or otherwise to management including the CEO, unless the disclosure falls within the ambit of the *Whistleblowers Protection Act 1993* and, in which case, is to be made to the Responsible Officer.

7. Fraud and Corruption Risk Assessment Process

Councils main objective in the prevention and control of fraud and corruption is to minimise the occurrence of such within Council. This objective will be achieved by:

- identifying fraud and corruption risks;
- determining strategies to control those risks; and
- defining responsibilities and time frames within which the strategies will be implemented.

Management must be alert to the potential of fraud and corruption to occur and remain weary of factors which may leave Council vulnerable to fraud and corruption, including:

- changes to Council delegations;
- implementation of cost cutting measures;
- contracting out and outsourcing of work;
- the impact of new technology; and
- changes to risk management practices.

8. Reporting and Investigation

Employees who are aware of fraudulent or corrupt activity within Council are required to report this information in a manner recognised by this Policy being in accordance with any mandatory reporting requirements established by the ICAC or otherwise to either a member of Management, including the CEO or otherwise in a manner consistent with the provisions of the *Whistleblowers Protection Act 1993*. As necessary, the CEO will then ensure there is compliance with any reporting obligations as required by the OPI.

Any Council Member who is aware of fraudulent or corrupt activity within the Council is required to report this information in accordance with any mandatory reporting obligations established by the ICAC or otherwise to the Mayor and/or the CEO. If the report is made to the Mayor, the Mayor must immediately make known the report to the CEO.

The CEO must report any allegations involving fraud or corruption to the Anti-Corruption branch of SAPOL or the OPI in accordance with its reporting requirements.

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Appropriate disclosure of public interest information that falls within the ambit of the *Whistleblowers Protection Act 1993* should be reported to the Responsible Officer. The Responsible Officer will ensure that any allegations of fraud or corruption are, in the first instance, referred to the Anti-Corruption branch of SAPOL in accordance with the *Whistleblowers Protection Act 1993*.

When the Anti-Corruption branch of SAPOL or the OPI refer a report of alleged fraudulent or corrupt activity to the Council because SAPOL or the OPI have formed the view that the activity does not amount to fraud or corruption, the Council will conduct a review of the report in accordance with its own internal investigation practices and will report any findings of the review and provide recommendations (if any) to Council.

Following any investigation undertaken by the Anti-Corruption branch of SAPOL or ICAC the CEO will ensure a review into the area of which the fraud or corruption occurred is undertaken to determine the cause for the breakdown in controls and, will report the findings of the review and provide recommendations (if any) to Council.

Following consideration of a report provided to Council, the Council will determine the action that is required to be taken to prevent any recurrence of the alleged or actual fraud or corrupt activity.

In the event that allegations of fraudulent or corrupt activity are substantiated, the Council will take disciplinary action against any employee who was involved.

9. False Disclosure

A person who knowingly makes a false or misleading statement in a complaint or report under the *ICAC Act 2012* or makes a false or misleading disclosure, under the *Whistleblowers Protection Act 1993,* is guilty of an offence.

An employee who makes a false disclosure, in addition to being guilty of an offence, may face disciplinary action that may include instant dismissal.

10. Induction and Awareness

The Council recognises that the success and credibility of this Policy will depend upon the effectiveness that it is communicated throughout the organisation and beyond.

Council will, therefore, from time to time take proactive steps towards ensuring that the wider community is aware of the Council's zero-tolerance stance towards fraud and corruption.

Council will increase community awareness by:

- promoting the Councils initiatives and policies regarding the control and prevention of fraud and corruption on the Councils website and at Council's offices; and
- facilitating public access to all of the documents that constitute the Councils fraud and corruption framework.

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11. Related Documents

Asset Financial Management Policy
Asset Management Policy
Council Members Allowances and Benefits Policy
Council Members Code of Conduct Breaches Procedure
Gifts and Benefits Policy
Internal Control Procedures
Mandatory Code of Conduct - Council Members
Mandatory Code of Conduct - Council Employees
Risk Management Framework
Tenders and Purchasing Policy
Whistleblower Policy

12. Records Management

All documents relating to this Policy will be registered in Councils Record Management System and remain confidential where identified.

13. Document Review

This Policy will be reviewed periodically to ensure legislative compliance and that it continues to meet the requirements of Council its activities and programs.

14. References

Criminal Law Consolidation Act 1935
Independent Commissioner Against Corruption Act 2012
Local Government Act 1999
Ombudsman Act 1972
Whistleblowers Protection Act 1993

Further Information

Members of the public may inspect this Policy free of charge on Councils website at www.mallala.sa.gov.au or at Councils Principal Office at:

2a Wasleys Rd, Mallala SA 5502
On payment of a fee, a copy of this policy may be obtained.

Any queries in relation to this Policy must be in writing and directed to the Governance Coordinator.

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District Council of Mallala	14.3 Representation at Regional Boards and Associations
	Container No: CON 12/1199 Document No: D14/16185
Report Date: 28 July 2014	Prepared by: Chief Executive Officer
Corporate Objective:	5.1.4 Support strategic alliances, stakeholder forums and advisory committees that assist Council in policy development and service planning

Purpose:	To seek Council endorsement of membership to regional boards and associations following the resignation of the Chief Executive Officer

Recommendation 1:	"that the Council having considered Item 14.3 *Representation at Regional Boards and Associations* dated *28 July 2014* endorse Mr Gary Mavrinac as the interim representative of Council to the Gawler River Floodplain Management Authority board."
Recommendation 2:	"that the Council having considered Item 14.3 *Representation at Regional Boards and Associations* dated *28 July 2014* endorse Mr Peter Sellar as the interim representative of Council to the Regional Development Australia – Barossa board."

Impact Summary

Organisational and Governance	
Financial	No impact
Legislation	No impact
Risk	It will be important that Council nominate a representative from Council to ensure Council's views are represented at the relevant organisations
Consultation	No impact
Asset Management Plans	No impact
Service Standards	No impact

Background

The Chief Executive Officer represents Council on a number of regional boards and organisations. Following his resignation Council is asked to consider nominating alternate representation until the permanent Chief Executive Officer is recruited.

This report provides a summary of current representation and seeks Council resolution on those representations requiring Council approval.

Membership Summary and Recommendations

The following are the organisations that the Chief Executive Officer participates as representative of Council and proposed actions to fill in for the interim period.

Organisation	Comment
Gawler River Floodplain Management Authority	The Chief Executive Officer is a current member of the GRFMA along with Cr Picard and Cr Summerton as proxy. Council would be required to nominate another staff member. It is recommended that Gary Mavrinac be nominated due to the focus of the authority on infrastructure and planning issues associated with managing the floodplain. The Chief Executive Officer is also a member of the GRFMA Audit Committee but this is resolved by the GRFMA Board.
Central Region Local Government	The Chief Executive Officer and the Mayor both attend this regional organisation. The Mayor is the voting delegate with the Chief Executive Officer attending in support. The Chief Executive Officer also attends a CEO Forum of constituent member councils. No resolution is required by Council and the Acting Chief Executive Officer will attend
Wakefield Group	A group consisting of the Councils within the federal seat of Wakefield. Membership consists of Chief Executive Officers and Mayors. No resolution is required by Council and the Acting Chief Executive Officer will attend.
Regional Development Australia – Barossa	RDAB is an organisation that focuses on both economic and community development outcomes across the Barossa Region (Mallala, Light, Gawler & Barossa). RDAB is unique in that all four councils have representation on the board unlike other

	RDAs. The Chief Executive Officer sits on the board as nominated by Council but the appointment still requires Federal Government endorsement. It is recommended that the Acting Chief Executive Officer is nominated during the interim period.
Nc21 (Northern Connections)	A state government focussed regional group consisting of Mallala, Light, Gawler, Salisbury & Playford and representatives from Northern Connections. Membership of the committee is the Council CEOs. The Mayor also attends a Mayor Forum. No resolution is required by Council and the Acting Chief Executive Officer will attend.

Summary

Council is asked to note the current membership of regional organisations and resolve where required an interim representative to attend on behalf of Council.

District Council of Mallala	14.4 Mallala CWMS – Grant of Easements	
	Container No:	CON12/334
	Document No:	CON12/16331
Report Date: 28 July 2014	Prepared by:	General Manager Corporate and Community Services
Corporate Objective:	4.2.3	*Plan, manage and regulate Community Wastewater Management Schemes (CWMS) in townships*

Purpose:	To provide members with information prepared by Duncan Sande and Associates (Registered Conveyancers) regarding the preparation of two Grant of Easements, for the purpose of Effluent Drainage Purposes, as part of the Mallala CWMS Project.

Recommendation:	"that the Council, having considered Item 14.4 *Mallala CWMS – Grant of Easements* dated 24 July 2014, authorise the Mayor and Chief Executive Officer to sign and affix the common seal to the following Grant of Easements: - Grant of Easement by Minister for Transport and Infrastructure, for Effluent Pump Station Purposes and also Grant of Easement for Effluent Drainage Pipe Purposes - Grant of Easement by the Australian Rail Track Corporation Ltd., (ARTC) for Effluent Drainage Pipe Purposes."

Impact Summary

Organisational and Governance	
Financial	Cost of the Grant of Easement work is part of the budgeted Mallala CWMS Project
Legislation	Process pursuant to Section 96 of the Real Property Act 1886
Risk	Nil
Consultation	Nil
Asset Management Plans	Nil
Service Standards	Nil

Background

As part of the Mallala CWMS project easements were required over land owned and occupied by the Minister for Transport and Infrastructure and Australian Rail Track Corporation (ARTC) for the purposes Effluent Drainage Pipework location. The easements in question are predominately over the rail corridor in Mallala and Cameron Terrace.

Discussion

Two Grant of Easements have been prepared for Council and the other parties involved to sign and in Council's case to seal the documentation as part of the execution. Details of the Grant of Easements are as follows:

Grant of Easement by Minister for Transport and Infrastructure
This grant of easement is over lots 84 and 86 near the rail corridor for effluent drainage pipe purposes and over lot 85 on Cameron Terrace for the placement of an effluent pump station

Grant of Easement by Australian Rail Track Corporation (ARTC)
This grant of easement is lot 83 of the rail corridor for effluent drainage pipe purposes

Copies of both Grant of Easement documentation (Attachment 1) includes maps of the locations of the easements.

Summary

After Council authorises the Mayor and Chief Executive Officer to sign and execute the common seal, the documents will be returned to the Registered Conveyancer to forward to the Minister and ARTC for their execution as the Grantors.

Attachment 1
to report 14.4
dated 28 July 2014

Mallala CWMS – Grant of Easements

Form TG

Guidance Notes available

GRANT OF EASEMENT

(Pursuant to Section 96 of the Real Property Act 1886)

CERTIFICATE(S) OF TITLES OVER WHICH RIGHTS AND LIBERTIES ARE BEING GRANTED

The whole of the land comprised in Certificates of Title Volume 6062 Folios 502 and 503

ESTATE AND INTEREST

FEE SIMPLE

ENCUMBRANCES

Encumbrance No. 11305316 to Australian Rail Track Corporation Ltd.

GRANTOR(S) (Full name and address)

MINISTER FOR TRANSPORT AND INFRASTRUCTURE
of Adelaide SA 5000

Please sign and return to me

CONSIDERATION

NIL (value does not excedd $100)

GRANTEE(S) (Full name, address and Certificate of Title affected)

DISTRICT COUNCIL OF MALLALA ABN 58 384 968 672
of PO Box 18, MALLALA SA 5502

(easement in gross)

Printed by Duncan Sande & Associates on 1 Jan 2011

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY

The **Grantor** hereby grants to the **DISTRICT COUNCIL OF MALLALA** (the grantee)

FIRST :

A full free and unrestricted right and liberty of egrees and regress from time to time and at all times hereafter for "the grantee", and its agents servants and workmen with or without vehicles plant and equipment and materials in through over across and along that portion of allotment 85 marked D in Filed Plan No. FX 59041, for **EFFLUENT PUMP STATION PURPOSES** to construct, install, maintain, repair and/or replace a EFFLUENT PUMP STATION and all associated pumping plant and such additional equipment, machinery fittings or other fittings (if any) as shall be necessary to enable the pumping plant to perform the function of drawing and pumping waste water and liquids within the EFFLUENT PUMP STATION and to construct all associated batter, levee or embankment or similar earthworks required to support, protect and/or restrict the flow of liquids associated with the EFFLUENT PUMP STATION to be constructed on the said portion marked D, and any construction equipment or materials built or placed at any time on the portion marked D ; AND ALSO a full free and unrestricted right and liberty of access, egress and regress for "the grantee", and its agents servants and workmen to construct, maintain, repair and/or replace any batter, levee or embankment or similar earthworks, on that portion of allotment 85 marked D in Filed Plan No. FX 59041, of such type, design, materials and engineering, as "the grantee" shall determine

SECONDLY :

A free and unrestricted right of way and liberty for "the Grantee" and "the Grantee's" agents, contractors, servants, and workpersons from time to time and at all times hereafter, to enter, re-enter, pass and repass with or without vehicles or machines, laden or unladen along and over and to be upon all that portion of allotment 84 marked E in Filed Plan No. FX59041, namely to break the surface of, dig, open up and use that portion of allotment 84 marked E in Filed Plan No. FX59041, for **EFFLUENT DRAINAGE PIPE PURPOSES**, including but not limited to, laying down, fixing, taking up, repairing, re-laying or examining pipes, and of using and maintaining those pipes for **EFFLUENT DRAINAGE PIPES PURPOSES** and to enter the said land herein described (if and when necessary with vehicles and equipment) for any of those purposes

TO BE HELD APPURTENANT TO:-

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

NIL, the easements granted herein, are **Easements in Gross**

1. The Easements are subject to the following conditions, being conditions that qualify the rights granted under this Easement and that are an intrinsic part of those rights, so that the rights can only be exercised subject to and in accordance with such conditions, they being intended to ensure the safe and uninterrupted operation of any Railway affected by this Easement,

(see attached Annexures being pages 3 to 7 inclusive)

To be completed by lodging party	NUMBER
ANNEXURE to TG dated	Office use only
over Certificate of Title Volume: 6062 Folio: 502 & 503	

GRANTEE'S COVENANTS

Obligations to Grantor

2. The Grantee hereby covenants with the Grantor:-

2.1 To exercise its rights under this Easement in accordance with its obligations set out in this Grant of Easement.

2.2 Not to use, or allow the Land subject to this Easement to be used other than for the purpose of exercising its rights under this Easement

2.3. Whenever the Grantee its servants agents workmen and other persons authorised by the Grantee interferes with the surface of the Land or Infrastructure subject to this Easement the Grantee will at its own cost and expense as soon as reasonably practicable thereafter restore and re-instate the surface and Infrastructure to its former state to the satisfaction of the Grantor

2.4 The Grantee will not be liable for damages, costs, losses and expenses to the extent that they are caused by the Grantor's negligence.

Release

3. The Grantee agrees that it uses the Land subject to this Easement at its own risk.

4. The Grantee releases the Grantor, to the full extent allowed at law from all claims arising out of the Grantee's exercise of its rights or the performance or non-performance of its obligations under this Easement.

5. Clause 4 does not apply to the extent that the claim arises out of the Grantor's negligence.

Grantee's obligations to the Rail Operator

6. **Rail Safety National Law South Australia) Act 2012**
The exercise of any right and the performance of any obligation by the Grantee shall be in accordance with such Australian Standards as may be applicable including but not limited to Australian Standard AS 4799 (Installation of underground utility services within Railway boundaries) and all applicable safety standards with which the Rail Operator is obliged to comply under the Rail Safety National Law (South Australia) Act 2012 (including, without limitation, Standard AS 4292 (Railway Safety Management) and such other requirements of the Grantor or the Rail Operator as may be necessary or appropriate and in all respects in accordance with the Rail Safety National Law (South Australia) Act 2012.

To be completed by lodging party	NUMBER
ANNEXURE to TG dated	Office use only
over Certificate of Title Volume: 6062 Folio: 502 & 503	

7. Consent required for work affecting Railway

The Grantee must not, without the prior written approval of the Rail Operator, undertake any Activity on the Land if the activity would cause or is likely to cause harm to the environment, place at risk or threaten the safety or operational integrity of Railway Operations on the Land.

The Grantee indemnifies the Rail Operator for all costs, liability, loss and damage incurred or suffered by the Rail Operator caused or contributed to by the Grantee's failure to comply with this clause.

8. Grantee to observe standards and minimise interruption

The Grantee must exercise its rights and perform its obligations under this Easement:

(a) in accordance with good engineering practice and any applicable industry standards;
(b) in accordance with the systems, standards and procedures for the time being established by the Rail Operator in relation to rail safety in accordance with Australian Standard AS4292, any other applicable safety standard or the Rail Safety National Law (South Australia) Act 2012; and
(c) to avoid, so far as reasonably practical, interference with enjoyment of the Land by persons lawfully entitled to use it, and
(d) to comply with such safe working conditions and other rules relating to safety and other procedures on the Land subject to this Easement as apply from time to time and as are notified in writing to the Grantee by the Rail Operator

9. Notice to the Rail Operator before entry

Subject to Clause 15 except in the case of an emergency, before entering upon the Land to undertake an activity under this Easement, the Grantee must give at least ten (10) business days written notice to the Rail Operator (or such shorter period as the Rail Operator may agree in writing to accept in any particular instance) specifying the activity concerned. In the event of an emergency (i.e. circumstances making it necessary for the Grantee to undertake an activity without delay in order to avoid injury to persons or damage to property), before entering upon the Land the Grantee must give oral notice by telephone to a contact person notified to the Grantee from time to time for this purpose by the Rail Operator and receive oral approval to proceed onto the Land. The Grantee must confirm that oral notice in writing as soon as is practicable and not later than the next business day.

10. Timing and content of notice

Each oral and written notice to be given under Clause 10 must specify:

(a) the activity to be undertaken;
(b) the time and date of the proposed entry upon the Land;
(c) the length of time the Grantee proposes to remain on the Land to undertake and complete the activity concerned;
(d) a reasonable indication (sufficient to enable the Rail Operator to assess the likely impact of the activity on the use of the Land) and the requirement to engage a Rail Safety Worker) of the number of persons and the items of equipment proposed to be employed for the purpose.

To be completed by lodging party	NUMBER
ANNEXURE to TG dated	Office use only
over Certificate of Title Volume: 6062 Folio: 502 & 503	

11. Further Information

The Grantee must provide promptly any further information that the Rail Operator may in writing request and must inform the Rail Operator in writing promptly should the Grantee become aware that information provided to the Rail Operator was or has become incorrect or otherwise misleading in a material respect.

12. Rail Safe Worker

All persons entering upon the Land to engage in an activity under this Easement where the activity is within 4 metres of either side of any railway track shall conduct the activity under the supervision of a qualified Railway Safety Worker appointed by the Rail Operator to be engaged by the Grantee at the Grantee's own expense. The Grantee must (whether in an emergency or otherwise) comply with such other reasonable safe working conditions and rules relating to safety and other procedures on the Land subject to this Easement as apply from time to time and as are notified in writing to the Grantee by the Rail Operator.

13. Right to direct timing of certain activities

The Grantee must observe all written directions that may be given by the Rail Operator as to the date or dates and the time or times when the Grantee may or may not enter onto the Land to undertake any activity permitted by this Easement.

14. Electrified Railway

Subject to the provisions of this Easement if Electrified Railway Operations occur or are to occur within the Land or adjacent to the Land that is subject to this Easement the Grantee must not enter or allow the Grantee's representative, agent or contractor to enter the Rail corridor at any time including in an emergency, without giving prior notice of the intention to access the Land to the Rail Operator in accordance with Clause 9 of this Easement.

15. Risk Assessment

15.1 Subject to clause 15.2, should the Grantee propose to undertake any works within 4 metres of either side of any railway (even if the works are to be undertaken more than 4 metres above or below the surface of the Land), the works shall not be commenced unless and until the Grantee and the Rail Operator have undertaken the procedures for identifying risks associated with the proposed works in accordance with Australian Standard AS 4292 and any other standard applicable to the Rail Operator under the *Rail Safety National Law (South Australia) Act 2012* and all risks so identified have been eliminated or controlled to the satisfaction of the Rail Operator acting reasonably.

15.2 If the Grantee acting in the utmost good faith believes that the Rail Operator has failed to act reasonably (including in a reasonably timely fashion) in undertaking the procedures for identifying, eliminating and controlling risks with the Grantee in accordance with clause 15.1. then the Grantee may serve notice in writing of such belief on the Rail Operator

To be completed by lodging party	NUMBER
ANNEXURE to TG dated	Office use only
over Certificate of Title Volume: 6062 Folio: 502 & 503	

15.3 If after service of the notice referred to in clause 15.2, the Grantee and the Rail Operator have not complete the procedures for identifying, eliminating and controlling risks with the Grantee in accordance with clause 15.1 within three (3) months of the date of such notice, then notwithstanding clause 15.1 the Grantee may undertake the relevant works as proposed however the Grantee must use its best endeavours to identify the risks associated with the proposed works in accordance with Australian Standard AS 4292 and any other standard applicable to the Rail Operator under the *Rail Safety National Law (South Australia) Act 2012* and eliminate or control all risks so identified.

16. Responsibility for risk and indemnity to Grantor

In engaging in any activity under this Easement, the Grantee is to be responsible for all risks arising out of engaging in the activity (including, without limitation, all risks of injury to persons or damage to property), is to make good promptly all damage caused by engaging in the activity and is to indemnify the Grantor and/or the Rail Operator against all costs, losses (including any consequential or indirect loss, economic loss or loss of profits), damages, causes of action, liability, claims, proceedings, suits or demands (whether present or future, fixed or unascertained, actual or contingent and whether at law, in equity, under statute or otherwise) incurred, suffered, alleged, brought or made against the Grantor and/or Rail Operator as a consequence of the Grantee engaging in the activity.

17. Taxes and Duties

All taxes, duties and impositions in respect of this instrument shall be paid by the Grantee and the Grantor shall be indemnified against all such taxes, duties and impositions. Should the Grantee be liable to pay any Goods and Services Tax or similar taxes on supplies made under this instrument, the Grantee must (subject to the issue of a Tax Invoice) pay or reimburse the amount of the tax to the Grantor

18. Interpretation *(see next page)*

To be completed by lodging party	NUMBER
ANNEXURE to TG dated	Office use only
over Certificate of Title Volume: 6062 Folio: 502 & 503	

18. Interpretation

In this Easement :

"Electrified Railway Operations" means any Infrastructure or Rolling Stock which is powered or driven by electric power.

"Grantor" shall mean and include the Minister for Transport, and any authorised officer of the Department of Transport Energy and Infrastructure, or such other person or body as the Minister may nominate from time to time;

"Business Day" means a day that is not a Saturday, Sunday or public holiday in South Australia;

"claim" includes any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, inequity, under statute or otherwise;

"Infrastructure" means
(a) fixed railway infrastructure as defined in the *Railways (Operations and Access) Act 1997*
(b) any fixed railway infrastructure used for the purposes of Electrified Railway Operations
(c) all existing pipes, cables and gantries

"loss" includes any damage, loss, cost, claim or expense including any consequential or indirect losses, economic losses or loss of profits;

"Pipes" means pipes, sewers, effluent systems, drains and other works installed on or beneath the surface of the Land by the Grantee whether before or after the date of this Easement;

"Railway" has the same meaning as it has in the *Rail Safety National Law (South Australia) Act 2012*,

"Rail Operator" has the same meaning as "operator" in section 4 of the *Railways (Operations and Access) Act 1997*,and

"Rolling Stock" has the same meaning as it has in the *Rail Safety National Law (South Australia) Act 2012*.

CONSENT TO THE GRANT OF AN EASEMENT

CONSENTING PARTY (Full Name and Address)

AUSTRALIAN RAIL TRACK CORPORATION LTD. ABN 75 081 455 754
Passenger Terminal Road, off Sir Donald Bradman Drive, MILE END SA 5031

NATURE OF ESTATE OR INTEREST HELD
Estate as Encumbrancee pursuant to Encumbrance No. 11305316

I/We the consenting party consent to the

(1)* discharge of *Encumbrance / ~~*Mortgage~~ 11305316 over the easement being granted pursuant to Section 144 of the Real Property Act 1886.

(2)* ~~granting of the easement subject to *Encumbrance / *Mortgage~~ No. 11305316 pursuant to Section 90F of the Real Property Act 1886.

* Delete the inapplicable

DATED

EXECUTION BY CONSENTING PARTY

Executed by

AUSTRALIAN RAIL TRACK CORPORATION LTD.
was hereunto affixed in the presence of by authority of the Director(s) and in accordance with Section 127 of The Corporations Act 2001

.....
Director

.....
Please print name

.....
Director/Secretary

.....
Please print name

Printed by Duncan Sande & Associates on 1 Jan 2011

Ordinary Council - Agenda

28 July 2014

PURPOSE:	EASEMENT	AREA NAME:	MALLALA	APPROVED:	FX59041
MAP REF:	6629/41/R	COUNCIL:	THE DISTRICT COUNCIL OF MALLALA	FILED:	SHEET 1 OF 3
LAST PLAN:		DEVELOPMENT NO:			42657_text_01_v01_Version_1

AGENT DETAILS: MOSEL STEED
23 SYDENHAM ROAD NORWOOD SA 5067
6 GRAVES ST KADINA SA 5554
PH: 08 8362 7900
FAX: 08 8363 5154

AGENT CODE: MSKOP

REFERENCE: A14043F1.1/CGM

SURVEYORS CERTIFICATION:

SUBJECT TITLE DETAILS:

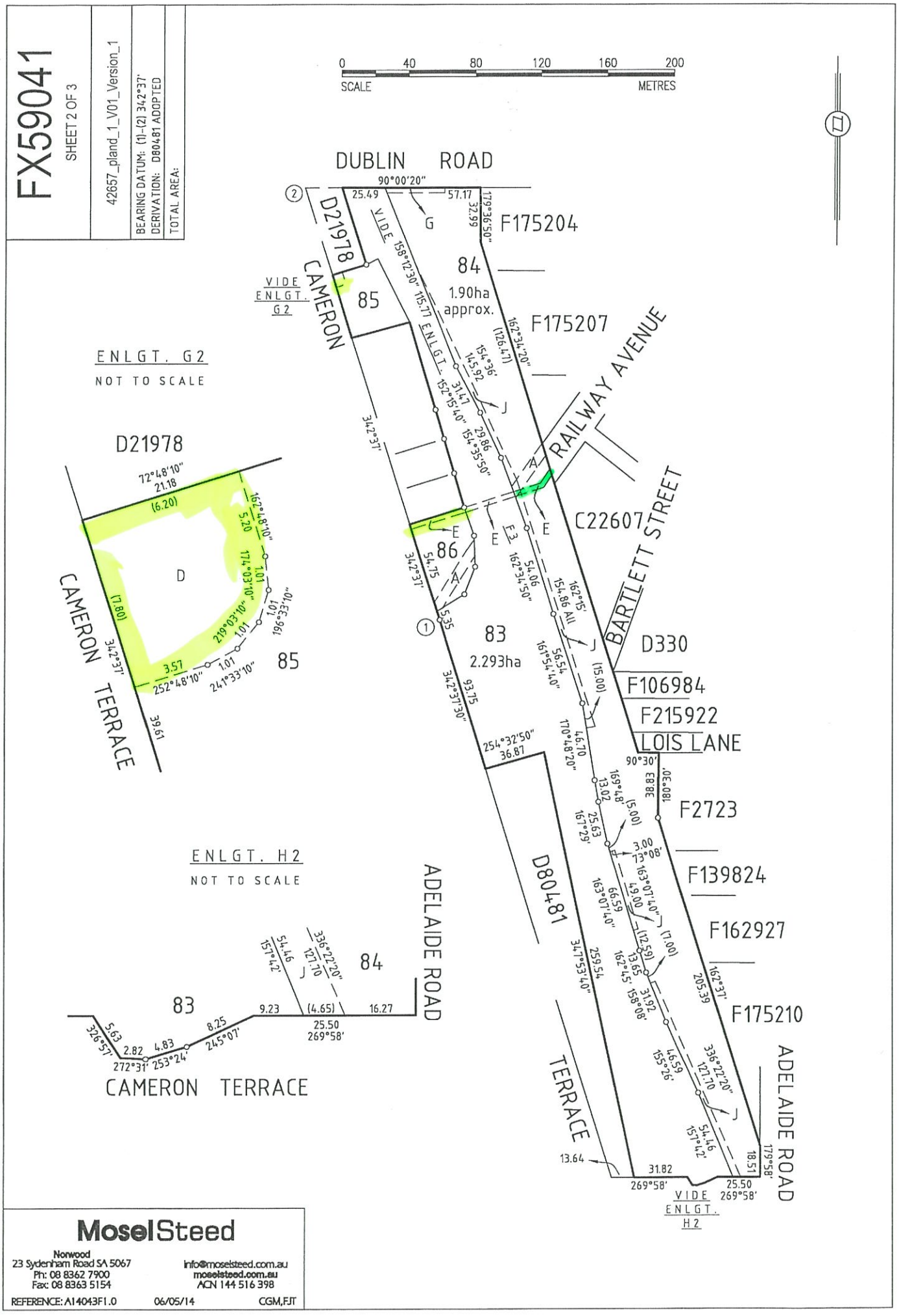
PREFIX	VOLUME	FOLIO	OTHER	PARCEL	NUMBER	PLAN	NUMBER	HUNDRED / IA / DIVISION	TOWN	REFERENCE NUMBER
CT	6062	502		ALLOTMENT(S)	84	D	80481	GRACE		SECTION 276
								GRACE		SECTION 277
PT CT	6062	503		ALLOTMENT(S)	85	D	80481	GRACE		SECTION 276
				ALLOTMENT(S)	86	D	80481	GRACE		SECTION 276
										SECTION 277
PT CT	6091	673		ALLOTMENT(S)	83	D	80481	GRACE		SECTION 276
								GRACE		SECTION 277

OTHER TITLES AFFECTED:

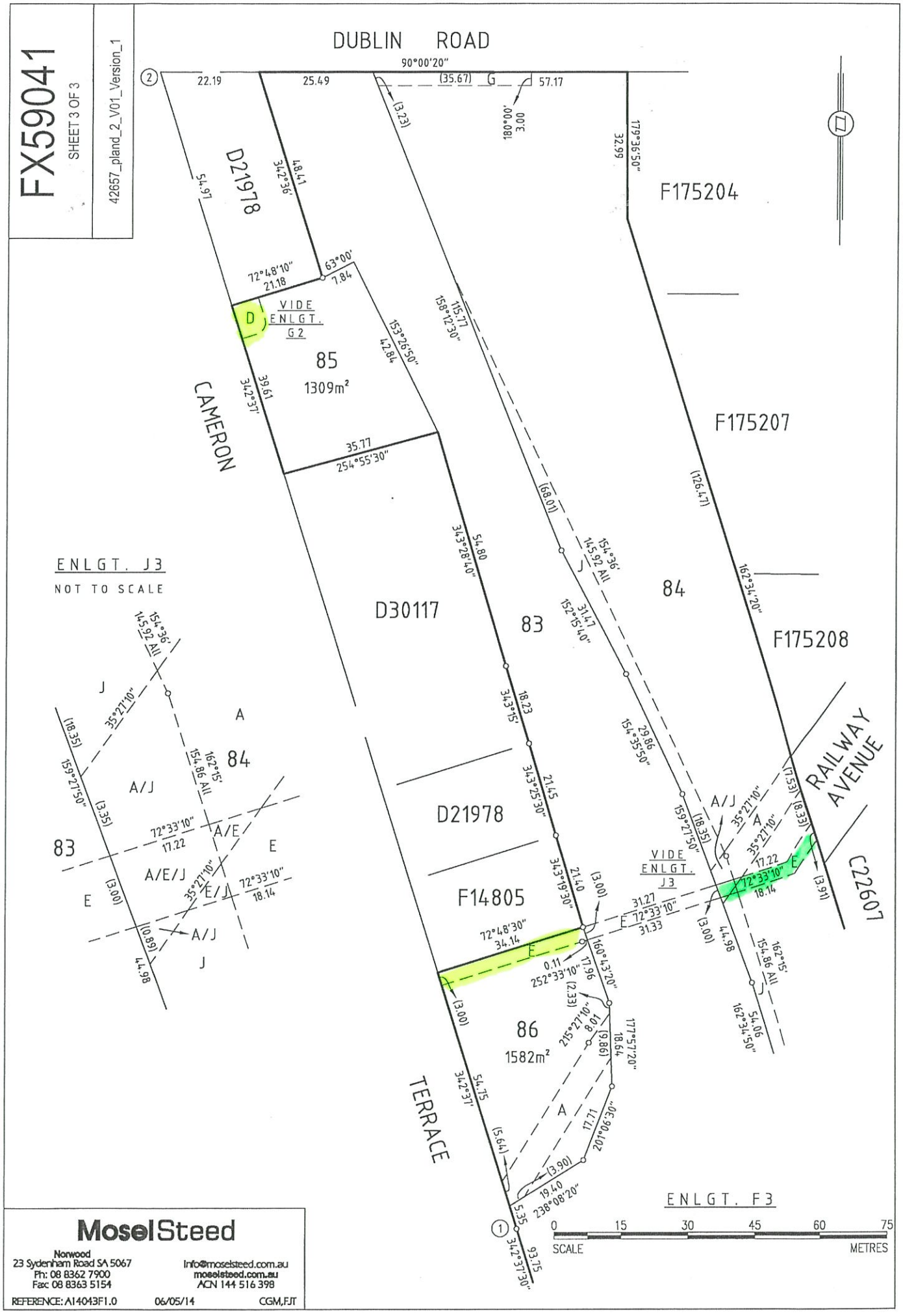
EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION
EXISTING	84	SHORT	EASEMENT(S)	G	FOR THE TRANSMISSION OF ELECTRICITY BY UNDERGROUND CABLE	83	RTC 11305315
EXISTING	84	LONG	RIGHT(S) OF WAY	J		83	RTC 11305315
EXISTING	84.86	SERVICE	EASEMENT(S)	A	FOR DRAINAGE PURPOSES	COUNCIL FOR THE AREA	223LG RPA
PROPOSED	85	LONG	EASEMENT(S)	D	FOR EFFLUENT PUMP STATION PURPOSES	COUNCIL FOR THE AREA	
PROPOSED	83,84,86	LONG	EASEMENT(S)	E	FOR EFFLUENT PUMPING PURPOSES	COUNCIL FOR THE AREA	

ANNOTATIONS:


FX59041
SHEET 2 OF 3
42657_pland_1_V01_Version_1
BEARING DATUM: (1)-(2) 342°37'
DERIVATION: D80481 ADOPTED
TOTAL AREA:
0 40 80 120 160 200
SCALE METRES
DUBLIN ROAD
90°00'20"
25.49
57.17
179°36'50"
32.69
F175204
D21978
VIDE 158°12'30" 115.77
G
84
1.90ha approx.
VIDE ENLGT. G2
CAMERON
85
F175207
162°34'20" (126.47)
154°36' 145.92
ENLGT. 152°15'40" 31.47
154°35'50" 29.86
342°37'
RAILWAY AVENUE
ENLGT. G2
NOT TO SCALE
D21978
72°48'10" 21.18
(6.20)
162°48'10" 5.20
174°03'10" 1.01
219°03'10" 1.01
196°33'10" 1.01
D
(7.80)
CAMERON TERRACE
342°37'
3.57
252°48'10"
241°33'10" 1.01
39.61
85
C22607
BARTLETT STREET
E
E3
86
54.75
342°37'
5.35
54.06
162°34'50"
154.86 All
162°15'
83
2.293ha
56.54
161°54'40"
(15.00)
D330
F106984
F215922
LOIS LANE
342°37'30"
93.75
254°32'50"
36.87
170°48'20"
46.70
90°30'
38.83
180°30'
169°48'
13.02
(5.00)
167°29'
25.63
80°00'
3.73
163°07'40"
49.00
(12.59)
F2723
F139824
F162927
ENLGT. H2
NOT TO SCALE
ADELAIDE ROAD
D80481
163°07'40"
66.59
347°53'40"
259.54
162°45'
13.65
158°08'
31.92
162°37'
205.39
F175210
336°22'20"
127.70
84
157°41'2"
54.46
83
9.23
(4.65)
16.27
25.50
269°58'
326°57'
5.63
272°37'
2.82
253°24'
4.83
245°07'
8.25
CAMERON TERRACE
TERRACE
155°26'
46.59
13.64
31.82
269°58'
25.50
269°58'
18.51
179°58'
VIDE ENLGT. H2
MoselSteed
Norwood
23 Sydenham Road SA 5067
Ph: 08 8362 7900
Fax: 08 8363 5154
info@moselsteed.com.au
moselsteed.com.au
ACN 144 516 398
REFERENCE: A14043F1.0
06/05/14
CGM,FJT

2 of 3



MoselSteed
Norwood
23 Sydenham Road SA 5067
Ph: 08 8362 7900
Fax: 08 8363 5154
Info@moselsteed.com.au
moselsteed.com.au
ACN 144 516 398

REFERENCE: A14043F1.0 06/05/14 CGM,FJT

DATED

EXECUTION (GRANTOR)

SIGNED for and on behalf of the
MINISTER FOR TRANSPORT AND INFRASTRUCTURE
by his duly constituted Attorney pursuant to Power of Attorney No. 12020714 who has not received a notice of the revocation of that Power of Attorney in the presence of:

.....
Witness

.....
(please print full name)
C/- Building Management Division
G P O Box 1533
ADELAIDE SA 5001 Tel: 8343 2222

.....
Manager, Real Estate Services
Building Management Division
Department of Planning, Transport and Infrastructure

ALEXANDER JOCK BERRY

Address:
C/- Building Management Division
G P O Box 1533
ADELAIDE SA 5001

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

The Common Seal of

DISTRICT COUNCIL OF MALLALA

was hereto affixed
and in the presence of :

.....
Mayor

.....
Chief Executive Officer

LANDS TITLES REGISTRATION OFFICE

SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR OFFICE & STAMP DUTY PURPOSES ONLY

Prefix
TG
Series No.

BELOW THIS LINE FOR AGENT USE ONLY

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

~~Solicitor~~ / Registered Conveyancer / ~~Applicant~~

Allan Murray Parish AP48204

FEES	R.G.O.	POST	NEW C.T.

AGENT CODE

Lodged by:
Duncan, Sande & Assoc. dusa-230

Correction to:
Duncan, Sande & Assoc. dusa-230

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. CTs Vol. 6062 Fols. 502 and 503
2.
3.
4.

PLEASE ISSUE NEW CERTIFICATE(S) OF TITLE AS FOLLOWS

1. One 2 new titles for CT 6062/502 & 503
2. subject to the easements granted herein
3. One new title for easement in gross granted
4. herein

	NEW CERTIFICATE(S) OF TITLE TO ISSUE AS PER INSTRUCTIONS

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENT(S)

ITEM(S)	AGENT CODE
2 New titles for CT 6062/502,	dusa-230
Easement in gross title	dusa-230

CORRECTION	PASSED
REGISTERED	REGISTRAR-GENERAL

R-G 010709

Printed by Duncan Sande & Associates on 1 Jan 2011

Form TG

Guidance Notes available

GRANT OF EASEMENT

(Pursuant to Section 96 of the Real Property Act 1886)

CERTIFICATE(S) OF TITLES OVER WHICH RIGHTS AND LIBERTIES ARE BEING GRANTED

The whole of the land comprised in Certificate of Title Volume 5991 Folio 447

ESTATE AND INTEREST

FEE SIMPLE

ENCUMBRANCES

NIL

GRANTOR(S) (Full name and address)

AUSTRALIAN RAIL TRACK CORPORATION LTD. ABN 75 081 455 754
Passenger Terminal Road, off Sir Donald Bradman Drive, MILE END SA 5031

Please sign and return to me

CONSIDERATION

NIL (value does not exceed $100)

GRANTEE(S) (Full name, address and Certificate of Title affected)

DISTRICT COUNCIL OF MALLALA ABN 58 384 968 672
of PO Box 18, MALLALA SA 5502

(easement in gross)

Printed by Duncan Sande & Associates on 1 Jan 2011

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY

The **Grantor** hereby grants to the **DISTRICT COUNCIL OF MALLALA** (the grantee)

A free and unrestricted right of way and liberty for "the Grantee" and "the Grantee's" agents, contractors, servants, and workpersons from time to time and at all times hereafter, to enter, re-enter, pass and repass with or without vehicles or machines, laden or unladen along and over and to be upon all that portion of allotment 83 marked E in Filed Plan No. FX59041, namely to break the surface of, dig, open up and use that portion of allotment 83 marked E in Filed Plan No. FX59041, for **EFFLUENT DRAINAGE PIPE PURPOSES**, including but not limited to, laying down, fixing, taking up, repairing, re-laying or examining pipes, and of using and maintaining those pipes for **EFFLUENT DRAINAGE PIPE PURPOSES** and to enter the said land herein described (if and when necessary with vehicles and equipment) for any of those purposes

THE RIGHTS GRANTED BY THIS INSTRUMENT ARE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS, **BEING CONDITIONS THAT QUALIFY THE RIGHTS GRANTED BY THIS EASEMENT AND THAT ARE AN INTRINSIC PART OF THOSE RIGHTS, SO THAT THE RIGHTS CAN ONLY BE EXERCISED SUBJECT TO AND IN ACCORDANCE WITH SUCH CONDITIONS, THEY BEING INTENDED TO ENSURE THE SAFE AND UNINTERRUPTED OPERATION OF ANY RAILWAY AFFECTED BY THIS EASEMENT** :

(see attached Annexures being pages 3 to 6 inclusive)

TO BE HELD APPURTENANT TO:-

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

NIL, the easement granted herein, is an **Easement in Gross**

To be completed by lodging party	NUMBER
ANNEXURE to dated	Office use only
over Certificate of Title Volume: Folio:	

1. Rail Safety Act

The exercise of any rights granted to the Grantee under this easement and the performance of the Grantee's obligations under this easement shall be in accordance with Australian Standard AS 4799 (Installation of underground utility services and pipelines within railway boundaries) (insofar as that standard is applicable) and all applicable safety standards with which the Grantor or any person who is for the time being entitled to occupy the Land for the purpose of conducting railway operations on the Land is obliged to comply under the *Rail Safety National Law (South Australia) Act 2012* (including, without limitation, Australian Standard 4292 (Railway Safety Management)) and in all respects in accordance with that Act;

2. Consent required for work affecting railway

The Grantee must not cause any interruption or disturbance to the operation of any railway or, without the written approval of the Grantor, undertake any activity under this instrument if the activity would threaten the safety or operational integrity of any railway on the Land;

3. Grantee to observe standards and minimise interruption

The rights conferred by and the obligations to be performed under this easement must be exercised or (as the case may be) performed by the Grantee:

(a) in accordance with good engineering practice and any applicable industry standards;

(b) in accordance with the systems, standards and procedures for the time being established by the Grantor or any person who is for the time being entitled to occupy the Land for the purpose of conducting railway operations on the Land in relation to rail safety in accordance with Australian Standard AS 4292, any other applicable safety standard or the Rail Safety National Law (South Australia) Act 2012 and notified to the Grantee in writing; and

(c) to avoid, as far as reasonably practical, interference with enjoyment of the Land by persons lawfully entitled to use it;

4. Notice to Grantor before entry

Except in the case of an emergency, before entering upon the Land to undertake an activity under this instrument, the Grantee must give at least 10 business days written notice to the Grantor (or such shorter period as the Grantor may agree in writing to accept in any particular instance) specifying the activity concerned. In the event of an emergency (that is, circumstances making it necessary for the Grantee to undertake an activity without delay in order to avoid injury to persons or damage to property), before entering upon the Land the Grantee must give oral notice by telephone to such person at such number as the Grantor may specify in writing to the Grantee from time to time and must confirm that oral notice in writing as soon as is practicable and not later than the next business day;

To be completed by lodging party	NUMBER
ANNEXURE to dated	Office use only
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5. Timing and content of notice

Each oral and written notice to be given under clause 4 must specify:

(a) the activity to be undertaken;
(b) the time and date of the proposed entry upon the Land;
(c) the length of time that the Grantee proposes to remain on the Land to undertake and complete the activity concerned;
(d) a reasonable indication (sufficient to enable the Grantor to assess the likely impact of the activity on the use of the Land) of the number of persons and the items of equipment proposed to be employed for the purpose;

6. Further information

The Grantee must provide promptly any further information that the Grantor may in writing request and must inform the Grantor in writing promptly should the Grantee become aware that information provided to the Grantor was or has become incorrect or otherwise misleading in a material respect;

7. Rights to be exercised in accordance with notice

The Grantee may enter upon the Land to engage in an activity under this easement that it is otherwise entitled or required to engage in only at the time and (a little more or less) with the persons and equipment specified in accordance with clause 5. If the Grantee wishes to:

(a) engage in any additional activity that is not reasonably incidental to the activity specified in the notice;
(b) vary the period of time specified in the notice;
(c) increase materially the number of persons to be engaged in undertaking the activity or employ items of equipment materially in excess of the item specified in the notice,

the Grantee must, unless the Grantor waives the requirement in writing, give the Grantor a further notice in accordance with clauses 4 and 5;

8. Railway safeworker

All persons entering upon the Land to engage in an activity under this easement shall conduct the activity under the supervision of a qualified railway safeworker to be engaged by the Grantee at its own expense ;

To be completed by lodging party	NUMBER
ANNEXURE to dated	Office use only
over Certificate of Title Volume: Folio:	

9. Risk Assessment

Should the Grantee propose to undertake any works within 4 metres of either side of any railway (even if the works are to be undertaken above or below the surface of the Land), the works shall not be commenced unless and until the Grantee and the Grantor have undertaken the procedures for identifying risks associated with the proposed works in accordance with Australian Standard AS 4292 and any other standard applicable to the Grantor under the Rail Safety National Law (South Australia) Act 2012 and all risks so identified have been eliminated or controlled to the satisfaction of the Grantor acting reasonably;

10. Responsibility for risks and indemnity to Grantor

In engaging in any activity under this easement, the Grantee is to be responsible for all risks arising out of engaging in the activity (including, without limitation, all risks of injury to persons or damage to property), is to make good promptly all damage caused to the Land, any railway or other improvements on the Land or any personal property on the Land in engaging in the activity and is to indemnify the Grantor against all costs, losses, (including any consequential or indirect loss, economic loss or loss of profits), damages, causes of action, liability, claims, proceedings, suits or demands (whether present or future, fixed or unascertained, actual or contingent and whether at law, in equity, under statute or otherwise) (all included in the designation ***Loss***) incurred, suffered, alleged, brought or made against the Grantor as a consequence of the Grantee in engaging in the activity or as a consequence of any breach by the Grantee of any of its obligations under this easement.;

11. Qualification of long form of easement

The long form of easement incorporated in this instrument pursuant to section 89A of the *Real Property Act 1886* is qualified by the conditions in this proviso;

12. Grantor may direct timing of certain activities

If the Grantee proposes to engage in an activity that is reasonably likely to cause detriment or inconvenience to any person lawfully using the Land or damage to the Land, the Grantee must observe all reasonable written directions that may be given by the Grantor to the Grantee as to the time or times when the Grantee may engage in the activity.

13. Taxes and duties

All taxes, duties and impositions in respect of this instrument shall be paid by the Grantee and the Grantor shall be indemnified against all such taxes, duties and impositions. Should the Grantor be liable to pay any goods and services tax or similar taxes on supplies made under this instrument, the Grantee must (subject to the issue of a tax invoice) pay or reimburse the amount of the tax to the Grantor; and

To be completed by lodging party	NUMBER
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over Certificate of Title Volume: Folio:	

14. Definition

In this easement **railway** has the meaning in section 4 of the Schedule in the *Rail Safety National Law (South Australia) Act 2012*.

15. Grantor may specify another person to receive notices, give consent, etc

(a) The Grantor may from time to time, by written notice to the Grantee, nominate a person whose name, address and contact telephone number is specified in the notice, to whom the Grantee is to give any notice required to be given by it under this easement and from whom the Grantee may obtain any approval required to be obtained by it under this easement. The Grantor may in writing to the Grantee revoke the nomination with or without nominating another person in place of the person whose nomination is revoked.

(b) If and as long as a person is so nominated:

(i) the Grantee must give any notice to be given by it to the Grantor under this easement to that person and not to the Grantor;

(ii) the Grantee must obtain any consent required to be obtained by the Grantee under this easement from that person and not from the Grantor;

(iii) clause 6 applies as if the person nominated and not the Grantor were named in that clause; and

(iv) that person and not the Grantor shall have authority to give any directions under clause 12 and to undertake any risk assessment required under clause 9.

(c) The Grantor must ensure that any person nominated under this clause acts reasonably and expeditiously in dealing with any request made by the Grantee under this easement, in issuing any directions under clause 12 and in undertaking any risk assessment under clause 9.

Ordinary Council - Agenda

28 July 2014

PURPOSE:	EASEMENT	AREA NAME:	MALLALA	APPROVED:	FX59041
MAP REF:	6629/41/R	COUNCIL:	THE DISTRICT COUNCIL OF MALLALA	FILED:	SHEET 1 OF 3
LAST PLAN:		DEVELOPMENT NO:			42657_text_01_v01_Version_1

AGENT DETAILS: MOSEL STEED
23 SYDENHAM ROAD NORWOOD SA 5067
6 GRAVES ST KADINA SA 5554
PH: 08 8362 7900
FAX: 08 8363 5154

AGENT CODE: MSKOP

REFERENCE: A14043F1.1/CGM

SURVEYORS CERTIFICATION:

SUBJECT TITLE DETAILS:

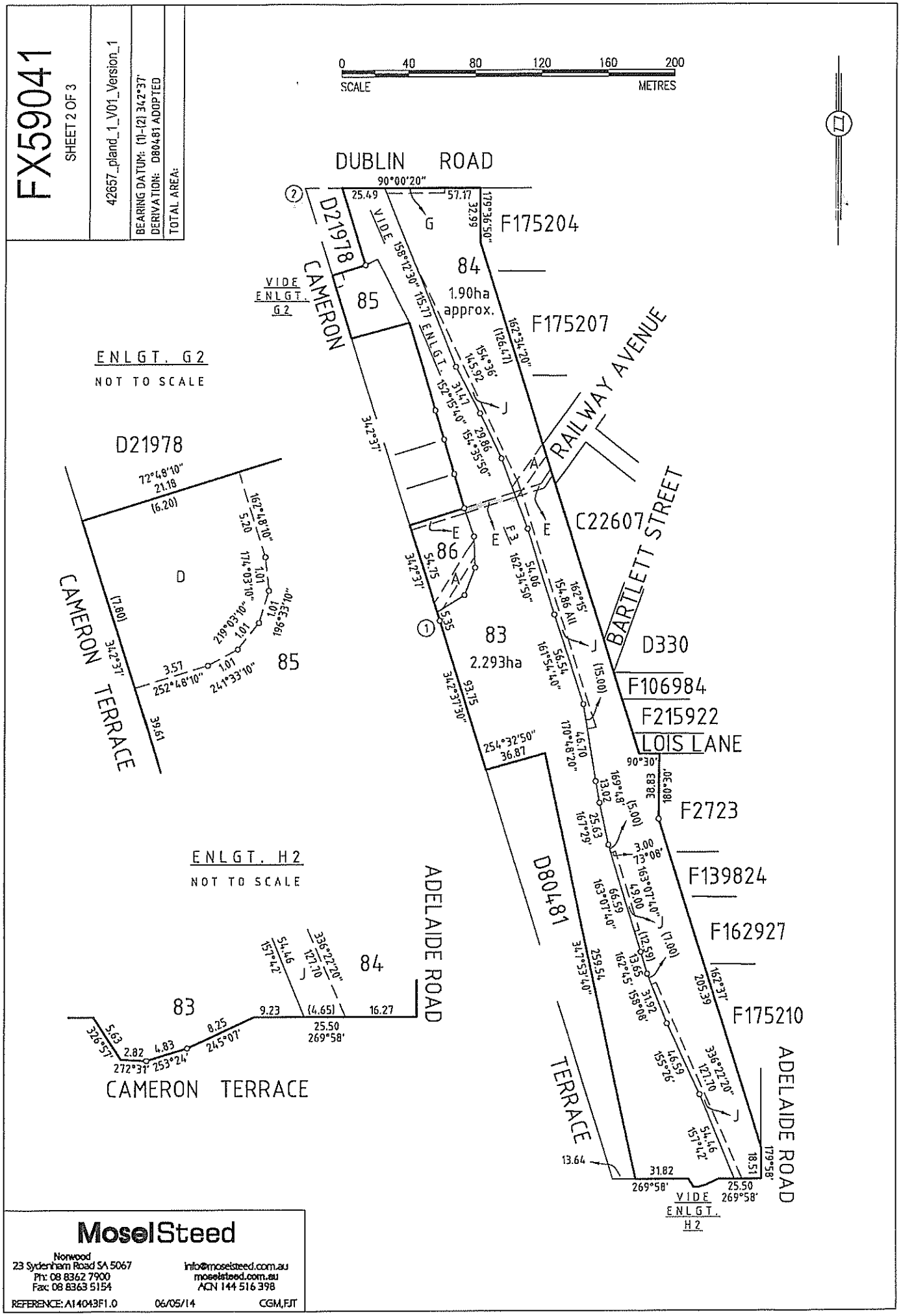
PREFIX	VOLUME	FOLIO	OTHER	PARCEL	NUMBER	PLAN	NUMBER	HUNDRED / IA / DIVISION	TOWN	REFERENCE NUMBER
CT	6062	502		ALLOTMENT(S)	84	D	80481	GRACE		SECTION 276
								GRACE		SECTION 277
PT CT	6062	503		ALLOTMENT(S)	85	D	80481	GRACE		SECTION 276
				ALLOTMENT(S)	86	D	80481	GRACE		SECTION 276
										SECTION 277
PT CT	6091	673		ALLOTMENT(S)	83	D	80481	GRACE		SECTION 276
								GRACE		SECTION 277

OTHER TITLES AFFECTED:

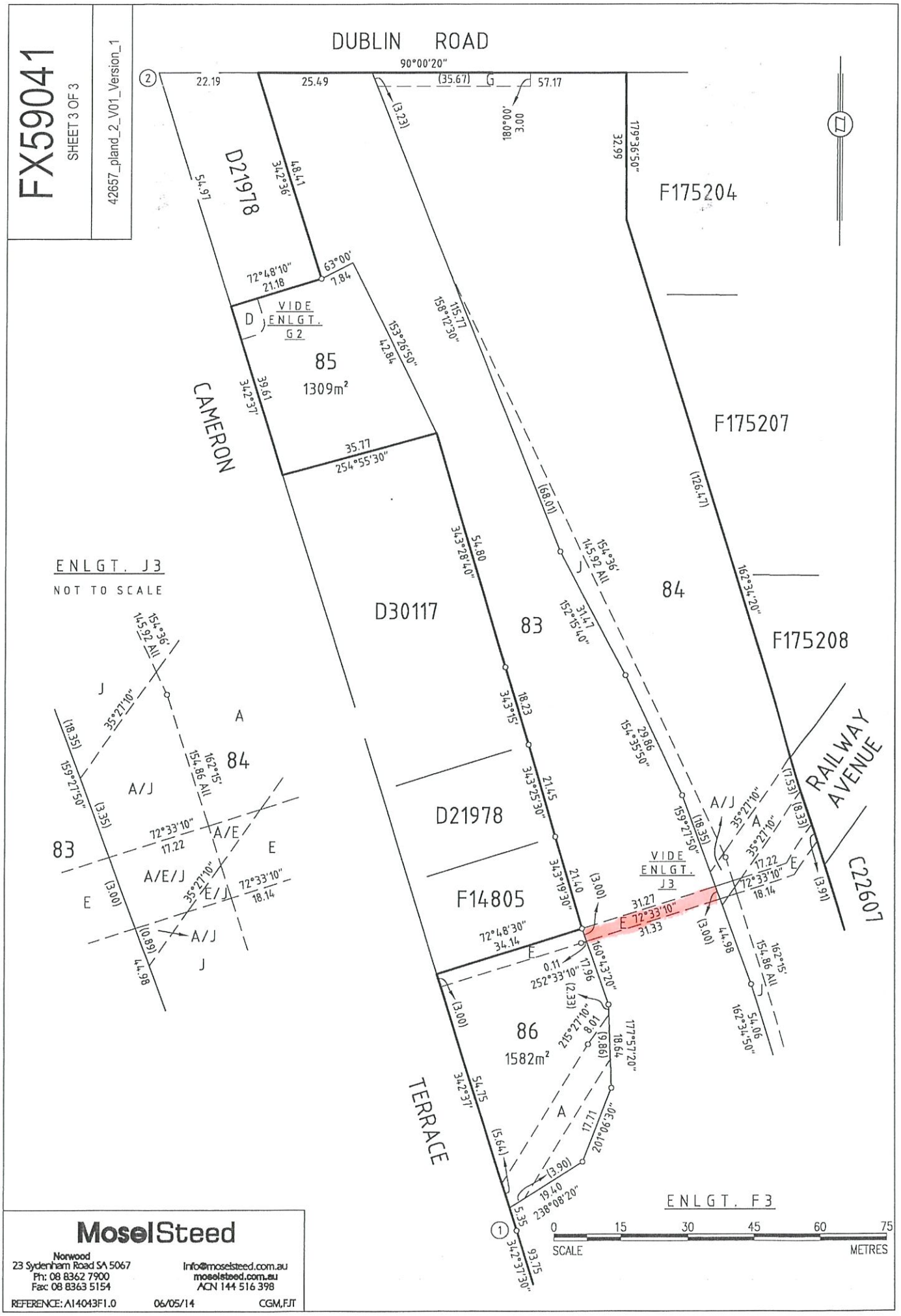
EASEMENT DETAILS:

STATUS	LAND BURDENED	FORM	CATEGORY	IDENTIFIER	PURPOSE	IN FAVOUR OF	CREATION
EXISTING	84	SHORT	EASEMENT(S)	G	FOR THE TRANSMISSION OF ELECTRICITY BY UNDERGROUND CABLE	83	RTC 11305315
EXISTING	84	LONG	RIGHT(S) OF WAY	J		83	RTC 11305315
EXISTING	84.86	SERVICE	EASEMENT(S)	A	FOR DRAINAGE PURPOSES	COUNCIL FOR THE AREA	223LG RPA
PROPOSED	85	LONG	EASEMENT(S)	D	FOR EFFLUENT PUMP STATION PURPOSES	COUNCIL FOR THE AREA	
PROPOSED	83:84.86	LONG	EASEMENT(S)	E	FOR EFFLUENT PUMPING PURPOSES	COUNCIL FOR THE AREA	

ANNOTATIONS:



MoselSteed
Norwood
23 Sydenham Road SA 5067
Ph: 08 8362 7900
Fax: 08 8363 5154
info@moselsteed.com.au
moselsteed.com.au
ACN 144 516 398
REFERENCE: A14043F1.0 06/05/14 CGM,FJT


FX59041
SHEET 3 OF 3
42657_pland_2_V01_Version_1
DUBLIN ROAD
90°00'20"
22.19
25.49
(35.67)
G
57.17
(3.23)
180°00'
3.00
179°36'50"
32.99
F175204
D21978
54.97
342°36'
48.41
72°48'10"
21.18
63°00'
7.84
VIDE
ENLGT.
G2
D
85
1309m²
153°26'50"
42.84
158°12'30"
115.77
342°37'
39.61
CAMERON
35.77
254°55'30"
(68.01)
154°36'
145.92 All
J
F175207
(126.47)
162°34'20"
84
54.80
343°28'40"
D30117
83
152°15'40"
31.47
F175208
ENLGT. J3
NOT TO SCALE
154°36'
145.92 All
J
35°27'10"
A
(18.35)
159°27'50"
162°15'
154.86 All
84
A/J
(3.35)
72°33'10"
17.22
A/E
83
E
A/E/J
35°27'10"
E/J
72°33'10"
18.14
(3.00)
A/J
(10.89)
44.98
J
18.23
343°15'
21.45
343°25'30"
154°55'50"
29.86
D21978
A/J
35°27'10"
(18.35)
159°27'50"
A
35°27'10"
RAILWAY
AVENUE
(71.53)
(8.33)
17.22
72°33'10"
18.14
E
(3.91)
C22607
VIDE
ENLGT.
J3
F14805
343°09'30"
21.40
(3.00)
31.27
E 72°33'10"
31.33
(3.00)
44.98
72°48'30"
34.14
E
160°43'20"
17.96
0.11
252°33'10"
(2.33)
154.86 All
162°15'
(3.00)
86
1582m²
215°27'10"
8.01
(9.88)
177°57'20"
18.64
342°37'
54.75
TERRACE
A
17.71
201°06'30"
(5.64)
(3.90)
19.40
238°08'20"
54.06
162°34'50"
ENLGT. F3
1
5.35
342°37'20"
93.75
0
15
30
45
60
75
SCALE
METRES
MoselSteed
Norwood
23 Sydenham Road SA 5067
Ph: 08 8362 7900
Fax: 08 8363 5154
Info@moselsteed.com.au
moselsteed.com.au
ACN 144 516 398
REFERENCE: A14043F1.0
06/05/14
CGM,FJT

DATED

EXECUTION (GRANTOR)

Executed by

AUSTRALIAN RAIL TRACK CORPORATION LTD.
was hereunto affixed in the presence of by authority of the Director(s) and in accordance with Section 127 of The Corporations Act 2001

.....
Director

.....
Please print name

.....
Director/Secretary

.....
Please print name

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

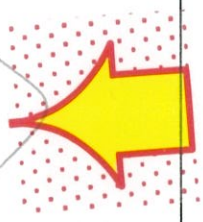
The Common Seal of the

DISTRICT COUNCIL OF MALLALA

was hereto affixed
and in the presence of :

.....
Mayor

.....
Chief Executive Officer



LANDS TITLES REGISTRATION OFFICE
SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR OFFICE & STAMP DUTY PURPOSES ONLY

Prefix
TG
Series No.

BELOW THIS LINE FOR AGENT USE ONLY

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

~~Solicitor~~ / Registered Conveyancer / ~~Applicant~~

Allan Murray Parish AP48204

FEES	R.G.O.	POST	NEW C.T.

AGENT CODE

Lodged by:
Duncan, Sande & Assoc. dusa-230

Correction to:
Duncan, Sande & Assoc. dusa-230

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. CT Vol. 6091 Fol. 673
2.
3.
4.

PLEASE ISSUE NEW CERTIFICATE(S) OF TITLE AS FOLLOWS

1. One new for easement granted herein
2. Balance for CT Vol. 6091 Fol. 673 subject to
3. within easement
4.

	NEW CERTIFICATE(S) OF TITLE TO ISSUE AS PER INSTRUCTIONS

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENT(S)

ITEM(S)	AGENT CODE
Bal title for CT 6091/673	dusa-230
New title for easement	dusa-230

CORRECTION	PASSED
REGISTERED	REGISTRAR-GENERAL

R-G 010709

Printed by Duncan Sande & Associates on 1 Jan 2011

District Council of Mallala	15 URGENT BUSINESS
MONDAY 28 July 2014	

Items:

15.1

District Council of Mallala	16 CONFIDENTIAL ITEMS
MONDAY 28 July 2014	

Items:

16.1 No Confidential Items