

CITY OF WEST TORRENS



Notice of Council & Committee Meetings

NOTICE IS HEREBY GIVEN in accordance with Sections 83, 84, 87 and 88 of the Local Government Act 1999, that a meeting of the

Council

and

- **Urban Services Prescribed Standing Committee**
- **Governance Prescribed Standing Committee**

of the

CITY OF WEST TORRENS

will be held in the Council Chambers, Civic Centre
165 Sir Donald Bradman Drive, Hilton

on

**TUESDAY, 6 JUNE 2017
at 7.00pm**

**Terry Buss
Chief Executive Officer**

City of West Torrens Disclaimer

Please note that the contents of these Council and Committee Agendas have yet to be considered by Council and officer recommendations may be altered or changed by the Council in the process of making the formal Council decision.

INDEX

1	Meeting Opened.....	5
1.1	Evacuation Procedures	
2	Present	5
3	Apologies	5
4	Disclosure Statements	5
5	Confirmation of Minutes.....	5
6	Mayors Report.....	5
7	Elected Members Reports	6
8	Petitions	6
	Nil	
9	Deputations.....	6
	Nil	
10	Budget Consultation.....	7
11	Adjourn to Standing Committees	7
12	Adoption of Standing Committee Recommendations.....	7
12.1	Urban Services Committee Meeting	7
12.2	Governance Committee Meeting	7
13	Adoption of General Committee Recommendations.....	7
13.1	Community Facilities General Committee Meeting	7
13.2	Audit and Risk Committee Meeting	7
14	Questions with Notice	7
	Nil	
15	Questions without Notice.....	7
16	Motions with Notice	8
16.1	Brickworks - Request for Masterplan	8
17	Motions without Notice.....	8
18	Reports of the Chief Executive Officer.....	9
18.1	Request For A Privately Funded Development Plan Amendment at 65-73 Mooringe Avenue, Plympton	9
18.2	Audit and Risk General Committee Structure - Confidential Order Review	18
18.3	Development Assessment Panel Establishment - Confidential Order Review	20
18.4	Development Assessment Panel - Replacement Independent Member - Confidential Order Review	22
18.5	Brickworks Riverfront Land - Confidential Order Review	24
18.6	Rates Agreement - Adelaide Airport - Confidential Order Review	28
18.7	Nominations for the SA Employment Tribunal	30
18.8	Nominations for the Stormwater Management Authority - Presiding Member and Member Positions.....	33

18.9	Max and Bette Mendelson Scholarship Awards - 2017.....	37
19	Local Government Business.....	38
19.1	Local Government Circulars.....	38
20	Member's Bookshelf	43
21	Correspondence	43
21.1	Australian Mayoral Aviation Council Executive Committee Minutes.....	43
21.2	South Australian Liberal Better Boating Facilities Policy.....	43
21.3	Brown Hill Keswick Creek Stormwater Management Project.....	43
21.4	Metropolitan Local Government Group - Key Outcome Summary	43
21.5	Airservices AACC Presentation.....	43
21.6	Financial Assistance Grant Program 2017-18	43
21.7	Council Development Assessment Panels	44
22	Confidential	79
22.1	Acquisition of Premises - Morphett Road, North Plympton	79
23	Meeting Close	79

1 MEETING OPENED

1.1 Evacuation Procedures

2 PRESENT

3 APOLOGIES

Leave of Absence

Cr Kym McKay

4 DISCLOSURE STATEMENTS

Elected Members are required to:

1. Consider Section 73 and 75 of the *Local Government Act 1999* and determine whether they have a conflict of interest in any matter to be considered in this Agenda; and
2. Disclose these interests in accordance with the requirements of Sections 74 and 75A of the *Local Government Act 1999*.

5 CONFIRMATION OF MINUTES

RECOMMENDATION

That the Minutes of the meeting of the Council held on 16 May 2017 be confirmed as a true and correct record.

6 MAYORS REPORT

(Preliminary report for the agenda to be distributed Friday 2 June 2017)

In the two weeks since the last Council Meeting of 16 May 2017, functions and meetings involving the Mayor have included:

Friday 19 May

9.00am Attended the Adelaide Airport Consultative Committee meeting.

Saturday 20 May

12noon Hosted Lea Nikitin as my guest at the pre-match luncheon and other guests including Dr Joseph Masika, 99 years old Reg Henderson and Lockleys Seniors President Pam Nayda at the match between West Adelaide and the Adelaide Crows Reserves at City Mazda Stadium.

7.00pm Attended with Mrs Rosemary Trainer the Castellorizian Association of South Australia's Saint Constantine and Eleni celebration at the Carrington Function Centre.

Tuesday 23 May

6.00pm Participated with other EMs in the Community Facilities Committee meeting.

Thursday 25 May

12noon Attended the Lockleys Seniors Citizens Club Birthday Luncheon.
5.30pm Australia Day Council Committee meeting cancelled.

Monday 29 May

12.15pm Presented the Mayoral Trophy at Novar Gardens Bowling Club – the winner, Max Wells, had been absent at the May 6 AGM.
2pm Presented a very sprightly Ron Holman with a gift basket on behalf of Council on the occasion of his 100th birthday at the Lockleys Hotel.

Tuesday 30 May

10.30am Conducted a large group citizenship ceremony at the Thebarton Community Centre at which approximately 230 new Australian citizens took the pledge. Attendees also included Trian Gonis representing Steve Georganas MP, Zoi Papafilopoulos representing Tom Koutsantonis MP, Ms Angela Vaughan (Labor Candidate for Colton), Lachlan Clyne (Liberal Candidate for Badcoe), Deputy Mayor Arthur Mangos and Councillor George Demetriou.

Thursday 1 June

9.00am Regular monthly Coast FM interview with Dave Hearn.
10.00am Met with Stephen Patterson, Mayor City of Holdfast Bay and Liberal candidate for Morphet.
6.00pm Participated in the West Torrens Road Safety Group meeting.

In addition, after the compilation of this report on Thursday evening as part of the distributed Agenda on Friday, I anticipate having attended or participated in the following:

Friday 2 June

8.00am Attending the Western Adelaide Consultative Group (WACG) meeting
6.00pm Conducting the official opening of the West Torrens Art Prize and announcement of winners at the Hamra Centre Auditorium Gallery.

Saturday 3 June

12noon Hosting guests at the pre-match luncheon and match between West Adelaide and Central Districts at City Mazda Stadium.
7.00pm Attending with Mrs Rosemary Trainer the 90th Birthday Celebration of Glenelg Golf Club.

Tuesday 6 June

6.00pm Attending the Council pre-meeting dinner
7.00pm Participating in the Council and Standing Committees Meeting

RECOMMENDATION

That the Mayor's Report be noted.

7 ELECTED MEMBERS REPORTS**8 PETITIONS**

Nil

9 DEPUTATIONS

Nil

10 BUDGET CONSULTATION**RECOMMENDATION**

That the meeting be adjourned, to allow for consultation on Council's proposed Budget and Annual Business Plan 2017/18 pursuant to Section 123(4) of the *Local Government Act 1999*.

11 ADJOURN TO STANDING COMMITTEES**RECOMMENDATION**

That the meeting be adjourned, move into Standing Committees and reconvene at the conclusion of the Governance Prescribed Standing Committee.

12 ADOPTION OF STANDING COMMITTEE RECOMMENDATIONS**12.1 Urban Services Committee Meeting****RECOMMENDATION**

That the recommendations of the Urban Services Committee held on 6 June 2017 be adopted.

12.2 Governance Committee Meeting**RECOMMENDATION**

That the recommendations of the Governance Committee held on 6 June 2017 be adopted.

13 ADOPTION OF GENERAL COMMITTEE RECOMMENDATIONS**13.1 Community Facilities General Committee Meeting****RECOMMENDATION**

That the Minutes of the Community Facilities General Committee held on 23 May 2017 be noted and the recommendations adopted.

13.2 Audit and Risk Committee Meeting**RECOMMENDATION**

That the Minutes of the Audit and Risk Committee held on 30 May 2017 be noted and the recommendations adopted.

14 QUESTIONS WITH NOTICE

Nil

15 QUESTIONS WITHOUT NOTICE

16 MOTIONS WITH NOTICE

16.1 Brickworks - Request for Masterplan

At the meeting of Council on 16 May 2017, Cr John Woodward moved the following motion which the Presiding Member ruled would be deferred to the meeting of Council on 6 June 2017.

MOTION

1. To complete a Masterplan for potential development options of the vacant land at the old Brickworks site owned by City of West Torrens, including the Hoffman heritage kiln.
2. Development of the masterplan is to include consultation with the community via on-line survey and direct engagement with the owners and operators of the existing commercial businesses at Brickworks.
3. The nature of the Masterplan is to explore opportunities to develop the balance of the Brickwork site to maximise the commercial and community use and to promote access to the heritage Hoffman kiln by the community.
4. The intent of the Masterplan is to enable the City of West Torrens to seek Expressions of Interest in from interested parties to develop the balance of the Brickworks site in alignment with the Masterplan, and may include joint development opportunities. E.g. public private partnership.

17 MOTIONS WITHOUT NOTICE

18 REPORTS OF THE CHIEF EXECUTIVE OFFICER

18.1 Request For A Privately Funded Development Plan Amendment at 65-73 Mooringe Avenue, Plympton

Brief

This report advises that Holmes Dyer, on behalf of Adelaide Capital Partners, has approached Council seeking consideration of a proposal to re-zone the land at 65-73 Mooringe Avenue, Plympton from Industry to Residential through a privately funded Development Plan Amendment.

RECOMMENDATION(S)

It is recommended to Council that:

1. The 'Statement of Justification - Former Boral Batching Plant, Plympton' dated 26 May 2017 be received.
2. It provides 'in-principle' support to the proposal ,submitted by Holmes Dyer, to rezone 65-73 Mooringe Avenue, Plympton however, this 'in-principle' support be subject to:
 - a) Holmes Dyer obtaining and providing to Council an 'in principle' written agreement from the Department of Planning, Transport and Infrastructure (DPTI) that they would currently accept the commencement and continuation of the processing of a privately funded Development Plan Amendment (DPA) of this nature, given the implementation of the *Planning, Development and Infrastructure Act 2016*.
 - b) A deed agreement with the proponent be entered into that agrees on:
 - i. the project management approach for the DPA;
 - ii. the funding arrangements for the DPA, which will be by way of Method 2 as articulated in this report;
 - iii. the nature of the DPA, including the area to be covered, the purpose of the DPA and what the investigations will encompass;
 - iv. Council maintaining ultimate control of the DPA.
 - v. Key stages of the DPA are presented to Council for consideration prior to being submitted to the Minister for Planning for agreement;
 - vi. What happens if the DPA is either not authorised by the Minister for Planning or authorised with amendments that do not suit the interest of the private funder (essentially the private funder will still bear the cost of the DPA's preparation regardless of outcome);
 - vii. the private funder funding any additional investigations and legal expenses that are required by Council; and
 - viii. other matters as such to ensure an open and transparent process providing no assurance that there will be a guaranteed outcome in the DPA process.

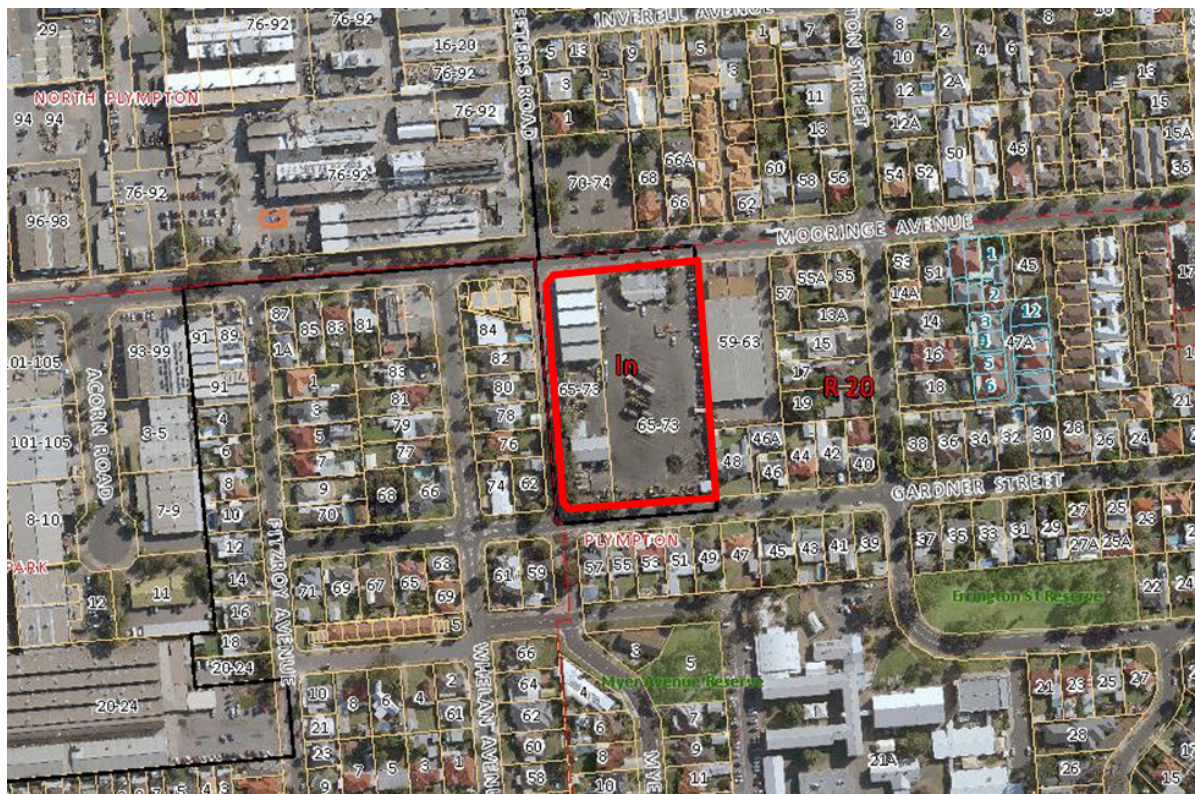
Introduction

On 15 May 2017, Helen Dyer and Sarah Gilmour of Holmes Dyer met with the Administration pursuing a rezoning process for 65-73 Mooringe Avenue, Plympton (Boral Site). At that meeting, Holmes Dyer indicated that the current owners, Boral Asphalt SA/NT, are planning to cease operations in June 2017.

On 16 May 2017, Holmes Dyer wrote to Council with a formal request to consider a privately-funded Development Plan Amendment (DPA) to rezone the Boral Site to Residential (**Attachment 1**).

Further, on 30 May 2017, Holmes Dyer submitted a 'Statement of Justification' to Council for the rezoning of the Boral Site to be considered as a privately funded DPA (**Attachment 2 - under separate cover**).

The Boral Site comprises two allotments being CT-5899/549 and CT-5899/548 and is approximately 12,270m² with three road frontages including Mooringe Avenue, Streeters Road and Gardner Street. The land is currently zoned Industry and is surrounded by Residential Zone Policy Area 20 with Industry Zone to the northwest. The subject land is highlighted in red in the map below:



Discussion

Privately funded DPAs - the process

Pursuant to Sections 24 and 25 of the *Development Act 1993*, only a council or the Minister for Planning may prepare a DPA. However, individuals, groups or companies may request a council to undertake a council-initiated DPA whereby the costs of the planning and administrative process are privately funded. Council has previously used this process for the rezoning of the land associated with the World Park development in Keswick.

In respect to the former Boral Site, the proponent has an interest in the land and is seeking to undergo remediation of it in order to re-develop it for residential purposes. Currently, the land is included in the Industry Zone that extends to the northwest. The land is otherwise adjoining Residential Zone Low Density Policy Area 20 to the north, east, south and west.

Although common in some other council areas, in the past this Council has rarely been approached regarding privately-funded DPAs. Consequently, Council does not currently have an endorsed policy or a documented process to guide the consideration and undertaking of privately funded DPAs. Other councils, which have undertaken privately funded DPAs, do have policies that relate to the consideration of private DPAs and it is proposed, subject to Council's approval that the City of West Torrens be guided by these in terms of this process.

Other council policies, relating to privately funded DPAs, typically address matters relating to:

- assessment criteria for the consideration of privately funded DPAs
- submission of a Statement of Justification by the proponent for the proposed DPA
- project management and procurement for the DPA process
- legal arrangements and deed agreements required to be in place before the DPA process may commence

In terms of project management and funding of the DPA process, there are two methods contemplated by other councils, as follows:

- **Method 1:**
The private funder provides financial resources but the entire DPA process, including procurement and management of consultants is undertaken by the council with the private funder given no additional opportunity to input into the DPA process beyond other than available to any other person.
- **Method 2:**
The private funder or proponent funds, procures and manages as much of the DPA process as possible but provides funds for Council to procure and engage its own consultants to undertake an independent peer review of the DPA.

Other council policies require that the council and the DPA proponent, before the commencement of the DPA process, enter into a legal deed agreement that agrees on the method described above and the funding arrangements for the DPA. The deed agreement amongst other things ensures an open and transparent process providing no guarantee that there will be a guaranteed outcome in the DPA process.

Current state of the DPA process

The Department of Planning, Transport and Infrastructure (DPTI) has previously advised the Administration that the opportunity for the commencement of new DPA processes will only be considered in particularly strategic economic circumstances until the roll-out of the new Planning and Design Code as all existing DPAs are aiming to be resolved by early December 2017. This advice was provided in the context of South Australian Planning Reform and the transition to the *Planning, Development and Infrastructure Act 2017*, including the conversion of council development plans to the Planning and Design Code.

Given this advice, the Administration considers it prudent to obtain a better understanding of whether this proposed rezoning meets DPTI's strategic threshold prior to the submission of a Statement of Intent to minimise resource wastage.

In this context, this presents a very small window of opportunity for the DPA process to be completed by December 2017, however Holmes Dyer has expressed confidence that it can be completed within this timeframe.

Nonetheless, although DPTI has not yet advised Council of the process for converting DPAs that are in progress at the time of the replacement of the Development Plan with the Planning and Design Code, the Administration anticipates that it is reasonable to expect that there will be a process that will enable this transition and commencement of a DPA at this point in time, if agreed to by the Minister of Planning, and therefore they may be accommodated in the new planning system.

The Rezoning Proposal

The proponent's 'Statement of Justification' sets out reasons for consideration of the DPA proposal at this present time (**Attachment 2 - under separate cover**). The specific rezoning proposal is for the introduction of the Residential Zone at 65-73 Mooringe Avenue, Plympton. The 'Statement of Justification' submitted to Council by Holmes Dyer seeks a zoning approach that would enable land uses envisaged in the Medium Density Policy Area at a density and layout indicated in an indicative concept plan provided which includes 73 residential allotments, public open space and an internal road network.

This 'Statement of Justification' seeks to undertake a varied form of Method 2 for the project management and funding of the DPA process. Specifically, the Statement of Justification request "for the third party to fund and manage the DPA process with Council to undertake peer review (either via its own consultants or administration)." However, this may be problematic from a probity perspective particularly during the procurement process and may give rise to a perception of conflict given Council will be a decision maker in the process. As a result, the Administration would prefer the funding of the DPA to be undertaken via Method 2 although it is worth recognising that any privately funded DPA will have resource implications for the Administration.

Consideration of the Proposal

Due to the limited timeframe, the Administration has not yet considered the merits of the rezoning, however does note that there is logic in terms of geography and the continuation of this portion of land as residential given the surrounding Residential Zone in this location. The Administration is also currently conducting research on the long-term future of employment lands in the City of West Torrens.

It is noted that the indicative concept plan included in the Statement of Justification is not consistent with the surrounding Residential Zone Low Density Policy Area 20. The allotment densities in the indicative concept plan are higher density than the existing Residential Zone Medium Density Policy Area 18 and 19, albeit lower than the Urban Corridor Zone Policy Area densities. Further consideration of the proposed residential zone and policy area modules including density will be required and need to be agreed prior to commitment to this proposal.

In terms of the DPA project management process and funding proposed in the Statement of Justification, the Administration considers that Method 2 described above, including the provision of private funds for the Council's independent peer review of the DPA is an appropriate approach which would distance Council from any perception of bias, conflict etc.

Given these issues, which will need to be resolved before any commitment by Council to Holmes Dyer's proposal, it is proposed that Council only provides 'in principle' support subject to the following conditions being met:

1. Holmes Dyer, acting for Adelaide Capital Partners, be required to obtain and provide to Council an 'in principle' written agreement from the Department of Planning, Transport and Infrastructure that they would currently accept the commencement and continuation of the processing of a privately funded Development Plan Amendment of this nature, in light of the implementation of the *Planning, Development and Infrastructure Act 2016*.
2. A deed agreement with the proponent be entered into that agrees on:
 - a) the project management approach for the DPA;
 - b) the funding arrangements for the DPA, which will be by way of Method 2 as articulated in this report;
 - c) the nature of the DPA, including the area to be covered, the purpose of the DPA and what the investigations will encompass;
 - d) Council maintaining ultimate control of the DPA.

- e) Key stages of the DPA are presented to Council for consideration prior to being submitted to the Minister for Planning for agreement;
- f) What happens if the DPA is either not authorised by the Minister for Planning or authorised with amendments that do not suit the interest of the private funder (essentially the private funder will still bear the cost of the DPA's preparation regardless of outcome);
- g) the private funder funding any additional investigations and legal expenses that are required by Council; and
- h) other matters as such to ensure an open and transparent process providing no assurance that there will be a guaranteed outcome in the DPA process.

Conclusion

Holmes Dyer, on behalf of Adelaide Capital Partners, has submitted a request to Council for it to consider a privately funded Development Plan Amendment to rezone the land at 65-73 Mooringe Avenue, Plympton from Industry to Residential. With support from DPTI, it is considered reasonable for Council to explore the DPA process.

Attachments

- 1. Letter from Holmes Dyer regarding Former Boral Batching Plant, North Plympton**
- 2. Statement of Justification (under separate cover)**

The logo for HOLMES DYER is positioned vertically on the left side of the page. It consists of a blue vertical bar with the text 'HOLMES DYER' written in white, uppercase letters. The text is centered within the bar, with 'HOLMES' above 'DYER'.

HOLMES DYER PTY LTD
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Ph: 08 7231 1889
Level 3/15 Featherstone Place
Adelaide SA 5000

16 May 2017

REF No.: 0102-001

Pauline Koritsa

General Manager, Business and Community Services

City of West Torrens

165 Sir Donald Bradman Drive

HILTON SA 5033

Attention: Sonia Gallarello

By Email: sgallarello@wtcc.sa.gov.au

Copy: Rebecca Perkin

Dear Pauline,

RE: FORMER BORAL BATCHING PLANT, NORTH PLYMPTON

We refer to a meeting with Council staff, Rebecca Perkin and Sonia Gallarello, on 15 May 2017 regarding the Former Boral Batching Plant, North Plympton, currently zoned Industry.

As you would be aware, we have been in conversation with Council staff for over twelve months, on behalf of our client, Adelaide Capital Partners (ACP), regarding an appropriate process to rezone the subject land to facilitate residential development. We understand through these discussions that Council may consider an externally funded Development Plan Amendment.

To this effect, we presented a draft Statement of Justification to staff at the meeting on 15 May 2017 for comment. We now enclose a copy of that document for your consideration.

We understand from that meeting an opportunity may exist to present to a "pre-briefing" of the Council on 6 June 2017, or if this date is unavailable a subsequent meeting.

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To this effect, we seek your advice on the process for formally requesting a pre-briefing with the Elected Members on 6 June 2017 (or alternative date) to discuss the proposition.

In summary, the subject land is currently operated (and has been since 1996) by Boral Asphalt SA/NT as an operations depot. Boral has indicated plans to cease operations from the site from approximately June 2017.

The subject land is bound by: Mooringe Ave to the north, Streeters Road to the west, Gardner Street to the south, and abuts land zoned residential to the east (although appears to be used for commercial purposes).

The site is shown in Figure 1 below.

Figure 1. Subject Land



Given the subject land is surrounded largely by residential areas, is barely contiguous with the remaining industrially zoned land, and appears to be an aberration protruding into an otherwise residential area, it is considered that the current industrial zoning could allow land uses that would be potentially undesirable for existing surrounding land uses. It would therefore appear appropriate for the subject land to be rezoned to be compatible with residential development.

We understand Council is currently contemplating a review of its employment lands to assess demand and supply, and transition some areas to alternative or more sensitive uses. While Council staff have indicated the subject land would likely be captured within this assessment, as the site is soon to be vacated (and could potentially be replaced with an Industry land use) it is not feasible (nor appropriate for the neighbours) for the subject land to remain in industrial zoning while this work is completed. If it was useful, we could reflect into the Statement of Justification the need to conduct investigations for a rezoning process in consultation with Council's consultants conducting the review of employment lands.

The rezoning proposal represents an immediate opportunity for the Council to:

- improve the current industry/residential interface for existing residents, and quality of life of adjoining residents;
- provide an economic impetus for remediation of the site;
- provide a coordinated planning outcome in response to pressure for urban renewal;
- update current zoning which is likely to be old and which Council has acknowledged needs review; and
- respond to Council strategic (and State Government) policy positions.

It is proposed that the proponent fund and manage the rezoning process, via its planning consultants, without fettering the rights of Council. We would envisage the Council may wish to undertake the role of peer review (either via its own consultants or administration). Our client is prepared to sign a Deed with Council underpinning the process as is common practice in instances such as this.

Should you have any queries please do not hesitate to contact Helen Dyer on 0447 004 707 or myself on 0488 013 289.

HOLMES DYER

Yours Sincerely



Sarah Gilmour

Senior Consultant

Enclosed: Draft Statement of Justification

REF 0102-001

Page | 4

18.2 Audit and Risk General Committee Structure - Confidential Order Review

Brief

In accordance with the provisions of Section 91(9)(a) of the *Local Government Act 1999*, this report presents the annual review of the confidential orders applied to Item 16.15 '*Audit and Risk General Committee Structure*' at the 23 November 2010 meeting of Council, and Item 15.17 '*Audit and Risk Prescribed Committee Structure*' at the 9 December 2014 Meeting of Council.

RECOMMENDATION(S)

It is recommended to Council that

1. In accordance with s91(9)(a), having reviewed the confidentiality order made on 23 November 2010, pursuant to 91(7) and 91(7)(b) of the *Local Government Act 1999*, in respect of confidential Item 16.15 '*Audit and Risk General Committee Structure*', Council orders the information contained in the 'Confidential Report of the Selection Panel' attached to Item 16.15 '*Audit and Risk General Committee Structure*' relating to the appointment of independent members to Council's Audit and Risk Committee which was presented to the 23 November 2010 meeting of Council, continues to be retained in confidence in accordance with section 91(7)(a), 91(7)(b) of the *Local Government Act 1999*, and not be made available for public inspection until 23 November 2020 on the basis that the information contained in the 'Confidential Report of the Selection Panel' contains the applicants' personal information and the premature disclosure of this information would be unreasonable given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to those applicants by Council.
2. In accordance with s91(9)(a), having reviewed the confidentiality order made on 9 December 2014, pursuant to 91(7) and 91(7)(b) of the *Local Government Act 1999*, in respect of confidential Item 15.17 '*Audit and Risk Prescribed Committee Structure*', Council orders the information contained in the 'Confidential Interview Report' attached to Item 15.17 '*Audit and Risk Prescribed Committee Structure*' relating to the appointment of independent members to Council's Audit and Risk Committee which was presented to the 9 December 2014 meeting of Council, continues to be retained in confidence in accordance with section 91(7)(a), 91(7)(b) of the *Local Government Act 1999*, and not be made available for public inspection until 9 December 2024 on the basis that the information contained in the 'Confidential Interview Report' contains the applicants' personal information and the premature disclosure of this information would be unreasonable given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to those applicants by Council.
3. Pursuant to Section 91(9)(c) of the *Local Government Act 1999*, Council delegates the authority to the Chief Executive Officer to review the confidentiality order on a monthly basis and to revoke but not to extend it.

Introduction

Section 91(9)(a) of the *Local Government Act 1999* (the Act) requires that any confidential order (the Order) made by Council, pursuant to s91(7)(a) and s91(7)(b) of the Act, that operates for a period exceeding twelve (12) months must be reviewed by Council at least once every year.

Discussion

Audit and Risk General Committee Structure

At its 23 November 2010 meeting, Council ordered that the 'Confidential Report of the Selection Panel' (Panel Report) relating to the appointment of independent members to Council's Audit and Risk Committee, attached to Item 16.15 - '*Audit and Risk General Committee Structure*', presented to that meeting, be retained in confidence and not made available for public inspection for a period of twenty (20) years from the date of that meeting (subject to an annual review). Council also delegated the power to review, retain or revoke the Order in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999* to the Chief Executive Officer (CEO).

The original confidential order of twenty (20) years, applied to this item in 2010, exceeded the length which currently would be considered reasonable and therefore, at its 4 November 2014 meeting, Council resolved that the Panel Report be retained in confidence for a period of only ten (10) years rather than twenty (20) years, i.e. to November 2020.

While the CEO has reviewed this Order monthly, he has not revoked it given that the information contained in the Panel Report is information that if released would result in the unreasonable disclosure of information concerning the personal affairs of those people named in the Panel Report given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to the applicants by Council.

Consequently, on this basis, it is recommended that the Panel Report continues to be retained in confidence.

Audit and Risk Prescribed Committee Structure

At its 9 December 2014 meeting, Council ordered that the 'Confidential Interview Report' (Interview Report) relating to the appointment of independent members to Council's Audit and Risk Prescribed Committee, attached to Item 15.17 - '*Audit and Risk Prescribed Committee Structure*', presented to that meeting, be retained in confidence and not made available for public inspection for a period of ten (10) years from the date of that meeting (subject to an annual review). Council also delegated the power to review, retain or revoke the Order in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999* to the Chief Executive Officer (CEO).

While the CEO has reviewed this Order monthly, he has not revoked it given that the information contained in the Interview Report is information that if released would result in the unreasonable disclosure of information concerning the personal affairs of those people named in the Interview Report given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to the applicants by Council.

Consequently, on this basis, it is recommended that the Interview Report continues to be retained in confidence.

Conclusion

As the confidential orders in relation to Item 16.15 - '*Audit and Risk General Committee Structure*' and Item 15.17 - '*Audit and Risk Prescribed Committee Structure*', has been in place for twelve (12) months or more, Council is required to review it and determine whether it should be revoked or remain in situ.

As the items contain personal information about applicants for the independent members positions to Council's Audit and Risk General Committee and the premature disclosure of the information may prejudice the future career aspirations of those applicants and breach any duty of confidentiality owed to the applicants by Council, it is recommended that the confidential orders remain in place.

Attachments

Nil

18.3 Development Assessment Panel Establishment - Confidential Order Review

Brief

In accordance with the provisions of Section 91(9)(a) of the *Local Government Act 1999*, this report presents the annual review of the confidential order applied to Item 16.16 '*Development Assessment Panel - Establishment*' at the 23 November 2010 Meeting of Council, and Item 15.23 '*Development Assessment Panel - Establishment*' at the 9 December 2014 Meeting of Council.

RECOMMENDATION(S)

It is recommended to Council that:

1. In accordance with s91(9)(a), having reviewed the confidentiality order made on 23 November 2010, pursuant to 91(7) and 91(7)(b) of the *Local Government Act 1999*, in respect of confidential Item 16.16 '*Development Assessment Panel - Establishment*', Council orders the information contained in the 'Confidential Interview Report' attached to Item 16.16 '*Development Assessment Panel - Establishment*', relating to the appointment of independent members to Council's Development Assessment Panel which was presented to the 23 November 2010 meeting of Council, continues to be retained in confidence in accordance with section 91(7)(a), 91(7)(b) of the *Local Government Act 1999*, and not be made available for public inspection until 23 November 2020 on the basis the information contained in the 'Confidential Interview Report' contains the applicants' personal information and the premature disclosure of this information would be unreasonable given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to those applicants by Council.
2. In accordance with s91(9)(a), having reviewed the confidentiality order made on 9 December 2014, pursuant to 91(7) and 91(7)(b) of the *Local Government Act 1999*, in respect of confidential Item 15.23 '*Development Assessment Panel - Establishment*', Council orders the information contained in the 'Confidential Interview Report' attached to Item 15.23 '*Development Assessment Panel - Establishment*', relating to the appointment of independent members to Council's Development Assessment Panel which was presented to the 9 December 2014 meeting of Council, continues to be retained in confidence in accordance with section 91(7)(a), 91(7)(b) of the *Local Government Act 1999*, and not be made available for public inspection until 9 December 2024 on the basis the information contained in the 'Confidential Interview Report' contains the applicants' personal information and the premature disclosure of this information would be unreasonable given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to those applicants by Council.
2. Pursuant to Section 91(9)(c) of the *Local Government Act 1999*, Council delegates the authority to the Chief Executive Officer to review the confidentiality order on a monthly basis and to revoke but not to extend it.

Introduction

Section 91(9)(a) of the *Local Government Act 1999* (the Act) requires that any confidential order (the Order) made by Council, pursuant to s91(7)(a) and s91(7)(b) of the Act, that operates for a period exceeding twelve (12) months must be reviewed by Council at least once every year.

Discussion

At its 23 November 2010 meeting, Council ordered that the 'Confidential Interview Report' (Interview Report) relating to the appointment of independent members to Council's Development Assessment Panel, attached to Item 16.6 - *'Development Assessment Panel - Establishment'* presented to that meeting, be retained in confidence and not made available for public inspection for a period of twenty (20) years from the date of that meeting (subject to an annual review). Council also delegated the power to review, retain or revoke the Order in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999* to the Chief Executive Officer (CEO).

The original confidential order of twenty (20) years, applied to this item in 2010, exceeded the length which currently would be considered reasonable and therefore, at its 4 November 2014 meeting, Council resolved that the Panel Report be retained in confidence for a period of only ten (10) years rather than twenty (20) years, i.e. to November 2020.

At its 9 December 2014 meeting, Council ordered that the 'Confidential Interview Report' (Interview Report) relating to the appointment of independent members to Council's Development Assessment Panel, attached to Item 15.23 - *'Development Assessment Panel - Establishment'* presented to that meeting, be retained in confidence and not made available for public inspection for a period of ten (10) years from the date of that meeting (subject to an annual review). Council also delegated the power to review, retain or revoke the Order in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999* to the Chief Executive Officer (CEO).

While the CEO has reviewed these Orders monthly, he has not revoked them given that the information contained in the Interview Reports is information that if released would result in the unreasonable disclosure of information concerning the personal affairs of those people named in the Interview Reports given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to the applicants by Council.

Consequently, on this basis, it is recommended that the Interview Reports continue to be retained in confidence.

Conclusion

As the confidential orders in relation to Item 6.16 - *'Development Assessment Panel - Establishment'* and Item 15.23 - *'Development Assessment Panel - Establishment'* have been in place for twelve (12) months or more, Council is required to review them and determine whether they should be revoked or remain in situ.

As the items contain personal information about applicants for the independent members positions to Council's Development Assessment Panel and the premature disclosure of the information may prejudice their future career aspirations and breach any duty of confidentiality owed to the applicants by Council, it is recommended that the confidential orders remain in place.

Attachments

Nil

18.4 Development Assessment Panel - Replacement Independent Member - Confidential Order Review

Brief

In accordance with the provisions of Section 91(9)(a) of the *Local Government Act 1999*, this report presents the annual review of the confidential order applied to *Item 17.3 "Development Assessment Panel- Replacement Independent Member"* at the 15 March 2011 Meeting of Council.

RECOMMENDATION (S)

It is recommended to Council that:

1. In accordance with s91(9)(a), having reviewed the confidentiality order made on 15 March 2011, pursuant to 91(7) and 91(7)(b) of the *Local Government Act 1999*, in respect of confidential *Item 17.3 "Development Assessment Panel - Replacement Independent Member"*, Council orders the information contained in the 'Confidential Interview Report' attached to *Item 17.3 "Development Assessment Panel - Replacement Independent Member"*, relating to the appointment of a replacement independent member to Council's Development Assessment Panel which was presented to the 15 March 2011 meeting of Council, continues to be retained in confidence in accordance with section 91(7)(a), 91(7)(b) of the *Local Government Act 1999*, and not be made available for public inspection until 15 March 2021 on the basis the information contained in the 'Confidential Interview Report' contains the applicants' personal information and the premature disclosure of this information would be unreasonable given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to those applicants by Council.
2. Pursuant to Section 91(9)(c) of the *Local Government Act 1999*, Council delegates the authority to the Chief Executive Officer to review the confidentiality order on a monthly basis and to revoke but not to extend it.

Introduction

Section 91(9)(a) of the *Local Government Act 1999* (the Act) requires that any confidential order (the Order) made by Council, pursuant to s91(7)(a) and s91(7)(b) of the Act, that operates for a period exceeding twelve (12) months must be reviewed by Council at least once every year.

Discussion

At its 15 March 2011 Meeting, Council ordered that the 'Confidential Interview Report' (Interview Report) relating to the appointment of a replacement independent member to Council's Development Assessment Panel, attached to *Item 17.3 - 'Development Assessment Panel - Replacement Independent Member'* presented to that meeting, be retained in confidence and not made available for public inspection for a period of twenty (20) years from the date of that meeting subject to an annual review. Council also delegated the power to review or revoke the Order in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999* to the Chief Executive Officer (CEO).

While the CEO has reviewed this Order monthly, he has not revoked it given that the information contained in the Interview Report is information that if released would result in the unreasonable disclosure of information concerning the personal affairs of those people named in the Interview Report given it could inadvertently prejudice their future career aspirations and breach any duty of confidentiality owed to the applicants by Council.

Consequently, on this basis, it is recommended that the Interview Report continues to be retained in confidence.

Conclusion

As the confidential order applied by Council at its 15 March 2011 meeting, in relation to *Item 17.3 - "Development Assessment Panel - Replacement Independent Member*, has been in place for twelve (12) months or more, Council is required to review it and determine whether it should be revoked or remain in situ. As the item contains personal information about applicants for the independent members positions to Council's Development Assessment Panel and the premature disclosure of the information may prejudice their future career aspirations and breach any duty of confidentiality owed to the applicants by Council, it is recommended that the confidential order remains in place until 15 March 2021.

Attachments

Nil

18.5 Brickworks Riverfront Land - Confidential Order Review

Brief

This report presents the annual review of the confidential order applied to reports relating to the Brickworks Riverfront Land in accordance with the provisions of Section 91(9)(a) of the *Local Government Act 1999*.

RECOMMENDATION (S)

It is recommended to Council that:

1. Pursuant to Sections 91(7) and 91(9) of the *Local Government Act 1999*, Council orders that the following reports relating to the Brickworks Riverfront Land, the Minutes arising from the reports, attachments and any associated documentation having been considered by the Council in confidence under Section 90(3)(b)(i) and 90(3)(b)(ii) of the *Local Government Act 1999*,

- Brickworks Markets - Retained Land
- Brickworks Riverfront Land - Expression of Interest
- Brickworks Riverfront Land - Divestment Proposal
- Divestment Proposal - Brickworks Riverfront Land
- Divestment Proposal Update - Brickworks Riverfront Land

continue to be retained in confidence in accordance with sections 91(7)(a), 91(7)(b) of the *Local Government Act 1999*, and not be available for public inspection for a further 12 month period or until Council finalises its position on the future use of the retained land, whichever is sooner, given that the disclosure of the information would not be in the public interest as to do so would reasonably be expected to:

- confer a commercial advantage on those persons with whom the Council is proposing to conduct business;
- prejudice the commercial position of the Council;
- lead to Council not obtaining the best possible sale price or development outcome for the remnant land retained by Council.

2. Pursuant to s91(9)(c) of the *Local Government Act 1999*, Council delegates the authority to the Chief Executive Officer to review the confidentiality order on a monthly basis and to revoke but not extend it.

Introduction

Section 91(9)(a) of the *Local Government Act 1999* (the Act) requires that any confidential order made by Council, pursuant to s91(7)(a) and s91(7)(b) of the Act, that operates for a period exceeding twelve (12) months, must be reviewed by Council at least once every year.

The following reports are presented for annual review in accordance with the provisions of Section 91(9)(a) of the *Local Government Act 1999*:

1. Brickworks Markets - Retained Land - 19 November 2013
2. Brickworks Riverfront Land - Expression of Interest - 20 January 2015
3. Brickworks Riverfront Land - Divestment Proposal - 3 March 2015 & 21 April 2015
4. Divestment Proposal - Brickworks Riverfront Land - 3 May 2016
5. Divestment Proposal Update - Brickworks Riverfront Land - 7 June 2016

Discussion

1. Brickworks Markets - Retained Land

At its 19 November 2013 meeting, Council ordered that the agenda item, minutes and all relevant documentation relating to Item 21.1 - '*Brickworks Market- Retained Land*' be retained in confidence and not be available for public inspection for the period of 12 months from the date of this meeting, or until Council finalises its position on the future use of the Retained Land, on the basis that the information received, discussed and considered in relation to that agenda item is information, the disclosure of which would reasonably be expected to confer a commercial advantage on those persons with whom the Council is proposing to conduct business if Council were to dispose of the said land which is the subject of this report and this could prejudice the commercial position of the Council and lead to Council not obtaining the best possible sale price or development outcome for the remnant land retained by Council.

This Order was reviewed by Council at its 20 October 2015 meeting. Following its review of the Order, Council ordered that it continues to remain in place.

While the Chief Executive Officer (CEO) has reviewed this confidential order (the Order) on a monthly basis since the October 2015 meeting of Council, in accordance with his delegated authority, the CEO has not revoked the Order. Given the CEO does not have the ability to extend the order and it needs to continue for a period exceeding twelve (12) months, the Act requires the Order to be reviewed by Council.

Following the expressions of interest process for the divestment of the Brickworks Riverfront land in 2014, contract negotiations are ongoing between the Administration and a potential purchaser of the land.

2. Brickworks Riverfront Land - Expression of Interest

At its 20 January 2015 meeting, Council ordered that the agenda item, all relevant documentation, but not the Minutes arising from *Item 21.1 - "Brickworks Riverfront Land - Expression of Interest"*, be retained in confidence and not be available for public inspection for the period of 12 months from the date of this meeting, on the basis that the information received, discussed and considered in relation to that agenda item is information, the disclosure of which would reasonably be expected to confer a commercial advantage on those persons with whom the Council is proposing to conduct business if Council were to dispose of the said land which is the subject of this report and this could prejudice the commercial position of the Council and lead to Council not obtaining the best possible sale price or development outcome for the remnant land retained by Council.

This Order was reviewed by Council at its 20 October 2015 meeting. Following its review of the Order, Council ordered that it continues to remain in place.

While the Chief Executive Officer (CEO) has reviewed this confidential order (the Order) on a monthly basis in accordance with his delegated authority, the CEO has not revoked the Order. Consequently, as this Order will operate for a period exceeding twelve (12) months, the Act requires that it be reviewed by Council itself.

3. Brickworks Riverfront Land - Divestment Proposal

At its 3 March 2015 meeting, Council ordered that the agenda item, all relevant documentation, but not the Minutes arising from *Item 21.1 - "Brickworks Riverfront Land - Divestment Proposal"*, be retained in confidence and not be available for public inspection for the period of 12 months from the date of the meeting, on the basis that the information received, discussed and considered in relation to that agenda item is information, the disclosure of which would reasonably be expected to confer a commercial advantage on those persons with whom the Council is proposing to conduct business if Council were to dispose of the said land which is the subject of this report and this could:

- a) prejudice the commercial position of the Council
- b) lead to Council not obtaining the best possible sale price or development outcome for the remnant land retained by Council.

While the Chief Executive Officer (CEO) has reviewed this confidential order (the Order) on a monthly basis in accordance with his delegated authority, the CEO has not revoked the Order. Consequently, as this Order will operate for a period exceeding twelve (12) months, the Act requires that it be reviewed by Council itself.

4. Brickworks Riverfront Land - Divestment Proposal

At its 21 April 2015 meeting, Council ordered that the agenda item, minutes and all relevant documentation relating to *Item 21.1 - "Brickworks Riverfront Land - Divestment Proposal"*, be retained in confidence and not be available for public inspection for the period of 12 months from the date of the meeting, on the basis that the information received, discussed and considered in relation to that agenda item is information, the disclosure of which would reasonably be expected to confer a commercial advantage on those persons with whom the Council is proposing to conduct business if Council were to dispose of the said land which is the subject of this report and this could:

- a) prejudice the commercial position of the Council
- b) lead to Council not obtaining the best possible sale price or development outcome for the remnant land retained by Council.

While the Chief Executive Officer (CEO) has reviewed this confidential order (the Order) on a monthly basis in accordance with his delegated authority, the CEO has not revoked the Order. Consequently, as this Order will operate for a period exceeding twelve (12) months, the Act requires that it be reviewed by Council itself.

5. Divestment Proposal - Brickworks Riverfront Land

At its 3 May 2016 meeting, Council ordered that the agenda item, minutes and all relevant documentation relating to *Item 21.1 - "Divestment Proposal - Brickworks Riverfront Land"*, be retained in confidence and not be available for public inspection for the period of 12 months from the date of the meeting, on the basis the information received, discussed and considered in relation to this agenda item is information, the disclosure of which could reasonably be expected to severely prejudice Council's ability to achieve the best possible price and/or development outcome for the Brickworks Riverfront Land and/or confer a commercial advantage on a person(s) with whom Council is considering conducting business and would, on balance, be contrary to the public interest.

6. Divestment Proposal Update - Brickworks Riverfront Land

At its 7 June 2016 meeting, Council ordered that the agenda item, minutes and all relevant documentation relating to *Item 21.1 - "Divestment Proposal Update- Brickworks Riverfront Land"*, be retained in confidence and not be available for public inspection for the period of 12 months from the date of the meeting, on the basis the information received, discussed and considered in relation to this agenda item is information, the disclosure of which could reasonably be expected to severely prejudice Council's ability to achieve the best possible price and/or development outcome for the Brickworks Riverfront Land and/or confer a commercial advantage on a person(s) with whom Council is considering conducting business and would, on balance, be contrary to the public interest.

Conclusion

Council is required to review the confidential orders placed on the reports and determine whether they should be revoked or remain in situ. As the sale of the Brickworks Riverfront Land has not yet been completed, it is recommended that the confidential orders remain in place until Council finalises its position in relation to this matter.

Attachments

Nil

18.6 Rates Agreement - Adelaide Airport - Confidential Order Review

Brief

In accordance with the provisions of Section 91(9)(a) of the *Local Government Act 1999*, this report presents the annual review of the confidential order applied to Item 21.1 'Rates Agreement - Adelaide Airport' at the 15 March 2016 Meeting of Council.

RECOMMENDATION(S)

It is recommended to Council that:

1. In accordance with section 91(9)(a), having reviewed the confidentiality order made on 15 March 2016, pursuant to 91(7) and 91(7)(b) of the *Local Government Act 1999*, in respect of confidential Item 21.1- 'Rates Agreement - Adelaide Airport', Council orders the information contained in:
 - a) the confidential report Item 21.1 - "Rates Agreement - Adelaide Airport" presented to Council at its 15 March 2016 Meeting;
 - b) all relevant documentation associated with and attached to the confidential agenda Item 21.1 - "Rates Agreement - Adelaide Airport" of 15 March 2016, but not the Minutes arising from the report Item 21.1 - "Rates Agreement - Adelaide Airport";

continues to be retained in confidence in accordance with Section 90(3)(g) of the *Local Government Act 1999*, and not be available for public inspection for a further 12 month period, on the basis that the information received, discussed and considered in relation to this agenda item are in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty because the draft rates Agreement, the subject of this report, and any subsequent agreed rates Agreement binds the parties to confidentiality provisions the disclosure of which in the public realm will constitute a breach of obligations and duty of confidence pursuant to the Rates Agreement.

2. Pursuant to s91(9)(c) of the *Local Government Act 1999*, Council delegates the authority to the Chief Executive Officer to review the confidentiality order on a monthly basis and to revoke but not extend it.

Introduction

Section 91(9)(a) of the *Local Government Act 1999* (the Act) requires that any confidential order (the Order) made by Council, pursuant to s91(7)(a) and s91(7)(b) of the Act, that operates for a period exceeding twelve (12) months must be reviewed by Council at least once every year.

Discussion

At its 15 March 2016 meeting, Council ordered that the agenda item, all relevant documentation, but not the Minutes arising from Item 21.1 Rates Agreement - Adelaide Airport, be retained in confidence and not available for public inspection for a period of 12 months from the date of the meeting, on the basis that the information received, discussed and considered in relation to the agenda item are

- (g) matters that must be considered in confidence in order to ensure that the council does not breach any law, order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty because the draft rates Agreement, the subject of this report, and any subsequent agreed rates Agreement binds the parties to confidentiality provisions the disclosure of which in the public realm will constitute a breach of obligations and duty of confidence pursuant to the Rates Agreement.

While the Chief Executive Officer (CEO) has reviewed this confidential order (the Order) on a monthly basis in accordance with his delegated authority, the CEO has not revoked the Order. Consequently, as this Order will operate for a period exceeding twelve (12) months, the Act requires that it be reviewed by Council itself.

Conclusion

As the confidential order applied by Council at its 15 March 2016 meeting in relation to Item 21.1 '*Rates Agreement - Adelaide Airport*', has been in place for twelve (12) months or more, Council is required to review it and determine whether it should be revoked or remain in situ. As the draft rates Agreement, and any subsequent agreed rates Agreement binds the parties to confidentiality provisions the disclosure of which in the public realm will constitute a breach of obligations and duty of confidence pursuant to the Rates Agreement, it is recommended that the confidential order remains in place for a further 12 month period.

Attachments

Nil

18.7 Nominations for the SA Employment Tribunal

Brief

The Local Government Association is seeking nominations for Supplementary Panel Members to the South Australian Employment Tribunal.

RECOMMENDATION(S)

It is recommended to Council that Cr/s..... be nominated as a Supplementary Panel Members for the South Australian Employment Tribunal.

Or

The report be received.

Introduction

The Minister for Industrial Relations (the Minister) has written to the Local Government Association (LGA) requesting nominations for local government members to be supplementary panel members to the South Australian Employment Tribunal (SAET) for a term commencing as soon as possible after 1 July 2017. Appointments are for a term not exceeding five (5) years.

Discussion

The SAET is established pursuant to the *South Australian Employment Tribunal Act 2014* for the purposes of proceedings under the *Work Health and Safety Act 2012*. It provides timely, fair and independent resolution of workers compensation matters including determining matters in relation to:

- workers compensation claims disputes
- undue delays in decisions on workers compensation claims
- disputes about an employer providing suitable employment for a worker who has been incapacitated for work as a consequence of a work injury.

The role of the supplementary panel members is to sit on the SAET on a sessional basis as required from time to time. The Administration has sought clarification on the frequency of the sessions and remuneration details from the LGA. To date this information has been unavailable.

Formal qualifications are not required for this appointment but knowledge and experience in work health and safety is required.

Supplementary panel members need not be an Elected Member. Further information about the role may be found in LGA Circular 19.8 which is included at **Attachment 1**.

Nominations addressing the selection criteria (**Attachment 2**) for the SAET must be forwarded to the LGA by COB on 30 June 2017. Nominees must submit a current resume with their nomination.

The LGA Board will consider nominations at its meeting on Thursday 20 July 2017.

Conclusion

This report seeks nominations for supplementary panel members to the South Australian Employment Tribunal. Nominations will be submitted, as requested, to the LGA by COB on Friday 30 June 2017.

Attachments

1. **Circular 19.8 Nominations for Supplementary Panel Members for the SAET**
2. **Selection Criteria - Nominations for Supplementary Panel Members for the SAET**



**Local Government Association
of South Australia**

Nominations sought for Supplementary Panel Members for the South Australian Employment Tribunal - Circular 19.8

To	Chief Executive Officer Employee Relations - Human Resources	Date	11 May 2017
Contact	Grant Waldron Email: grant.waldron@lga.sa.gov.au		
Response Required	Yes	Respond By	30 June 2017
Summary	The Minister for Industrial Relations has written to the LGA requesting nominations for Local Government members to be Supplementary Panel Members for the South Australian Employment Tribunal for a term commencing as soon as possible after 1 July 2017. Nominations must be forwarded to the LGA by COB 30 June 2017.		

Supplementary Panel Members for the SA Employment Tribunal are pursuant to the [Work Health and Safety Act 2012](#).

The role of Supplementary Panel Members is to sit on the SA Employment Tribunal on a sessional basis as requested from time to time.

Appointments commence as soon as possible after 1 July 2017 and are for a term not exceeding five (5) years.

LGA nominations on outside bodies will, unless determined otherwise by the LGA Board, be currently serving Council Members or Council Staff. To view the LGA Nominations to Outside Bodies Policy [click here](#).

Nominations addressing the selection criteria provided in [Part A](#) for the Supplementary Panel Members for the South Australian Employment Tribunal must be forwarded to lgasa@lga.sa.gov.au by a council using the attached [Part B](#) by COB 30 June 2017. Nominees must also provide an up-to-date CV / resume.

The LGA Board will consider nominations received at its meeting on Thursday 20 July 2017.

Nominations to Outside Bodies - PART A

Name of Body	Supplementary Panel Members for the SA Employment Tribunal
Legal Status of Body	Statutory Authority
Summary Statement	The Minister is seeking nominees to be appointed Supplementary Panel Members under the <i>South Australian Employment Tribunal Act 2014</i> (the SAET Act) for the purposes of proceedings under the <i>Work Health and Safety Act 2012</i> .
<u>SELECTION CRITERIA FOR MEMBERSHIP ON OUTSIDE BODIES</u> The following selection criteria must be addressed when completing Part B	
Qualifications Required <i>(formal qualifications relevant to the appointment)</i>	Nil
Industry Experience	Experience in Work Health & Safety
Board / Committee Experience	Nil
Key Expertise <i>(other relevant experience i.e. those requirements established for a Board/Committee under an Act)</i>	Work Health & Safety
Up-to-date Resume / Curriculum Vitae	Required as an attachment to this document.
<u>LIABILITY AND INDEMNITY COVER</u> The LGA requires that representatives on outside bodies be appropriately insured throughout the period of their appointment and seeks to collect details of the insurances provided by that organisation (on an annual basis).	
Insurance information (Certificates of Currencies or equivalent) supplied by the Outside Body	Yes
Insurance Policies are Valid & Current	Yes

ECM 650251

18.8 Nominations for the Stormwater Management Authority - Presiding Member and Member Positions

Brief

The Local Government Association is seeking nominations for a Presiding Member and three other members to the Stormwater Management Authority.

RECOMMENDATION(S)

It is recommended to Council that:

1. be nominated as Presiding Member of the Stormwater Management Authority.
2. Cr/s..... be nominated as a member of the Stormwater Management Authority.

Or

The report be received.

Introduction

The Minister for Water and the River Murray has written to the Local Government Association (LGA) requesting nominations for a Presiding Member and three other members of the Stormwater Management Authority (SMA) for a term commencing 1 July 2017. Appointments are for a term not exceeding three (3) years.

Discussion

The SMA is established under Schedule 1A of the *Local Government Act 1999* in order to facilitate and coordinate stormwater management planning by councils and to ensure the cooperation of relevant public authorities in facilitating this outcome. Further detail of the role of the SMA may be found in LGA Circular 20.5 which is included at **Attachment 1**.

Nominations are being sought for a number of positions on the board of the SMA including:

- The Presiding Member of the SMA who will be appointed by the Minister on the nomination from the LGA with the agreement of the Minister.

*The LGA Board has previously determined that nominees for the position of Presiding Member for the SMA **should not** be a currently serving council member or local government employee.*

- Three other board members, who need not be council members, one of whom must be a person who has the appropriate qualifications or experience to represent the interests of regional local government.

The SMA also comprises of a further three members appointed by the Minister.

A person nominated to the board must have appropriate qualifications or experience in public administration, water resources, stormwater management, mitigation of flood hazards, environmental management or infrastructure development.

The LGA is currently represented by:

- Mr Stephen Hains (Presiding Member)
- Mayor Lorraine Rosenberg, City of Onkaparinga
- Dr Helen Macdonald, District Council of Naracoorte Lucindale
- Mr Wally Iasiello, City of Port Adelaide Enfield.

Meetings are held at least quarterly with special meetings called as required. Sitting fees for board members are as follows:

- Presiding Member: \$18,574 per annum
- Members: \$12,383 per annum
- A possible \$3,600 per annum retention/attraction allowance is reviewed for each appointment and is not necessarily guaranteed.

Nominations addressing the selection criteria (**Attachment 2**) must be forwarded to the LGA by COB Friday 30 June 2017. A copy of a current resume must be included with the application.

The LGA Board will consider nominations at its meeting on Thursday 20 July 2017.

Conclusion

The LGA is seeking nominations for a Presiding Member and three other members of the Stormwater Management Authority by COB on Friday 30 June 2017.

Attachments

1. **LGA Circular 20.5 Nominations for the Stormwater Management Authority**
2. **Selection Criteria for the Stormwater Management Authority**



**Local Government Association
of South Australia**

Nominations sought for the Stormwater Management Authority – Presiding Member and Member Positions - Circular 20.5

To **Chief Executive Officer
Environment Staff
Planning - Building Staff
Policy and Strategic Planning Staff
Sustainability Officers** Date **17 May 2017**

Contact **Simon Thompson**
Email: Simon.Thompson@lga.sa.gov.au

Response Required Yes Respond By **30 June 2017**

Summary **The Minister for Water and the River Murray has written to the LGA requesting nominations for a Presiding Member and three other members of the Stormwater Management Authority for a term commencing on 1 July 2017. Nominations must be forwarded to the LGA by COB 30 June 2017.**

The Stormwater Management Authority (SMA) is established under Schedule 1A of the [Local Government Act 1999](#).

The role of the SMA is to facilitate and coordinate stormwater management planning by councils and to ensure relevant public authorities cooperate in relation to facilitating this outcome. Click here to view a copy of the [Stormwater Management Agreement](#).

Nominations are being sought for a number of positions on the board of the SMA:

- The Presiding Member of the SMA is appointed by the Minister on the nomination from the LGA (with the agreement of the Minister). The LGA Board has determined that nominees for this position should **not** be currently serving local government members or officers.
- The LGA must also provide three further nominations for members of the board, one of whom must be a person who has appropriate qualifications or experience to represent the interests of regional local government. Nominations for this position should be a currently serving local government members or officers.

The SMA comprises of a further three members appointed by the Minister.

A person nominated for appointment to the board must have appropriate qualifications or experience in public administration, water resources, stormwater management, mitigation of flood hazards, environmental management or infrastructure development.

Appointments to the SMA are for a period not exceeding three years, commencing 1 July 2017. LGA-nominated persons currently on the board are Mr Stephen Hains (Presiding Member), Mayor Lorraine Rosenberg (Onkaparinga), Dr Helen Macdonald (Naracoorte Lucindale) and Mr Wally Iasiello (Port Adelaide Enfield). The incumbents' terms on the board expire on 30 June 2017.

Sitting fees are:

- Presiding Member: \$18,574 per annum
- A possible \$3,600 per annum attraction/retention allowance to be reviewed for each appointment and is not guaranteed for the position.
- Members: \$12,383 per annum.

Meetings are to be held at least quarterly, with special meetings to be called as required. Recent meetings have been held at the office of the Department of Environment, Water and Natural Resources (81-95 Waymouth Street, Adelaide). LGA nominations on outside bodies will, unless determined otherwise by the LGA Board, be currently serving Council Members or Council Staff. To view the LGA Nominations to Outside Bodies Policy [click here](#).

Nominations addressing the Selection Criteria provided in [Part A](#) for the SMA must be forwarded to lgasa@lga.sa.gov.au by a council using the attached [Part B - Presiding Member](#) or [Part B - Member](#) COB 30 June 2017. Due to State Government requirements all nominees must also provide an **up-to-date CV / resume**.

The LGA Board will consider nominations received at its meeting on Thursday 20 July 2017.

Nominations to Outside Bodies - PART A

Name of Body	Stormwater Management Authority (SMA)
Legal Status of Body	Statutory Authority
Summary Statement	The Stormwater Management Authority is established under Schedule 1A of the <i>Local Government Act 1999</i> . The Authority oversees stormwater management planning on a catchment basis including priority works and funding arrangements.
<u>SELECTION CRITERIA FOR MEMBERSHIP ON OUTSIDE BODIES</u> The following selection criteria must be addressed when completing Part B	
Qualifications Required <i>(formal qualifications relevant to the appointment)</i>	Qualifications in disciplines relevant to public administration and stormwater management would be desirable.
Industry Experience	Relevant experience in public administration and stormwater management.
Special Condition	The State Executive Committee (now the LGA Board) has determined that nominees for the position of Presiding Member for the SMA should not be a currently serving Council Member or Local Government employee.
Board / Committee Experience	Extensive experience serving on high level intergovernmental boards or committees is essential. Previous experience as a presiding member of such boards or committees is highly desirable.
Key Expertise <i>(other relevant experience i.e. those requirements established for a Board/Committee under an Act)</i>	Knowledge of current policy and funding issues associated with stormwater management and flood mitigation in South Australia. Understanding of Local and State Government decision making processes. Ability to preside over high level board meetings, provide leadership, facilitate problem solving and negotiate agreed outcomes with Local and State Government stakeholders.
<u>LIABILITY AND INDEMNITY COVER</u> The LGA requires that representatives on outside bodies be appropriately insured throughout the period of their appointment and seeks to collect details of the insurances provided by that organisation (on an annual basis)	
Insurance information (Certificates of Currencies or equivalent) supplied by the Outside Body	Yes
Insurance Policies are Valid & Current	Yes

ECM 650182

18.9 Max and Bette Mendelson Scholarship Awards - 2017**Brief**

To advise Council of the proposed Max and Bette Mendelson Foundation Scholarship Awards to the successful 2017 applicants.

RECOMMENDATION(S)

It is recommended to Council that:

1. Approval be granted to the Mendelson Management Committee to award the 2017 Max and Bette Mendelson scholarships as outlined in the list provided separately; and
2. Approval be granted for the Mendelson Management Committee, in conjunction with the Chief Executive Officer, to arrange a suitable presentation ceremony to be held on Friday 30 June 2017 along the lines of previous years.

Discussion

At the meeting of the Mendelson Management Committee held on Friday 26 May 2017 the applications for the 2017 Scholarships were discussed and it was resolved that it be a recommendation to Council that the applicants, as per the list provided separately to Elected Members on the night of the Council meeting, be awarded the Max and Bette Mendelson Scholarship for 2017.

The Committee recommends 12 scholarships be awarded at \$4,000 each.

Conclusion

Report to Council of the proposed Max and Bette Mendelson scholarship awards for 2017.

Attachments

Nil

19 LOCAL GOVERNMENT BUSINESS

19.1 Local Government Circulars

Brief

This report provides a detailed listing of current items under review by the Local Government Association.

RECOMMENDATION(S)

It is recommended to Council that the Local Government Circulars report be received.

Discussion

The Local Government Association (LGA) distributes a weekly briefing on a range of matters affecting the general functions, administration and operations of councils through a 'General Circular'.

The indices attached for Members' information in this report are numbers 19, 20 and 21.

If Members require further information, they may contact the Chief Executive Officer's Secretariat. In some circumstances, it may then be appropriate for the Member to contact the relevant General Manager for more information.

Attachments

1. Local Government Circulars Weeks 19, 20 & 21



Local Government Association of South Australia

19.2 Public Consultation on SA Public Health Evaluation Framework and Indicators

A proposed Public Health Indicator Framework has been developed following internal and external consultation. SA Health is seeking your feedback and comments by 2 June 2017. Further information about the Framework and Indicators and how to submit feedback is available from this Circular.

19.3 Mobile Garbage Bins - Preferred Supplier Panel

This Preferred Supplier Panel has been developed to provide South Australian Councils and Local Government Entities with direct access to a Panel of endorsed national and local suppliers in the areas of Mobile Garbage Bins, Industrial Containers & Bins, Static Compactors, Associated Products and Services.

19.8 Nominations sought for Supplementary Panel Members for the South Australian Employment Tribunal

The Minister for Industrial Relations has written to the LGA requesting nominations for Local Government members to be Supplementary Panel Members for the South Australian Employment Tribunal for a term commencing as soon as possible after 1 July 2017. Nominations must be forwarded to the LGA by COB 30 June 2017.

19.5 Upcoming Procurement Training

LGA Procurement, in conjunction with the LGAs Education and Training service has scheduled a series of procurement training sessions- essential for all council staff undertaking procurement and purchasing roles.

19.4 Parking on Council Verges – Proposal to Amend the Australian Road Rules

The LGA Ordinary General Meeting resolved to consult with councils on whether there is support in the sector to advocate for a change to the Australian Road Rules to enable parking, wholly or in part, on council verges.

19.6 Careers in Council – Banner Display

The Careers in Council pull up banners are available for SA Councils to borrow free of charge for upcoming Careers Days and Expo Events.

19.10 Local Government Tourism, Festival and Events Workshop - 9 June 2017

The LGA is holding an event on 9 June where we will be launching the new Festival and Events guide but will also include presentations from some key SA event industry leaders. Further information can be found in this Circular.

19.7 Legal Advice on LED Public Lighting Contracts

A number of councils are currently considering options to transition to LED public lighting. The LGA has obtained legal advice on contracts currently being considered by councils, which is available upon request.

19.11 2017/18 Federal Budget

This circular outlines the main impacts on South Australian councils of the 2017/18 Federal Budget.

19.9 Volunteer Management Forum - 28 July 2017

The LGA's Education and Training Service is excited to announce that registrations are now open for its annual Volunteer Management Forum scheduled for Friday 28 July 2017 at LG House, Adelaide. Fees have been drastically reduced to encourage more staff from your council to attend this important event for volunteer managers and coordinators.



Local Government Association of South Australia

20.1 Emergency Management Survey

The LGA has partnered with Ernst and Young to develop a local government emergency management framework. This circular invites council staff to participate in a short survey to assist in the development of the framework.

20.2 Resilient Australia Awards 2017 - nominations are open

Nominations for Resilient Australia Awards are now open. This circular has details.

20.3 Reminder - 2017 SA Local Government Directory - Available Now!

The South Australian Local Government Directory, which continues to be a popular reference tool for Council Members, Council staff and suppliers alike, is now available to purchase. Further information can be found in this circular.

20.4 2017 LG Professionals Australia, SA - Economic Development Forum - 7 June 2017

LG Professionals Australia, SA is holding an Economic Development Forum on Wednesday 7 June 2017 at the Crowne Plaza, Adelaide. Developed for Economic Development Staff, CEO's & GM's – An event not to be missed!

20.5 Nominations sought for the Stormwater Management Authority – Presiding Member and Member Positions

The Minister for Water and the River Murray has written to the LGA requesting nominations for a Presiding Member and three other members of the Stormwater Management Authority for a term commencing on 1 July 2017. Nominations must be forwarded to the LGA by COB 30 June 2017.

20.6 Trees and the Law - 29 May 2017

The LGA's Education and Training Service, in collaboration with Norman Waterhouse Lawyers, will deliver training on "Trees and the Law" on Monday 29 May 2017 at LG House, Adelaide.

20.7 Future LGA Roads and Works Conference - Expressions of interest

The LGA is currently seeking expressions of interest for councils to host future Roads and Works Conference's. Further information can be found in this Circular.

20.8 Council input on Local Government Procurement Policy and Tools for Economic Development

The LGA has worked with the Office of the Industry Advocate to translate the South Australian Industry Participation Policy into guidelines applicable to local government. This Circular seeks council feedback on the draft Local Government Procurement and Capital Works: Policy and Tools for Economic Development.

20.9 Local Government Tourism, Festival and Events Workshop - Program now available

The LGA is holding an event on 9 June where we will be launching a new Festival and Events Guide. It will also include presentations from some key SA tourism and event industry leaders. A program and further event details can be found in this Circular.



Local Government Association of South Australia

21.3 Telstra Australian Smart Communities Conference

The program is available for the conference, which will be held on 29-31 May in Adelaide.

21.1 National Heavy Vehicle Regulator Access Portal Information Session

The NHVR has been working towards the full implementation of National Heavy Vehicle Law which is planned for later this year. An information session regarding the local government access portal will be held in Adelaide on 1 June 2017.

21.2 Feedback sought on the Code of Practice for Public Swimming Pools in SA

The Code of Practice for Public Swimming Pools in SA is now undergoing an annual review to improve its functionality within industry. The Aquatic Advisory Committee is seeking feedback from all users to further develop and enhance this document. Feedback must be forwarded to Recreation SA by COB 8 June 2017.

21.4 Green Industries SA Recycling Infrastructure Grants now open for applications

Green Industries SA has grant funding available for recycling infrastructure in South Australia. Councils are invited to apply by 23 June 2017.

21.10 Local Government Research & Development Scheme - July 2017 Funding Call Now Open

The Local Government Research & Development Scheme Advisory Committee is seeking funding submissions for the July 2017 Funding Call. Submissions close at 5pm on Friday 28 July 2017.

21.5 Local Government Governance Panel - New Model Complaints Handling Procedures and Rules of Engagement

The LGA has revised its model Complaints Handling Procedure under the Council Members Code of Conduct. It has also revised and republished the Rules of Engagement for accessing the Local Government Governance Panel and revised the complaints referral process and forms.

21.6 LGA Board Decision on Proposal to Amend Voting Procedures in Local Government Elections

The LGA recently consulted on a proposal to change the voting processes in local government elections from partial preferential voting to optional preferential voting. The outcome of the consultation is explained in this circular.

21.7 Launch of the disaster Resilience Knowledge Hub

The Australian Government recently launched the Resilience Knowledge Hub, a shared resource for building better preparedness for both natural and man-made disasters. This circular has details.

21.8 Speed Limits at Level Crossings - Operational Instruction

South Australia's draft Railway Crossing Safety Strategy recommends the reduction of speed limits on the approach to railway crossings on roads with a speed limit of 100 km/h or greater. This operational instruction provides advice.

21.9 Crown Land Management Act 2009 – Simplify Amendments

A number of changes to the Crown Land Management Act 2009 will be introduced on 22 June 2017.

21.11 2017 Metro Games

The City of Adelaide will be hosting the annual Metro Games on 14 October 2017. This Circular provides councils with important information about this fun event.

21.12 Nominations Sought for the Premier's Climate Change Council

Minister Hunter MLC, Minister for Climate Change, has written to the LGA requesting further nominations for a Local Government Member on the Premier's Climate Change Council (PCCC). The term will be three years commencing on the date of appointment. Nominations must be forwarded to the LGA by COB on Friday 7 July 2017.

22.1 National Local Government Human Resources Conference - 15 to 17 November 2017

Register early to secure the Early Bird Special! Themed 'Brave New World' the 2017 National Local Government Human Resources Conference is for all HR professionals interested in the people issues facing local governments across Australia.

22.2 LG Professionals, SA Women's Resilience Workshop - 23 June 2017

Would you like to identify 5 key factors affecting your resilience? Want to take away practical tips, techniques and tools to build resilience?

20 MEMBER'S BOOKSHELF

- South Australian Tourism Commission - 2017 Tourism Investment South Australia Brochure
- Local Government Association - Workers Compensation Scheme 2015/16 Annual Report
- Local Government Association - Mutual Liability Scheme 2015/16 Annual Report
- First Edition of LG InFocus South Australian - May 2017 - How Accurate Valuations Are Critical For Public Assets

RECOMMENDATION

That the additions to Members' bookshelf be noted.

21 CORRESPONDENCE

21.1 Australian Mayoral Aviation Council Executive Committee Minutes

Correspondence has been received from the Australian Mayoral Aviation Council regarding the minutes from the meeting of the Executive Committee held on 4 May 2017 (**Attachment 1**).

21.2 South Australian Liberal Better Boating Facilities Policy

Correspondence has been received from the State Member for Unley, Mr David Pisoni MP, regarding South Australian Liberal Policy aimed at improving access to funding to create better boating facilities across South Australia (**Attachment 2**).

21.3 Brown Hill Keswick Creek Stormwater Management Project

Correspondence has been received from the Minister for Water and the River Murray, The Hon Ian Hunter MLC, acknowledging Council's letter dated 18 April 2017 in relation to the Brown Hill Keswick Creek Stormwater Management Project (**Attachment 3**).

21.4 Metropolitan Local Government Group - Key Outcome Summary

Correspondence has been received from Local Government Association regarding the Key Outcomes Summary from the Metropolitan Local Government Group meeting on 8 March 2017 (**Attachment 4**).

21.5 Airservices AACC Presentation

Adelaide Airport Limited has provided a copy of the presentation Airservices gave at the Adelaide Airport Consultative Committee meeting on 17 May 2017 (**Attachment 5**).

21.6 Financial Assistance Grant Program 2017-18

Correspondence has been received from the Hon Fiona Nash, Senator, regarding the indexation of the Financial Assistance Grant program for 2017-18 (**Attachment 6**).

21.7 Council Development Assessment Panels

Correspondence has been received from the Deputy Premier and Minister for Planning, the Hon John Rau MP, providing an update on the *Planning, Development and Infrastructure Act 2016*, particularly in relation to Council Development Assessment Panels (**Attachment 7**).

RECOMMENDATION

That the correspondence be received.

Attachments

- 1. Australian Mayoral Aviation Council Executive Committee Minutes**
- 2. SA Liberal Better Boating Facilities Policy**
- 3. Brown Hill Keswick Creek Stormwater Management Project**
- 4. Metropolitan Local Government Group - Key Outcome Summary**
- 5. Airservices AACC Presentation**
- 6. Financial Assistance Grant Program 2017-18**
- 7. Council Development Assessment Panels**



AMAC *Australian Mayoral Aviation Council*

PO BOX 21, ROCKDALE, NSW 2216

**MINUTES OF A MEETING OF THE EXECUTIVE COMMITTEE OF THE
AUSTRALIAN MAYORAL AVIATION COUNCIL, HELD AT THE NOVOTEL
BRIGHTON BEACH COMMENCING AT 8.00AM ON THURSDAY 4TH MAY 2017**

ITEM 1 Welcome to Delegates.

The Deputy President, Deputy Mayor Jock Campbell, opened the meeting and extended a welcome to all present.

ITEM 2 Attendance and Apologies

The following delegates were in attendance:

Deputy Mayor Jock Campbell, Vice President TAS
Councillor Paul Tully QLD
Mayor Phil Marks WA
Councillor Garth Palmer SA (up to item 9)
Mayor John Trainer SA (from Item 9)
Councillor Jack Medcraft VIC
Ron Hoenig MP, Past President NSW (from Item 9)
John Patterson Executive Director, AMAC

ITEM 3 Confirmation of the Minutes of the Executive Committee meeting held at the Grand Chancellor Hotel Hobart on 18th February 2017.

RESOLVED

THAT: The Minutes, as circulated, be confirmed.

ITEM 4 Business arising from the Minutes

Nil

ITEM 5 Aircraft Noise Ombudsman

RESOLVED

THAT: The information be received and noted.

ITEM 6 Rate Equivalent Payments

It was noted that a motion has been submitted by Northern Midlands Council with a request that AMAC add its support for the motion to be submitted to the Council of Australian Governments.

It was also noted that there had been further discussions in an effort to progress resolution of this matter.

RESOLVED

THAT: Further consideration of this matter be deferred for discussion as an item of urgent business as listed in the agenda for the AMAC Annual General Meeting to be held later in the day.

ITEM 7 Airservices Activities

RESOLVED

THAT: The information be received and noted.

ITEM 8 Airport Activity

RESOLVED

THAT: The information be received and noted.

ITEM 9 Western Sydney Airport

It was noted that Sydney Airport has now announced it will not exercise its rights with regard to the construction of the new airport.

In response the government has announced that it will proceed to develop the Western Sydney Airport itself.

RESOLVED

THAT: The information be received and noted.

ITEM 10 NSW Government "Fit for the Future" Program and Council Mergers

RESOLVED

THAT: The information be received and noted.

ITEM 11 Member Subscription Options

It was noted that a budget breakdown containing details of AMAC's heads of expenditure and operating costs had been distributed to Committee members along with details of the Executive Directors employment arrangements.

It was also noted that the proposed method of assessing member subscriptions for 2017/18 were included in the Budget to be presented to the AGM for endorsement.

RESOLVED

THAT: The report be received and noted.

FURTHER

THAT: The schedule of membership subscription rates for 2017/18 be endorsed for approval by the AGM.

FINALLY

THAT: The Executive Director prepare an options paper with a view to examining options to confine operating cost together with a position description for the role of Executive Director and a detailed list of the support presently provided to AMAC by Bayside Council.

ITEM 12 Election of the Executive Committee for the Period 2017-18

RESOLVED

THAT: The following nominations be accepted and recommended to the Annual General Meeting:

QLD Deputy Mayor Paul Tully, Ipswich City Council
SA Mayor John Trainer, City of West Torrens
TAS Deputy Mayor Jock Campbell, Clarence City Council
VIC Councillor Jack Medcraft, Hume City Council
WA Mayor Phil Marks, Belmont City Council
NSW Ron Hoenig MP and Past President.

ITEM 13 Election of President and Vice President

Deputy Mayor Jock Campbell and Mayor Phil Marks were nominated unopposed for the positions of President and Vice President respectively.

RESOLVED

THAT: Deputy Mayor Jock Campbell and Mayor Phil Marks be elected unopposed to the Executive positions of President and Vice President respectively for the 2017/18 term.

ITEM 14 Conference Session Chairs

RESOLVED

THAT: The Chairs for the conference sessions be:

Session1. Deputy President Jock Campbell
Session2. Executive Director John Patterson
Session3. Mayor Phil Marks
Session4. Councillor Jack Medcraft
Session5. Deputy Mayor Paul Tully
Session5. Mayor John Trainer

ITEM 15 Executive Directors Report, Financials and Budget**RESOLVED**

THAT: The Executive Director's 2017 Annual Report together with the Final Income and Expenditure Statement for 2015/16, the Indicative Income and Expenditure Statement for 2016/17 and the Proposed Budget for 2017/18 be received and noted

FURTHER

THAT: The Annual Report, Final Expenditure Statement for 2015/16 and Indicative Expenditure Statement for 2016/17 be submitted to the Annual General Meeting for receipt and the 2017/18 Proposed Budget for adoption.

**ITEM 16 National Airports Safeguarding Framework Review – Guideline B
“Managing the Risk of Building Generated Windshear and Turbulence at Airports”****RESOLVED**

THAT: The information be received and noted.

ITEM 17 Upcoming Executive Committee Meetings and Conference**RESOLVED**

THAT: The next Committee meeting be confirmed for Brisbane on Saturday 9th September with the following meeting scheduled for Adelaide on Saturday, 2nd December.

FURTHER

THAT: The 2018 Annual Conference and Annual General Meeting be scheduled to be held in Perth on 3rd and 4th May 2018.

ITEM 18 Airport Amendment Bill**RESOLVED**

THAT: The report be received and the information noted.

ITEM 19 General Business

The Executive Director advised that he intends to be away from the office on leave from 25th May to 9th June inclusive.

CLOSE: The meeting closed at 9.15 a.m.



DAVID PISONI MP
MEMBER FOR UNLEY

372 Unley Road, Unley Park SA 5061
Tel 08) 8373 4846 Fax 08) 8373 4261
Email unley@parliament.sa.gov.au
www.davidpisoni.com

8 May 2017

Mr Terry Buss
Chief Executive Officer, City of West Torrens
csu@wtcc.sa.gov.au

Dear Mr Buss,

I write to make you aware of a South Australian Liberal Policy recently announced, aimed at improving access to funding to create better boating facilities across South Australia.

As you would be aware, the State Government collects a boating facilities levy on top of every registration, inspection or survey of vessels for more than 55,000 recreational boating vessels. The Facilities Fund is used for establishing and improving boating facilities in South Australia's coastal and inland waters, including boat ramps, temporary mooring facilities or wharves, channel improvements, aids to navigation; or 24/7 emergency VHF marine radio services. Local councils and large community organisations can apply for funding contributions from the Fund toward eligible projects with a co-contribution of no more than 50 per cent.

As of 30 June 2016, \$8.6 million of this levy remained unspent. The SA Liberals believe our boaters and fishers deserve better. If elected in 2018, a Marshall Liberal Government will reduce the co-contribution to access money from this program to no more than 20 per cent.

Please find enclosed a copy of the SA Liberal's policy to ensure better boating facilities into the future.

Yours sincerely,

David Pisoni MP
State Member for Unley

Shadow Minister for Planning, Transport and Infrastructure
Shadow Minister for Housing and Urban Development
Shadow Minister for Local Government and the City of Adelaide

A STRONG VOICE FOR OUR COMMUNITY



BETTER BOATING FACILITIES

ENSURING INFRASTRUCTURE FOR THE FUTURE

2036



2036

WILL MARK OUR STATE'S BICENTENARY

By the time our State turns 200 years old, I want South Australia to be a place of prosperity.

Planning and delivering on my vision for a better future starts now.

This policy is just part of our plan to deliver a clear and responsible pathway to recovery and success.

See where it fits in below

1.0 GROWING OUR ECONOMY

- 1.6 Unlocking the resources and production of our regional areas and ensuring growth opportunities for regional businesses and industries

2.0 THE BEST EDUCATION SYSTEM

3.0 BEING A HEALTHY STATE

4.0 STRENGTHENING COMMUNITIES

5.0 BUILDING OUR STATE

- 5.2 Prioritising the productive infrastructure that our State needs
- 5.4 Ensuring we have inclusive and liveable city centres and regional hubs

6.0 ENSURING SAFETY AND JUSTICE

7.0 PROTECTING OUR ENVIRONMENT

8.0 EMBRACING OUR UNIQUE CULTURE

- 8.3 Investing in the renewal of South Australia's cultural and sporting infrastructure

9.0 RUNNING AN EFFICIENT AND STABLE GOVERNMENT



“South Australia is home to fantastic metropolitan and regional boating destinations but we need to ensure that facilities are first-class for future generations to enjoy.”

BOATING INFRASTRUCTURE LEVY SITS UNSPENT

South Australia is home to fantastic metropolitan and regional boating destinations but we need to ensure that facilities are first-class for future generations to enjoy.

The State Government collects a boating facilities levy paid on top of every registration, inspection or survey of vessels for more than 55,000 recreational boating vessels, utilising the approximate 300 boat launching facilities in South Australia.

The Facilities Fund is used for establishing and improving boating facilities in South Australia's coastal and inland waters, including boat ramps, temporary mooring facilities or wharves, channel improvements, aids to navigation; or 24/7 emergency VHF marine radio services. The facilities also contribute to the 277,000 recreational fishers in this state, many who fish from jetties and boats.

Local councils and large community organisations can apply for funding contributions from the Fund towards eligible projects, provided a commitment is given to accept on-going ownership, operation and maintenance of the facility.

South Australian boat users pay the levy every year and deserve better facilities.

Funding assistance is usually provided at 50 per cent of the total project cost.

The State Government has a history of leaving the collected levy unspent in government coffers. More than \$3 million in levy funds were collected in 2014/15. A staggering \$6.4m was sitting unspent and uncommitted in a state government account at the end of the 2014-15 year.

This increased with the 2016 Auditor-General's report revealing \$8.6 million was sitting unspent in the Weatherill Labor Government's coffers at the end of the 2015-16 financial year, clearly highlighting the need for increased expenditure.

THE STATE LIBERALS PLAN

Ensuring that boating infrastructure projects are not put on hold will create local jobs and benefit the community.

If elected in 2018, a Marshall Liberal Government will ensure more money collected under the boating facilities levy is spent on boating facilities.

The SA Liberals will reduce the co-contribution needed by communities to apply for access to the fund. As a result, councils or local organisations will need to deliver a maximum of 20 per cent of the total cost of the project, rather than the current maximum of 50 per cent.

Reducing the co-contribution to apply for this funding will assist communities in accessing more money for establishing and improving boating facilities in South Australia's coastal and inland waters.

It is unacceptable that \$8.6 million of the levy sat unspent in a State Government account at the end of 2015-16. The DPTI website states that there were just three projects funded by the levy completed in 2015-16. The SA Liberals are committed to spending more of the money that is paid by boat owners on facilities and initiatives to benefit boat users and the 277,000 recreational fishers in South Australia.

South Australian boat users pay the levy every year and deserve better facilities. It is important the boating and fishing community is better consulted on how to spend the fund which they have contributed to.

The SA Liberals no longer want to see boating infrastructure projects put on hold due to financial pressures, not only impacting upon potential local jobs but important facilities for the community.

BETTER BOATING FACILITIES 
ENSURING INFRASTRUCTURE FOR THE FUTURE

**“South Australian boat users pay
the levy every year and deserve
better facilities”**

Steven Marshall, State Liberal Leader



BETTER BOATING FACILITIES
ENSURING INFRASTRUCTURE FOR THE FUTURE



If you would like to provide feedback on our policy or learn more about our plan, please get in touch via:

The Office of Steven Marshall MP

Parliament House - North Terrace, Adelaide SA 5000

Phone: 08 8237 9295

Email: steven@stevenmarshall.com.au

Web: www.stevenmarshall.com.au

 facebook.com/StevenMarshallMP

 [@Marshall_Steven](https://twitter.com/Marshall_Steven)

marshall2036.com.au



Government
of South Australia

The Hon Ian Hunter MLC

17WRM808988

Mayor John Trainer OAM
City of West Torrens
165 Sir Donald Bradman Drive
HILTON SA 5033




Dear Mayor Trainer

Thank you for your letter dated 18 April 2017 providing an update on the Brown Hill Keswick Creek Stormwater Management Project (the Project).

As you aware, I have a strong interest in the implementation and management of the Stormwater Management Plan and I am pleased to hear that the Chief Executives of the five Councils have initiated a process of forming the regional subsidiary.

I look forward to being updated on the progress of the Project in due course.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ian Hunter".

IAN HUNTER MLC
Minister for Water and the River Murray

9 / 5 / 2017

Minister for Sustainability, Environment and Conservation
Minister for Water and the River Murray
Minister for Climate Change

Level 10, 81-95 Waymouth Street Adelaide SA 5000 | GPO Box 1047 Adelaide SA 5001
Tel 08 8463 5680 | Fax 08 8463 5681 | Email minister.hunter@sa.gov.au | www.premier.sa.gov.au





Metropolitan Local Government Group – Key Outcome Summary – 8 March 2017

Local Government Functional Support Group

The Metropolitan Local Government Group received a presentation on the Local Government Functional Support Group and local government's role in the State Emergency Management Plan.

MLGG in 2017

The Group resolved to endorse the theme of Economic Development for 2017. Within that theme, it was decided that the key focus areas would be smart city thinking, energy and sustainability and the potential for a City Deal.

The Group further resolved to allocate a budget for three Think Tank events during the year.

Discussion took place regarding the start time of future MLGG meetings and it was resolved that meetings would commence at 4:00pm from the May 2017 meeting onwards.

Special Local Roads Program 2017/18 funding process and timelines

The Group noted the timelines and process for the 2017/18 funding round of the Special Local Roads Program, in particular that metropolitan applications for funding are to be submitted to the LGA Secretariat by COB 15 March 2017 for consideration by the Metropolitan Strategic Roads Committee.

Feedback on proposed Notices of Motion from Adelaide City Council

Adelaide City Council requested feedback from the Metropolitan Local Government Group on proposed Notices of Motion that the council wishes to put to the LGA Ordinary General Meeting in April 2017. Council representatives present at the MLGG meeting will take feedback back to their council.

Recommendations to the LGA Board

Changes to the Local Government (Elections) Act 1999 – Adelaide Hills

That the LGA Board consults with member councils on the proposal to seek a change to the Local Government (Elections) Act 1999, so a vote is considered a formal vote if it indicates a preference for at least one candidate without necessarily indicating preferences to the number of vacancies.

Subject to the responses received, approach the Minister for Local Government to seek a change to the Local Government (Elections) Act 1999 as above.



Adelaide Airport Consultative Committee – Airservices Update

19 May 2017

Chris Wallace and Neil Hall



Airservices Update



- Actions from last meeting
- Smart Tracking (RNP AR) update
- Helicopter routes Royal Adelaide Hospital
- Noise report and following up on issues
- Questions

Actions from February AACC



- Presentation on results of Smart Tracking investigations to Walkerville Council and community on 18th May by Chris Wallace and Neil Hall
- Investigate flights from west turning short
- Airport received two complaints on a low flying B777 joining final approach to the runway shorter than usual
- Emirates arrivals flying approved but rarely used Smart Tracking approach
- This flight path will be removed as part of the Smart Tracking update on 25th May
- Clarification of Airservices response to noise complaint

Smart Tracking (RNP AR) Update



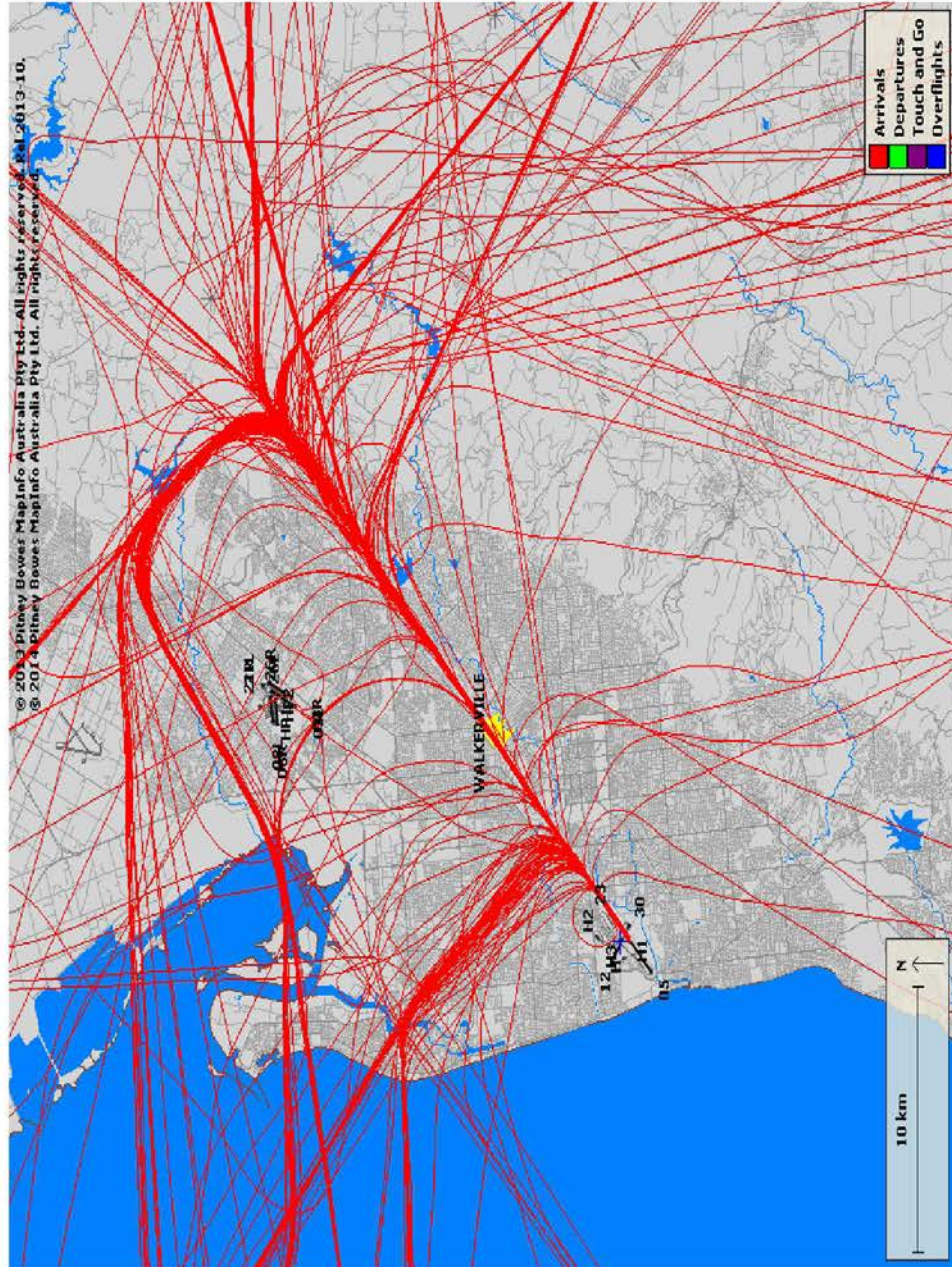
Airservices is currently updating the existing Smart Tracking technology to International Civil Aviation Organisation standards. There will be no new flight paths in Adelaide as a result of this upgrade which is going ahead on 25th May 2017

Whilst the Smart Tracking arrivals to Runway 05 will be retained on existing flight paths, the Smart Tracking arrivals to runway 23 will be removed

These flight paths currently receive very little use due to the difficulty for ATC to separate aircraft to the runway on different flight paths

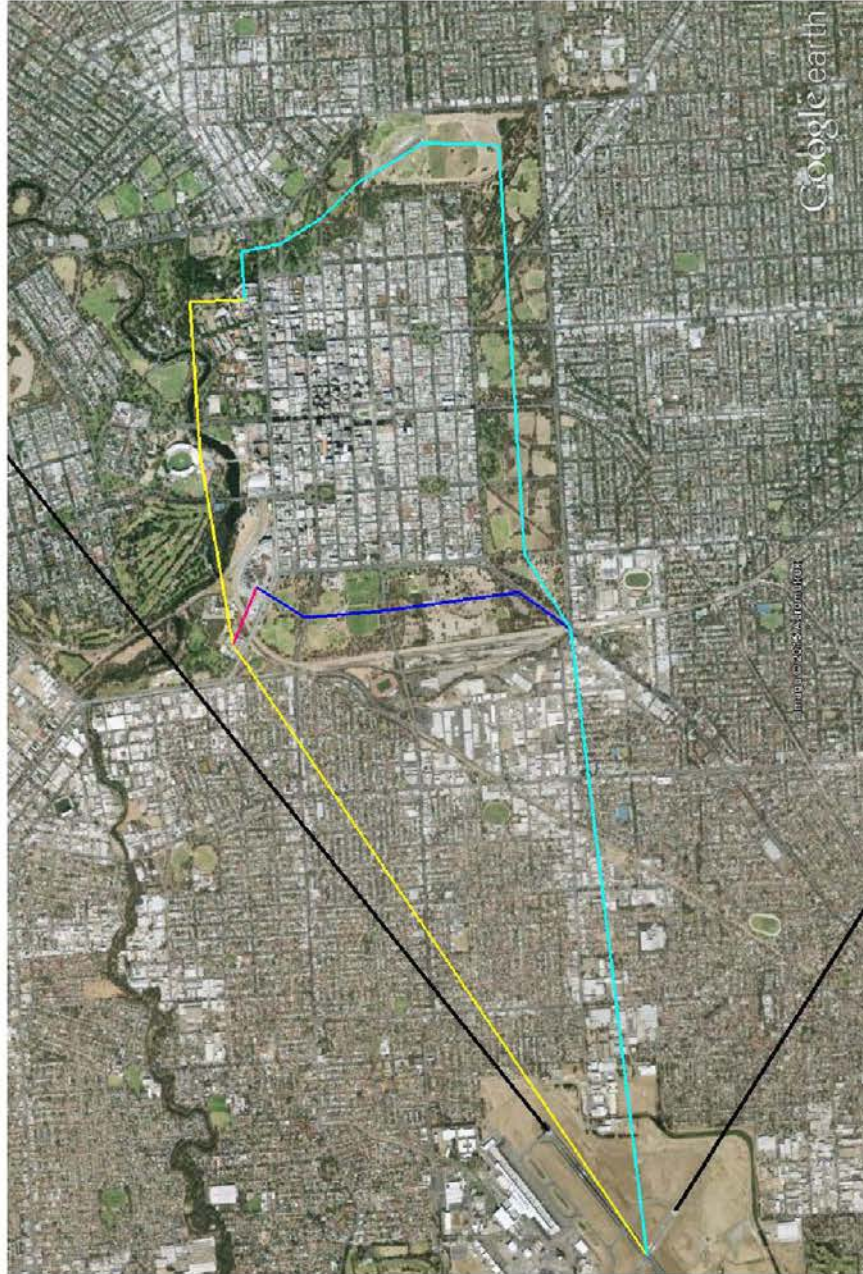


Smart Tracking (RNP AR) Update





Helicopter routes Royal Adelaide Hospital



On line Noise Report



Adelaide on line noise report will be updated within 8 weeks of every quarter and prior to AACCC on following link:

<http://aircraftnoiseinfo.bksv.com/adelaide/home/>

On line Noise Report Q1 2017



Complaints

31 complainants for Q1, an increase from 24 in the previous quarter

Runway 23 is the predominant runway used during summer months reflected in 53% of total complaints

On line Noise Report Q1 2017



Issues

- 17 complainants concerned about location of flight path, low altitudes and increased frequency
- 5 complainants raised helicopter issues which were all related to emergency services

On line Noise Report Q1 2017



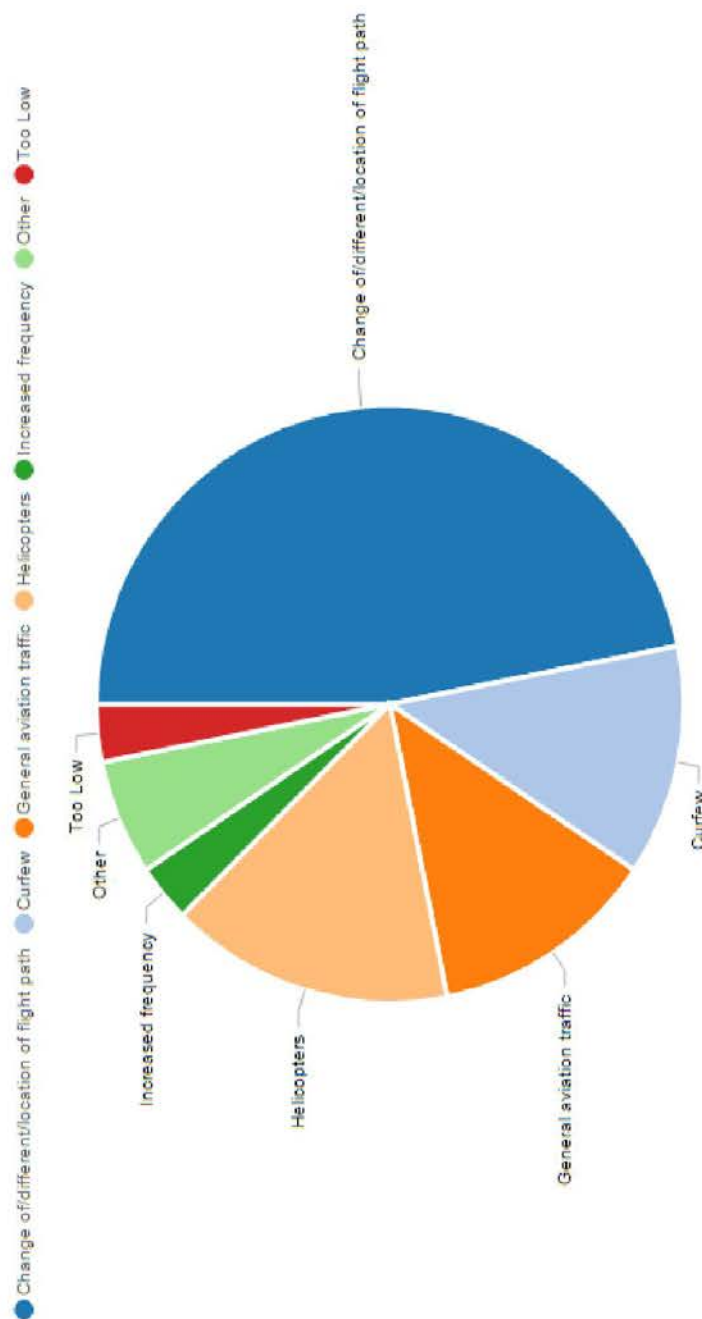
Issues

- 4 complainants concerned about Navy aircraft operating over Noarlunga Jetty and Bice Oval on 24th January. The aircraft was calibrating on board equipment over these landmarks



On line Noise Report Q1 2017

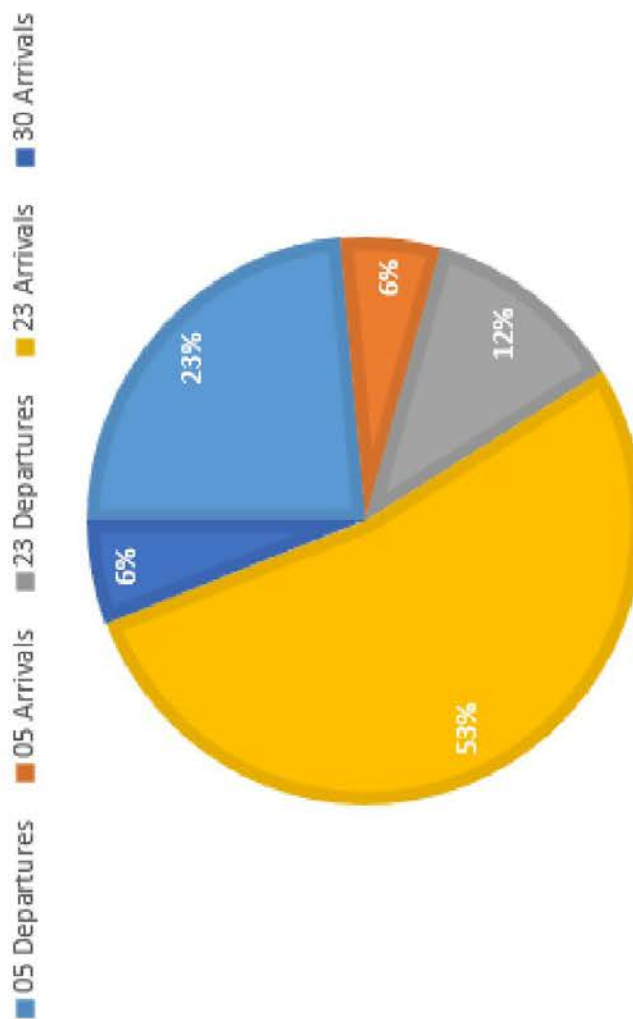
Issues





On line Noise Report Q1 2017

Complaints vs Runway direction



On line Noise Report Q1 2017



Suburbs

- Four suburbs with 2 complainants each for the quarter
- 23 suburbs with 1 complainant
- Onkaparinga Hills with 2 complainants - both were about the Navy aircraft
- West Beach with 2 complainants – both concerned about emergency services helicopters

On line Noise Report Q1 2017



Following up on complaint issues

- Emirates B777 on short approach and low – Smart Tracking flight path will be removed 25th May
- Emirates B777 departing appeared to turn early – investigated
- Air traffic control continue to look at the speed requirements for international departures to ensure they can remain on the published flight paths



Any further questions?



Senator the Hon Fiona Nash
Minister for Regional Development
Minister for Local Government and Territories
Minister for Regional Communications
Deputy Leader of The Nationals



PDR ID: MC17-002473

Cr John Trainer
Mayor
City of West Torrens
165 Sir Donald Bradman Drive
HILTON SA 5033

25 MAY 2017

Dear Mayor

The Turnbull-Joyce Coalition Government is delivering for our councils. Since becoming Minister for Local Government and Territories in July 2016, I have met with councils throughout Australia and heard first-hand about their challenges, opportunities and plans for the future.

One issue that councils have often raised with me is the indexation of the Financial Assistance Grant program. I am pleased to announce that indexation will return to the program from 1 July 2017 and will deliver a boost of \$78.3 million to councils across the nation.

The total funding delivered under the Financial Assistance Grant program for 2017-18 will be almost \$2.4 billion, growing to almost \$2.6 billion by 2019-20. Your council's funding allocation for 2017-18 will be determined by your local government grants commission shortly.

We have also boosted the local roads component of South Australia's funding with an additional \$20 million in each of the next two years. This funding makes up for historical anomalies in the calculation of road length in each state. In the next two years, I will investigate a long-term solution to this issue.

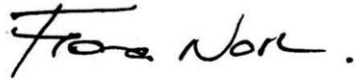
The Coalition Government has also agreed to bring forward two quarterly payments to councils from 2017-18 to the current financial year. This will give councils the opportunity to start work immediately on projects they have been putting off and to benefit from additional interest on their cash in the bank.

Pausing indexation on the Financial Assistance Grant program was a difficult decision. However, the Coalition Government is committed to repairing the budget and the indexation pause, while unpopular, was necessary to contribute to this task. I thank local governments for their efforts in constraining costs and working within their existing budgets – something that all levels of government have had to do.

Parliament House Canberra ACT 2600 Telephone: (02) 6277 7495

The Coalition Government is committed to assisting councils as they deliver essential local services to our communities. As the Minister for Local Government and Territories, I look forward to working with you to support this important work.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Fiona Nash' with a period at the end. The script is cursive and fluid.

FIONA NASH

The Hon John Rau MP

2017/08612/01

30 May 2017

Mr Terry Buss
Chief Executive Officer
City of West Torrens
165 Sir Donald Bradman Drive
HILTON SA 5033



**Government
of South Australia**

Deputy Premier
Attorney-General
Minister for Justice Reform
Minister for Planning
Minister for Industrial Relations
Minister for Child Protection
Reform
Minister for the Public Sector
Minister for Consumer and
Business Services
Minister for the City of
Adelaide

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Adelaide SA 5001
Tel 08 8207 1723
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Dear Mr Buss

RE: COUNCIL DEVELOPMENT ASSESSMENT PANELS

The introduction of our new planning system is now well underway with the first stages of the *Planning, Development and Infrastructure Act 2016* (PDI Act) now in place. As you may be aware, one of the platforms of the new Act is increased professional decision making and reduced political representation on assessment bodies such as the State Planning Commission and Council and Regional Assessment Panels. The system also seeks to promote regional cooperation and support councils working together through a series of new planning tools, such as planning agreements and the continuation of Regional Assessment Panels (RAPs).

I propose that on **1 August 2017** sections 82-87 and clauses 12-16 of Schedule 8 of the PDI Act commence operation by Governor's proclamation, to set in place the new framework for assessment panels. I also propose that the Governor proclaims **1 October 2017** as the 'designated day' on which the new assessment panels are to be constituted. I propose regulations be developed to transfer responsibilities from existing panels to the assessment panels from that later date. This will allow some 5 months for your council to appoint a new Council Assessment Panel (CAP) under section 83 of the PDI Act, in order to transition development assessment decisions from the council Development Assessment Panel to the new CAP.

Please note that in constituting a CAP there is a maximum of five members, only one of which may be an elected member of the council. Members will not need to be 'accredited professionals' at this stage although they should have relevant expertise. I propose that the requirement for accredited professionals on panels be introduced mid-2018, once the new accredited professional's scheme is operational.

In addition, for your information, I am also formally consulting with the Local Government Association on a draft code of conduct to be observed by members of an assessment panel and draft regulations that will prescribe the procedures that an assessment panel must comply with. These procedures largely reflect those currently in section 56A of the *Development Act 1993*.

An update to the 'Assessment Panels' fact sheet has been uploaded to the SA planning portal which outlines in more detail the process of transitioning panels from the old to the new system. The new fact sheet can be found here [sapanningportal.sa.gov.au/documents/factsheets/Factsheet - Assessment Panels.pdf](http://sapanningportal.sa.gov.au/documents/factsheets/Factsheet_-_Assessment_Panels.pdf). Links are provided in the fact sheet to the draft Code of Conduct and the draft regulations, for information.

For further information or queries in relation to these matters you may contact Mr Mark Adcock, Unit Manager Planning Reform, Department of Planning Transport and Infrastructure on telephone (08) 7109 7068 or mark.adcock@sa.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Rau', with a stylized, flowing script.

John Rau
Deputy Premier
Minister for Planning

22 CONFIDENTIAL

22.1 Acquisition of Premises - Morphet Road, North Plympton

Reason for Confidentiality

The Council is satisfied that, pursuant to Section 90(3) (b)(i) and (b)(ii) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this agenda item is:

- (b)(i) information the disclosure of which - could reasonably be expected to confer a commercial advantage on a person with whom the council is conducting, or proposing to conduct, business, or to prejudice the commercial position of the council.
- (b)(ii) information the disclosure of which - would, on balance, be contrary to the public interest.

RECOMMENDATION(S)

It is recommended to Council that:

1. Pursuant to Section 90(2) of the *Local Government Act 1999*, Council orders, that the public, with the exception of the Chief Executive Officer, members of the Executive and Management Teams in attendance at the meeting, and meeting secretariat staff, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential report Item 22.1 Acquisition of Premises - Morphet Road, North Plympton, attachments and any associated documentation submitted by the Chief Executive Officer, specifically on the basis of the provisions of Section 90(3) (b)(i) and (b)(ii) because the information received, discussed and considered in relation to this agenda item is information, the disclosure of which could reasonably be expected to severely prejudice Council's ability to achieve the best possible outcome relating to acquisition of the site on Morphet Road, North Plympton and would, on balance, be contrary to the public interest.
2. At the completion of the confidential session the meeting be re-opened to the public.

23 MEETING CLOSE

INDEX

1	Meeting Opened	1
2	Present	1
3	Apologies	1
4	Disclosure Statements	1
5	Confirmation of Minutes.....	1
6	Communications by the Chairperson.....	1
7	Questions with Notice	1
	Nil	
8	Questions without Notice.....	1
9	Motions with Notice	1
	Nil	
10	Motions without Notice.....	1
11	Urban Services Division Reports.....	2
11.1	Update - Leased Kindergarten Properties within the City of West Torrens	2
11.2	Parking on Verges - Proposal to Amend the Australian Road Rules.....	11
11.3	Urban Services Activities Report	15
12	Meeting Close	27

1 MEETING OPENED**2 PRESENT****3 APOLOGIES****Leave of Absence**

Cr Kym McKay

4 DISCLOSURE STATEMENTS

Committee Members are required to:

1. Consider Section 73 and 75 of the *Local Government Act 1999* and determine whether they have a conflict of interest in any matter to be considered in this Agenda; and
2. Disclose these interests in accordance with the requirements of Sections 74 and 75A of the *Local Government Act 1999*.

5 CONFIRMATION OF MINUTES**RECOMMENDATION**

That the Minutes of the meeting of the Urban Services Committee held on 2 May 2017 be confirmed as a true and correct record.

6 COMMUNICATIONS BY THE CHAIRPERSON**7 QUESTIONS WITH NOTICE**

Nil

8 QUESTIONS WITHOUT NOTICE**9 MOTIONS WITH NOTICE**

Nil

10 MOTIONS WITHOUT NOTICE

11 URBAN SERVICES DIVISION REPORTS

11.1 Update - Leased Kindergarten Properties within the City of West Torrens

Brief

This report provides Elected Members with an update in regard to the remaining three kindergarten properties within the City of West Torrens which are leased to the Department for Education and Child Development (DECD).

RECOMMENDATION(S)

The Committee recommends to Council that:

1. New ground leases be entered into for the three (3) kindergarten properties (Glandore, Kurralta Park and Netley Kindergartens) with the Department for Education and Child Development (excluding the requirement to divest the properties), each for a term of 5 years and each commencing on 1 July 2017 at the following commencing rentals
 - (i) Netley Kindergarten - \$1,800pa plus GST
 - (ii) Glandore Kindergarten - \$3,600pa plus GST
 - (iii) Kurralta Park Kindergarten - \$3,600pa plus GST.
2. The rental for each kindergarten to escalate by Adelaide All Groups Consumer Price Index (or similar index should that cease to exist) on each anniversary of the commencement date during the lease terms.
3. The Mayor and Chief Executive be authorised to sign and seal any documentation relating to the grant of leases for the three kindergarten properties and the Chief Executive Officer be authorised to provide approval for any consents that may be required in accordance with the terms of the leases.

Introduction

At its meeting of 4 October 2016 Council considered a report dealing with the remaining three kindergarten properties within the City of West Torrens (namely Kurralta Park Kindergarten, Netley Kindergarten and Glandore Kindergarten) which are held under lease (on holding over arrangements) by the Department for Education and Child Development (DECD). Aerial pictures showing the location of the kindergarten properties are attached for the benefit of Elected Members (**Attachment 1**).

The land which is leased to DECD for the operation of the kindergartens is owned by Council (and is classified as Community Land). The kindergarten building which sits on the Kurralta Park site was built by Council in the mid-1990s. It is believed that the buildings erected on the other sites were likely to have been erected under arrangements where the Council provided the land and the structures were built by kindergarten unions or similar bodies.

Following consideration of the report, Council resolved that:

1. *The report be noted.*
2. *Council endorse the proposed amendment to the previously agreed Property Review Strategy for dealing with the three (3) remaining kindergarten properties at Glandore, Kurralta Park and Netley.*

3. *Ground leases for the three (3) remaining kindergarten properties be negotiated with the Department for Education and Child Development (excluding the requirement to divest the properties) and a further report be provided to Council following the completion of these negotiations.*
4. *That the Administration seek clarity on the letter received from Department for Education and Child Development specifically around the requirement for an early termination clause, clarity around the words "no imminent plans in the near future to relocate any of the kindergartens..." and seek clarification on the Department's longer term plans for the kindergartens.*

*(A copy of this letter is attached for the benefit of Members - **Attachment 2**)*

Discussion

Subsequent to the meeting of 4 October 2016 the Chief Executive Officer wrote to DECD in accordance with the desires of Council and as identified in point 4 of Council's resolution above (**Attachment 3**).

A response was subsequently received from DECD which is attached (**Attachment 4**).

As is indicated within DECD's response:

- It is standard departmental practice for DECD to seek the inclusion of early termination clauses within agreements which it negotiates with third parties;
- DECD has no plans to make any changes to the three remaining kindergartens it operates within the City of West Torrens; and
- DECD currently has no plans to relocate the kindergartens which it operates within the City of West Torrens in the near future.

DECD further advised that, should it propose to change the operation of any of the three kindergartens it currently operates within the City of West Torrens it would be required to undertake a community consultation process.

Given that DECD's response indicated that it has no immediate or foreseeable plans which may impact the operation of any of the three remaining kindergartens, the Administration entered into negotiations with DECD for the grant of new leases for the kindergartens at Glandore, Kurralt Park and Netley. As these negotiations have now been completed it is appropriate for the matter to be brought back to the Council.

By way of background, and to assist in its negotiation of the commencing rental(s), the Administration sought valuation advice from its property consultant. The consultant's advice indicated ground market rentals of approximately \$36,000pa plus GST for the Kurralt Park and Glandore properties and \$18,500pa plus GST for the Netley kindergarten property. Whilst these rentals are at market levels, and were sourced to provide guidance and set the upper limit for rental determination purposes, it is noted that rentals paid by Council's lessees are generally offered/negotiated at a discount to the market to recognise a Council subsidy and acknowledge the benefits which are provided to the local community. In regard to the particular case(s) under consideration, and given the significant benefit provided by the kindergartens to the local community, it is suggested that the discount factor/subsidy be set at 90%.

The existing rental paid by DECD for each property is approximately \$700 pa plus GST.

It is proposed that 5 year lease terms be offered on a ground lease basis (i.e. with DECD being responsible for all maintenance and any upgrade of the premises) in respect of each kindergarten, commencing on 1 July 2017 and concluding on 30 June 2022 at the following commencing rentals

Netley Kindergarten - \$ 1,800pa plus GST

Glandore Kindergarten - \$ 3,600pa plus GST

Kurralta Park Kindergarten - \$ 3,600pa plus GST

As indicated above, the suggested commencing rentals acknowledge and recognise the benefit provided to the local community by DECD in operating these kindergartens.

In line with the standard terms within Council's leases and licences the commencing rental will escalate by Adelaide All Groups Consumer Price index on each anniversary of the commencement date during the lease term and the lessee will be responsible for meeting all user costs e.g. utility costs, insurance etc. (Please note that Council rates for the kindergartens are rebated under the relevant provisions of the Local Government Act.)

The requested inclusion of an early termination clause within the agreement(s) is unlikely to have any significant or detrimental impact on Council.

Further, at such time (if any) as DECD may determine to relinquish its occupation of any or all of these kindergarten premises, Council could consider a range of alternatives for them, including e.g. use by an alternate party(or parties) or demolition of any hard infrastructure and consolidation with, or subsequent expansion of, the adjacent green/reserve spaces.

Conclusion

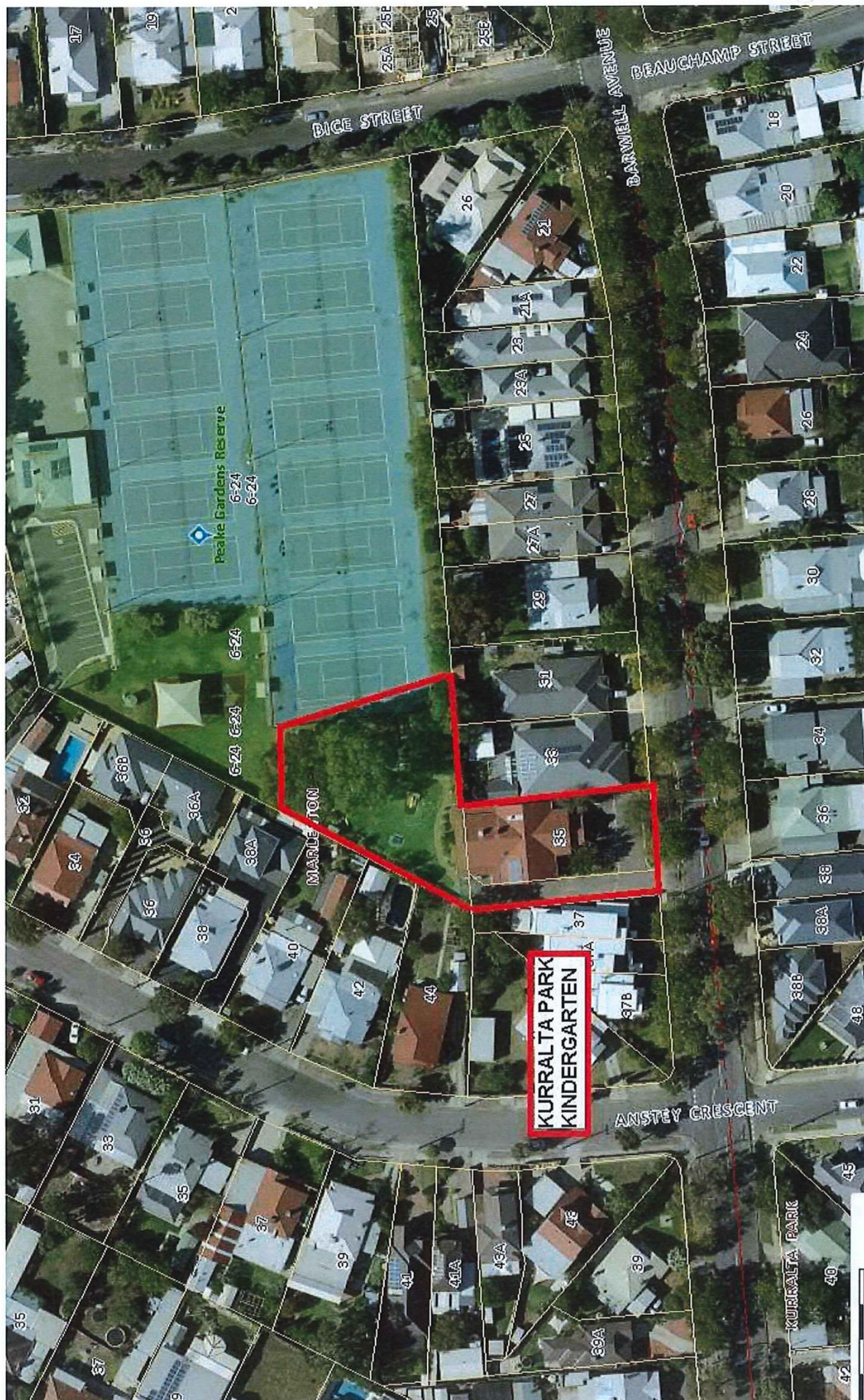
At its meeting of 4 October 2016, the Council sought clarification on a number of matters relating to the grant of new leases to the Department for Education and Child Development (DECD) for the three remaining kindergarten sites operated by DECD within the City of West Torrens. Following the provision of further advice and clarification from DECD, the Administration entered into negotiations with DECD for the grant of new lease terms for these kindergartens. Negotiations have concluded and it is now appropriate for Council to consider the grant of leases for each kindergarten property.

Attachments

- 1. Kindergarten Aerial Photographs**
- 2. Letter from DECD 12 September 2016**
- 3. Letter to DECD from CEO 11 Oct 2016**
- 4. Letter from DECD 14 December 2016**









Government of South Australia
Department for Education and
Child Development

Office for Infrastructure
Asset and Business Services

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Steve Watson
Senior Property Assets Advisor
City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033

Dear Steve

Re: Agreements for West Torrens Kindergartens

I refer to our recent meeting to discuss the leases for the kindergartens listed below. As discussed, the Department for Education and Child Development is reluctant to enter into the current proposed lease agreements with the requirement that the properties are vested to the Ministers ownership at the expiry of the agreement. Over recent years there has been a general movement towards Kindergarten and Preschool sites to be re-located on or adjacent to school sites. As the proposed requirement is not in line with DECD's direction it is unlikely that the proposed agreements would be approved.

- Kurrulta Park Kindergarten
- Netley Kindergarten
- Glandore Kindergarten

The Department at this point in time would prefer a 5 year ground lease with an early termination clause between the MECD and the City of West Torrens for the 3 Kindergarten sites. It is important to note at this point there are no imminent plans in the near future to relocate any of the kindergartens mentioned above.

If you would like any further information or would like to discuss further please don't hesitate to contact me on 8226 2353.

Yours sincerely

Adam Daly
Property Officer
ASSET AND BUSINESS SERVICES

12/09/ 2016

11 October 2016

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Mr Adam Daly
Property Officer
Asset and Business Services
Department for Education and Child Development
GPO Box 1152
ADELAIDE SA 5001

Dear Adam,

Re: Leased kindergarten properties within the City of West Torrens

I write to advise that at its meeting of 4 October 2016 the Council considered a report dealing with the three kindergarten properties which are leased to DECD, being Glandore, Kurrulta Park and Netley Kindergartens.

Following consideration of the report the Council resolved as follows:

1. The report be noted.
2. Council endorse the proposed amendment to the previously agreed Property Review strategy for dealing with the three (3) remaining kindergarten properties at Glandore, Kurrulta Park and Netley.
3. Ground leases for the three (3) remaining kindergarten properties be negotiated with the Department for Education and Child Development (excluding the requirement to divest the properties) and a further report be provided to Council following the completion of these negotiations.
4. That the Administration seek clarity on the letter received from Department for Education and Child Development specifically around the requirement for an early termination clause, clarity around the words "no imminent plans in the near future to relocate any of the kindergartens ..." and seek clarification on the Department's longer term plans for the kindergartens.

To permit this matter to proceed could you please forward the information/clarification sought in dot point 4 above at your earliest convenience. As Mr Steve Watson is handling this matter on behalf of Council any enquiries you may have in regard to this matter may be addressed to him.

Yours sincerely,

Terry Buss
Chief Executive Officer

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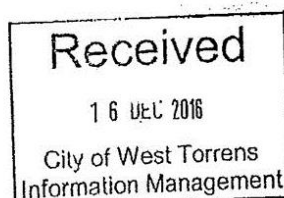


Government of South Australia

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DECD Ref: 15/4229, 16/10314 & 16/10313

Mr Steve Watson
Senior Property Assets Adviser
City of West Torrens
165 Sir Donald Bradman Drive
Hilton SA 5033



Dear Steve

Leased DECD kindergarten properties with City of West Torrens

In response to letter from Terry Buss dated 11 October 2016 regarding the Glandore, Kurralt Park and Netley Kindergartens, the Department of Education and Child Development (DECD) would like to provide the following advice:

- DECD requests early termination clauses in all agreements between other Government Departments, Councils and Community Organisations.
- DECD has no plans to make any changes to the operation of the 3 kindergartens mentioned above.

DECD generally only considers relocating kindergartens to new buildings within school grounds when current facilities are deemed to be outdated or inadequate. This has been shown to benefit students by allowing a smooth transition between preschool and school while also minimising travel for families.

DECD currently has no plans to relocate the three kindergarten sites concerned in the near future. Should there be a need to make any changes to the operation of the kindergarten a community consultation process would be required.

If have any queries regarding this matter please do not hesitate to contact me on 8226 2487.

Yours sincerely

Adam Daly
Property Officer
ASSET AND BUSINESS SERVICES

14/12/2016

11.2 Parking on Verges - Proposal to Amend the Australian Road Rules

Brief

The Local Government Association is seeking feedback from councils on a proposal to amend the *Australian Road Rules 1999* to permit parking wholly, or in part on council verges.

RECOMMENDATION

The Committee recommends to Council that the feedback contained within the report be provided as Council's response to the Local Government Association on the proposed amendments to the *Australian Road Rules 1999*.

Introduction

The Local Government Association (LGA) has advised councils via Circular 19.4 that at the LGA Ordinary General Meeting the LGA Board has resolved to consult with councils on whether there is support within the sector to advocate for a change to the *Australian Road Rules 1999* to enable parking, wholly or in part, on council verges.

The LGA is seeking feedback on the proposal prior to 30 June 2017.

Discussion

The LGA is seeking feedback to determine if there is support for the LGA to lobby the Department of Planning, Transport and Infrastructure to review the section of the *Australian Road Rules 1999* (under the *Road Traffic Act 1961*) and the *South Australian Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014* relating to the provision of legal parking of vehicles on the verge or road related area.

A verge is the land owned or the land under the care and control of a council that is generally located between a resident's property boundary and the kerb (or edge of roadway), excluding any paved or formed footpath; also sometimes known as a 'nature strip'.

The predominant function of the verge area in an urban context is to provide a footpath for safe and convenient access by pedestrians as well as a service corridor for public utilities and council works. Verges vary in nature and width from level nature strips with constructed embankments to sloping embankments.

The City of West Torrens manages verge areas in accordance with the *Council Policy - Urban Verge Management*.

Circular 19.4 (**Attachment 1**) presents information relating to the proposal and two options for council's consideration which are set out below:

Option 1 - Amend the *Australian Road Rules 1999*

The *Australian Road Rules 1999* (ARR) are a national set of road rule designed to increase consistency of road rules across Australia. They are written in such a manner to allow individual states some degree of flexibility.

If the ARR were changed to accommodate parking on the verge this change would apply across all local governments.

Option 2 - Amend the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014*

Under section 174C (1) of the *Road Traffic Act 1961* a council may exempt any person, or persons of a specified class, or any specified vehicle, or vehicles of a specified class, from compliance within its area with a prescribed provision of this Act.

Section 63 (2) of the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014* (SA) lists the prescribed provisions that councils may grant exemptions for including:

- (a) the provisions of Part 8, Division 3 of the [*Australian Road Rules*](#) (Signs for
 1. trucks, buses and other large vehicles);
 - 2.);
- (b) the provisions of Part 12, Division 2 of the [*Australian Road Rules*](#) (No stopping and no parking signs and road markings);
 - 3.
- (c) the provisions of Part 12, Division 5 of the [*Australian Road Rules*](#) (Stopping in zones for particular vehicles);
 - 4.
- (d) rule 195 of the [*Australian Road Rules*](#) (Stopping at or near a bus stop);
 - 5.
- (e) rule 200 of the [*Australian Road Rules*](#) (Stopping on roads—heavy and long
 6. vehicles);
 - 7.);
- (f) rule 205 of the *Australian Road Rules* (Parking for longer than indicated);
- (g) rule 207 of the *Australian Road Rules* (Parking where fees are payable);
- (h) regulation 66 of these regulations (Prohibition on parking in certain public places).

This option provides discretions for councils to determine the merits, or otherwise, of permitting parking on the verge.

Considerations

The motion to allow parking on verges arose from concerns that parking on both sides of narrow streets can be a hazard.

Local governments within Western Australia permit parking on verges and manage this practice through Parking Local Laws which stipulate requirements for verge parking such as people may only park on the verge with the permission of the owner or a resident of the adjoining property.

Advantages of Allowing Verge Parking

Advantages of allowing vehicles to park on the verge include the following;

- Greater access for the road sweeper to clean the road.
- Less congestion on local roads which tend to be quite narrow.
- Is an alternative to kerbside parking which presents obstacles and cause obstructions for flow through traffic located on or near the road / verge.

Disadvantages of Allowing Verge Parking

- The existing kerbing and drainage infrastructure may be damaged as vehicles access and exit the verge.
- The current profile of the kerbing used within the City is not mountable and this may need to be replaced at considerable cost.
- In areas of infill there is little room for verge parking given the proximity and number of crossovers per lot and the location of street trees.
- The verges within City of West Torrens area are largely narrow and therefore lack of sufficient space for suitable car parking.
- Existing verge treatments and street trees may be damaged.
- Greater demand for verge treatments to consist of hardstand materials such as bitumen, paving and concrete which have environmental disadvantages.
- Creating an unsightly appearance in the street, especially if there are a number of vehicles parking on the verge or vehicles parking on the verge of a memorial road such as Anzac Highway.

Accessibility

- By allowing vehicles to park on the verge there is a higher degree of probability that they will park over footpaths resulting in a restricted access for pedestrians and cyclists and the need for compliance action.
- Vehicles parked on the verge could inhibit the waste trucks from collecting bins.
- Restricted lines of sight for pedestrians, cyclists and motorists.
- Vehicles parked on verges may interfere with scheduled lawn mowing services provided by the city.
- Due to varying verge sizes not all verges may be able to accommodate necessary vehicle parking manoeuvres including appropriate space for people to exit or enter the vehicle.
- Generally not suitable for areas with footpath dining or high pedestrian volumes.
- Clearance on the road side still needs to be provided for cyclists to the 'car door zone'.

Need for Regulatory/ Compliance Framework

- A compliance framework (By-law) would need to be established to determine requirements around verge parking. Section 174C (2) of the *Road Traffic Act 1961* permits councils to charge a fee or to impose such other conditions (if any) as council thinks fit and species in the exemption.
- Additional costs for signage to indicate conditions relating to verge parking.
- Need to determine restrictions on the class of vehicles permitted/not permitted to park on verges.

Proposed feedback to the LGA

Council supports Option 2 to Amend the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014* on the basis that each council is best placed to determine whether or not verge parking is appropriate within their local government area.

Conclusion

The Local Government Association is seeking feedback from councils on a proposal to amend *Australian Road Rules 1999* to enable parking, wholly or in part, on council verges before 30 June 2017.

With consideration to the outlined disadvantages that outweigh the advantages of parking wholly, or in part on council verges, Council recommends Option 2 to Amend the *Road Traffic (Road Rules - Ancillary and Miscellaneous Provisions) Regulations 2014* on the basis that each council is best placed to determine whether or not verge parking is appropriate within their local government area.

Council is unable to support Option 1 at this time due to foreseeable adverse implications to roadside infrastructure resulting from parking on Council verges. More importantly, verges within the City of West Torrens area are largely narrow and therefore lack of sufficient space for suitable car parking.

Council would nevertheless consider the option of parking wholly or in part on Council verges on a case by case basis if there is merit in improving road safety and efficiency for all road users.

Attachments

Nil

11.3 Urban Services Activities Report

Brief

To provide Elected Members' with information on activities within the Urban Services Division.

RECOMMENDATION

The Committee recommends to Council that the Activities Report be received.

Discussion

This report details the key activities of the City Assets, City Development and City Works Departments.

Special Project Work	
New Drainage System - Lockleys Catchment May Terrace Stage 3	Works are anticipated to be undertaken by mid-June 2017. During these works the access to and from May Terrace from Henley Beach Road will be impacted.
New Drainage System - Lockleys Catchment Henley Beach Road Crossings - Stage 4a Rutland Ave	Works have commenced and anticipated to be completed by end of June 2017.
West Beach Drainage System - Flood Wall	<p>Joint sealing maintenance works associated with this project are continuing.</p> <p>Council has also commenced a joint investigation with Adelaide Airport Limited (AAL) in relation to the flow performance of the drainage line downstream of West Beach Road, through Remnant Patawalonga Creek, on land which is under the control and maintenance of AAL.</p>
George Street, Thebarton	Tender documentation for this project is being developed.
River Torrens Bank Repairs - Thebarton	<p>A section of riverbank works is being repaired by contractors during early June 2017.</p> <p>Works will be undertaken for the section of path from Murray Street to Holland Street, Thebarton in June 2017. Due to the confined width of access and the pathway in this locality, the pathway will be closed to the public during these works.</p> <p>Advance notice of works signage was installed along the pathway in the lead up to the works.</p>
River Torrens Linear Park, (Pedestrian Light Project)	<p>The project has been awarded for the River Torrens Linear Park Pedestrian Lighting Project on the next stages (6 and 7) of pedestrian lighting for the 2016/17 program of works, from Henley Beach Road to Tapleys Hill Road, Lockleys / Fulham, for both sides of the river.</p> <p>The project is underway and is scheduled to be completed in July 2017.</p>

Westside Bikeway, Moss Ave - Pedestrian Lighting	<p>The project has been awarded for the 2016/17 stage of pedestrian lighting on the Westside Bikeway, from Barwell Ave to Richmond Road, Marleston.</p> <p>The project is underway and is scheduled to be completed in July 2017.</p>
Coast Watchers Reserve - Pedestrian Lighting	<p>The project has been awarded for the upgrade of the pedestrian lighting on Coast Watchers Reserve on the pathway from Henley Beach Road to Ashburn Avenue, Fulham.</p> <p>The project is underway and is scheduled to be completed in July 2017.</p>

Capital Works

Road Reconstruction Works	<p>The following is an update on roadworks occurring in our City:</p> <p>2015/16 Program</p> <ul style="list-style-type: none"> - West Beach Road - detailed concept design works are completed and the Administration are continuing to work with the City of Charles Sturt to identify funding opportunities. - Norma Street, Mile End - Reconstruction complete. Minor ancillary works are ongoing now. - Military Road, West Beach - complete. - Tennyson Street, Kurralta Park - Reconstruction complete; defect works to be completed. <p>2016/17 Program</p> <ul style="list-style-type: none"> - North Parade (Clifford St to Stephens Ave) - Reconstruction complete, minor defects to be completed. - Birdwood Tce (Keith Ave to Murdoch Ave) - Reconstruction complete, minor defects to be completed. - Beauchamp St - Reconstruction complete. <p>Design and documentation are currently being undertaken for the following roads:</p> <ul style="list-style-type: none"> - Aldridge Tce (Richmond Rd to St Anton St) - Mortimer St (Gray St to Grassmere St) - George St (South Rd to Dew Street) - consultation done and detailed design ongoing. - West Thebarton Road / Phillips Street - consultation done and detailed design ongoing. <p>Pavement designs have been completed for the above list of roads.</p>
Undergrounding of Power West Thebarton Rd / Phillips St, Thebarton	<p>Power pole and cabling works are ongoing. SA Power Networks (SAPN) have finalised replacement of contractors to complete the civil works for undergrounding of the power lines. Due to contractual issues, SAPN have now advised that the completion date for the project would be December 2017.</p>

<p>Kerb & Watertable and Road Reseal Program for 2016/17</p>	<p>The following is a list of the streets allocated for kerb and watertable works in 2016/17. The streets have been divided into six (6) stages of equal duration.</p> <p>Stage 1: program of works:</p> <ul style="list-style-type: none"> - Alexander Av - (Marleston Av to Day Av) - Ongoing - Clifton St - (Stonehouse Av to Carlton Rd) - Complete - Cromer St - (Bourlang Av to Patricia Av) - Ongoing - Patricia Av - (Clifton St to Cromer St) - Ongoing - Patricia Av - (Cromer St to Whelan Av) - Ongoing - Warwick Av - (Daphne St to Cross Tce) - Complete - Coulter St - (Allchurch Av to Galway Av) - Complete - Mackay Av - (Edward Davies St to Laverack Rd) - Complete - Mackay Av - (Mackay Av to Mackay Av) - Complete - Park Tce - (Allchurch Av to Talbot Av) - Complete - Talbot Av - (Marion Rd to Wyatt St) - Complete - Talbot Av - (Packard St to Park Tce) - Complete - Talbot Av - (Park Ter to Birdwood Tce) - Complete - Talbot Av - (Wyatt St to Packard St) - Complete <p>Stage 2: program of works:</p> <ul style="list-style-type: none"> - Somerset Av - (Davenport Tce to Sir Donald Bradman Dr) - To be scheduled - Verran Av - (Sir Donald Bradman Dr to Davenport Tce) - To be scheduled - Albert St - (Milner Rd to Martin Av) - Complete - Arthur St - (Arthur Street to Shaw Av) - Complete - Arthur St - (Brooker Tce to Arthur Street) - Complete - Davenport Tce - (Martin Av to Milner Rd) - Ongoing - Davenport Tce - (South Rd to Martin Av) - Ongoing - Lucas St - (Bartholomew St to Chambers Av) - Complete - Lucas St - (Marion Rd to Sanders St) - Complete - Lucas St - (Sanders St to Bartholomew St) - Complete <p>Stage 3: program of works:</p> <ul style="list-style-type: none"> - Mallen St - (Sir Donald Bradman Dr to Burt Av) - Ongoing - Darebin St - (Ebor Av to Falcon Av) - Complete - Ebor Av - (Tarragon St to Cowra St) - Complete - Lurline St - (Bagot Av to Ebor Av) - Ongoing - Norma St - (South Rd to Falcon Av) - To be scheduled - Victoria St - (Henley Beach Rd to Hughes St) - Ongoing <p>Stage 4: program of works:</p> <ul style="list-style-type: none"> - Dew St - (Kintore St to George St) - To be scheduled - Dew St - (Rose St to Kintore St) - To be scheduled - School L - (Taylors L to Rose St) - To be scheduled - Cawthorne St - (End to Smith St) - To be scheduled - James St - (Phillips St to Smith St) - Complete - Smith St - (Dew St to Holland St) - Complete - Walsh St - (Anderson St to Phillips St) - To be scheduled - Clifford St - (North Pde to Carlton Pde) - Complete - East St - (Carlton Pde to Henley Beach Rd) - Complete - Hayward Av - (End to North Pde) - Complete
--	--

<p>Kerb & Watertable and Road Reseal Program for 2016/17 <i>(continued)</i></p>	<ul style="list-style-type: none"> - Jervois St - (Carlton Pde to North Pde) - Complete - Jervois St - (Henley Beach Rd to Carlton Pde) - Complete - Northcote St - (Henley Beach Rd to Carlton Pde) - Complete - Sherriff Ct - (Sherriff St to End) - Ongoing <p>Stage 5: program of works: works to be scheduled</p> <ul style="list-style-type: none"> - Bedford St - (Pine St to Wakefield Pl) - Ongoing - Bedford St - (Wakefield Pl to End) - Ongoing - Frank St - (Property #1 to Airport Rd) - To be scheduled - James Av - (Western Pd to Press Rd) - To be scheduled - Pine St - (Allen Av to Bedford St) - To be scheduled - Rushworth Av - (Lipsett Ter to Sir Donald Bradman Dr) - To be scheduled - Stott Cr - (Marshall Ter to End) - To be scheduled - Western Pd - (Carnarvon Ave to Everett St) - To be scheduled - Acacia Av - (End to Willingale Av) - To be scheduled - Acacia Av - (Willingale Av to End) - To be scheduled - Franciscan Av - (Property #5 to Arcoona Av) - To be scheduled - Fulham Park Dr - (Arcoona Av to Corona Av) - To be scheduled - Noble Av - (Torrens Av to Kenton St) - To be scheduled - Rostrata St - (End to Willingale Av) - To be scheduled - Torrens Av - (End to Dartmoor St) - To be scheduled - Rankine Rd - (Property #22 to Hounslow Av) - Ongoing - Oakington St - (Elizabeth St to Henley Beach Rd) - To be scheduled - Torrens St - (Wilton Ter to Ferris St) - Complete - Wilton Tce - (Elizabeth St to Hopson St) - Ongoing <p>Stage 6: program of works: works to be scheduled</p> <ul style="list-style-type: none"> - Fitch Rd - 3900 (Halsey Rd to Good St) - Good St - 4330 (Good St to Good St) - Hadley St - 4540 (Ashburn Av to Henley Beach Rd) - Halsey Rd - 4560 (Halsey Rd to City Boundary) - Halsey Rd - 4560 (Halsey Rd to End) - Huntington Av - 4990 (Ayton Av to La Jolla Ave) - Huntington Av - (Henley Beach Rd to Ayton Av) - Huntington Av - (La Jolla Ave to Riverside Dr) - Layton St - (Henley Beach Rd to Ashburn Av) - Raikoff Ct - (Kandy St to End) - Samuel St - (Mackirdy St to Weetunga St) - Sherwin Ct - (Henley Beach Rd to Henley Beach Rd) - Susan St - (Ayton Av to Henley Beach Rd) - Warramunga St - (Halsey Rd to End) - Burbridge Rd (Service Road) - (Davis St to City Boundary) - Charles Veale Dr - (Mountbatten Gv to Tapleys Hill Rd) - Charles Veale Dr - (Windsor Ter to Mountbatten Gv) - Toledo Av - (Property #27 to Swan Av) - Ongoing - Toledo Av - (Swan Av to Property #36) - Ongoing
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Footpath Program 2016/17	<p>The following is a list of the streets allocated for footpath works in 2016/17:</p> <p>Renewal Footpath Program:</p> <ul style="list-style-type: none"> - Ballantyne Street (Lowe Street to South Road) - To be scheduled - Henley Beach Road (Lisa Court to Tapleys Hill Road) - Ongoing - Tapleys Hill Road (Henley Beach Road to City Boundary) - Ongoing - Darebin Street (Falcon Avenue to South Road) - Complete - King Street (Claremont Street to South Road) - Complete - King Street (Victoria Street to Claremont Street) - Complete <p>New Footpath Program:</p> <ul style="list-style-type: none"> - Horsley Street (Frontage Road to Durham Avenue) Wider resident consultation for this proposal to be undertaken. - Reese Avenue (Deacon Ave to Kingston Ave) - Complete - Eringa Avenue (Fulham Park Drive to End) - Complete - Hayward Avenue Extension (End to Ashwin Parade) - Complete - Neptune Crescent (Ingerson Street to End) - Resident consultation to be undertaken. - Orana Avenue (Iluka Street to City Boundary) - Complete - Rostrata Street (End to Willingale Avenue) - Works underway - Wakefield Place (Bedford Street to End) - Complete - Willingale Avenue (Henley Beach Road to Rostrata Street) - Works yet to commence - Willingale Avenue (Rostrata Street to Acacia Avenue) - Works yet to commence - Walter Street (Ralph Street to Trennery Street) - Complete
Bicycle Management Schemes	<p>Works are ongoing for the shared use path installation along Beare Avenue, north of Watson Avenue.</p>
Playground Upgrade 2016/2017	<p>The following is an update on the program of works:</p> <ul style="list-style-type: none"> - Memorial Gardens, Hilton - Draft concept / draft plans are currently being reviewed / updated by the Administration. Further details will be provided to Elected Members on completion of the concept / draft plans. - Kesmond Reserve, Surrey Rd, Keswick - Playground works are completed. Currently additional improvements works are underway to upgrade the reserve area. - Camden Oval, playground by bowling / tennis club - Completed. New shade structure scheduled for completion by end of June 2017. - Lyons Street Reserve, Brooklyn Park - Works scheduled to commence in June 2017. - Joe Wells Reserve, Netley - Development of updated concepts plans are continuing with the Netley Kindergarten. - Kings Reserve, Torrensvile - Draft concept plans have commenced together with the development of the site Masterplan for the Kings Reserve. The project will include the expansion of the existing skate bowl and development of a larger playground facility aimed at older children.

Reserve Irrigation Upgrades 2016/17	<p>The following is a status update on the current program of works:</p> <ul style="list-style-type: none"> – Carolyn Reserve, Fulham - Completed – Kings Reserve, Torrensville (staged project) - In progress – Richmond Oval, Richmond - Completed – Golflands Reserve (western section), Glenelg North - Completed – Tyson Avenue (wide verge area), Ashford - Completed – Frank Norton Reserve, Torrensville - In progress – East Parkway Reserve, Fulham - In progress
Parking and Traffic Management	
Torrensville/Thebarton LATM	<p>Detailed development of the following projects is continuing:</p> <ul style="list-style-type: none"> • North Parade and Shipster Street kerb extension • Ashwin Parade and Hardys Road intersection realignment • George Street and Albert Street intersection • Concept plan development for Ashley Street (between Holbrooks Rd and Hayward Avenue) <p>The following projects are underway:</p> <ul style="list-style-type: none"> • North Parade and Wainhouse Street kerb extension - Works commenced • Hardys Road and Ashley Street roundabout (Black Spot funding received - \$79,950) - Detailed design is ongoing <p>Consultation with those properties directly affected will be undertaken at the relevant time.</p>
Novar Gardens/Camden Park LATM	LATM questionnaires for Novar Gardens/ Camden Park were distributed on 1 June 2017. Turning movement counts have been undertaken. Working Party meeting soon to be convened.
Richmond/Mile End LATM	Baseline traffic data is currently being collected.
Cowandilla Primary School & Jenkins Street precinct	Conceptual design of children crossing changes has been developed. The Administration has met with the school governing council to review the concept design. Consultation is to commence within the local area.
Property and Facility Services	
Weigall Oval	Council has been advised that its grant application (SGLIP Grant) has been successful. Additional funding commitment requires Council consent. Awaiting receipt of funding document for a report to be presented to Council. Stage 1 to be scheduled for tender in the coming months.
Lockleys Oval Masterplan	<p>A report was provided to Elected Members' at the Community Facilities Committee meeting held on 23 May 2017 updating Members' on the status of the Lockleys Oval project as well as a recount and clarification of a number of relevant matters relating to the project.</p> <p>Ongoing meeting with consultants in regard to detailed design plans.</p>

Apex Park Masterplan	<p>A report was provided to Elected Members' at the Community Facilities Committee meeting held on 23 May 2017 updating Members' on the status of the Apex Park project as well as a recount and clarification of a number of relevant matters relating to the project.</p> <p>Non wetland works to be scheduled for tender in the coming months.</p>
Camden Oval Masterplan	<p>A report was provided to Elected Members' at the Community Facilities Committee meeting held on 23 May 2017 updating Members' on the current status of this project.</p> <p>Ongoing meetings with architect to progress design of clubroom facilities with feedback being sought from tenants. Meeting has occurred with Planning Consultant regarding olive grove.</p>
Cummins House	Recent meeting with Cummins Society rep (26/5/17) to advise of status. Still seeking clarification on State Government position.
Torrensvile Bowling Club	Lease negotiations completed. Public consultation closed on 31 May 2017 and no further comments were received.
Craig St road closures	No response has been received from adjoining owners in regards to possible purchase of portion of roadway by required expiry date. Preliminary documentation has been lodged with Surveyor-General's Office. Once preliminary plan number has been provided, public consultation will commence.
Packard/Allchurch road closures	<p>Preliminary plan signed for lodgement with the Surveyor-General.</p> <p>Public consultation to commence shortly.</p>
Thebarton Theatre Complex - Fire Safety	The final two stages (Stages 3 & 4) of the fire building and compliance works for the theatre are continuing on site. The project is expected to continue until July 2017.
Star Theatre Complex	The works program for the staged program is continuing to be finalised in consultation with the tenant and a detailed design is underway. The program of works will be delivered to ensure minimal impact on the Theatre's schedule of events.
Camden Community Hall	<p>Works are currently being undertaken to replace the existing roof-mounted air-conditioning system with a wall-mounted (evaporative) system, along with replacement of the existing roof sheeting on the hall.</p> <p>This project will be finalised by end of June 2017.</p>
Thebarton Community Centre	<p>A report was provided to Elected Members' at the Community Facilities Committee meeting held on 28 March 2017 to address the matters raised regarding the building functionality. As recommended, the Administration is continuing to develop a detail design and technical specification for this project.</p> <p>A further report will provided back to the Community Facilities Committee on completion of this stage.</p>

Civil and General Maintenance

Monthly Update	Concrete, Block Paver & Asphalt Footpath/Dr Crossover		197m2
	Kerbing & water table / Invert		53m
	Road Repairs		8m2
	Line marking - Traffic Management		1,218m
	Line marking - Parking Control		63m
	Graffiti Removal	Council property	10 locations (46m2)
		Private property	23 locations (87m2)
		Bus stops	0 location (m2)
	Signage	Regulatory	59
		Street nameplates	2

Drainage and Cleansing Services

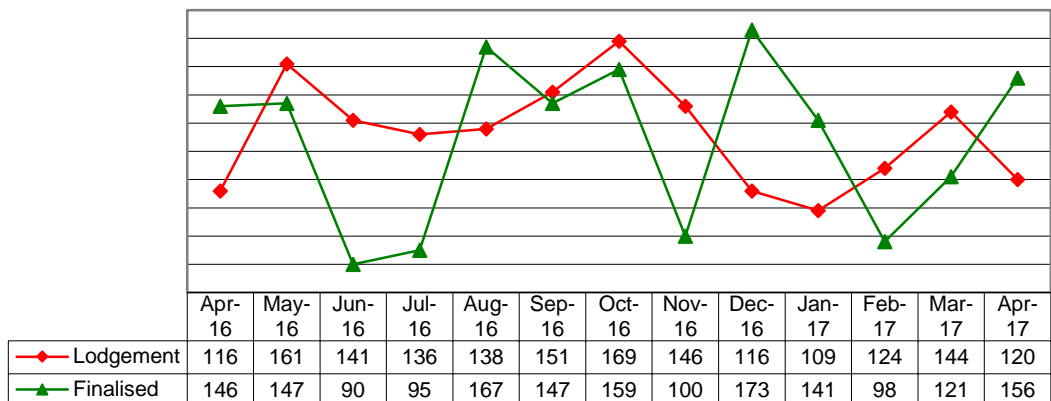
Monthly Update	Pump Station inspections	Chippendale	Completed
		Shannon	Completed
		Riverway	Completed
		West Beach	Completed
		Duncan - Laneway (Lockleys)	Completed
	Illegal rubbish dumping		5.2t
	Road Sweepers		84.6t

Horticulture Services

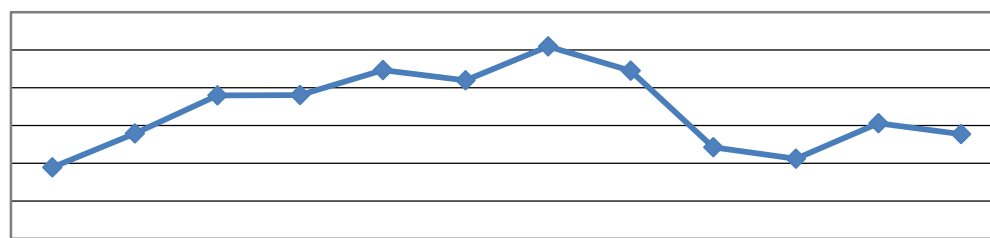
Monthly Update	Trees Pruned		450
	Removals		38
	Weed Control (Reserves, Verges, Traffic Islands)		1,997L

Development Assessment

Development Applications

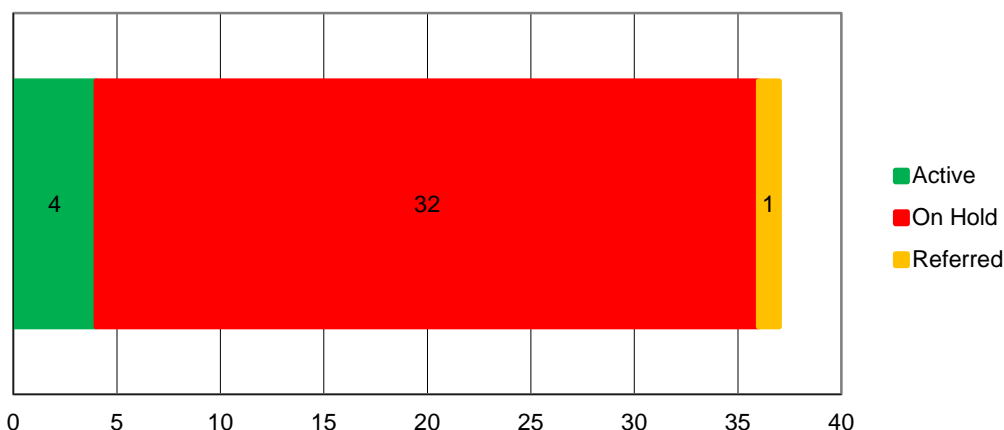


Active files - Development Approval



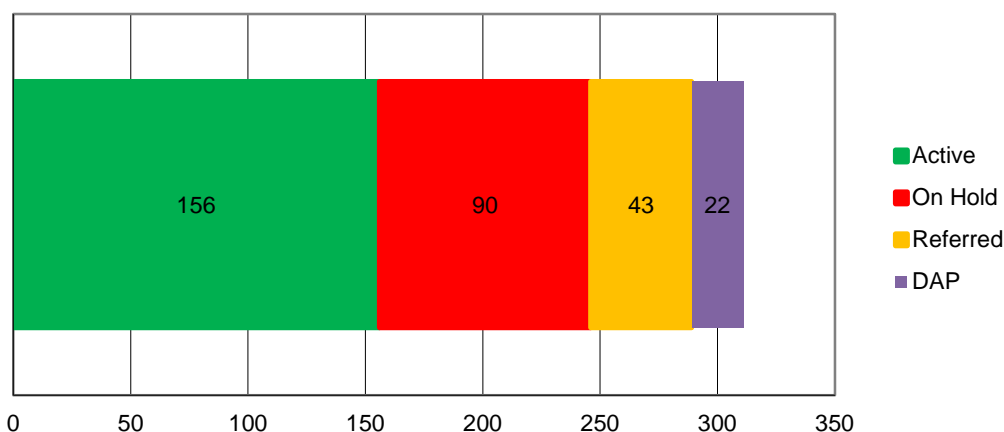
Active files shows all development applications that have been lodged with Council but are yet to receive a decision, it includes applications for Development Plan Consent, Building Rules Consent and Land Division Consent.

Current Applications - Building Rules Consent

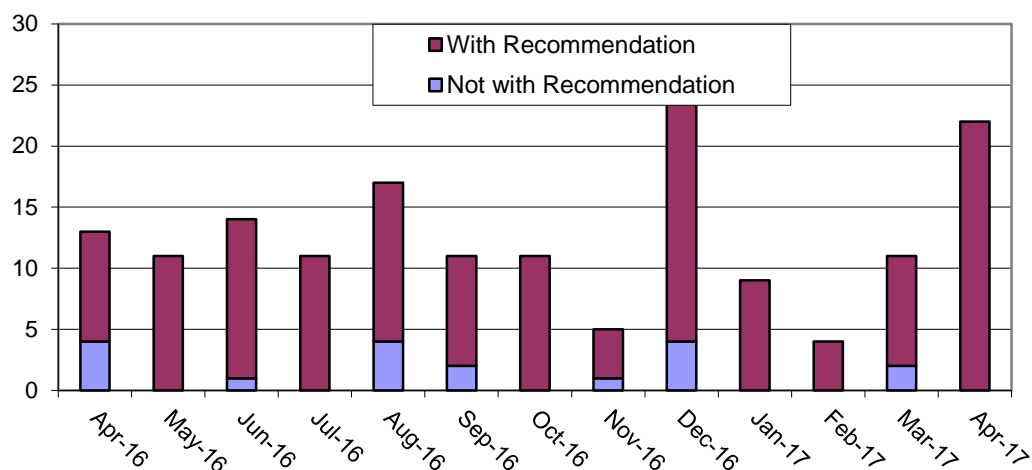
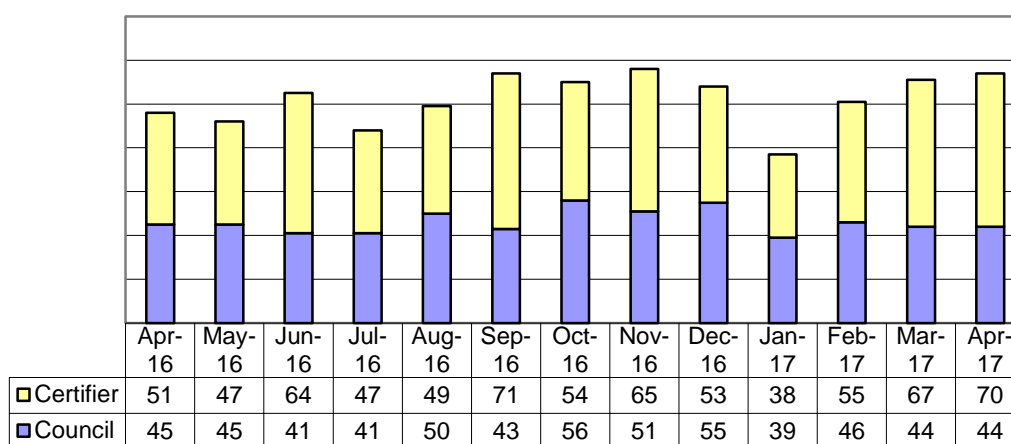


Building Rules Consent, is the process where applications are assessed against the Building Code of Australia (BCA), not all applications are assessed against the BCA (e.g. land divisions, tree removals) and some are only assessed against the BCA.

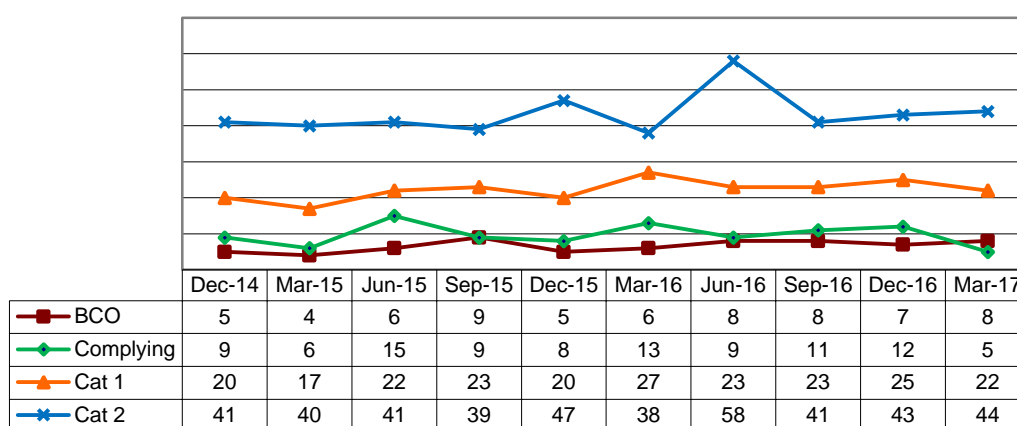
Current Applications - Development Plan Consent



Development Plan Consent, is the process where applications are assessed against the City of West Torrens Development Plan (DP) not all applications are assessed against the DP (e.g. Residential Code and Building Rules only) and some are only assessed against the DP (eg land divisions, tree removals).

Development
Assessment
Panel DecisionBuilding Rules
Consent issued

Not all Building Rules Consents are assessed by Council, about half are assessed by private assessors known as Private Certifiers, these privately certified assessments still need to be registered and recorded with Council.

Median
Assessment
Timeframes

Maximum Statutory Timeframes are as follows:

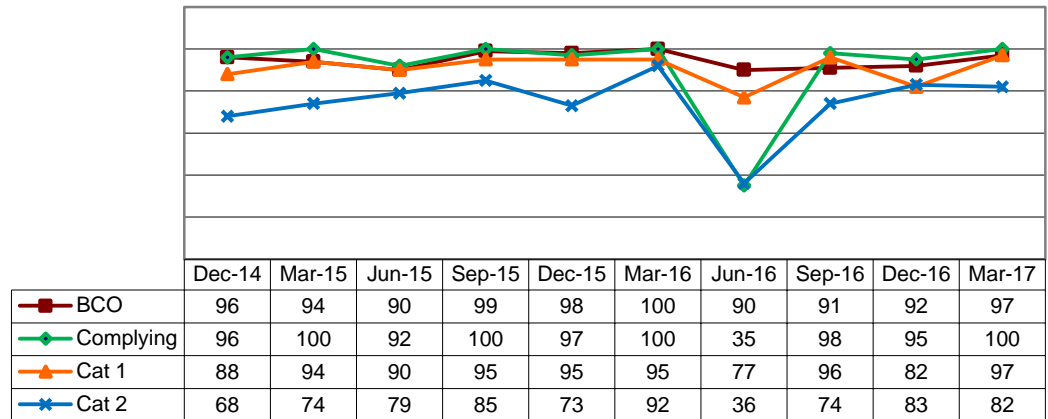
Building Code Only (BCO) - 20 days

Complying - 30 days

Category 1 - 60 days

Category 2 - 60 days

Percentage of DAs that met Statutory Timeframes



Maximum Statutory Timeframes are as follows:

Building Code Only (BCO) - 20 days

Complying - 30 days

Category 1 - 60 days

Category 2 - 60 days

Compliance

Month/Year	No of Actions Received	Actions Resolved within the month	Actions Resolved from previous months	Total Ongoing Actions	Section 84 Issued	Section 69 Issued	New Actions with ERD Court	Resolved Actions with ERD Court	Total ongoing Actions with ERD Court	Section 51 Clearances
Apr 16	20	9	21	85	5	-	-	-	2	8
May 16	17	7	21	74	2	-	1	-	3	8
Jun 16	16	9	3	78	3	-	-	-	3	9
Jul 16	16	13	14	67	-	-	-	-	3	8
Aug 16	16	8	19	56	-	-	-	-	3	14
Sep 16	19	19	12	44	-	-	-	-	3	6
Oct 16	16	13	1	46	-	-	-	-	3	8
Nov 16	20	16	7	43	1	-	-	-	3	13
Dec 16	16	8	0	51	3	-	-	1	2	9
Jan 17	19	14	0	56	1	-	-	-	2	11
Feb 17	11	7	0	60	-	-	-	-	2	5
Mar 17	27	24	8	55	-	-	-	-	2	10
Apr 17	10	5	7	53	-	-	-	-	2	7

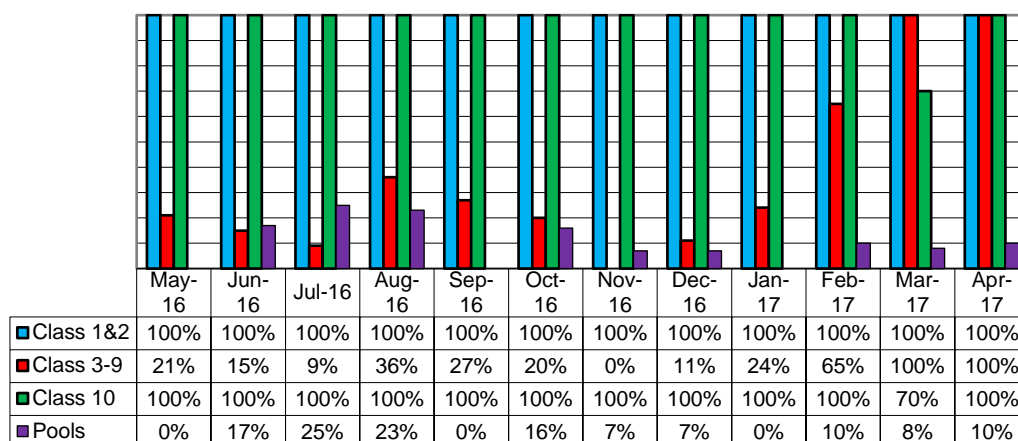
Compliance actions include investigating potential use of properties for activities that haven't been approved, buildings being constructed without the required approvals, checking of older buildings that may be becoming structurally unsound.

Sec 84 notices are the first stage of prosecution for unapproved development.

Sec 69 notices are the first stage of prosecution for unsafe buildings.

Sec 51 clearances, refers to the final check of properties with approval to subdivide, this is where we give the all clear for new Certificates of Title to be issued.

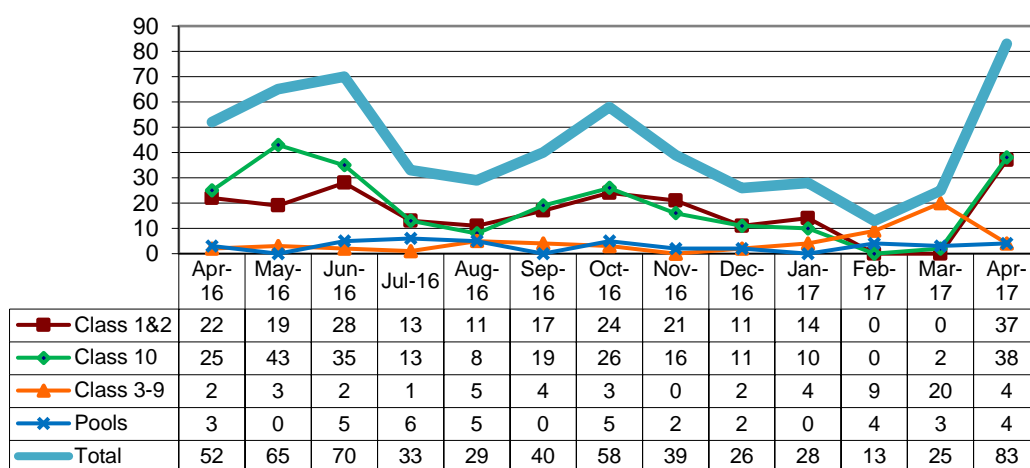
Building Inspections



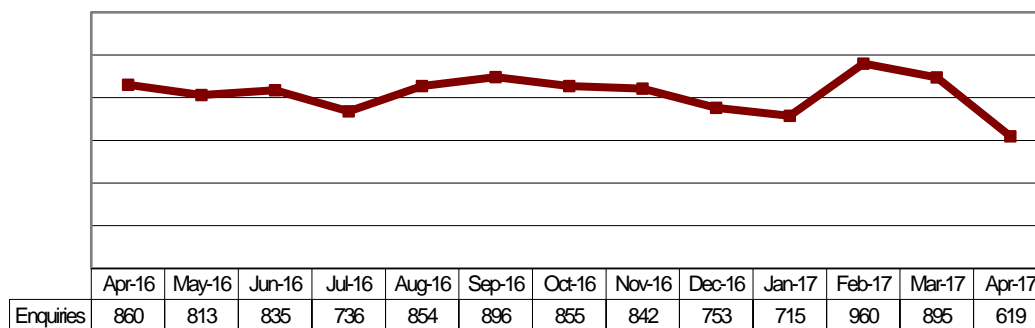
The Development Act and Council's Building Inspection Policy requires that a minimum number of approved buildings are inspected for compliance with their associated Development Approval documentation. In addition there is a requirement to undertake a pool safety inspection upon all swimming pools approved for construction. Class 1 & 2 refers to houses and units, Class 3-9 refers to commercial, industrial and community buildings, Class 10 refers to verandahs, sheds, fences etc. Where 100% of inspections have not been met in a month the requirement is rolled over to the next month until all required inspections have been undertaken.

NOTE: Only successful inspections are recorded, failed inspections are listed for re-inspection

Actual Satisfactory Building Inspections Undertaken



ePathway Development Application Enquiries

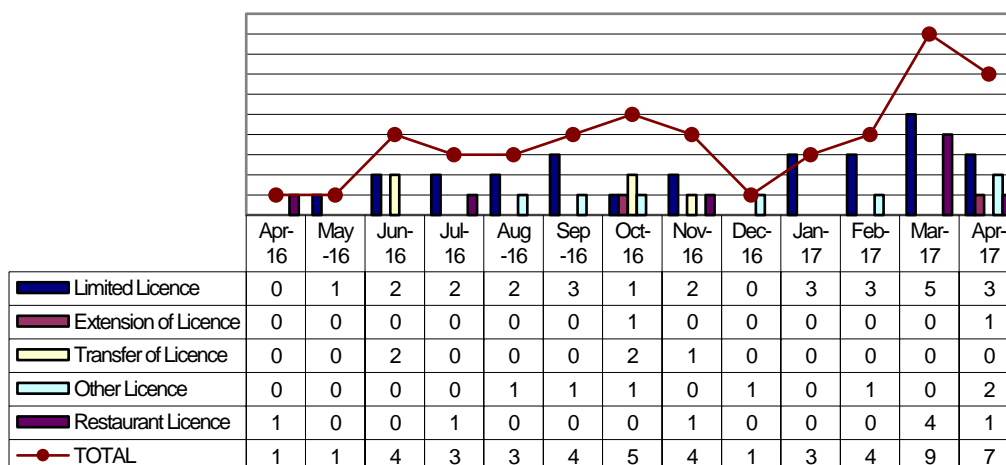


Since 2011, people have been able to check the progress of their own development applications or check the history of development applications on an allotment via the internet on Council's website.

Since 2013, the department has been adding historic applications to this system with the aim of creating a database where all of the area's application history can be accessed electronically; we expect this project to be completed by mid-2017.

Liquor Licence

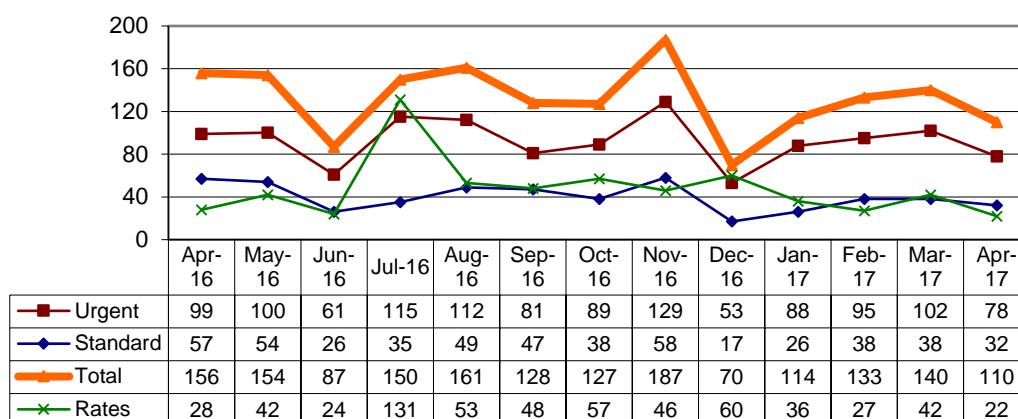
Licence Applications



When an application is lodged with the State Government's Office of Liquor & Gambling (OLG), it is also required to be referred to Council for our comment. The proposals are handled in accordance with our Liquor Licensing Policy, and Limited Licence applications are referred to the relevant Ward Councillors for their comment prior to feedback being sent to the OLG.

Section 12 Searches

Section 12 Searches



When a property is purchased, the purchasers are provided with a Form 1 (commonly known as cooling off paperwork) Council contributes to this Form 1 with a Section 12 Certificate, the certificate provides the potential purchaser with all relevant known history for the property. Prior to settlement on the property the relevant Conveyancer will also request a Rates statement from Council to ensure the appropriate rates payments are made by the purchaser and the vendor (seller).

Attachments

Nil

12 MEETING CLOSE

INDEX

1	Meeting Opened.....	1
2	Present	1
3	Apologies	1
4	Disclosure Statements	1
5	Confirmation of Minutes.....	1
6	Communications by the Chairperson.....	1
7	Questions with Notice	1
	Nil	
8	Questions without Notice.....	1
9	Motions with Notice.....	1
	Nil	
10	Motions without Notice.....	1
11	Governance Reports.....	2
11.1	South Australian Planning Reform Implementation Progress Report - June 2017	2
11.2	Kaurna Native Title Claim Update	6
11.3	Legislative Progress Report - May 2017	63
12	Meeting Close	66

1 MEETING OPENED**2 PRESENT****3 APOLOGIES****Leave of Absence**

Cr Kym McKay

4 DISCLOSURE STATEMENTS

Committee Members are required to:

1. Consider Section 73 and 75 of the *Local Government Act 1999* and determine whether they have a conflict of interest in any matter to be considered in this Agenda; and
2. Disclose these interests in accordance with the requirements of Sections 74 and 75A of the *Local Government Act 1999*.

5 CONFIRMATION OF MINUTES**RECOMMENDATION**

That the Minutes of the meeting of the Governance Committee held on 2 May 2017 be confirmed as a true and correct record.

6 COMMUNICATIONS BY THE CHAIRPERSON**7 QUESTIONS WITH NOTICE**

Nil

8 QUESTIONS WITHOUT NOTICE**9 MOTIONS WITH NOTICE**

Nil

10 MOTIONS WITHOUT NOTICE

11 GOVERNANCE REPORTS

11.1 South Australian Planning Reform Implementation Progress Report - June 2017

Brief

This report presents the June 2017 update on the status of the implementation of the South Australian Planning Reform, including the transition from the *Development Act 1993* to the *Planning, Development and Infrastructure Act 2016* (Act), and the implementation of associated legislation and statutory planning documents.

RECOMMENDATION(S)

The Committee recommends to Council that the South Australian Planning Reform Implementation Progress Report - June 2017 be received.

Introduction

A report is presented to each meeting of the Governance Committee detailing the progress of the various elements of the implementation of the 'South Australian Planning Reform' incorporating the implementation of the Act, the staged proclamation of specific sections as well as related legislation and statutory planning documents prepared under the Act or by the Department of Planning, Transport and Infrastructure (DPTI).

Discussion

Staged proclamation of the Act and Regulations
Planning, Development and Infrastructure Act 2016 (the Act)
No further sections of the Act have been proclaimed since the last implementation progress report.
Planning, Development and Infrastructure Regulations
No further regulations relating to Act have been proclaimed since the last monthly report.
Assessment Panels
<p>On 30 May 2017, DPTI published its proposal to commence operation of sections 82-87 and clauses 12-16 of Schedule 8 of the Act on 1 August 2017 and designate 1 October 2017 as the date from which the new council development assessment panels must be constituted and operating.</p> <p>DPTI has also released the following draft documents:</p> <ul style="list-style-type: none"> • Planning, Development and Infrastructure (General) (assessment Panels) Variation Regulations 2017) • Assessment Panel members Code of Conduct • Assessment Panel Procedures (for Minister-appointed and regional assessment panels) <p>These documents are expected to be finalised before 1 October 2017. The accreditation requirements for independent panel members and assessment managers are expected to be implemented in July 2018.</p>

DPTI Council Roadshow

DPTI has invited the Administration, as practitioners, to one of the three DPTI Council Roadshows to be held on 30 May, 1 June and 8 June 2017 respectively.

This is the first in an expected series of information sessions covering the implementation of South Australia's new planning system. The sessions are aimed at informing and supporting local government practitioners in the transition to the new system.

A range of topics is expected to be covered in the presentation including the reform program, joint planning boards, 30-year plan, community engagement charter, panels and accredited professionals, infrastructure schemes as well as the planning and design code(s).

The Administration will provide a summary of pertinent information to Elected Members following the upcoming DPTI council roadshows.

Statutory Planning Documents

DPTI Statutory Planning Documents

30-Year Plan for Greater Adelaide 2017 Update

On 29 May 2017, the Minister for Planning, the Hon. John Rau, launched the approved *30-Year Plan for Greater Adelaide 2017 Update*.

This follows the release of the draft update for public consultation in 2016. The 30-Year Plan will transition to a 'regional plan' under the Act at a future point in time. An annual implementation plan for the 30-Year Plan will be released in July 2017.

Ministerial Development Plan Amendments (DPAs)

The following documents were released on 30 May 2017 and are subject to public consultation for a period of 8 weeks i.e. until 25 July 2017:

1. *Ministerial Inner Middle Metro Corridor Infill (Design) Development Plan Amendment for Consultation*
 - This is a proposal to change general (council-wide) planning policies applicable to medium rise development in the existing Urban Corridor Zone that aim to improve their design and appearance and integration with nearby residential areas.
2. *Ministerial Inner Middle Metro Corridor Infill (Sites) Development Plan Amendment for Consultation*
 - A proposal to rezone two sites located at 254-262 Richmond Road, Marlestone (former Marlestone TAFE) and 6-10 Railway Terrace, Mile End to the Urban Corridor Zone.

The Administration will present a summary and a draft submission on the DPAs for consideration at the 18 July 2017 Council meeting.

DPTI Non-Statutory Planning Documents

On 30 May 2017, the *Draft Design Quality and Housing Choice Design Guidelines* (Draft Design Guidelines) were formally released for public consultation for a period of 8 weeks until 25 July 2017.

The Draft Design Guidelines have been developed to promote well-designed housing in South Australia in line with the recently updated 30-Year Plan for Greater Adelaide. The Draft Design Guidelines are intended to provide clear design guidance and encourage innovative approaches to medium to high density housing development.

The Administration will present a summary and a draft submission on the Draft Design Guidelines for consideration at the 18 July 2017 Council meeting.

Acts, Regulations and Statutory Planning Documents previously reported on where status remains unchanged

- Local Heritage Reform Bill.

Council Of West Torrens Administration PDI Working Groups

Online Lodgement & Electronic Processing

The development of an online lodgement solution for development applications received by the City of West Torrens is progressing and is on target to be in place by July 2017. The online lodgement solution will provide applicants with the ability to not only submit their applications over the counter at the Civic Centre, as is currently the case, but online via the City of West Torrens website too. The online lodgement system will enable the Administration to update development application processes in preparation for the electronic processing requirements of the state-wide Planning ePortal to be implemented as part of the Planning Reform.

Policy Research and Advocacy

Research relating to the future of employment lands in the City of West Torrens has been commissioned. The Administration is also conducting research on the other priority policy themes and preparing submission on the recently announced draft DPAs and draft Design Guidelines. DPTI is expected to release information on the process for councils to work with DPTI on the transition of current planning policy to the new legislative framework at the 'DPTI Council Roadshow'.

Council Assessment Panels

The Administration has been tracking the implementation of the new Council Assessment Panel arrangements and is now preparing for the recently announced 1 October 2017 commencement date for the new Assessment Panel requirements.

The Administration is attending training on the new requirements presented by KelliedyJones Lawyers on 1 June 2017 and a report will be presented at a future Council meeting before 1 October 2017.

Community and Stakeholder Engagement

An article on the Planning Reform is planned to be published in the Winter edition of Talking Points. A community and stakeholder engagement plan will be developed following the announcement of the next phase of the Planning Reform implementation at the DPTI Council Roadshow.

Conclusion

This report on the Planning, Development and Infrastructure Act 2016 implementation is current as at 30 May 2017.

Attachments

Nil

11.2 Kurna Native Title Claim Update

Brief

This report presents an update on the progress and status of the Kurna Native Title Claim.

RECOMMENDATION(S)

The Committee recommends to Council that the Kurna Native Title Claim Update report be received.

Introduction

In 2000, the Kurna people (Claimants) submitted a native title claim (Claim) to the Federal Court of Australia (Court), over land which includes the whole of the City of West Torrens. It is interesting to note that this is the last capital city Claim not yet determined under the *Native Title Act 1993*.

Since that time, the Claim has been subject to numerous hearings (Hearings) in the Court as well as case management conferences (CMC). CMCs allow for identified parties such as the representatives of the Kurna claimants, state government, commonwealth government and various interested industry and energy entities to work through issues associated with the Claim outside of the formal Hearings. Updates following each Hearing or CMC are presented to the Committee for information.

The last report to the Committee was at its 4 April 2017 meeting. That report briefed the Committee on the activity undertaken since the November 2016 Hearing. This included undertaking a 'discovery' on the documents associated with the following categories

Category Number	Category
1	By-law infringements from 1826-2016 in relation to the following family names <ul style="list-style-type: none"> • Wanganeen • Newchurch • Agius
5	Cemetery records from 1836-2016 in relation to the following family names for all councils in the Kurna claim area <ul style="list-style-type: none"> • Wanganeen • Newchurch • Agius
8	Local council area maps (within the Kurna claim area) dating from 1836-2016 of Aboriginal reserves
9	Area maps identifying Aboriginal camps (within the Kurna claim area) dating from 1836-2016
10	Any applications in the form of letters, petitions and other correspondence to councils in relation to the protection of Aboriginal land, culture and traditions from 1836-2016
11	Records of permission sought by Aboriginal peoples from local councils and/or permission given by local councils within the Kurna claim area from 1836-2016 for: Conducting traditional practices such as Corroborees, Dances/Singing, Fires and the use of resources

As also reported, the subsequent hearing was set for 28 March 2017.

This report presents the progress of the Claim since that time, including the outcomes of the CMC held on 28 March 2017, with associated correspondence from Council's lawyers.

Discussion

Since the last report to Council, and as advised would be the case, a significant level of activity has taken place in relation to the Claim. This activity is summarised below:

28 March 2017 Hearing (Attachments 1, 2 and 3)

The 28 March 2017 hearing (hearing) proceeded as scheduled and considered all aspects of the proceedings. As a result of the negotiations between the Kurna people's and Council's lawyers, as well as the diligence of councils in providing details of documents each council holds, the Kurna indicated to the Court that they are not pressing their current discovery applications against the councils to which the Claim relates however, this is on the proviso that the Kurna reserves its rights to pursue future discovery applications.

As a result of this, the Court dismissed the discovery application against councils when it delivered its decision resulting from the hearing. This determination will mean that any attempts by the Kurna to access documents outside of the Court processes, such as FOI and possible internal and external reviews, will be averted.

However, both the State and Commonwealth are now subject to another documents access proposal which is being advanced by the Kurna. This will require both entities to file and serve on all parties lists of any historical documents and anthropological or other expert evidence in their possession by 17 July 2017. Following this, each entity will be required to identify any restrictions on, or objections to releasing such documents etc. Consequently, it is expected that this process will take some time.

In addition, the Kurna sought to alter the commencement of the first stage trial by 12 months i.e. to commence on 3 April 2019 instead of the current scheduled 3 April 2018. In addition, they sought a twelve week trial rather than the current scheduled six week trial, presumed to be on the basis that they are struggling to obtain funding to prepare for the trial. Both the State and Commonwealth expect to be ready for the commencement of the first stage trial in April 2018 but they have indicated that they have little confidence that the Kurna will be ready within that timeframe. On the basis that the Commonwealth and State will be ready to commence next April, the Court decided that the 3 April 2018 date not be vacated and that the length of the trial will remain at six weeks. Both determinations are contrary to those requested by the Kurna.

The Court has ruled that the Kurna is expected to ensure substantial compliance with the timetable, as set out by the Court, 'may result in adverse consequences for the applicant, up to and including dismissal of the proceeding'. In addition, the Court has stated in its ruling that it expects the Kurna to work 'cooperatively and proactively' with other active parties to ensure that matters of fact and law associated with connection can be investigated and maximised.

The Court subsequently ruled that the proceeding be adjourned to a CMC scheduled for 10 May 2017.

10 May CMC

Council's lawyers provided information as a consequence of their attendance at the CMC on 10 May 2017 (**Attachment 4**).

At this CMC, the counsel for the Kurna indicated that they would likely to appeal a large part of the decision regarding timeframes and other programming orders. They were also, as indicated in the April 2017 report to the Committee, given leave to refile their discovery orders. However, these discovery orders are unlikely to impact councils on the basis of the agreed approach negotiated between Council's lawyers and the Kurna's lawyers.

In addition, the following documents were presented:

1. A letter from Neale Draper and Associates confirming their ability to prepare an expert anthropology connection report for the Claim which they are able to commence in May 2017 but require 12 months from commencement to complete a full expert report **(Attachment 5)**.
2. A nine page Kurna Points of Claim document **(Attachment 6)** which details the basis for the Claim and advising that Kurna People occupied the Claim area prior to and subsequent to settlement in 1836. It also details the impact of settlement on them as people.
3. An eleven page response to the Kurna Points of Claim by the State. The document is self-explanatory and as it is very detailed and complex, summarising the document would not do justice to it. However, it is attached for reference **(Attachment 7)**. In summary this document essentially refutes all the assertions of the Kurna Points of Claim with the State asserting that it 'denies each and every allegation in the Points of Claim'.

The next hearing is scheduled for 5 June 2017 at 9.30am in the Court.

Conclusion

The Kurna Native Title Claim is progressing towards the commencement of the first stage or a two staged trial which is expected to commence on 3 April 2018. The Kurna has indicated, however, that it is unlikely to be sufficiently prepared by this time and sought both a twelve month extension to the trial commencement date as well as an increase in the length of the trial from six weeks to twelve weeks. Both of which were denied by the Court, however, it is expected that the Kurna will appeal this decision which may impact on the intended timeframes. In addition, the report provides the Kurna Points of Claim and the State's response which states that the 'State denies each and every allegation in the Points of Claim'.

Attachments

1. **April 2017 Report Back from Norman Waterhouse**
2. **Norman Waterhouse Affidavit**
3. **Notice of Filing - Points of Claim**
4. **May 2017 Report back from Norman Waterhouse**
5. **Expert Connection Report - Kurna NTC**
6. **Kurna Points of Claim**
7. **State Response to Kurna Points of Claim**



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30 March 2017

Ms P Koritsa
City of West Torrens
165 Sir Donald Bradman Drive
HILTON SA 5033

Dear Pauline

Federal Court discovery – SAD 6001/2000

1. We refer to previous correspondence, including our email dated 21 March 2017, regarding the above matter. We confirm that we attended before Justice Mortimer for a case management hearing in the Federal Court of Australia on 28 March 2017. Justice Mortimer is now taking over this matter from Justice White. The case management hearing covered all aspects of the proceedings.
2. This letter reports back solely upon the status of the discovery application. As previously advised, and consistent with the practice in our letters of 16 November 2016, we have written to you separately regarding updates on the substantive native title application. This is because the discovery application is a technically separate and distinct matter, which involves different parties at various different stages. Accordingly, it is more appropriate to correspond on this matter discretely.
3. Our previous discovery-related report back letters have dealt with the development of the discovery application against the Council. The first attempt by the Kurna at discovery orders was, as we put it in our letter of 16 November 2016, framed in a way which '*would directly impede the progress of the claim, waste public resources and cause significant delay*'. Steps were then taken by the Kurna to attempt to narrow the application.
4. After the initial correspondence, we convinced the Kurna that they should not be pursuing Councils for any documents held by State Records. This dramatically reduced the scope of the claim against Councils. However, the application filed against Council was still overly broad, as discussed below.
5. The application which was ultimately filed by the Kurna was, as we put it in our letter of 7 February 2017, still '*overly broad*' despite being narrower than the original attempt. You will recall from that letter that the Kurna requested (and were granted) an adjournment to the consideration of that application. The Kurna advised us that the adjournment was requested with a view to withdrawing the discovery application and instead advancing a new discovery application.
6. Given this, all of the councils subject to the discovery applications would have been able to ask the Court to dismiss the applications. However, the difficulty with this is that the Kurna could have continued to refile their applications, merely creating more work for councils. Further, even if the Federal Court eventually dismissed these and future applications permanently, the Kurna could have tried to use other methods, such as applications under

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- 2 -

30 March 2017

the *Freedom of Information Act 1991* (SA) (**FOI Act**). This would have required even further work for councils, as they would have needed to determine the scope of any exemption under Schedule 1 of the FOI Act. Given the terms of the request, this could have become a mammoth task. Accordingly, it became clear that the best option was to try to extricate the councils out of the discovery applications, through an agreed process which created the least burden on Council.

7. You will also recall that the Kaurna were having clear difficulty in formulating a discovery application. Accordingly, because of all of these issues we proposed another approach to the Kaurna. Specifically: instead of the Kaurna providing councils with another application framed in general terms creating voluminous discovery, a better process would be for the provision by councils of lists of specific documents to the Kaurna, and for the Kaurna to then seek orders (by consent) for those specific documents.
8. In order to avoid any further confusion, we wrote to Tim Campbell and described the "list process" in our words. Mr Campbell acknowledged our correspondence as an accurate description of the "list process". Upon receiving this acknowledgment, we then duly provided this correspondence to the Court, in the form of an Affidavit. That Affidavit of Nicholas Llewellyn-Jones is **enclosed**. That Affidavit explains the list process, but for ease of reference we again repeat it here:
 - 8.1 We will provide a list to Kaurna on behalf of each council;
 - 8.2 They will then file a Discovery Application limited to the documents on the list; and
 - 8.3 Council will consent to that Discovery Application, limited to the specifically named documents;
 - 8.4 To the extent that certain councils have archives or require some alternative access arrangements before finalising a list, these will be dealt with in conjunction with the above process.
9. Accordingly, the Court is now aware of the basis upon which the Kaurna and those councils for which we act are settling discovery.
10. In light of all the above, the Kaurna, as expected, have now indicated to the Court that they do not press their present discovery applications against councils due to the fact that council discovery matters are now effectively on track to settle, as set out in the Affidavit. The Kaurna (who have now engaged a barrister) added the proviso that it reserves its rights to pursue future discovery applications.
11. This means that, when Justice Mortimer delivers her decision upon the many (mostly non discovery-related) matters arising from the 28 March 2017 hearing, she will also likely dismiss the discovery application as against your Council, as it is no longer being pressed by the Kaurna against your Council on the basis of the "list process", as discussed above.
12. This will mean that no active discovery application will apply to Local Government. However, the process of the provision of lists will still occur: the counsel for the Kaurna specifically indicated to the Court that the abandonment of the applications was on the basis of the agreed "list approach" which is occurring with councils.
13. On the other hand, the State and Commonwealth now find themselves the subject of yet another document access proposal being advanced by the Kaurna. Specifically, recent Minutes of Order put forward by the Kaurna (enclosed with our other letter of even date) seek to establish a process whereby the State and Commonwealth must file and serve on all parties lists of any 'historical literature' and 'anthropological or other expert evidence' in their

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- 3 -

30 March 2017

possession, by 17 July 2017. There are then proposed mechanisms for the identifying of restrictions on documents, for requests to access/obtain documents, and for objections to the use of documents.

14. This emphasises the benefit in having been able to extricate councils from further discovery-type applications. Local Government has been excluded from this attempt at another discovery-type process, because of the fact that discovery with Local Government is now effectively settled on the basis of the "list process". While the fate of the proposed new process being pursued against the State and the Commonwealth is not a concern for the Council, we do add that this proposal was met with hostility by the affected parties in the Court hearing (in particular in respect of proposed Order 3 of the Minutes of Order; the parties were more amenable to proposed Order 4). If the process is rejected by Justice Mortimer, then the Kaurua will likely formulate some other attempt at discovery against the State and Commonwealth. This issue, as against the State and Commonwealth, could go on for some months.
15. We confirm that the Council will not be entangled in any of this, because, as stated, discovery is now effectively settled for Local Government. As discussed above, the Council will also avoid attempts by the Kaurua to access documents outside of Court processes (such as through Freedom of Information applications, which would necessitate the making of formal statutory determinations, attract further costs to Council and introduce scope for internal and external reviews) once the discovery orders are made.
16. We confirm that we will produce a list, based upon the information the Council has provided us, to provide to the Kaurua. We will first provide this list to you as a draft before it is provided to the Kaurua.
17. Please contact me if you wish to discuss any of the above matters.

Yours faithfully
Norman Waterhouse



Nick Llewellyn-Jones
Partner
Direct Line: (08) 8210 1269
e-mail: nlllewellyn-jones@normans.com.au

Encl

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NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 28/03/2017 11:25:43 AM ACDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Affidavit - Form 59 - Rule 29.02(1)
File Number:	SAD6001/2000
File Title:	Garth Agius & ors on behalf of the Kaurna People and The State of South Australia & ors (Kaurna Peoples)
Registry:	SOUTH AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 28/03/2017 1:29:03 PM ACDT

A handwritten signature in blue ink, which appears to read "Warwick Soden".

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.

Form 59
Rule 29.02(1)

Affidavit



-1-

No. SAD 6001 of 2000

Federal Court of Australia
District Registry: South Australia
Division: General

KAURNA NATIVE TITLE CLAIM

GARTH AGIUS and others

Applicants

STATE OF SOUTH AUSTRALIA and others

Respondents

Affidavit of: **Nicholas LLEWELLYN-JONES**
Address: C/- Level 15, 45 Pirie Street, Adelaide SA
Occupation: Solicitor
Date: 28 March 2017

Contents

Document number	Details	Paragraph	Page
1	Affidavit of Nicholas Llewellyn-Jones sworn on 28 March 2017 February 2017.		1
2	Annexure "NLJ-15", being copy of 23 March 2017 letter from Norman Waterhouse to Campbell Law.	[6.1]	5
3	Annexure "NLJ-16", being copy of 24 March 2017 email from Norman Waterhouse to Campbell Law.	[6.2]	8
4	Annexure "NLJ-17", being copy of 27 March 2017 email from Campbell Law to Norman Waterhouse.	[6.3]	11


CHRISTOPHER I ALEXANDRIDES
A Commissioner for taking affidavits
in the Supreme Court of South Australia


Filed on behalf of The Local Government respondents named in this Affidavit
Prepared by Nicholas Llewellyn-Jones
Law firm Norman Waterhouse Lawyers
Tel (08) 8210 1200 Fax (08) 8210 1234
Email nlj@normans.com.au
Address for service Level 15, 45 Pirie Street, ADELAIDE SA 5000

-2-

I, Nicholas Llewellyn-Jones of c/- Level 15, 45 Pirie Street, Adelaide in the State of South Australia, solicitor, say on oath:

1. Norman Waterhouse acts as the solicitor in this proceeding for the following Respondents:


- 1.1 Adelaide Hills Council;
- 1.2 Adelaide Plains Council;
- 1.3 Alexandrina Council;
- 1.4 City of Adelaide;
- 1.5 City of Campbelltown;
- 1.6 City of Charles Sturt;
- 1.7 City of Holdfast Bay;
- 1.8 City of Norwood, Payneham and St Peters;
- 1.9 City of Onkaparinga;
- 1.10 City of Prospect;
- 1.11 City of Playford;
- 1.12 City of Port Adelaide Enfield;
- 1.13 City of Marion;
- 1.14 City of Mitcham;
- 1.15 City of Salisbury;
- 1.16 City of Tea Tree Gully;
- 1.17 City of Unley;
- 1.18 City of Victor Harbor;
- 1.19 City of West Torrens;
- 1.20 Clare and Gilbert Valleys Council;

 28/3/17
CHRISTOPHER I ALEXANDRIDES
A Commissioner for taking affidavits
in the Supreme Court of South Australia



-3-

- 1.21 District Council of Yankalilla;
 - 1.22 Mount Barker District Council;
 - 1.23 Port Pirie Regional Council;
 - 1.24 The Barossa Council.
2. Those parties are respondents to the Interlocutory Application for discovery filed on 24 January 2017 (**Discovery Application**).
 3. Norman Waterhouse has also received instructions from the Town of Gawler which is not a party to this proceeding but is a respondent to the Interlocutory Application for non-party discovery filed on 25 January 2017 (**Non-Party Discovery Application**).
 4. I am a Partner of Norman Waterhouse Lawyers. I am the file principal and have care and conduct of this matter on behalf of those respondents to the Discovery Application and Non-Party Discovery Application named above. I am cognisant of the matters outlined in this Affidavit.
 5. Correspondence between me and Mr Tim Campbell, the solicitor for the applicant, regarding discovery (up to the filing of the Discovery Application and Non-Party Discovery Application) is set out in the Affidavit of Nicholas Llewellyn-Jones sworn on 1 February 2017.
 6. Given that we represent 25 different clients, there is some divergence between them in respect of the burden of the discovery application and the work that they have undertaken since it was filed. However, on the whole, the councils we represent have continued to undertake work in respect of discovery, in some cases significant work. Further, by correspondence between myself and the representative of the applicant, we have developed an agreed process which we anticipate will resolve the majority of the discovery applications.
 - 6.1 Now produced to me and marked "NLJ-15" is a true copy of a letter from Norman Waterhouse to Campbell Law dated 23 March 2017.
 - 6.2 Now produced to me and marked "NLJ-16" is a true copy of an email from Norman Waterhouse to Campbell Law dated 24 March 2017.


CHRISTOPHER I ALEXANDRIDES
A Commissioner for taking affidavits
in the Supreme Court of South Australia



-4-

- 6.3 Now produced to me and marked "NLJ-17" is a true copy of an email from Campbell Law to Norman Waterhouse dated 27 March 2017.
7. Further, Mr Campbell confirmed in NLJ-17 that the proposed orders concerning the exchange of documents set out in the minutes of order supplied to the Court on 24 March 2017 do not apply to council respondents, as they are not 'active' parties. Accordingly, the discovery applications are the only processes which apply to our council clients.
8. I know the foregoing to be true of my own knowledge and belief, except where otherwise set out and specifically explained.

Sworn by the deponent
at Adelaide
in South Australia
on 28 March 2017
Before me:

)
)
)
)
Signature of deponent


Signature of witness 28/3/17

CHRISTOPHER I ALEXANDRIDES
A Commissioner for taking affidavits
in the Supreme Court of South Australia

-5-

No. SAD 6001 of 2000

Federal Court of Australia
District Registry: South Australia
Division: General


KAURNA NATIVE TITLE CLAIM

GARTH AGIUS and others
Applicant

STATE OF SOUTH AUSTRALIA and others
Respondents

Annexure "NLJ-15"

This is the Annexure marked "NLJ-15" referred to
in the affidavit of NICHOLAS LLEWELLYN-JONES
sworn on 28 March 2017 before me:

 28/3/17
CHRISTOPHER I ALEXANDRIDES
A Commissioner for taking affidavits
in the Supreme Court of South Australia

-6-

Norman Waterhouse

SINCE 1920 LAWYERS

Ref: CZA\M00289345F04678822.DOCX

23 March 2017

Tim Campbell
Campbell Law
Suite 7, First floor, 118 Halifax Street
ADELAIDE SA 5000

Dear Tim

Kaurna — Discovery

1. We refer to the Kaurna native title claim proceedings SAD6001/2000. As you are aware, we act for 24 respondent councils, and are also instructed by a non-party discovery respondent council.
2. We understand that your client's discovery application filed 23 January 2017 and non-party discovery application filed 25 January 2017 (**the Discovery Applications**) will, among other things, be the subject of the upcoming case management hearing before Justice Mortimer on 28 March 2017. This letter is concerned strictly with the Discovery Applications.
3. We refer to our previous discussions regarding how to resolve the Discovery Applications. This letter outlines our understanding of the proposed process arising from our discussions with you. That approach is as follows:
 - 3.1 The majority of our council clients are currently reviewing (or have already reviewed) the documents in their custody to work out which, in their assessment, fall within the categories advanced in the Discovery Applications (with reference to your original letter of 16 December 2016).
 - 3.2 We will take this assessment and produce a list of documents, where possible, on behalf of each council. We will provide your office with this list for you to review.
 - 3.3 Upon your review of each list, it would be expected that your client would then amend the discovery application, in respect of each council which has provided a list. The new amended discovery application would seek an order for discovery in the specific terms of the agreed list.
 - 3.4 The council would consent to the order for discovery of its list.
 - 3.5 That approach will settle discovery with the majority of councils. Some councils may need special arrangements (e.g. an agreed process of inspection of archives, followed by the production of a list), and we will advise you once we are aware of the extent of any such requirements.

Level 15, 45 Pirie Street Adelaide SA 5000 GPO Box 639 Adelaide SA 5001 T 08 8210 1200 F 08 8210 1234 www.normans.com.au

-7-

- 2 -

23 March 2017

4. This approach is mutually beneficial. It goes toward discharging our respective clients' obligations to settle discovery matters, and provides certainty as to the documents which are to be discovered.
5. We confirm that our clients are progressing with compiling their lists. We anticipate that we can commence providing lists from mid-April.
6. Should your understanding of this process be different, we request that you advise us as soon as possible. Councils have already undertaken significant work, on the basis of the above framework, and would like to continue to resolve the Discovery Applications on this basis.
7. Our intention is for this to be an open letter, in order for us to be able to provide this information to assist the Court on 28 March 2017.

Yours faithfully
Norman Waterhouse



Nick Llewellyn-Jones
Partner
Direct Line: (08) 8210 1269
e-mail: nllewellyn-jones@normans.com.au

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-8-

No. SAD 6001 of 2000

Federal Court of Australia
District Registry: South Australia
Division: General

KAURNA NATIVE TITLE CLAIM**GARTH AGIUS** and others


Applicant

STATE OF SOUTH AUSTRALIA and others

Respondents

Annexure "NLJ-16"

This is the Annexure marked "NLJ-16" referred to
in the affidavit of NICHOLAS LLEWELLYN-JONES
sworn on 28 March 2017 before me:

 28/3/17
CHRISTOPHER I ALEXANDRIDES
A Commissioner for taking affidavits
in the Supreme Court of South Australia

From: Nick Llewellyn-Jones
Sent: Friday, 24 March 2017 3:08 PM
To: tim@campbellllaw.com.au
Cc: Chris Alexandrides
Subject: Re: Kaurna - Discovery

Hi Tim

I note one matter in the letter may be unclear. If we form the view that any document is within the scope of your application but is not discoverable (say it is privileged), we will not add it to the agreed list. Rather, I will separately advise you of the existence of the document and the basis that it is not discovered, as per normal. You can then assess whether you want to push your application against this hypothetical document. This can be done separately to the consent orders based on the list.

I doubt this will arise, but figured I should clarify it.

Thanks

Nick Llewellyn-Jones
Partner



Level 15, 45 Pirie Street, Adelaide SA 5000 • GPO Box 639, Adelaide SA 5001
T: 08 8210 1269 M: 0431 920 124 F: 08 8210 1234 W: www.normans.com.au

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On 23 Mar 2017, at 6:41 pm, Chris Alexandrides <CAlexandrides@normans.com.au> wrote:

Dear Sir

I **attach** correspondence from Nick Llewellyn-Jones, for your attention.

Regards

Chris Alexandrides
Associate

<image001.png>

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-11-

No. SAD 6001 of 2000

Federal Court of Australia
District Registry: South Australia
Division: General

KAURNA NATIVE TITLE CLAIM**GARTH AGIUS** and others


Applicant

STATE OF SOUTH AUSTRALIA and others

Respondents

Annexure "NLJ-17"

This is the Annexure marked "NLJ-17" referred to
in the affidavit of NICHOLAS LLEWELLYN-JONES
sworn on 28 March 2017 before me:

 28/3/17
CHRISTOPHER I ALEXANDRIDES
A Commissioner for taking affidavits
in the Supreme Court of South Australia

From: Tim Campbell [tim@campbelllaw.com.au]
Sent: Monday, 27 March 2017 6:05 PM
To: Nick Llewellyn-Jones
Cc:
Subject: RE: Garth Agius and Ors v South Australia and Ors (SAD6001/2000) (Kurna Native Title Claim) -Discovery
Follow Up Flag: Follow up
Flag Status: Flagged

Dear Nick

We refer to previous communications concerning consent discovery orders by the Councils.

We note your query re the proposed minutes of order for the case management hearing on 28.3.17, in particular the orders relating to lists of documents/evidence.

These minutes apply to active respondents, in particular the State.

We note that the Councils are not active respondents. We confirm that the agreement between you as the representative of 25 Councils and us for the Applicant still stands. That is, you and I will produce consent discovery orders for presentation to the Court in about 6 weeks. We appreciate that much work has been done by the Councils in meeting the discovery requests. Once the Councils form their final positions on discovery, it will be appropriate and efficient for the consent discovery orders to be endorsed by the Court.

We trust that this clarifies the status of discovery for the Councils as distinct from other Parties.

Kind regards

Tim Campbell
Campbell Law
Suite 7, First floor, 118 Halifax Street,
Adelaide SA 5000
08 8227 1223
0438639552
tim@campbelllaw.com.au

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I acknowledge the Kurna people as the traditional custodians of the Adelaide Plains area where I live and work, and respect their spiritual relationship with their country.

From: Nick Llewellyn-Jones [mailto:NLlewellyn-Jones@normans.com.au]
Sent: Thursday, 23 March 2017 5:11 PM
To: 'Associate Mortimer'; Tim Campbell; Davis, Sally;

file:///C:/Users/cza/AppData/Roaming/LawMaster/PracticeManagement/NWLM01.L... 27/03/2017

Chris Alexandrides;

Cc: EA - MortimerJ; Nicola Colbran; Nic Parkyn; sanativetitle; Coralie Talbot
Subject: RE: Garth Agius and Ors v South Australia and Ors (SAD6001/2000) (Karna Native Title Claim)

Dear Associate

Thank you for your email.

As previously advised, we represent 24 respondent party Councils, and one Council who is subject to the discovery application pursued by the Applicant, but which is not a party to the proceedings.

We note the request at the bottom of your email; that the respondents (other than South Australia, the Commonwealth and Airservices Australia) confirm whether they are active respondents and whether they will therefore attend the case management hearing. We can confirm that our clients (excluding the non-party client) all filed notices on 30 November 2016 indicating that in accordance with Order 4 of 11 November 2016 they (a) do not want to take an active part in the trial of the separate question; however, (b) they do require that it be served with all documents filed in relation to this part of the proceeding.

We understand from your email of 17 March 2017 that the case management hearing will also address the discovery application. Accordingly, I propose to appear with my Associate Mr Alexandrides at that hearing. Please advise us, should the Court require anything further.

Thanks and regards

Nick Llewellyn-Jones
Partner

**Norman
Waterhouse**
SINCE 1920

Level 15, 45 Pirie Street, Adelaide SA 5000 • GPO Box 639, Adelaide SA 5001

T: 08 8210 1269 M: 0431 920 124 F: 08 8210 1234 W: www.normans.com.au

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From: Associate MortimerJ [<mailto:Associate.MortimerJ@fedcourt.gov.au>]

Sent: Thursday, 23 March 2017 4:09 PM

To: tim@campbelllaw.com.au; Davis, Sally; Nick Llewellyn-Jones;

Cc: EA - MortimerJ; Nicola Colbran; Nic Parkyn; sanativetitle; Coralie Talbot

file:///C:/Users/cza/AppData/Roaming/LawMaster/PracticeManagement/NWLM01.L... 27/03/2017

Subject: RE: Garth Agius and Ors v South Australia and Ors (SAD6001/2000) (Karna Native Title Claim)

UNCLASSIFIED

Dear parties

I refer to the proceeding above. Please read this email carefully as it relates to the case management hearing next Tuesday.

Further to the emails below, please find attached Directions made by her Honour this afternoon.

In relation to these directions, the parties are referred to the following parts of the transcript of the hearing before White J on 11 November 2016.

As to the direction to Mr Campbell:

MR CAMPBELL: Thank you, your Honour. I think the second point you made is the one that I can expand upon from what is deposed, that it is important that the applicants make a detailed submission for immediate funding from the Commonwealth as per your orders today, respectively, or from 1 July --

...

MR CAMPBELL: Well, I assumed, your Honour, you were going to either suggest one timetable or the other. And, of course, any orders in that ilk, and, of course, the outcomes of the CMC would be very useful for me in making a submission to the Commonwealth, which we intend to do as soon as possible so I understand entirely what you're saying, your Honour -- that if the Commonwealth considers their special funding that this should start immediately we would be ready. But if it can only start from 1 July we will be ready then as well. But we will be making a submission. And the -- at least the transcript today, your Honour, would be useful for that submission to the Commonwealth, so that the Commonwealth is aware of the court's concerns, and, of course, the outcomes of the CMC. So if I'm being a bit impertinent in suggesting there might be some other orders that will be useful in support of that submission from the applicants to the Commonwealth I apologise, your Honour, but I was assuming that at least what we've got already would be in total agreement to what you're saying, your Honour, in terms of that submission that the court is concerned. I'm not aware -- yes. So I probably stand on that basis, your Honour, that we will be doing a detailed application, and we don't know the outcome of that until the Commonwealth response.

As to the direction to the Commonwealth:

MS DAVIS: I was going to say I can't really take the funding matter much further, but I would certainly be able to report to my the outcomes and the discussions about funding, and I understand the parties know the relevant alternative contacts in the Commonwealth to contact to progress that issue further, but I can certainly make my client aware of the matters that were raised.

As to the direction to SANTS:

MR BECKWORTH: Thank you, your Honour. I don't have a lot to add to this discussion, but I -- what I will say is that we will continue to work with the applicant in relation to his application for funding. We've provided some information that he has requested. Once we receive that application, we will provide that to the Commonwealth. So I wouldn't say that there's no chance of receiving funding this financial year if the application for funding goes in this financial year and requests funding in this period and, potentially, that's open to the Commonwealth to provide us with extra funding in order to assist the applicant, but if it's

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premised on the basis of 1 July 2017, I would think that there's probably more chance of receiving funding, but I will – I'm in Mr Campbell's hands in relation to --

HIS HONOUR: Yes.

MR BECKWORTH: -- that matter.

MR TONKIN [sic – I understand this should read 'MR BECKWORTH']: From SANTS' perspective, we're happy to continue to update the court in relation to funding, as you request.

Although her Honour does not presently propose to make a direction to this effect, her Honour would be grateful if as many members of the applicant (as currently constituted) as possible could attend the case management hearing next Tuesday 28 March 2017.

Could the **respondents (other than** South Australia, the Commonwealth and Airservices Australia) please also **confirm** whether they are an active respondent in relation to the separate question and will therefore appear at the case management hearing on 28 March 2017? Please note that the matter will be heard in Melbourne, with video-links to Adelaide and Sydney.

Kind regards

Chadwick Wong | Associate to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street, Melbourne Victoria 3000
t (03) 8600 3655 | f (03) 8600 3656 | e associate.mortimerj@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to ea.mortimerj@fedcourt.gov.au

From: Associate MortimerJ
Sent: Monday, 20 March 2017 10:32 AM
To: 'tim@campbelllaw.com.au'; 'Davis, Sally';

Cc: EA - MortimerJ; Nicola Colbran; Nic Parkyn; sanativetitle; Coralie Talbot
Subject: RE: Garth Agius and Ors v South Australia and Ors (SAD6001/2000) (Karna Native Title Claim)

UNCLASSIFIED

Dear parties

I refer to the below email. Apologies for the further distribution email, but I have been advised that some parties were left off the original email. This is now rectified.

Could all new recipients of this email please confirm receipt of the below email. All parties that received the below email who have not yet acknowledged receipt are also asked to confirm receipt.

Kind regards

file:///C:/Users/cza/AppData/Roaming/LawMaster/PracticeManagement/NWLM01.L... 27/03/2017

Chadwick Wong | Associate to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street, Melbourne Victoria 3000
t (03) 8600 3655 | f (03) 8600 3656 | e associate.mortimerj@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to ea.mortimerj@fedcourt.gov.au

From: Associate MortimerJ
Sent: Friday, 17 March 2017 4:01 PM
To: 'tim@campbelllaw.com.au'; 'Davis, Sally';

Cc: EA - MortimerJ; Nicola Colbran; Nic Parkyn
Subject: Garth Agius and Ors v South Australia and Ors (SAD6001/2000) (Kurna Native Title Claim)

UNCLASSIFIED

Dear parties

I refer to the above proceeding.

This email is to advise the parties that the proceeding has been reallocated to Justice Mortimer's docket, and to confirm that the program set out in Justice White's Orders dated 11 November 2016 will remain in effect. The parties are expected to comply with those Orders, with the expectation that the matter proceed to trial on 3 April 2018, as set out in paragraph 3 of the Orders.

Her Honour has asked me to draw the parties' attention to paragraphs 31 and 32 of the Orders regarding the failure to comply with those Orders.

Her Honour has also listed this proceeding for case management hearing at **2.15 pm on 28 March 2017**. This case management hearing will address the interlocutory application for discovery, and how best to resolve the discovery issues between the parties, with the aim of avoiding a contested hearing on discovery. The parties' attention is drawn to Part 10 of the Court's Central Practice Note concerning discovery, which applies as much in native title proceedings as in any other proceeding. In particular, the parties' attention is drawn to Part 10.13. Her Honour would be grateful if the parties, in particular the applicant, come prepared to address with some specificity the issues of relevance and necessity in relation to the categories set out in the interlocutory application. Her Honour will also expect the parties to be in a position to address the Court on the outcome of correspondence and communications between the parties about discovery and whether any issues have been resolved.

The case management hearing will be conducted via video-link to Adelaide.

Please confirm receipt of this email.

I would also be grateful if the parties could please advise if I have inadvertently left out any parties or representatives from this email, or conversely, whether any of the email addresses should be removed from this list. This list will be used going forward for this proceeding.

Kind regards

Chadwick Wong | Associate to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street, Melbourne Victoria 3000

file:///C:/Users/cza/AppData/Roaming/LawMaster/PracticeManagement/NWLM01.L... 27/03/2017

t (03) 8600 3655 | f (03) 8600 3656 | e associate.mortimerj@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to ea.mortimerj@fedcourt.gov.au

file:///C:/Users/cza/AppData/Roaming/LawMaster/PracticeManagement/NWLM01.L... 27/03/2017

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 30/03/2017 4:02:29 PM ACDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Non-Prescribed Pleading
File Number:	SAD6001/2000
File Title:	Garth Agius & ors on behalf of the Kaurna People and The State of South Australia & ors (Kaurna Peoples)
Registry:	SOUTH AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 30/03/2017 4:14:27 PM ACDT

A handwritten signature in blue ink, which appears to read "Warwick Soden".

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



No. SAD 6001 of 2016

Federal Court of Australia
 District Registry: South Australia
 Division: General

GARTH AGIUS and others named in the schedule
 Applicant

STATE OF SOUTH AUSTRALIA and others named in the schedule
 Respondent

Points of Claim

(By order of His Honourable Justice White on 11 November 2016)

This document sets out the issues, facts, contentions upon which the Applicant relies in support of its native title determination application.

NB This document does not provide particulars. Such particulars will only be known once the Applicant has documented sufficient oral histories and obtained expert anthropological evidence. Particulars will be provided once the Applicant's expert anthropological report has been filed, and are expected to refer back to that report.

These Points of Claim are to be read in conjunction with the Amended Native Title Determination Claimant Application (Form 1) filed on 4 July 2001 ("**Form 1**").

This document addresses the questions to be decided separately from and before any other question in this matter:

But for any question of extinguishment of native title and the determination of matters required by s225(c), (d) and (e) of the Native Title Act 1993 (Cth):

- (a) *Does native title exist in relation to any and what land and waters of the Kurna claim area?*
- (b) *In relation to that part of the Kurna claim area to which the answer to (a) above is in the affirmative:*

Filed on behalf of (name & role of party)	Applicant
Prepared by (name of person/lawyer)	Tim Campbell
Law firm (if applicable)	Campbell Law
Tel (08) 8227 1223	Fax
Email	tim@campbelllaw.com.au
Address for service (include state and postcode)	1 st Floor 118 Halifax Street, ADELAIDE, SA 5000

[Form approved 01/08/2011]

2

- (i) *Who are the persons, or each group of persons, holding the common or group rights comprising the native title?*
- (ii) *What is the nature and extent of the native title rights and interest?*

An Historic Traditional Aboriginal Group

1. Prior to, and at sovereignty (26 January 1788), there was an identifiable Aboriginal group which occupied an area approximately co-incident with the claim area.
 - i. The Aboriginal group in question was, around the time of settlement (circa 1836), generally referred to by colonists as the "Adelaide Tribe" and similar names.
 - ii. That group is now known as the Kurna People.
 - iii. The term "Kurna" was first recorded in the 1800s.
 - iv. In these Points of Claim the terms "Kurna" and "Kurna People" are used to mean the historic Aboriginal group which occupied an area approximately co-incident with the Claim area and the descendants of that group (which today comprise the claim group).
2. The Kurna People have, as a native title society (in the *Yorta Yorta*¹ sense), had a substantially uninterrupted and vital existence since sovereignty and continuing until the present date.
 - 2.1 The Kurna People in 1836 were the continuation of the Kurna People extant at sovereignty (1788).
 - 2.2 The Kurna People now are the continuation of the Kurna People extant in 1836.
3. The Kurna People were adversely impacted before, during, and after the establishment of the South Australian colony. The Kurna People, and the operation of some of their traditional laws and customs, were disturbed but the

¹ *Yorta Yorta Aboriginal Community v Victoria* (2002) 214 CLR 422.

3

society itself continued. These disturbances include the taking and/or slavery of Kaurna women and the spreading of diseases e.g. smallpox amongst the Kaurna population.

4. Prior to settlement, the Kaurna People and the operation of their traditional laws and customs were disturbed by the activities, and the effects of non-Aboriginal persons, including whalers and sealers based on Kangaroo Island and explorers. However, the society itself continued.
5. On 15th August 1834, His Majesty, William IV assented to an Act to establish the colony of South Australia.
8. In February 1836, His Majesty, William IV issued Letters Patent which erected and established the Province of South Australia.
9. The Letters Patent provided, amongst other things, the following:

"PROVIDED ALWAYS that nothing in those our Letters Patent contained shall affect or be construed to affect the rights of any Aboriginal Natives of the said Province to the actual occupation or enjoyment in their own Persons or in the Persons of their Descendants of any Lands therein now actually occupied or enjoyed by such Natives."

10. The colonists recognised in 1836 and subsequently that the Kaurna People held, exercised and/or enjoyed proprietary and/or possessory and/or other rights in respect of the claim area.

Particulars

- a. The First Annual Report of the Colonization Commissioners for South Australia (the Report) was received by the Secretary of State for the Colonies on 24 June 1836. The Report included a report on the "Treatment of Aborigines" and referred to rights of the natives.

4

- b. The proclamation made in December 1836 by His Excellency John Hindmarsh Governor and Commander-in-Chief of His Majesty's Province of South Australia (Governor Hindmarsh) announcing the establishment of the Government of South Australia.
- c. Further particulars will be provided subsequent to the matters identified in the note on Page 1, and review of the relevant historic documents.

Deprivation of Land

- 11. At the time of substantive contact with the white colonists, the Kaurna People included at least eight persons who were present in, and occupied and enjoyed under the traditional laws and customs of the Kaurna People, the area of land and waters which is approximately co-incident with the claim area.
- 12. Those persons are the named Apical Ancestors of the claim group and comprise:
 - i. Kudnarto
 - ii. Father of Charlotte
 - iii. Father of King Rodney
 - iv. Nancy Mitchell
 - v. Mother of Alice Miller
 - vi. Rathoola
 - vii. Mother of Sarah Taikarabbie
 - viii. Nellie Raminyemmermin(the **Apical Ancestors**).

13. The Kurna People today (i.e. the claim group) comprise the biological (and adoptive) descendants of the Apical Ancestors.
14. In 1836 and following, the Kurna People were dispossessed of some of their land and waters by colonists, and inhibited in exercising their traditional rights and interests in relation to some of their lands and waters by colonists.
15. Many Kurna people were placed on Aboriginal reserves.
16. Many Kurna people were later removed from those reserves and elsewhere and forcibly placed in settlements at Point Pearce and Point McLeay, both of which are (a) outside the claim area, and (b) outside traditional Kurna country².

Traditional Laws and Customs and Society

17. Since sovereignty to the present the Kurna People have continued substantially uninterrupted as a society united in and by acknowledgement and observance of a body of traditional laws and customs (which body has been subject to permissible adaptation) in respect of one or more of the following:
 - i. Group membership, unity and identity through:
 - (a) Having a biological or adoptive Kurna mother or father;
 - (b) Active participation within the Kurna People;
 - (c) Acceptance by other Kurna persons as a Kurna person; or
 - (d) Being reared as a Kurna person.

² "country" is as shorthand for "the geographic area of land and waters (including adjacent land) in respect of which the Kurna People had and have traditional rights and interests by virtue of their traditional laws and customs".

6

- ii. Family structures.
- iii. Kinship roles and obligations.
- iv. Marriage.
- v. Births.
- vi. Authority and decision making for and within the Kurna People.
- vii. Elder respect and responsibility.
- viii. Funerals.
- ix. Burials.
- x. Language
- xi. Teaching, learning, and holding traditional knowledge of Kurna country.
- xii. Teaching, learning, and observing traditional rights, interests and responsibilities for Kurna country.
- xiii. Teaching, learning, and holding traditional knowledge of, and using, hunting for, fishing for, and gathering, resources (including fresh water, bush foods and minerals such as ochre) within Kurna country.
- xiv. Teaching, learning, and holding knowledge of, and protecting and maintaining, significant sites within Kurna country (including middens, and burial grounds).

7

- xv. Protection and maintenance of traditional artefacts (e.g. grinding stones and weapons).
- xvi. Teaching, learning, and holding cultural knowledge (including art, drawings, songs, and ceremonies), including gender-restricted cultural knowledge.
- xvii. Teaching, learning, and holding knowledge of traditional farming practices.
- xviii. Belief in the existence and agency of ancestors.
- xix. Belief in the existence and agency of spirit beings.

Nature and Extent of the Native Title Rights and Interests

- 18. The traditional laws and customs listed in sub-paragraphs 18(i)-(xix) above produce traditional rights and interests in all or substantially all of the claim area, which rights and interests are: (a) exercisable by the Kurna People, and (b) are those rights and interests claimed in Schedule E to the Form 1, save for paragraph (h) of that schedule.
- 19. The methods or methods by which the said traditional laws and customs produce the said traditional rights and interest will be particularised in accordance with the note on page 1 of this Points of Claim.

Connection to land and waters

- 20. The Kurna People, by their traditional laws and customs, have at all times since sovereignty had without substantial interruption, and continue to have, a connection with all or substantially all of the land and waters of the claim area.

21. Such connection may be (a) spiritual; (b) based upon physical activity concerning particular land or waters; (c) derived from the absence of any other Aboriginal group claiming any right or interest in the area; or (d) any combination of the foregoing.

Date: 30 March 2017

A handwritten signature in blue ink, appearing to read 'Tim Campbell', is written over a horizontal line.

Signed by Tim Campbell
Lawyer for the Applicant



Ref: CZA\M00274396F04760592.DOCX

24 May 2017

Ms P Koritsa
City of West Torrens
165 Sir Donald Bradman Drive
HILTON SA 5033

Dear Pauline

Kaurna Native Title Claim

1. We refer to previous correspondence regarding the above matter.
2. As previously outlined, we have, on behalf of the Council, filed a notice with the Federal Court of Australia pursuant to Order 4 of 11 November 2016 indicating that the Council will not take an active part in the first stage trial (which entirely relates to matters of history and anthropology, not tenure and extinguishment), but still does require to be served with all documents filed in that part of the proceeding. The reason for this is that some of this material will still be useful and relevant to Council. However, in this way Council can still access this useful material whilst saving costs.
3. Accordingly, attendances are not required on behalf of the Council at Court hearings which are merely concerned with the programming of the matter for trial (such as the recent case management hearing on 10 May 2017). However, we have been receiving and reviewing all documents filed.
4. Necessarily, rather than providing reports back to the Council after Court hearings, we will instead provide periodic updates summarising any recent developments. That is the purpose of this letter.
5. The key recent developments have been:
 - 5.1 The filing by the Kaurna of their Points of Claim (**enclosed**);
 - 5.2 The filing by the State of South Australia of its Response to the Points of Claim (**enclosed**); and
 - 5.3 The provision to the Court and parties by the Kaurna of a letter (**enclosed**) from their expert anthropologist Dr Neale Draper, outlining an estimated timeframe for the production of the 'connection report' to be relied upon by the Kaurna in the first stage trial.
6. The Points of Claim outlines (in very brief form) the Kaurna's contentions regarding the existence of a 'society' for native title purposes, the requisite 'connection' to country, and the maintenance of 'traditional laws and customs' and associated 'native title rights and interests'. These are all concepts with specific meanings in the *Native Title Act 1993* (Cth), and must all be proved by the Kaurna in order for the claim to be successful.

Level 15, 45 Pirie Street Adelaide SA 5000 GPO Box 639 Adelaide SA 5001 T 08 8210 1200 F 08 8210 1234 www.normans.com.au

- 2 -

24 May 2017

7. The State's Response to the Points of Claim sets out the difficulties that the presumed Kurna case will face, and sets out contentions which the State will rely upon in opposition to the Kurna claim. In short, the State will be opposing all aspects of the Kurna claim. The State contends that there was no coherent society at the time of sovereignty or settlement in South Australia which has continued in existence into what is now termed the 'Kurna' people, and that there has been no continuous and vital existence from sovereignty to the present day of relevant traditional laws and customs.
8. The State's response is a good example of why these documents are relevant to Council. If the State were to establish this position in the Federal Court, this may also have an indirect flow-on effect with respect to how matters need to be dealt with under the State *Aboriginal Heritage Act 1988* (SA). Council will ultimately need to keep abreast of these arguments, so that it can be up to date with any impacts they may have on Council's land management.
9. It is clear from both the Kurna and the State's pleadings that the dispossession and relocation of aboriginal persons through the State's history will be central in the proceedings. We confirm that at this stage no criticism or mention is made of any local government authority for any role in these matters. We will advise the Council at any relevant later date if assertions are made which might impact upon the Council.
10. The enclosed letter from Dr Draper indicates that a full 'connection report' cannot be ready by the presently timetabled deadline for filing expert evidence, being 7 August 2017. Instead, Dr Draper will endeavour to provide an 'outline report' on behalf of the Kurna by that date. The Court's attitude to the filing of a mere outline report will remain to be seen if and when such report is filed. We note that the Court has not extended the deadline for the filing of expert evidence. Please note as another example, that Dr Draper's report (either the 'outline report' or the final report(s)) may contain site specific information, which may be relevant for issues of land management for some Councils. We will assess this, and advise the Council if necessary.
11. We note that the next hearing in these proceedings is listed at 9.30am AEST (9.00am SA time) on 5 June 2017. We anticipate that no attendance will be required on behalf of the Council.
12. Please contact the writer if you wish to discuss any of the above matters.

Yours faithfully
Norman Waterhouse



Nick Llewellyn-Jones
Partner
Direct Line: (08) 8210 1269
e-mail: nllewellyn-jones@normans.com.au

Encls

CZA\M00274396F04760592.DOCX



6 May 2017

Tim Campbell
Campbell Law
Suite 7, Level 1, 118 Halifax Street,
Adelaide, SA 500

Dear Tim,

Kaurna Native Title Claim: Anthropology Expert Connection Report

I refer to your letter of 24 April.

I confirm that I am able to prepare an expert Anthropology connection report for the Kaurna native title claim, and thank you for your instructions. I prepared the original Kaurna native title claim Form 1 Application materials, including boundary mapping, genealogies and applicant affidavit interviews, and that I have over 30 years of experience with Kaurna people and traditional country in anthropological and archaeological research and heritage management. I also attended the evidence on country hearings for the Kaurna claim, arranged for those hearings to be video-recorded for the Court and updated the genealogies recently at my own expense, to assist the progress of the claim in the Federal Court. I confirm that I have no conflict of interest in relation to the proposed work.

In conducting this work, I would be assisted by video-ethnographer Clive Taylor ASC, female anthropologist Aylza Donald, GIS spatial analyst and digital cartographer Andrew Maland, and archaeologist Dr Martin Wimmer, who form my core team of associates for this kind of work. I also would be assisted by an expert historian.

I am able to commence this work in early May. I would require 12 months from commencement of funding to complete a full expert report, including genealogies, maps, appendices, and a complete digital set of reference material used for the report for use in discovery and Court submissions. My considerable research experience and associated library of resources relating to the Kaurna community and lands provides an unparalleled advantage for conducting this work and completing it most efficiently in terms of cost, time, and quality. Nonetheless this is a capital city claim as well as a large claimant group and a large claimant area, which is why 12 months would be required to complete the reporting in a satisfactory manner.

In my view, a complete expert report could not be prepared by 7 August 2017. I will produce an outline expert report by the first week of August which will address the primary points of claim included in the native title application and the currently agreed list of facts, issues and contentions.

The outline report will summarise the nature of the evidence known to be available, with some salient examples already at hand, and will provide an outline of the further research to be conducted in order to complete the final report. The outline report will also list documents and data being sourced from the State Government (Aboriginal Heritage site register and reports for the claim area, State Archive and other government records relating to Kaurna people and the claim area, South Australian Museum Tindale archive and other documents, etc) and the proposed further use of

2

these materials in the research. The outline report also will include preliminary mapping related to the traditional connections to country of the Kurna apical ancestors and significant cultural places on country and an interim, revised genealogy database for the Kurna claimant groups. I have been through this exercise previously with the Wutha claim (Goldfield regions, Western Australia), and this approach was successful in that case.

I am pleased to hear that funding for the first stage of this trial preparation has been obtained. As discussed, you and I will finalise the costings for the above as soon as possible.

Yours sincerely



Associate Professor Neale Draper

Principal Heritage Consultant, Neale Draper & Associates Pty Ltd.

Adjunct Associate Professor, Department of Archaeology, Flinders University of South Australia.

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 30/03/2017 4:02:29 PM ACDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

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File Number:	SAD6001/2000
File Title:	Garth Agius & ors on behalf of the Kaurna People and The State of South Australia & ors (Kaurna Peoples)
Registry:	SOUTH AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 30/03/2017 4:14:27 PM ACDT

A handwritten signature in blue ink, which appears to read "Warwick Soden".

Registrar

Important Information

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No. SAD 6001 of 2001

Federal Court of Australia
 District Registry: South Australia
 Division: General

GARTH AGIUS and others named in the schedule
 Applicant

STATE OF SOUTH AUSTRALIA and others named in the schedule
 Respondent

Points of Claim

(By order of His Honourable Justice White on 11 November 2016)

This document sets out the issues, facts, contentions upon which the Applicant relies in support of its native title determination application.

NB This document does not provide particulars. Such particulars will only be known once the Applicant has documented sufficient oral histories and obtained expert anthropological evidence. Particulars will be provided once the Applicant's expert anthropological report has been filed, and are expected to refer back to that report.

These Points of Claim are to be read in conjunction with the Amended Native Title Determination Claimant Application (Form 1) filed on 4 July 2001 ("**Form 1**").

This document addresses the questions to be decided separately from and before any other question in this matter:

But for any question of extinguishment of native title and the determination of matters required by s225(c), (d) and (e) of the Native Title Act 1993 (Cth):

- (a) *Does native title exist in relation to any and what land and waters of the Kurna claim area?*
- (b) *In relation to that part of the Kurna claim area to which the answer to (a) above is in the affirmative:*

Filed on behalf of (name & role of party)	Applicant
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[Form approved 01/08/2011]

2

- (i) *Who are the persons, or each group of persons, holding the common or group rights comprising the native title?*
- (ii) *What is the nature and extent of the native title rights and interest?*

An Historic Traditional Aboriginal Group

1. Prior to, and at sovereignty (26 January 1788), there was an identifiable Aboriginal group which occupied an area approximately co-incident with the claim area.
 - i. The Aboriginal group in question was, around the time of settlement (circa 1836), generally referred to by colonists as the "Adelaide Tribe" and similar names.
 - ii. That group is now known as the Kurna People.
 - iii. The term "Kurna" was first recorded in the 1800s.
 - iv. In these Points of Claim the terms "Kurna" and "Kurna People" are used to mean the historic Aboriginal group which occupied an area approximately co-incident with the Claim area and the descendants of that group (which today comprise the claim group).
2. The Kurna People have, as a native title society (in the *Yorta Yorta*¹ sense), had a substantially uninterrupted and vital existence since sovereignty and continuing until the present date.
 - 2.1 The Kurna People in 1836 were the continuation of the Kurna People extant at sovereignty (1788).
 - 2.2 The Kurna People now are the continuation of the Kurna People extant in 1836.
3. The Kurna People were adversely impacted before, during, and after the establishment of the South Australian colony. The Kurna People, and the operation of some of their traditional laws and customs, were disturbed but the

¹ *Yorta Yorta Aboriginal Community v Victoria* (2002) 214 CLR 422.

3

society itself continued. These disturbances include the taking and/or slavery of Kaurna women and the spreading of diseases e.g. smallpox amongst the Kaurna population.

4. Prior to settlement, the Kaurna People and the operation of their traditional laws and customs were disturbed by the activities, and the effects of non-Aboriginal persons, including whalers and sealers based on Kangaroo Island and explorers. However, the society itself continued.
5. On 15th August 1834, His Majesty, William IV assented to an Act to establish the colony of South Australia.
8. In February 1836, His Majesty, William IV issued Letters Patent which erected and established the Province of South Australia.
9. The Letters Patent provided, amongst other things, the following:

"PROVIDED ALWAYS that nothing in those our Letters Patent contained shall affect or be construed to affect the rights of any Aboriginal Natives of the said Province to the actual occupation or enjoyment in their own Persons or in the Persons of their Descendants of any Lands therein now actually occupied or enjoyed by such Natives."

10. The colonists recognised in 1836 and subsequently that the Kaurna People held, exercised and/or enjoyed proprietary and/or possessory and/or other rights in respect of the claim area.

Particulars

- a. The First Annual Report of the Colonization Commissioners for South Australia (the Report) was received by the Secretary of State for the Colonies on 24 June 1836. The Report included a report on the "Treatment of Aborigines" and referred to rights of the natives.

4

- b. The proclamation made in December 1836 by His Excellency John Hindmarsh Governor and Commander-in-Chief of His Majesty's Province of South Australia (Governor Hindmarsh) announcing the establishment of the Government of South Australia.
- c. Further particulars will be provided subsequent to the matters identified in the note on Page 1, and review of the relevant historic documents.

Deprivation of Land

- 11. At the time of substantive contact with the white colonists, the Kaurna People included at least eight persons who were present in, and occupied and enjoyed under the traditional laws and customs of the Kaurna People, the area of land and waters which is approximately co-incident with the claim area.
- 12. Those persons are the named Apical Ancestors of the claim group and comprise:
 - i. Kudnarto
 - ii. Father of Charlotte
 - iii. Father of King Rodney
 - iv. Nancy Mitchell
 - v. Mother of Alice Miller
 - vi. Rathoola
 - vii. Mother of Sarah Taikarabbie
 - viii. Nellie Raminyemmermin(the **Apical Ancestors**).

13. The Kurna People today (i.e. the claim group) comprise the biological (and adoptive) descendants of the Apical Ancestors.
14. In 1836 and following, the Kurna People were dispossessed of some of their land and waters by colonists, and inhibited in exercising their traditional rights and interests in relation to some of their lands and waters by colonists.
15. Many Kurna people were placed on Aboriginal reserves.
16. Many Kurna people were later removed from those reserves and elsewhere and forcibly placed in settlements at Point Pearce and Point McLeay, both of which are (a) outside the claim area, and (b) outside traditional Kurna country².

Traditional Laws and Customs and Society

17. Since sovereignty to the present the Kurna People have continued substantially uninterrupted as a society united in and by acknowledgement and observance of a body of traditional laws and customs (which body has been subject to permissible adaptation) in respect of one or more of the following:
 - i. Group membership, unity and identity through:
 - (a) Having a biological or adoptive Kurna mother or father;
 - (b) Active participation within the Kurna People;
 - (c) Acceptance by other Kurna persons as a Kurna person; or
 - (d) Being reared as a Kurna person.

² "country" is as shorthand for "the geographic area of land and waters (including adjacent land) in respect of which the Kurna People had and have traditional rights and interests by virtue of their traditional laws and customs".

6

- ii. Family structures.
- iii. Kinship roles and obligations.
- iv. Marriage.
- v. Births.
- vi. Authority and decision making for and within the Kaurna People.
- vii. Elder respect and responsibility.
- viii. Funerals.
- ix. Burials.
- x. Language
- xi. Teaching, learning, and holding traditional knowledge of Kaurna country.
- xii. Teaching, learning, and observing traditional rights, interests and responsibilities for Kaurna country.
- xiii. Teaching, learning, and holding traditional knowledge of, and using, hunting for, fishing for, and gathering, resources (including fresh water, bush foods and minerals such as ochre) within Kaurna country.
- xiv. Teaching, learning, and holding knowledge of, and protecting and maintaining, significant sites within Kaurna country (including middens, and burial grounds).

7

- xv. Protection and maintenance of traditional artefacts (e.g. grinding stones and weapons).
- xvi. Teaching, learning, and holding cultural knowledge (including art, drawings, songs, and ceremonies), including gender-restricted cultural knowledge.
- xvii. Teaching, learning, and holding knowledge of traditional farming practices.
- xviii. Belief in the existence and agency of ancestors.
- xix. Belief in the existence and agency of spirit beings.

Nature and Extent of the Native Title Rights and Interests

- 18. The traditional laws and customs listed in sub-paragraphs 18(i)-(xix) above produce traditional rights and interests in all or substantially all of the claim area, which rights and interests are: (a) exercisable by the Kurna People, and (b) are those rights and interests claimed in Schedule E to the Form 1, save for paragraph (h) of that schedule.
- 19. The methods or methods by which the said traditional laws and customs produce the said traditional rights and interest will be particularised in accordance with the note on page 1 of this Points of Claim.

Connection to land and waters

- 20. The Kurna People, by their traditional laws and customs, have at all times since sovereignty had without substantial interruption, and continue to have, a connection with all or substantially all of the land and waters of the claim area.

21. Such connection may be (a) spiritual; (b) based upon physical activity concerning particular land or waters; (c) derived from the absence of any other Aboriginal group claiming any right or interest in the area; or (d) any combination of the foregoing.

Date: 30 March 2017

A handwritten signature in blue ink, appearing to read 'Tim Campbell', is written over a horizontal line.

Signed by Tim Campbell
Lawyer for the Applicant

NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 1/05/2017 5:27:49 PM ACST and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

Details of Filing

Document Lodged:	Non-Prescribed Pleading
File Number:	SAD6001/2000
File Title:	Garth Agius & ors on behalf of the Kaurna People and The State of South Australia & ors (Kaurna Peoples)
Registry:	SOUTH AUSTRALIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Dated: 2/05/2017 8:50:40 AM ACST

A handwritten signature in blue ink, which appears to read "Warwick Soden".

Registrar

Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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No. SAD 6001 of 2000

Federal Court of Australia
 District Registry: South Australia
 Division: General

KAURNA NATIVE TITLE CLAIM

GARTH AGIUS and others named in the schedule
 Applicant

THE STATE OF SOUTH AUSTRALIA and others named in the schedule
 Respondent

FIRST RESPONDENT'S POINTS OF RESPONSE TO APPLICANT'S POINTS OF CLAIM

1. The First Respondent (**State**) does not accept that the **Points of Claim** dated 30 March 2017 sufficiently detail the basis for the Applicant's claim to hold native title rights and interests over the claim area. It is general and abstract and provides little detail in addition to the Amended **Form 1** filed on 4 July 2001.
2. Despite this, the State has endeavoured to set out in this document its position with regard to the claim and the basis upon which it is assumed to be put, in compliance with the orders of White J on 11 November 2016.
3. The State admits paragraph 1 of the Points of Claim to the extent that the date of **sovereignty** for the entire claim area was 26 January 1788. The claim area was settled as part of the Province of South Australia from 28 December 1836 (**Settlement**), but there are historical records relating to the claim area between those dates relating to journeys by explorers and whalers that inform the situation between sovereignty and settlement.
4. As to paragraph 2 of the Points of Claim, the State says that a number of localised groups of Aboriginal people inhabited different parts of the claim area at both sovereignty and settlement that were, after settlement, referred to as the Adelaide Tribe or Tribes. There is no evidence of those groups being a single society with rights over the entire claim area or

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Prepared by (name of person/lawyer)	Peter Tonkin		
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2

that the groups subsequently agreed, in accordance with their traditional laws and customs, to combine into a single society, whether known as Kaurna or by any other name.

5. As to paragraphs 3 to 5 and 14 to 16 of the Points of Claim, a combination of historical events following settlement displaced the Aboriginal people present in the claim area at sovereignty from their various lands, precluding them from exercising rights and interests under traditional laws and customs.

PARTICULARS

- 5.1. The arrival of Europeans to Australia resulted in, inter alia:

- 5.1.1. The spread of diseases to the claim area from the eastern colonies and subsequently from South Australian settlers;
- 5.1.2. sorties to the claim area by whalers and sealers resident on Kangaroo Island who abducted Aboriginal women;
- 5.1.3. the influx of Aboriginal people from other areas, including Encounter Bay, the Mount Lofty Ranges, the mid-North of South Australia and the Murray River, who were attracted to the township at Adelaide;
- 5.1.4. decisions by individuals to leave the area for work or other reasons;
- 5.1.5. decisions by the elders of the Aboriginal people not to pass on knowledge to their children so that it could not be learnt by the Europeans;
- 5.1.6. the actions of the colonial and State governments including:
 - 5.1.6.1. the ongoing grants of fee simple estates, leases and other rights over almost all of the land in the claim area and the consequent removal of Aboriginal people from those lands;
 - 5.1.6.2. the appointment of and actions by Protectors of Aborigines from 1837 with the object of "leading them by degrees to the advantages of civilisation and religion";
 - 5.1.6.3. the passing of ordinances and legislation governing the actions of Aboriginal people, including the *Aboriginal Orphans Ordinance 1844* and the *Aborigines Act 1911*;
 - 5.1.6.4. removal of all Aboriginal people to camps and missions (the Aboriginal Location in Adelaide from 1839, Point McLeay from 1859, Point Pearce from 1868), and schools (Poonindie Training Institution from 1850 to 1894);
 - 5.1.6.5. attempting to assimilate Aboriginal people into the European community.

- 5.2. The consequences of settlement were a reduction in population and dispersal of those Aboriginal people who were previously connected to the area. Most local Aboriginal people had left the Adelaide area by 1859 when the last of them were moved to Willunga before being sent to Point Pearce or Point McLeay.
6. There are no paragraphs 6 or 7 in the Points of Claim.
7. The State denies that the Letters Patent and other statements referred to in paragraphs 8 to 10 of the Points of Claim have any relevance to this claim. It is denied that there was a recognition that rights were held under the laws and customs of the Kurna People.
8. As to paragraphs 11 and 12 of the Points of Claim, the State denies or does not admit that the eight persons listed in Schedule A of the Form 1 were resident in or held rights and interests over the claim area, or parts of it, at sovereignty.


PARTICULARS

- 8.1. On current researches:
- 8.1.1. Kudnarto was from the Flinders Ranges or Crystal Brook and her descendants grew up at Poonindie (near Port Lincoln) and subsequently at Point Pearce (on Yorke Peninsula);
- 8.1.2. The father of Charlotte is unknown but Charlotte was from Clare and there is no evidence that she had any children who left descendants;
- 8.1.3. The father of King Rodney is unknown but King Rodney was recorded as the leader of the Adelaide Tribe. There is no evidence that he had any children who left descendants;
- 8.1.4. Nancy Mitchell is unknown;
- 8.1.5. The mother of Alice Miller is unknown but her daughter was first recorded at Point Pearce;
- 8.1.6. Rathoola came from Rapid Bay, her children grew up at Poonindie;
- 8.1.7. The mother of Taikarabbie was unknown (as is Taikarabbie);
- 8.1.8. Nellie Raminyemmermin was first recorded at Point McLeay.
9. Until provided with full genealogies, the State cannot plead to the biological (and adoptive) links of the Kurna claimants to the asserted Apical Ancestors referred to in paragraph 13 of the Points of Claim.
10. The State denies the assertions contained in paragraph 17 of the Points of Claim as to the acknowledgement and observance, both current and continued since sovereignty, of the

laws and customs listed or that they produce the rights and interests as asserted in paragraph 18 of the Points of Claim.

11. If there was a single normative society with rights and interests over the claim area at sovereignty or settlement (which is denied) that society has not had a continuous existence and vitality to the present day. The acknowledgement and observance from generation to generation of the traditional laws and customs giving rise to those rights and interests was substantially interrupted meaning the society ceased to operate.
12. Such laws and customs as may be acknowledged or observed by the Kaurna claimants today are not traditional in the sense required to found native title. They are an attempted reanimation conducted since the 1970s of language, traditions and customs from historical materials with significant and substantial differences from those exercised by the various Aboriginal people in the claim area at sovereignty.
13. In the event that any traditional laws and customs have had a continuous and vital existence from sovereignty to the present day (which is denied), those laws and customs do not provide a connection to the land and waters of the claim area. The State denies paragraphs 20 and 21 of the Points of Claim and says, in any event, that:
 - 13.1. connection must be by traditional laws and customs; and
 - 13.2. method (c) in paragraph 21 cannot of itself found connection.
14. The State denies that the Kaurna claimants hold any native title rights or interests in any of the claim area. Any rights or interests that may have survived (none being admitted) could not have included rights (a) (insofar as it is intended to suggest exclusive possession), (b), (d) or (f) from schedule E to the Form 1 as any ability to control use of the area was lost soon after settlement. The right claimed at paragraph (j) of schedule E to the Form 1 is unable to be recognised by the common law in breach of s 223(1)(c) of the Native Title Act 1993.
15. Save for the above, the State denies each and every allegation in the Points of Claim.

Dated 1 May 2017



Peter Tonkin

On behalf of the Crown Solicitor for the State of South Australia

Solicitor for the First Respondent

Schedule

No: (P)SAD6001/2000

Federal Court Of Australia

District Registry: South Australia

Division: General

NATIVE TITLE ACTION FILED BY AGIUS ON BEHALF OF THE KAURNA PEOPLES ON 25-OCT-2000

Applicant:	GEORGINA WILLIAMS
Applicant:	LYNETTE CROCKER
Applicant:	MAUREEN WANGANEEN
Applicant:	GLENICE SUMNER
Applicant:	JOSEPH MITCHELL
Applicant:	CECIL GRAHAM
Applicant:	VINCE BUCKSKIN
Applicant:	CARROLL KARPANY
Applicant:	SHIRLEY LAMPARD
Applicant:	RODNEY O'BRIEN
Applicant:	FRANK WANGANEEN
Respondent:	CARMELA LOGOZZO
Respondent:	COSIMO LOGOZZO
Respondent:	FERGUS GARTH MAHON
Respondent:	VYIANNE MAE MAHON
Respondent:	ILARIO MAIOLO
Respondent:	MALCOLM LEWIS NOMINEES P/L
Respondent:	ANGELO MAMMONE
Respondent:	ANTONIO MAMMONE
Respondent:	GIACONDA MAMMONE
Respondent:	TAMMY MAMMONE
Respondent:	STAVROS MANOLAS
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Respondent:	PASQUALE MARCIANO
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Respondent:	MARCOIONNI. DESOLINA
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Respondent:	BRIAN LESLIE MARSCHALL
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Respondent:	SUSAN BETH MERCORELLA
Respondent:	CRISTINA MERENDA
Respondent:	FRANK MERENDA
Respondent:	GIUSEPPE MERENDA
Respondent:	MARIA MERENDA
Respondent:	ROSS MERENDA
Respondent:	GLORIA AILEEN MILTON
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Respondent:	TIMOTHY JOSEPH PARKINSON
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Respondent:	LEONARDO SCINTO
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Respondent:	TANIA SEMAK
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Respondent:	TOMISLAV STEVANOVIC
Respondent:	MARK GILBERT STOECKEL

7

Respondent:	SUZANNE CECILE STOECKEL
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Respondent:	GRAHAM MARK TAPLEY
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Respondent:	HENRY RICHARD WESTLAKE
Respondent:	PETER YOUNG

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Respondent:	CITY OF MARION
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Respondent:	CITY OF ONKAPARINGA
Respondent:	CITY OF PLAYFORD
Respondent:	CITY OF PORT ADELAIDE ENFIELD
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Respondent:	RUBY EDITH BRUS
Respondent:	VENNETTA MILLIE BRUS
Respondent:	C & I CIROCCO NOMINEES PTY LTD
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Respondent:	FRANK CALVARESI
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Respondent:	FRANCESCO CARBONE
Respondent:	MARIA CARPINELLI
Respondent:	CARMELA CARRIERA
Respondent:	ANTONIO CARUSO
Respondent:	LINDA MARJORIE CARUSO
Respondent:	ROCOO CARUSO
Respondent:	DOMINIC CATANZARITI
Respondent:	TIMOTHY BRIAN CAWTE
Respondent:	CDZ PTY LTD
Respondent:	GIUSEPPE CERAVOLO
Respondent:	DESMOND JOHN CHASTON
Respondent:	PAMELA MARY CIAMPA
Respondent:	DOMENICO CIRILLO
Respondent:	MARIO CIRILLO
Respondent:	ROBERT CIRILLO
Respondent:	JOHN CLARK
Respondent:	JOHN LEONARD COLLINS
Respondent:	JOSEPHINE CONDINA
Respondent:	VINCENZO CONDINA
Respondent:	COOPAROO PROPRIETORS PTY LTD
Respondent:	TANIA COOPER
Respondent:	CORIOLE PTY LTD
Respondent:	GRANT STEPHEN CUNDY
Respondent:	D & R DERUVO & SONS P/L
Respondent:	ANGELO D'ALOIA
Respondent:	STEPHEN DANIEL
Respondent:	SUSAN JOYCE DANIEL
Respondent:	A DATSOPOULOS
Respondent:	DATSOS INVESTMENTS PTY LTD
Respondent:	DANIELLE RAFFAELE DE IESO
Respondent:	SALVATORE DE IESO
Respondent:	FILIPPO DELUCA
Respondent:	ANTONIO DI FABIO
Respondent:	GIUSEPPE DI FABIO
Respondent:	MARIA MICHELA DI FABIO
Respondent:	VITTORIO DI FAVA
Respondent:	ALFREDO DIMASI
Respondent:	GIUSEPPINA DIMASI
Respondent:	E & I DI FAVA NOMINEES
Respondent:	ELANDES NOMINEES P/L
Respondent:	ADELE ANN ELLIOTT
Respondent:	LYDON GRANTLEY ELLIOTT
Respondent:	PETER JOHN EMERY
Respondent:	F & A NOTO & SONS PTY LTD
Respondent:	ROBERT FALLINS
Respondent:	STEPHEN YOUNG

10

Respondent:	AIRSERVICES AUSTRALIA
Respondent:	TELSTRA CORPORATION LIMITED
Respondent:	ETSA UTILITIES
Respondent:	NATIONAL TRUST OF SOUTH AUSTRALIA
Respondent:	SOUTH AUSTRALIAN APIARISTS ASSOCIATION INC
Respondent:	LAURA ANN FELL
Respondent:	ROBERT FELL
Respondent:	LUIGI FELTRIN
Respondent:	GEORGE FRANGOS
Respondent:	MARY FRANGOS
Respondent:	DOMENICA GASPARINI
Respondent:	GIAN NOMINEES
Respondent:	MONICA ANNE HAMILTON-BRUCE
Respondent:	MOSTYN WILLIAM HANCOCK
Respondent:	SHIRLEY RAYLENE HANCOCK
Respondent:	HELEN GRANT HARDY
Respondent:	HARTLEY LEWIS NOMINEES P/L
Respondent:	JOHN RICHARD HUEY-WILLIAMS
Respondent:	KATHRYN THERESE HUEY-WILLIAMS
Respondent:	INGHAMS ENTERPRISES PTY LIMITED (ACN 008 447 345)
Respondent:	CHRISTINE ANNE IULIANO
Respondent:	GUERINO IULIANO
Respondent:	J CANNIZZARO
Respondent:	P CANNIZZARO
Respondent:	LUCIANA JAKSA
Respondent:	PETER JAKSA
Respondent:	DOREEN MAY JAMES
Respondent:	MALCOLM EDWARD JAMES
Respondent:	HANNA JANISZEWSKI
Respondent:	HAROLD JAMES JOHNSON
Respondent:	PATRICIA JOSEPHINE JOHNSON
Respondent:	KYRIAKI KARAPAS
Respondent:	KYRIAKOS KARAPAS
Respondent:	ARTHUR KASDALIS
Respondent:	FORTINI KASDALIS
Respondent:	FREDERICK FRANCIS KEANE
Respondent:	GREGORY STEPHEN KEANE
Respondent:	KINGSTON 153 PTY LTD
Respondent:	KOTHYNAYAGIAMALL KUHAN
Respondent:	SYDNEY RONALD KYLOH
Respondent:	MARGARET ANNE LEDSEN
Respondent:	VERONICA LESAN
Respondent:	ZELJKO LESAN
Respondent:	THOMAS LIAPIS
Respondent:	LIMAVADY PTY LTD
Respondent:	TREVOR WAYNE LINKE
Respondent:	HAHNS CULLEY & SONS
Respondent:	SOUTH AUSTRALIAN NATIVE TITLE SERVICES LTD
Respondent:	WILDCATCH FISHERIES SA INC
Respondent:	ST JOHN AMBULANCE AUSTRALIA SA INC
Respondent:	MILAN MILLISON
Respondent:	LINDA MILL

11.3 Legislative Progress Report - May 2017

Brief

This report provides an update on the status of proposed legislative changes affecting local government either dealt with in Parliament, by the Local Government Association or contained in the Government Gazette during the preceding month.

RECOMMENDATION(S)

The Committee recommends to Council that the 'Legislative Progress Report - May 2017' be received.

Introduction

This report provides a monthly update on the progress of Bills through Parliament, using Parliament's defined stages, as well as items contained within the Government Gazette that relate to the City of West Torrens. It also contains information provided by the Local Government Association (LGA) relating to proposed amendments to legislation or other relevant matters.

Discussion

Summary of Proposed Amendments to Legislation

Local Government (Members Contesting State Elections) Amendment Bill 2017

On 11 May 2017 David Pisoni MP introduced the *Local Government (Members Contesting State Elections) Amendment Bill 2017* into the House of Assembly where it was adjourned at its second reading.

The Bill proposes amendments to the *Local Government Act 1999* to give members of a council who are candidates in a state election an automatic leave of absence at the introduction of the writs in the lead up to a state election.

Further information can be found on the South Australian Legislative Tracking website.

Crown Land Management Act 2009

A number of changes will be introduced to the *Crown Land Management Act 2009* on 22 June 2017.

These changes include:

- Dedications can now be subject to a management plan as well as a single purpose.
- Dedications will no longer be published in the Government Gazette.
- A new licence over dedicated land power that explicitly allows custodians to licence dedicated land.
- A consent to lease over dedicated land is no longer required if:
 - native title rights are not affected and
 - the lease will not cause any development to occur and
 - the council is satisfied that the grant of the lease would not detract from any existing public use and enjoyment of the land. It would also not prevent the land being used for the purpose for which it was dedicated and, in the opinion of the relevant council, would not otherwise be improper or undesirable.

This means that if a netball club was leasing an existing netball court and club rooms on dedicated land for recreation purposes then ministerial consent is no longer required.

Further information can be found in LGA Circular 21.9

Road Traffic (Roadworks) Amendment Bill 2017

This Bill provides a comprehensive approach to the management of roadworks including provisions relating to the usage of traffic control devices and roadworks in the *Road Traffic Act 1961* to optimise traffic flow while ensuring safety at roadworks through risk management and compliance with tightened requirements.

The Bill received assent on 9 May 2017 but is yet to be proclaimed.

Further information can be found on the South Australian Legislative Tracking website.

Tobacco Products Regulation (E-Cigarette Regulation) Amendment Bill 2017.

The *Tobacco Products Regulation (E-Cigarette Regulation) Amendment Bill 2017* was introduced in the House of Assembly on 18 May 2017 and was adjourned at its second reading.

The Bill seeks to amend the *Tobacco Products Regulation Act 1993* (the Act) to introduce a range of measures to regulate the sale, supply and use of e-cigarettes. Among other objects, the Bill prohibits the use of e-cigarettes in areas in that are smoke free under the Act.

Government Gazette Notices

Fees and Charges - 1 July 2017

The Regulations under the following Acts have been varied to include the new fees and charges schedule for 2017. The fees and charges will come into operation on 1 July 2017:

- *Strata Titles Act 1988*
- *Community Titles Act 1996*
- *Roads (Opening and Closing) Act 1991*
- *Valuation of Land Act 1971*
- *Land and Business (Sale and Conveyancing) Act 1994*
- *Development Act 1993*
- *Real Property Act 1886*

Further information can be found Government Gazette Issue No. 33 - Published on 23 May 2017.

Bills previously reported on where the status has changed

Liquor Licensing (Liquor Review) Amendment Bill 2017

The *Liquor Licensing (Liquor Review) Amendment Bill 2017* (the Bill) was introduced in the House of Assembly on 29 March 2017.

The Bill was received in the Legislative Council on 18 May 2017 and adjourned after its second reading.

Further information can be found on the South Australian Legislative Tracking website.

Public Interest Disclosure Bill 2016

The *Public Interest Disclosure Bill 2016* was passed in the Legislative Council on 15 February 2017 with amendments and returned to the House of Assembly for consideration. The House of Assembly disagreed with the amendments and the Bill has now been returned to the Legislative Council for its reconsideration of the requested amendments.

On 10 May 2017, the Legislative Council advised that it is insisting on the amendments.

On 11 May 2017, the House of Assembly requested a conference be granted in respect to certain proposed amendments. The conference is yet to be agreed to.

Further information can be found on the South Australian Legislative Tracking website.

Bills previously reported on where the status remains unchanged

- *Whistleblowers Protection (Miscellaneous) Amendment Bill 2016* was received by the House of Assembly on 22 September 2016. The *Whistleblowers Protection Act 1993* will be repealed once the *Public Interest Disclosure Bill 2016* comes into effect.
- *Liquor Licensing (Small Venue Licence) Amendment Bill 2016* was adjourned in the Legislative Council at its 2nd reading on 27 July 2016.
- *Local Government (Mobile Food Vendors) Amendment Bill 2016* was adjourned in the Legislative Council at its 2nd reading on 1 March 2017.
- *Local Government (Boundary Adjustment) Amendment Bill* was adjourned in the House of Assembly at its 2nd reading on 2 March 2017.
- *Local Government (Building Upgrade Agreements) Amendment Bill* was assented to on 11 February 2016 and is yet to be proclaimed.

Acts Assented to but Not Yet Commenced

- The *Dog and Cat Management (Miscellaneous) Amendment Act 2016* was proclaimed on 19 April 2017 and has a staged commencement. The first section of provisions will come into operation on 1 July 2017 with the remaining sections commencing on 1 July 2018.
- The *Independent Commissioner Against Corruption (Miscellaneous) Amendment Act 2016* was assented to on 29 November 2016 but is yet to commence.
- The *Local Nuisance and Litter Control Act 2016* was Proclaimed on Thursday 21 July 2016 for staged commencement; the litter provisions came into effect of 1 February 2017 and the local nuisance provisions will come into effect on 1 July 2017.
- The *Native Vegetation Regulations 2017* (Regulations) will come into effect on 1 July 2017 and will replace the *Native Vegetation Regulations 2003*.

Conclusion

This report on legislative amendments is current as at 25 May 2017.

Attachments

Nil

12 MEETING CLOSE

CITY OF WEST TORRENS



ATTACHMENTS

UNDER SEPARATE COVER

Council

6 June 2017

- 18.1 Request For A Privately Funded Development Plan Amendment at
65-73 Mooringe Avenue, Plympton

Table of Contents

18.1 Request For A Privately Funded Development Plan Amendment at 65-73 Mooringe Avenue, Plympton

Attachment 2 Statement of Justification..... 1

HOLMES DYER

STATEMENT OF JUSTIFICATION FORMER BORAL BATCHING PLANT, PLYMPTON

Prepared for:
Adelaide Capital Partners

Date:
26 May 2017

create • manage • deliver | land • cities • communities

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Proprietary Information Statement

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Document Control

Revision	Description	Author	Date
v1	Draft Statement of Justification	S Gilmour	02.05.2017
V2	Revisions with Council Staff Input	S Gilmour	26.05.2017

Approved by

Date: 30 May 2017

HOLMES DYER

EXECUTIVE SUMMARY

HOLMES DYER

Executive Summary

Government has high level ambition to increase density within the existing built up area as “infill” development with ease of access to transport, jobs, existing infrastructure, facilities and services.

Council is seeking to respond to demand for new and affordable residential housing and higher and better use of land and has adopted specific strategies to minimise the common boundaries and establish appropriate buffers between industry and sensitive uses, such as residential. Success will be measured as a decrease in the number of industrial noise and odour complaints from residents.

The Industry Zone covering the subject land is historic and is scheduled to be reviewed by Council.

Under the current zoning, the land can be developed for a range of uses that have potential to conflict with surrounding residential uses. Further, with the current operator intending to cease operations at the subject land, pressure from surrounding residential areas may limit the industrial potential of the land so that it is underutilised.

‘Up-zoning’ land from industrial to residential in a largely established residential area such as Plympton is consistent with this objective. Further, the proponents’ vision for smaller lot housing would incorporate new and affordable housing options of high design quality.

Notwithstanding the benefits of the ultimate rezoning and redevelopment of the land, there are constraints to be overcome including in relation to the historical use of the land. Significant work has been completed that demonstrates the potential for remediation of the land so that it is suitable for residential use. Without a rezoning process, contamination of the subject land is likely to remain in situ for the foreseeable future.

While the proposal will not provide jobs directly, it is consistent with government direction (State and local) to grow jobs within key mixed use developments and strategic transport routes.

The subject land comprises two titles and represents a sizeable parcel(s) of land with potential to achieve a coordinated development outcome. Two concept plans have been prepared that demonstrate this potential. Further, design quality is increasingly important to a new compact urban form to ensure the enjoyment, safety, and sustainability of the community. The proponents’ vision is for a high quality design outcome including in the articulation of building materials and construction, and through principles of crime prevention through environmental design (such as ‘eyes on the street’, connectivity, and green space).

The proponent can fund the rezoning process without fettering the rights of Council, and pending Council approval can commence this process immediately.

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Contents

Executive Summary	iii
1. Introduction	2
1.1 Proponent	2
1.2 Subject Land	3
1.3 Zoning	5
1.4 Locality	7
1.5 Opportunities and Constraints	8
2. Proposition	11
3. Requirement for Rezoning	15
3.1 Population and Growth – Summary Characteristics	15
3.1.1 Housing and Residential Function	15
3.1.2 Age and Family Structure	16
3.1.3 Population Growth	16
3.2 Policy History	17
3.3 Land Use	18
3.4 Alternatives	20
4. Implications of Rezoning	22
4.1 Spatial	22
4.1.1 Urban Form	22
4.1.2 Surrounding Land Uses	22
4.1.3 Interface Management	25
4.2 Social	27
4.2.1 Services	27
4.2.2 Access to Housing	27
4.2.3 Connectivity	28
4.2.4 Open Space and Recreation	28
4.3 Infrastructure	29
4.4 Environmental	31
4.4.1 Noise and Odour	31
4.4.2 Site History	31
4.4.3 Heritage	33
4.5 Economic	34
4.5.1 Labour force and employment	34
4.5.2 Access to Jobs	34
4.5.3 Employment Lands	35
5. Key Criteria for Evaluation	37
5.1 Consistent with State Government Policy	38
5.2 Consistent with Council's Strategic Directions / DPA program	39
5.3 Appropriateness of Existing Zoning	40

HOLMES DYER

5.4 Ability to Achieve a Coordinated Development Outcome.....	41
5.5 Appropriate Management and Timing of the DPA Process	42
6. Conclusion	45

Appendices

Appendix 1. Certificate(s) of Title	47
Appendix 2. Opportunities & Constraints Plan	48
Appendix 3. Concept Plan	49
Appendix 4. Infrastructure Assessment	50
Appendix 5. Environmental Assessment	51

Figures

Figure 1. Subject Site	3
Figure 2. Concept Plan Map Plympton/Camden Park Industry – West Torrens Council Development Plan.....	6
Figure 3. Opportunities and Constraints	8
Figure 4. Indicative Concept Plan 1 Smaller Lot Housing	13
Figure 5. Photos of the Subject Land in the Context of Surrounding Uses	18
Figure 6. EPA Licenced Sites.....	23
Figure 7. Photos of the Subject Land and Key Interfaces	25
Figure 8. Photos of Housing on Mooringe Avenue	27

Tables

Table 1. EPA Licenced Activities, North Plympton	24
Table 2. Draft DPA Timetable.....	43

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1 - INTRODUCTION

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1. Introduction

Adelaide Capital Partners (ACP) has an interest in the Former Boral Batching Plant, Plympton, currently zoned Industry.

The subject land is currently operated by Boral Asphalt SA/NT as an operations depot. Boral has indicated plans to cease operations at the site from approximately June 2017.

The proponent is seeking a rezoning of the land to facilitate residential development, and understands the Council may consider an externally funded Development Plan Amendment as an appropriate rezoning process in relation to the subject land.

1.1 Proponent

Adelaide Capital Partners (ACP) is an independent Australian property development and land remediation company based in Adelaide, South Australia. ACP provide a diverse mix of property development, financial analysis and soil infill and remediation skill sets with a focus on realising unique property development opportunities in Australia.

A core objective of ACP is:

to identify large-scale industrial and commercial land holdings that face remediation or environmental challenges and apply our knowledge and expertise to remediate the land and ultimately unlock the underlying development value

ACP has proven ability to initiate and work constructively with local and State Governments for the delivery of land development projects.

ACP is a joint venture of two unique groups, Gerlach Asset Development Pty Ltd a specialist property and financial services group and ResourceCo Pty Ltd a leading Australian environmental services company with direct development expertise in land and soil management and infill projects.

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1.2 Subject Land

The subject land is bound by: Mooringe Ave to the north, Streeters Road to the west, Gardner Street to the south, and abuts land zoned residential to the east (although appears to be used for commercial purposes).

The subject site is colloquially known as the Former Boral Batching Plant and is currently developed with office depot buildings, storage warehouses and vehicle service/wash facility. Large portions of the site are used for vehicle parking and vehicle manoeuvring.

The site is shown in Figure 1 below.

Figure 1. Subject Site



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The subject land comprises two allotments on separate titles and is known as:

- Allotment 75 in Filed Plan 6524 in the area named Plympton in the Hundred of Adelaide (Certificate of Title Volume 5899 Folio 549); and
- Allotment 76 in Filed Plan 6524 in the area named Plympton in the Hundred of Adelaide (Certificate of Title Volume 5899 Folio 548).

The Certificate of Titles are included in Appendix 1.

Allotment 76 is subject to an easement of 1.52 metres wide that runs along the east boundary for 41.60 metres from Gardener Street (and is shown as the land marked A on the Certificate of Title).

The subject land has a site area of 12,170m² with frontage of 85.78 metres to Gardner Street; 85.67 metres to Mooringe Avenue; and 131.01 metres to Streeters Road.

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1.3 Zoning

The subject land is in the Industry Zone within the West Torrens Council Development Plan Consolidated 5 May 2016.

Objectives for the Industry Zone are:

1. A zone primarily accommodating a wide range of industrial, warehouse, storage and transport land uses.
2. Manufacturing activities, within Plympton and Camden Park, well removed from adjacent residential areas.

While no manufacturing occurs on the subject land, the proposition to rezone the subject land to residential would improve the separation of industrial type activities and residential areas in Plympton, consistent with objective two of the industry zone.

Key land uses envisaged in the Industry Zone include:

- industry except special industry;
- office;
- petrol filling station;
- public service depot;
- service trade premises;
- shop of 250 square metres or less in gross leasable area;
- store;
- road transport terminal;
- warehouse.

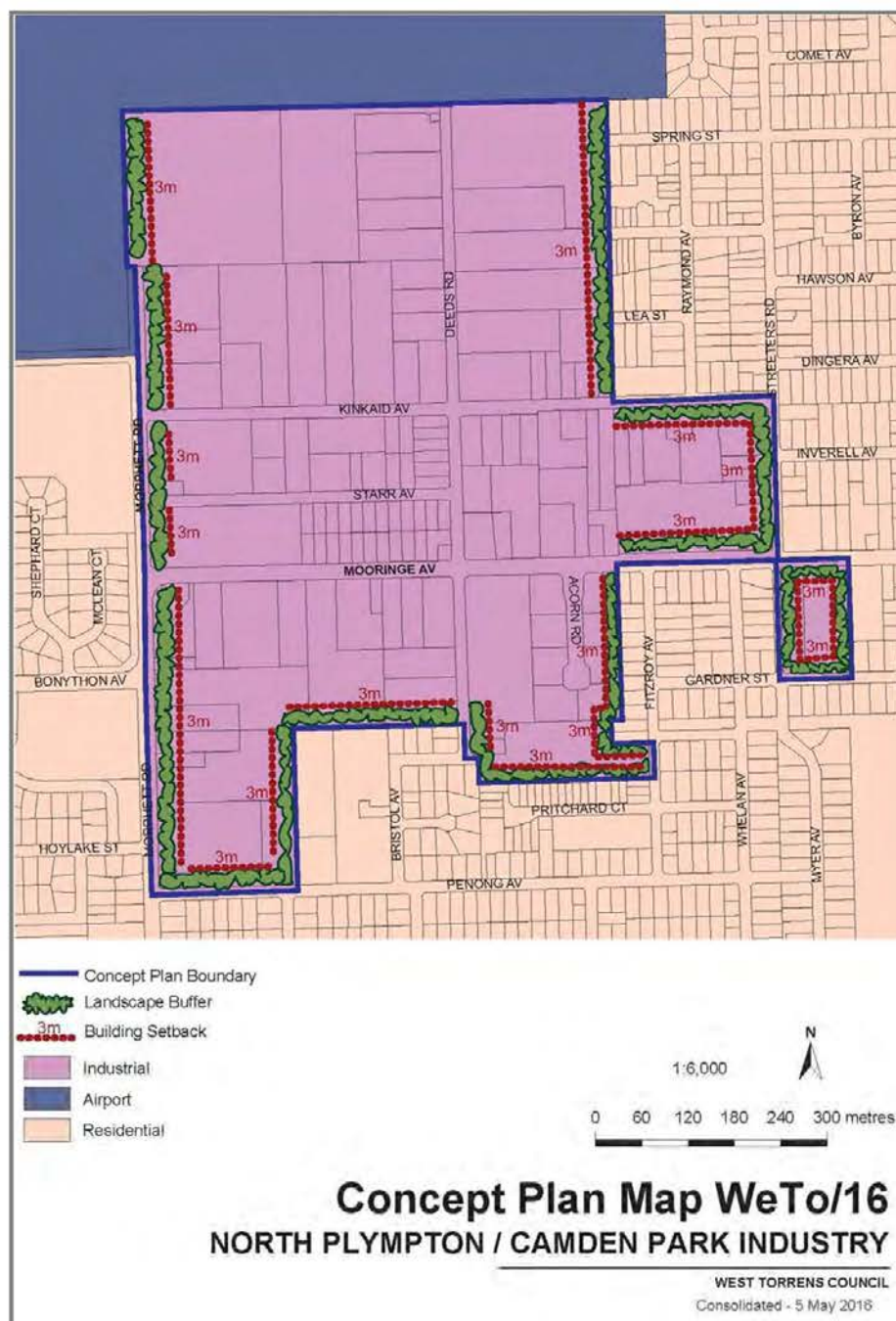
Dwellings and other residential accommodation such as residential flat buildings and nursing homes, are listed as non-complying development within the zone.

The Industry Zone is shown on Concept Plan Map WeTo/16 Plympton/Camden Park Industry of the current Development Plan (refer to Figure 2 overleaf), which clearly shows the surrounding residential zoning with the airport (Airfield Zoning) to the north of the Industry Zone.

Given the subject land is surrounded largely by residential areas, is barely contiguous with the remaining industrially zoned land, and appears to be an aberration protruding into an otherwise residential area, it is considered that the current industrial zoning could allow land uses that would be potentially undesirable for existing surrounding land uses. It would therefore appear appropriate for the subject land to be rezoned to be compatible with residential development.

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Figure 2. Concept Plan Map Plympton/Camden Park Industry - West Torrens Council Development Plan



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1.4 Locality

The locality is characterised by residentially zoned land with land zoned for industry to the north – west of the subject land. While some of the housing stock is ageing there is good residential amenity.

The subject land is within walking distance (about 400 metres) of a local centre which provides deli, bakery, butcher, bric-a-brac and salon services at Hawson Avenue.

Key bus routes run along Streeters Road (north) and Mooringe Avenue.

Mooringe Ave is shown as a secondary road with bike lane commencing at the intersecting of Streeters Road and Mooringe Ave at the north-west corner of the subject land. The site is about 460 metres from the Westside bikeway running adjacent to Osborne Terrace providing for an off-road sealed path linking to the City and the coast.

The subject land is within approximately 125 metres of two local reserves one on Errington Street and the other at Myer Avenue. There is a large school oval and associated playing courts located at the Plympton International College (R to 12) which is within walking distance of the site (approximately 60 metres); as is the Errington Special School (approximately 170 metres).

Two medical centres, the Mooringe Medical Centre; and Plympton Medical Centre, are in close proximity on Mooringe Avenue.

The subject land is well located with respect to local shopping, public transport, schools, and open space, and provides an opportunity for infill development to improve the current interface with industrial land in Plympton.

To the south and east of the subject land is Osborne Terrace, Marion Road and Anzac Highway which provide important road access, but are potential barriers to the land to the south.

The site is approximately 710 metres from Marion Road and about 680 metres from Anzac Highway both of which are identified as strategic transport routes.

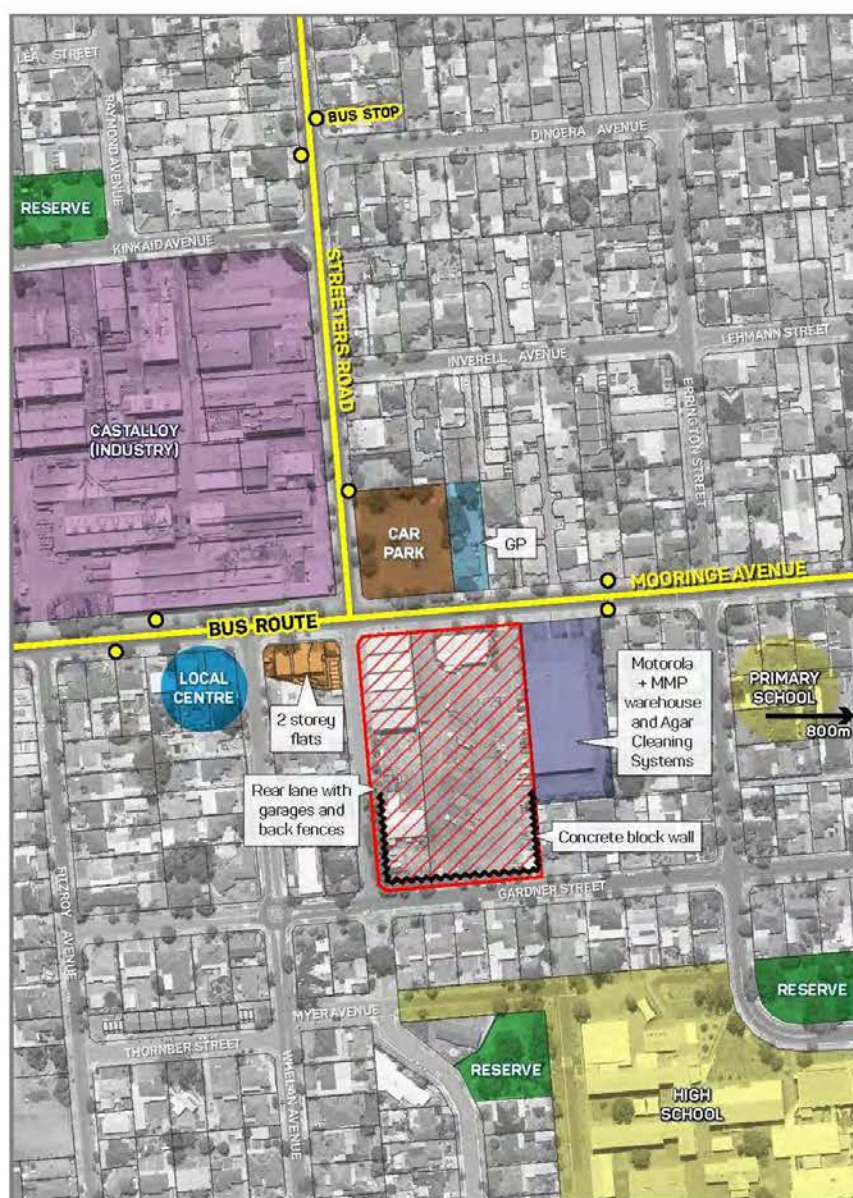
East of Osborne Terrace, approximately 470 metres from the subject land, is an area designated for affordable housing associated with land designated for strategic transport and zoned Urban Corridor. Within this area are additional local shopping facilities and services including Coles supermarket, café, pharmacy, petrol station and Indian specialty supermarket.

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1.5 Opportunities and Constraints

As part of concept planning for the site, opportunities and constraints have been broadly identified and are shown in Figure 3 below. An A4 Version of this plan is also included in Appendix 2.

Figure 3. Opportunities and Constraints



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Figure 3 items to note:

- The subject land is within Zone C for Airport Building Heights restricting all structures exceeding 15 metres above existing ground level;
- Buffers to industry diagonally opposite, including landscape buffer and 3 metre building setback as is consistent with Council's Development Plan;
- Historical land uses of the subject land represent potentially contaminating land uses and are subject to detailed investigation;
- Streeters Road could function as a rear lane access for an increased density residential development;
- The subject land is within proximity of key local shops, services, schools, open space and bus routes.
- The proposed residential development of the site would improve the interface with Gardner Street, Mooringe Avenue and not offend the interfaces on Streeters Road or the east boundary; and
- An example of a two storey residential block of units is directly opposite the subject land (west of Streeters Road).

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2 - PROPOSITION

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2. Proposition

The proposition by the proponent is to rezone the subject land to enable residential land uses, such as those contained within the adjoining Low Density Policy Area 20 of the Residential Zone within the West Torrens Council Development Plan, as follows:

- Affordable housing;
- Detached dwelling;
- Domestic outbuildings in associated with a dwelling;
- Domestic structure;
- Dwelling addition;
- Group dwelling;
- Semi-detached dwelling;
- Small scale non-residential use that serves the local community, for example:
 - » Child care facility
 - » Health and welfare service
 - » Open space
 - » Primary and secondary school
 - » Recreation area
 - » Shop measuring 250 square metres or less in gross leasable floor area
- Supported accommodation

The proponent has an overall vision for the subject land that may include a combination of smaller lot detached housing. For this vision to be realised a more favourable residential zoning would be Medium Density Policy Area 18 which also provides for:

- Residential flat building;
- Row dwelling; and
- Shop, office, or consulting room.

The predominant employment sectors for the population of Plympton are in health care and social assistance, and retail, jobs that could be accommodated within residential zoning.

An indicative concept of how the site could develop over time has been prepared to demonstrate the potential for residential land uses for which a proposed rezoning could provide. The proposal would be to include an appropriate mix of residential development to be both attractive and provide opportunities for a range of price points to enable local people to remain in the area should they choose, whether they be new arrivals, first home buyers, families, or down sizers.

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In summary, the concept shows:

- Smaller lot housing and potential for 73 dwellings on the subject land (Figure 4 overleaf. A3 Version of the concept is also included in Appendix 3).

The concept provides for:

- Access from Mooringe Avenue and Gardener Street;
- Green space to the north west corner of the subject land to buffer from industrial land diagonally opposite; and
- Potential for 16 dwellings to take direct access from Streeters Road.

In conjunction with these land uses the proponent's vision for the site is to optimise connectivity, within, throughout and external to the subject land to build on its already good proximity and access to services.

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Figure 4. Indicative Concept Plan 1 Smaller Lot Housing



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3 - REQUIREMENT FOR REZONING

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3. Requirement for Rezoning

3.1 Population and Growth – Summary Characteristics

The subject land is within the small area called 'Plympton' of Profile ID used by Council for identifying local population characteristics and community profile. The area is surrounded by small areas 'Camden Park' and 'North Plympton – Netley.' Profile ID identified both Plympton and Camden Park as established residential areas.

3.1.1 Housing and Residential Function¹

In 2011, there were 1,234 separate houses (53%) in Plympton, 877 medium density dwellings (38%), and 204 high density dwellings (9%). Compared with the City of West Torrens there are fewer separate houses and more dwellings of higher density (64% separate houses, 33% medium density, and 3% high density).

The City of West Torrens, and Plympton are characterised by a smaller percentage of households with a mortgage (26%) than the Adelaide average (35%). Of those households purchasing their own home, more are paying high mortgage repayments of \$2,600 or more per month (16.4% compared with 15.2% for Greater Adelaide) which may suggest demand (and possible lack of affordable housing within Plympton generally). This corresponds with a higher percentage of households renting in the City of West Torrens (35%), and a predominance of private rental housing in Plympton (41%), well above the Council and Adelaide averages (28%). Plympton has more people paying low rents than the Council average however there are still some signs of rental stress in surrounding areas suggesting a demand for affordable housing.

Greater than average private rental accommodation is consistent with a high percentage of medium density housing in Plympton (47%), significantly more than the Council average of 36% and close to double that for Greater Adelaide (28%). This may reflect a lack of both diversity in built form and housing affordability in Plympton but also a general acceptance of higher density living.

Weekly household income in Plympton is lower (\$985) compared with City of West Torrens (\$1,014) and Greater Adelaide (\$1,105); as is median weekly rent (\$239 in Plympton) compared with the Council (\$249) and Adelaide (\$251) averages. Considered in the context of high unemployment levels in Plympton (8.6% compared with 5.8% and 5.9% for Council and Greater Adelaide respectively), there is again an indication there may be less affordable housing in Plympton than is desirable.

Plympton is characterised by lone person households (34.3% compared with 26.7% for Greater Adelaide), followed by couples with children (23.1%) and couples without children (22.5%) compared with Greater Adelaide (28.5% and 25.5% respectively). This is consistent with a high percentage of households with one person usually resident in Plympton (36.4% compared with 27.6% for Greater Adelaide), and a predominance of households with two bedrooms or less (51.9% compared with 23.7% for Greater Adelaide) and few households

¹ Statistics relate to the 2011 Census period unless otherwise stated.

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with four or more bedrooms (8.7% compared with 20.9% for Greater Adelaide). This suggests the housing market is likely to attract students, single workers and young couples, or may indicate a lack of affordable alternatives and or socio-economic factors within the population.

Plympton is characterised by an ethnically diverse population, and has more persons born overseas (33%) and from non-English speaking backgrounds (27%) compared with Greater Adelaide (25% and 15% respectively), with India and China important countries of origin. Plympton's housing market appears to currently be serving the needs of new overseas arrivals with around 48% of overseas born persons arriving between 2006 and 2011 (compared with 21% for Greater Adelaide).

3.1.2 Age and Family Structure²

The median age of persons living in Plympton is 34 years (compared with 38 years and 39 years for City of West Torrens and Greater Adelaide respectively).

There are more persons aged 18 to 34 years in Plympton (32%) compared with Greater Adelaide (23%), an age cohort typically associated with tertiary education, independence, and the young workforce. This is consistent with a high percentage of persons with bachelor or higher degree (24% compared with 21% for City of West Torrens and 18% for Greater Adelaide). Plympton has a similar proportion of persons aged 35 to 49 compared with Greater Adelaide (approximately 21%) and likely to be in the parents and homebuilders service age groups. The largest changes in age structure between 2006 and 2011 was growth in the age groups associated with the young workforce (+226 people) and parents and homebuilders (+78 people). Generally, the area is characterised by fewer persons in the very young, and older and elderly age groups.

Average household size in Plympton is 2.16 persons per household, compared with 2.42 for Greater Adelaide.

3.1.3 Population Growth

From 2006 to 2011, Plympton's population increased by 297 people (7.0%). This represents an average annual population change of 1.36% per year over the period. The estimated resident population of Plympton has grown from 4,704 persons in 2011 to 5,002 persons in 2016.

The current population density is 28.14 persons per hectare in Plympton compared with 16.01 persons per hectare for the City of West Torrens.

² Statistics relate to the 2011 Census period unless otherwise stated.

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3.2 Policy History

A review of back zoning (1996) shows the area as General Industry although it is possible the zoning predates this.

The subject land has been used as an operations depot by Boral since 1996 and it would appear the current zoning is a consequence of the historical land use.

A review of the Development Plan indicates that since the time of recording amendments there do not appear to have been any significant direct amendments applicable to the subject land, meaning the current policy has been in effect for an extended period.

Ministerial Plan Amendment Reports (PAR) relevant to industrial land were consolidated on 13 January 2000 and 16 December 1999 which may have affected the subject land.

A more recent amendment to the Development Plan (consolidated on 25 June 2015), arising from the Housing Diversity DPA (Part 2), updated the Residential Zone and provisions for urban areas, suburban areas, character areas and historic conservation areas. The DPA considered appropriate housing density and diversity in the areas surrounding the subject land zoned residential, and introduced a new Urban Corridor Zone applicable to a portion of Anzac Highway to the south-east of the subject land. The DPA introduced new character policy areas to protect established areas with a residential character of value; and identified areas suitable for medium and high density housing as well as mixed use development. Of note, there are no immediately surrounding character or conservation areas in proximity of the subject land. The residential policy area surrounding the subject land is Low Density Policy Area 20.

Council is currently contemplating a review of its employment lands to assess demand and supply, and transition some areas to alternative or more sensitive uses. Council administration has advised the subject land would likely be captured within this assessment although a timeframe for completion of this work is unknown. It is not feasible (nor appropriate for the neighbours) for the subject land to remain in industrial zoning while this work is completed.

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3.3 Land Use

The existing area is predominantly established residential (Low Density Policy Area 20). North-west of the site is industrially zoned land largely within Plympton and Camden Park. This includes the Castalloy industrial site diagonally opposite (north west) the subject land. Further north-west of the industry area is the Adelaide Airport within the Airfield Zone.

Immediately opposite the subject land on Mooringe Ave is a car park and medical centre (GP).

On the eastern boundary land is zoned residential but there is an existing commercial use on Mooringe Avenue.

West of the site, beyond the residential zoning, is land zoned for community purposes associated with the Glenelg Golf Course/Club.

There is a small local shop on Mooringe Ave, west of the subject land. Land zoned for local centres is located north-east of the site on Hawson Avenue and Marion Road, and land zoned neighbourhood centre is located south west of the subject land on Morphet Road.

Anzac Highway, south east of the subject land is designated as a strategic transport route and within the Urban Corridor Zone.

The following photos illustrate the subject land in the context of surrounding uses.

Figure 5. Photos of the Subject Land in the Context of Surrounding Uses



Left to right: east boundary of subject land, Mooringe Ave; office on subject land, Mooringe Ave.

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Top left to right: Castalloy, corner Mooringe Ave and Streeters Rd; Castalloy, east boundary looking west from Streeters Rd; carpark directly opposite subject land, Mooringe Ave; GP directly opposite subject land, Mooringe Ave; commercial abutting east boundary, Mooringe Ave; local shop, Mooringe Ave

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3.4 Alternatives

This section of the report considers two alternatives for the subject land as follows:

1. Maintain the industry zoning; or
2. Change the zone to a residential zoning.

The key readily identifiable consequences of each option are listed below:

1. Maintain the industry zoning:
 - » The protrusion of the industry zone into an otherwise residential area creates less than desirable interface issues that will require ongoing management;
 - » Due to the extent of surrounding residential land uses it may be difficult to achieve land use planning consent for particular uses envisaged in the zone, and this could result in the land being underutilised;
 - » Potentially contaminating land uses arising from historical use of the subject land will likely continue to persist in the local area.
2. Change the zone to a residential zoning:
 - » This is likely to improve the current interface for existing residents;
 - » Provide an impetus to remediate the site;
 - » Provides consistency with Government ambition for infill development within locations close to services and public transport;
 - » Depending on the policy area, housing density may continue to be low and whilst increasing the population, may not provide the housing diversity and affordability desirable for the area; and
 - » Opportunities for employment based land uses would be contained to those permitted within residential land uses.

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4 - IMPLICATIONS OF REZONING

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4. Implications of Rezoning

4.1 Spatial

4.1.1 Urban Form

Guided by government policy, West Torrens is experiencing urban renewal including an increase in residential development, townhouses and higher density dwellings from mixed use and infill development. There is evidence of demand for new and affordable residential housing and higher and better use of land across the city. A review of the population characteristics for Plympton suggest this demand for affordable residential housing applies to the area within which the subject land is located.

A rezoning of the subject land from industrial to residential uses is consistent with urban renewal objectives.

4.1.2 Surrounding Land Uses

Surrounding land uses are broadly identified in Figure 3 in Section 3 of this report, and include residential uses including a two-storey block of units on the opposite side of Mooringe Avenue, a commercial use (Motorola warehouse and Agar Cleaning Systems abutting the subject land on the east boundary), and a local medical office (GP) and car park on the opposite side of Mooringe Avenue.

Specific reference is made to the site diagonally opposite the subject land (north-west), known as Allotment 57, 76-92 Mooringe Avenue, Plympton, and operated by New Castalloy Pty Ltd. A number of prescribed activities of environmental significance are undertaken at the site as set out in EPA licence 16747 as follows:

- Ferrous and non-ferrous metal melting works;
- Surface coating works - metal finishing;
- Surface coating works (spray painting or powder coating);
- Activities producing listed wastes; and
- Fuel burning comprising the burning of fuel to stove enamel or to bake or dry substances releasing dust or air impurities.

Conduct of the activities is subject to conditions for control of emissions including monitoring and reporting for noise and odour. The Environment Protection Authority has had cause to issue Environment Protection Orders (EPOs) in relation to the operation of the site including: failure to submit a noise monitoring plan in October 2003; and failure to minimise environmental nuisance caused by noise emissions from the site during night operations in May 2003. No recent EPOs are listed which suggests the site is currently operating as per its licence.

Excluding Council (waste and recycling depot, Deeds Road – Morphett Road, Plympton), there are six EPA licences for sites in Plympton (north-west of the subject land) concentrated around Kinkaid Avenue and Starr Avenue. The location of these sites in the context of the subject land is shown in the following figure.

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Figure 6. EPA Licensed Sites



The table below summarises the licensed activities at these sites.

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Table 1. EPA Licensed Activities

Licence Number	Site Address	Activities	Evaluation Distance Guide*
16747	76-92 Mooringe Avenue, North Plympton, SA	Ferrous and non-ferrous metal melting works Surface coating works - metal finishing Surface coating works (spray painting or powder coating) Activities producing listed wastes Fuel burning comprising the burning of fuel to stove enamel or to bake or dry substances releasing dust or air impurities	100 to 1,000 metres
50182	64-70 Kinkaid Avenue, North Plympton, SA	Activities producing listed wastes Fuel burning comprising the burning of fuel to stove enamel or to bake or dry substances releasing dust or air impurities	Individual assessment
1887 (Council)	64-78 Deeds Road, North Plympton, SA	Waste recycling depot (waste for resource recovery or transfer)	300 to 500 metres
242 (Council)	181 Morphet Road, North Plympton, SA	Waste recycling depot (waste for resource recovery or transfer)	300 to 500 metres
966	51-57 Kinkaid Avenue, North Plympton, SA	Wood preservation works Wood processing works Activities producing listed wastes	100 to 500 metres
18282	34 Starr Avenue, North Plympton, SA	Surface coating works (spray painting or powder coating) Activities producing listed wastes	100 to 300 metres
25582	14 Kinkaid Avenue, North Plympton, SA	Abrasive blasting Surface coating works (spray painting or powder coating)	50 to 500 metres
14000	15 Starr Avenue, North Plympton, SA	Waste recycling depot (waste for resource recovery or transfer)	400 metres

* without EPA confirmation about the exact scale of activity the range of evaluation distances has been provided as a guide.

High level review of existing conditions of licence suggests that most sites are licensed for a controlled and/or listed waste(s). Other common licence conditions include control of emissions to air (typically particulates - dust). Waste management facilities also typically have odour prevention requirements. Given the existing controls, and that the subject land is further from these sites (excepting Castalloy) than existing residential land uses, the impact of these activities on the subject land is likely to be less than for existing residents.

The scale of each licensed activity has not been confirmed with the EPA however, the range of EPA evaluation distances for effective air quality and noise management is provided as a guide in the table above. The subject land is within the evaluation distance of licence number 16747 (New Castalloy) and pending confirmation of the scale of activities, possibly within the evaluation distance of another licence site (licence number 25582) which is about 300 metres away (noting there are residential properties between this licence site and the subject land).

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4.1.3 Interface Management

Council recognises that urban infill can result in a range of undesirable interface issues where residential land abuts industrial land uses, resulting in traffic, noise and odour issues.

Council's current concept for managing interface issues is shown in Concept Plan Map WeTo/16, which identifies the primary strategies to manage the interface as a landscape buffer and three metre building setback on land zoned for industry uses.

The proponents' proposition is an opportunity for Council to reduce the residential/industry interface within a largely established residential area. Further, the proponent is proposing a series of investigations to specifically assess traffic, noise and odour issues. Where potential for these issues to materialise, policy will be included in the Development Plan.

The following photos illustrate the subject land and key interfaces.

Figure 7. Photos of the Subject Land and Key Interfaces



Top left to right: residential abutting east boundary, Gardner Street; residential streetscape, Gardner Street.

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Top left to right: shed on subject land, Mooringe Avenue; next three photos - interface west boundary, Streeters Road

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4.2 Social

4.2.1 Services

The subject land is well located with respect to local shopping, public transport, schools, and open space.

Two medical centres, the Mooringe Medical Centre; and North Plympton Medical Centre, are in close proximity on Mooringe Avenue.

More broadly, the area has good access (via multiple travel modes) to Glenelg and Adelaide CBD for shopping, entertainment, recreation and services.

4.2.2 Access to Housing

The 2011 Census indicates there less separate houses and more 1 and 2 bedroom households in Plympton and fewer 3 and 4 or more bedroom households compared with West Torrens. There is a high proportion of people renting in private accommodation and fewer people purchasing homes in Plympton. This may suggest demand for rental accommodation (or a lack of alternatives).

While some of the housing stock is ageing, there is good residential amenity. Therefore, while the site has ease of access to public transport and services there is not currently a strong indication of re-generation occurring (ie infill development).

The following photos illustrate housing on Mooringe Avenue including two storey units on the corner of Mooringe Avenue and Streeters Road directly opposite (west) the subject land.

Figure 8. Photos of Housing on Mooringe Avenue



Left to right: housing styles, Mooringe Ave; two storey units, directly opposite subject land.

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4.2.3 Connectivity

Anzac Highway (south-west of the subject land) is a primary arterial road with largely east west movement (between the coast and CBD), and Marion Road is a secondary arterial road with generally north south movement.

A bicycle lane is shown from the corner of Streeters Road and Mooringe Avenue (corner of the subject land) to Marion Road within the current Development Plan linking to an off road sealed path that links between the coast and Adelaide CBD. Key bus routes run along Streeters Road (north) and Mooringe Avenue.

The area is within proximity of the Adelaide Airport for interstate and international travel.

4.2.4 Open Space and Recreation

A more compact urban form relies in part on access to quality public open space.

The subject land is within walking distance of two local reserves and ovals associated with surrounding school land uses. The Westside bikeway provides for recreational (and commuter) cycling between the coast and the City (destinations which of themselves are significant for open space, foreshore, park lands and recreation).

East of the site are the Glenelg and Patawalonga golf courses.

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4.3 Infrastructure

Wallbridge Gilbert Aztec (WGA) has provided high level confirmation that infrastructure and services exist or can be provided to service a potential residential land development at the subject land. The advice provided by WGA is included as Appendix 4.

A summary of the advice for each of the infrastructures considered as part of this preliminary investigation follows:

- **Potable water:**

SA Water potable water mains exist directly adjacent the site within Gardener Street, south of the subject land, and Mooringe Ave (north). It appears feasible to provide a connection to the subject land via an internal water main to service a potential redevelopment of the site for residential use.

- **Sewer:**

Two SA Water sewer gravity mains exist directly adjacent the site within Gardener Street, south of the subject land, and Mooringe Ave (north). The site topography appears relatively flat, and two existing sewer connections are located on the north western corner of the site. Based on the development concepts, it is likely these connections will need to be disconnected and a new gravity main installed and connected to the existing sewer main in Gardener Street or Mooringe Ave.

- **Non-potable water:**

A supply was not identified within the vicinity of the site from a preliminary desk-top analysis.

- **Electricity:**

The subject land has both low voltage and high voltage electricity connections fed from the overhead power lines along Mooringe Avenue. It is likely a potential redevelopment of the subject land would be serviced by new connections from the overhead power lines on either Mooringe Avenue or Gardner Street. Electricity infrastructure would be installed within an internal common service trench with connections to individual allotments.

- **Domestic gas:**

It is expected that a connection would be possible from either of the existing mains within Mooringe Avenue or Gardner Street, or utilise an existing site connection already in place. It is likely an internal gas main would be installed within the development with individual allotment connections.

- **Telecommunications:**

It is anticipated that existing Telstra infrastructure along Mooringe Avenue can be used to provide a telecommunications connection to the site. There is no in-service National Broadband Network infrastructure within the direct vicinity of the site, however a NBN pit and pipe network can be designed and installed within the development so that a connection can be provided once NBN infrastructure is expanded this area.

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- **Traffic:**

The development concepts contained in this report propose two new site access points, being:

- 1. Off Mooringe Avenue; and
- 2. Off Gardner Street.

Positioning of intersections appear adequate and have sufficient separation from existing junctions. Internal road networks will need to be reviewed with minimum 6.0 m wide carriageways provided with indented parking, or 7.2 m wide carriageway with on-street parking, designed to cater for residential traffic and garbage truck use. Parking layouts would need to comply with AS 2890.1 for off-street parking on a private road, or AS 2890.5 for on-street parking on a public road. Number of visitor parks will need to be in accordance with Council's Development Plan.

Holmes Dyer Pty Ltd also note the roads in the area accommodate commercial and domestic vehicles and a traffic impact assessment will be undertaken to inform the DPA.

- **Stormwater:**

Existing stormwater mains exist along the southern verge of Gardner Street and along the eastern verge of Streeters Road. There is also a side entry pit located at the north western corner of the site which would be the most logical connection point for the proposed development. An internal underground network would be required to collect stormwater runoff prior to leaving the site. Council standards ordinarily require that new developments detain peak post-development outflow in a 1 in 20 year ARI event to the pre-development 1 in 20 year ARI level (assuming a pre-development runoff coefficient of 0.25). It is noted in this case however, that a residential development would likely decrease the impervious nature of the site, which means detention may not be required. Site specific stormwater requirements would need to be further refined through discussions with Council, which would include the imposed stormwater quality requirements.

A review of the publicly available City of West Torrens flood maps indicates that the land parcel is outside of the Brownhill Keswick Creek 1 in 100 year ARI flood zone. The 1 in 500 year ARI flood map does show flooding nearer the site, however no inundation is shown. At this stage of the assessment no foreseeable flood risk issues appear evident.

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4.4 Environmental

4.4.1 Noise and Odour

Adelaide Airport occupies about 20% of the land area in the City of West Torrens and is a significant land use. Planning control for the Adelaide Airport comes under the Commonwealth Airports Act (1996). The subject land is in proximity of the airport and as such noise and odour will form key investigations to be undertaken as part of a rezoning process. This work would be guided in part by the forecast noise levels and mitigation strategies contained in the Adelaide Airport Master Plan.

Noise and odour policies are already included in the Development Plan which will be reviewed for applicability.

4.4.2 Site History

Historic and current land use is industrial however, the current occupant of the site has indicated an intention to close operations this year. If the land remains zoned for industry, it is considered likely that any historical contamination will remain on site. Further, the land use is most likely to be replaced with a land use that is not particularly compatible with adjacent and surrounding residential development. A rezoning of the land to a more sensitive use (e.g. residential) will trigger site contamination assessment and any redevelopment for a more sensitive use would remediate or manage residual contamination such that it does not present any risks to human health and/or the environment. Given proximity to residential areas, remediation of land is a positive environmental (and human health) outcome.

A summary of site history and previous contamination assessment is provided below.

- Prior to 1944 the land was used mainly for grazing livestock. Prior to 1996 the subject land was used as an asphalt plant (dating from approximately 1953). Between 1944 and 1953 uncontrolled fill was deposited at the site (mainly foundry sands and bitumen associated wastes).
- Remediation works were completed in around 1996, when Boral proposed to redevelop the subject land for administrative and vehicle storage purposes.

Various environmental investigations have been completed at the site from 1996 to 2017. These investigations have largely characterised the nature and extent of soil, groundwater and soil vapour. The contamination status of the site has been considered in the context of possible residential land use, with no significant issues identified. Some residual soil contamination at the site is planned to be managed during geotechnical improvement undertaken as preliminary earthworks.

Residual groundwater contamination is largely confined to the site boundaries and will be managed in accordance with EPA requirements. It is noted that previous studies show groundwater flows in a west-north direction (toward the area zoned industry in the Development Plan). Regional groundwater quality is considered of low quality (saline and contaminated) and unsuitable for potable beneficial uses.

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The most recent assessment (2017) by Mud Environmental for the proponent, concludes that soil vapour is not considered to present a risk in the context of the proposed residential land use.

The proponent is committed to undertaking investigations to understand and enable appropriate response to contaminated land. The following flow chart is provided as an indicative work program for the subject land:

1. Update the Preliminary Site Investigation (PSI);
2. Complete additional investigations and prepare Detailed Site Investigation (DSI);
3. Prepare Remediation Management Plan (RMP) for the remediation works (including geotechnical improvement as required by geotechnical engineer);
4. Complete remediation works and prepare Remediation Validation Report (RVR); and
5. Prepare Environmental Management Plan (EMP) if required for management of any residual contamination for future users of the site (if required).

Should the Council agree to a rezoning process, stages 1 and 2 could inform the investigations.

Advice from MUD Environmental about the indicative work program is provided as Appendix 5.

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4.4.3 Heritage

There are no State or heritage listed places in close proximity of the subject land and the area is not identified for historic or character preservation as a consequence of Council's recent identification of character areas through the Housing Diversity DPA.

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4.5 Economic

Boral has identified that the site at Plympton is surplus to requirements and has indicated plans to cease operations at the site from approximately June 2017. We understand Boral has plans to shift operations to another Council area (at Stonyfell) and as such, from an economic perspective, there are no immediate job losses associated with the proposed rezoning.

4.5.1 Labour force and employment³

Only 23% of people who live in the City of West Torrens work locally (67% of people living in the city travel elsewhere for employment). This may suggest a mismatch between the skill sets of the local population and locally available jobs. More than three quarters (85%) of people who work in the City of West Torrens live outside of the area.

Most people living in Plympton are employed in Health Care and Social Assistance (15.5% compared to 14.2% for Greater Adelaide), Retail (10.9% compared with 11.4% for Greater Adelaide), and Manufacturing (8.5% in 2011 down from 10.6% in 2006 and compared with 10.4% in 2011 for Greater Adelaide).

Plympton's population is most commonly employed as Professionals (22.4% compared with 21.6% for Greater Adelaide), or Clerical and Administrative Workers (16.3% compared with 15.4% for Greater Adelaide).

People living in Plympton are more likely to travel to work using public transport or cycling than for Greater Adelaide with 12.9% of the population travelling to work on the bus (compared with 5.9%), 2.6% by tram (compared with 0.4%), 2.4% by bicycle (compared with 1.1%), and fewer persons travelling as car drivers (57.8% compared with 64.4%). This is consistent with higher percentages of one and no car households in Plympton (58.8% compared with 45.8% for Greater Adelaide), but may also suggest ease of access by alternate transport modes.

4.5.2 Access to Jobs

The Building Western Adelaide Economic Strategy 2016 identifies a decline in manufacturing in western Adelaide and a growth in the café and restaurant sector, and retail jobs. This is consistent with labour force and employment trends in the City of West Torrens. The strategy identifies decline in new small businesses entries between 2008 and 2012 and the importance of Adelaide Airport for economic and employment generation.

The Adelaide Airport is a large employer base in the State, employing around 8,700 people (and an addition 9,000 people indirectly). The Adelaide Airport Master Plan 2014 (a statutory requirement of the Airports Act 1996 – Federal) is a detailed document and includes plans for growth over 20 years to double the \$2 billion that onsite activities contribute annually to the state economy. This includes jobs growth, including the retail area adjacent IKEA, with potential employment opportunities for residents of the City of West Torrens.

³ Statistics relate to the 2011 Census period unless otherwise stated.

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South Australia's planning system is undergoing significant reform including changing the way we think about key strategic transport routes and activity centres to promote mixed use and higher density development. In some respect this is a challenge to traditional thinking about "employment lands" and where jobs will locate in the future. Council has identified that within the City of West Torrens, mixed use development within growth corridors will contribute towards the jobs target set in the 30 Year Plan for Greater Adelaide. The new urban form seeks infill development within existing residential areas which in some cases will require change of land use and rezoning. The proponents' proposition is consistent with this latter approach.

4.5.3 Employment Lands

Council has experienced increased market demand for commercial development (as distinct from industry) and an ageing of building stock on industrial land. It is worth noting, since about 1996 the subject land has been used for commercial (rather than industry) purposes. More broadly for Adelaide, the availability of industrial land is constrained in locations close to the City. Council intends to respond to these and other factors through a review of employment lands to inform future strategic and land use planning.

The primary intent of the review is to provide an appropriate range of employment options for the needs of West Torrens residents, both now and into the future, and as an outcome changes of use to non-traditional employment activities or non-employing uses (e.g. residential) through a rezoning process(es) are envisaged.

Council has identified that *"much of the industrial land in the city contains older building stock which does not meet current operational requirements, is fragmented and constrained by nearby residential development, or is located on arterial roads or adjacent to centres where there is demand for higher order commercial use."*

The industrial area around Plympton will likely form part of the review of employment lands. However, the timeframe for the assessment is currently unknown and as Boral has indicated plans to cease operations from the subject land it is likely that in the absence of a rezoning process, the subject land will most likely be put to another Industrial Zone appropriate land use.

The proponents' proposition is consistent with Council intent for the overall review of employment lands and demonstrates a more immediate potential for rezoning for residential uses.

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5 – EVALUATION AGAINST CRITERIA FOR EXTERNALLY FUNDED DEVELOPMENT PLAN AMENDMENTS

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5. Key Criteria for Evaluation

Council administration has advised the City of West Torrens is considering preparing a third party funded DPA policy (modelled on the City of Port Adelaide Enfield policy). At this time however, the Council does not have a policy pertaining to this matter. Council has historically accepted and continues to be willing to consider a DPA prepared by a third party, subject to the third party being able to justify the merit of the proposal and the Council not fettering any statutory obligation that may be conferred upon it by statute. This proposal is for a rezoning funded by the proponent (who would commission investigations and studies and complete the required work) for review by Council and in no way compromises Council's probity.

In the absence of criteria specific to the City of West Torrens, it would seem appropriate to adopt criteria from the City of Port Adelaide Enfield to provide some objective tests to enable Council to fully consider the proposition in the context of good planning and governance principles:

- a) The proposed policy change is consistent with the State Government's Planning Strategy for Metropolitan Adelaide (30 Year Plan for Greater Adelaide), the Housing and Employment Land Supply Program, and aligns with key directions for State Significant Areas (if applicable).
- b) The proposed policy change is consistent with Council Strategic Documents such as the City Plan, Strategic Directions Report Section 30 Development Plan Review and the like and any other proposed or current Development Plan Amendments.
- c) The existing zoning is outdated and not in alignment with the other policy directions of the Government and Council resulting in appropriate development being restricted on the land.
- d) Whether the DPA relates to a significant area or parcel of land that is under single ownership or presents substantial opportunity for amalgamation of land to achieve a coordinated development outcome.
- e) Whether the proposed DPA can be appropriately managed, taking into consideration the timing of other priorities and projects within Council's policy program and the resources available.

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5.1 Consistent with State Government Policy

Criteria:

- a) *The proposed policy change is consistent with the State Government's Planning Strategy for Metropolitan Adelaide (30 Year Plan for Greater Adelaide), the Housing and Employment Land Supply Program, and aligns with key directions for State Significant Areas (if applicable).*

The 30 Year Plan for Greater Adelaide, 2010 set the following targets for Western Adelaide:

Population and dwellings	Net additional dwellings	Net additional population
Within corridors (incl. transit oriented developments)	33,060	62,100
Outside corridors	9500	20,900
TOTAL	42,560	83,000
Affordable housing	Net additional dwellings	
	6400	
Employment	Net additional jobs	
	40,500	
Gross land supply	Hectares	
Infill up-zonings (residential and employment)	4650	

The 30 Year Plan is supported by the Draft Update 2016, the Housing Strategy for South Australia 2013-18, and Integrated Transport and Land Use Plan. These documents make clear the Government's high level ambition to increase density within the existing built up area as "infill" development with ease of access to transport, jobs, existing infrastructure, facilities and services. Further, on 1 April 2016, the *Planning Development and Infrastructure Act 2016* prescribed areas for environment and food production would be protected from urban encroachment and that all future residential development would be within existing areas.

It is understood the Government is in the process of developing a discussion paper and has indicated it may draft policy as it relates to building near airports. This responds in part to a desire by Airport Authorities to have lower density near airports. This work is not yet publicly available. Currently, the subject land is within Zone C for Airport Building Heights in the Development Plan which relates to all structures exceeding 15 metres above existing ground level.

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5.2 Consistent with Council's Strategic Directions / DPA program

Criteria:

- b) The proposed policy change is consistent with Council Strategic Documents such as the City Plan, Strategic Directions Report Section 30 Development Plan Review and the like and any other proposed or current Development Plan Amendments.*

The Council's Community Plan Towards 2025 includes a series of strategies and indicators of immediate relevance to this proposition, as follows:

Five year strategies:

- Promote a range of housing types and densities across the city, while conserving areas of high character value;
- Minimise the common boundaries and establish appropriate buffers between industry and sensitive uses, such as residential; and
- Support a range of developments by providing quality infrastructure and appropriately zoned land.

Success indicators:

- Housing affordability is greater than, or equal to, the state average;
- Increase in housing diversity;
- Local areas of high character value are conserved; and
- Decrease in the number of industrial noise and odour complaints from residents.

The proposition is for a rezoning of land that would minimise interface between industry and residential uses, and support increased residential density in a location with access to services, existing infrastructure and outside of character protection areas.

Vision 2025 Strategic Directions Report, Version 3 Updated March 2015, identifies a need for Council to respond to demand for new and affordable residential housing and higher and better use of land. 'Up-zoning' land from industrial to residential in a largely established residential area such as Plympton is consistent with this objective. Further, the proponents' vision for smaller lot housing would incorporate new and affordable housing options of high design quality.

Council completed a Residential and Industrial Land Use Interface Study in October 2013 which considered the existing residential and industry land use interface throughout the city and policy options to minimise conflict between sensitive residential areas and established industrial activities. The subject land interfaces residential zoning and land uses at all boundaries and a rezoning to residential would reduce potential for land use conflict.

Council's review of employment land is to be informed by the Residential Industry Interface Land Use Study completed in October 2013, and Metropolitan Adelaide Industrial Land Strategy (MAILS).

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5.3 Appropriateness of Existing Zoning

Criteria:

- c) The existing zoning is outdated and not in alignment with the other policy directions of the Government and Council resulting in appropriate development being restricted on the land.*

The current zoning appears to be more historical in nature to capture the existing land uses rather than a deliberately planned aberration into an otherwise residential area. Council is already required to manage interface issues between industrial and residential land uses. The current operator of the subject land is planning to cease operations at the site. Given, the extent of surrounding residential uses it may be difficult to achieve land use planning consent for industrial uses envisaged in the zone, which could result in the land being underutilised. In the alternative, any continuation of the use of the subject land for an Industrial Zone appropriate land use is likely to carry a degree of incompatibility with neighbouring residential land uses.

Council has completed background studies and is planning to review employment lands which would likely capture the subject land. The proposition is therefore considered consistent with the intention to review industrial land.

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5.4 Ability to Achieve a Coordinated Development Outcome

Criteria:

- d) Whether the DPA relates to a significant area or parcel of land that is under single ownership or presents substantial opportunity for amalgamation of land to achieve a coordinated development outcome.*

The subject land which comprises two separate titles, represents a sizeable parcel(s) of land that the proponent has had two concept plans prepared for (refer to Section 2). The concept plans demonstrate the potential to achieve a coordinated development outcome on the subject land. Further, design quality is increasingly important to a new compact urban form to ensure the enjoyment, safety, and sustainability of the community. The proponents' vision is for a high quality design outcome including in the articulation of building materials and construction, and through principles of crime prevention through environmental design (such as 'eyes on the street', connectivity, and green space).

The rezoning proposal provides an opportunity for the coordinated development and delivery of a housing estate and servicing.

HOLMES DYER

5.5 Appropriate Management and Timing of the DPA Process

Criteria:

- e) *Whether the proposed DPA can be appropriately managed, taking into consideration the timing of other priorities and projects within Council's policy program and the resources available.*

The proposed approach is for the third party to fund and manage the DPA process with Council to undertake peer review (either via its own consultants or administration). This is similar in intent to Model 2, contained in the City of Port Adelaide Enfield Policy for Privately Funded Development Plan Amendments, as follows:

Model 2. The private funder funds, procures and manages as much of the DPA process as possible but provides funds for Council to procure and engage its own consultants to undertake an independent peer review of the DPA.

According to the Port Adelaide Enfield Model:

A Privately Funded DPA under this model will require Peer Review.

The cost of the Peer Review will be borne by the private funder, and paid into a fund as directed by Council.

If Council agrees to proceed with a privately funded DPA under this model, the private funder will engage suitably qualified consultants, including one who meets the requirements of the Development Act and Regulations to prepare the relevant DPA documents.

Council will engage a suitably qualified and independent consultant or consultants, including a consultant who meets the requirements of the Development Act and Regulations, to undertake a Peer Review of the relevant investigations and DPA documents.

The Peer Review will review:

- *the DPA documents prior to consultation occurring. This will include a review of the investigations and an assessment against the Statement of Intent agreed by the Minister for Planning;*
- *the Government Agency consultation responses to the draft DPA and policy changes as a result of the consultation;*
- *the Public consultation responses to the draft DPA and policy changes as a result of the consultation;*
- and*
- *the approval version of the DPA.*

In selecting a consultant(s) to undertake the Peer Review, the procurement process will be undertaken in accordance with Council's Contracts and Tendering Policy.

The consultant undertaking the peer review will report directly to Council staff.

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Given the strong community benefit, few affected land owners, and ability to manage community, cultural, heritage, environmental and political sensitivities, we believe it is appropriate for Council administration to provide a peer review and/or for Council to fund its own independent expert advice (if required), rather than the cost of the peer review also being funded by the private funder.

Given the broader planning reform agenda and implications of the Planning and Design Code, it is likely the State Government will take a pragmatic approach to rezoning proposals that demonstrate community benefit and consistency with strategic priorities. If Council agrees, the proponent through its planning consultants could commence the rezoning process immediately and the following draft timetable is provided:

Table 2. Draft DPA Timetable

It is proposed the DPA follow Process B2 (consultation approval not required).

Steps	Responsibility	Agreed Timeframe from Minister's Approval
Development Plan Amendment (DPA)		
Investigations conducted; DPA prepared	Council	SOI drafted for Council's consideration by ?? Investigations undertaken and draft DPA prepared
Agency and public consultation concludes	Council	8 weeks
Summary of Consultation and Proposed Amendment (SCPA)		
Public Meeting held; submissions summarised; DPA amended in accordance with Council's assessment of submissions; SCPA prepared and lodged with the Department	Council	?? Public consultation closes – SCPA lodged with the Department
SCPA assessed and report on DPA prepared for Minister	Department	7 weeks
Minister considers report on DPA and makes decision	Minister	4 weeks
Approved amendment gazetted	Department	2 weeks

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6 - CONCLUSION

HOLMES DYER

6. Conclusion

In conclusion, we request that Council considers this request to auspice an externally funded DPA process to rezone land known as: Allotment 75 in Filed Plan 6524 in the area named Plympton in the Hundred of Adelaide (Certificate of Title Volume 5899 Folio 549); and Allotment 76 in Filed Plan 6524 in the area named Plympton in the Hundred of Adelaide (Certificate of Title Volume 5899 Folio 548) on the basis that:

- The proposed rezoning is consistent with Government (State and local) policy positions;
- The rezoning will assist Council to manage the interface between industrial and residential use in Plympton;
- The rezoning is likely to improve the quality of life of adjoining residents;
- The rezoning will underpin the economic viability of remediating the site;
- Current zoning is likely to be old and Council has acknowledged the zoning needs review;
- The potential for a coordinated development outcome of quality residential design can be demonstrated; and
- The proponent can fund and manage the rezoning process without fettering the rights of Council.

HOLMES DYER

APPENDIX

HOLMES DYER

Appendix 1. Certificate(s) of Title



Government of South Australia
Department of Planning,
Transport and Infrastructure

Product
Date/Time

Register Search
04/02/2016 09:47AM

The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Registrar-General

Certificate of Title - Volume 5899 Folio 548

Parent Title(s) CT 5848/111
Dealing(s) SC 9610579
Creating Title
Title Issued 06/08/2003
Edition 1
Edition Issued 06/08/2003
Diagram Reference 5848111

REAL PROPERTY ACT, 1985



Estate Type

FEE SIMPLE

Registered Proprietor

BITUMAX PTY. LTD. (ACN: 007 591 835)
OF LEVEL 39 AMP CENTRE 50 BRIDGE STREET SYDNEY NSW 2000

Description of Land

ALLOTMENT 76 FILED PLAN 6524
IN THE AREA NAMED PLYMPTON
HUNDRED OF ADELAIDE

Easements

SUBJECT TO EASEMENT(S) OVER THE LAND MARKED A (T 3499184)

Schedule of Dealings

NIL

Notations

Dealings Affecting Title

NIL

Priority Notices

NIL

Notations on Plan



Government of South Australia
Department of Planning,
Transport and Infrastructure

Product
Date/Time

Register Search
04/02/2016 09:47AM

NIL

Registrar-General's Notes

APPROVED FX39060

Administrative Interests

NIL

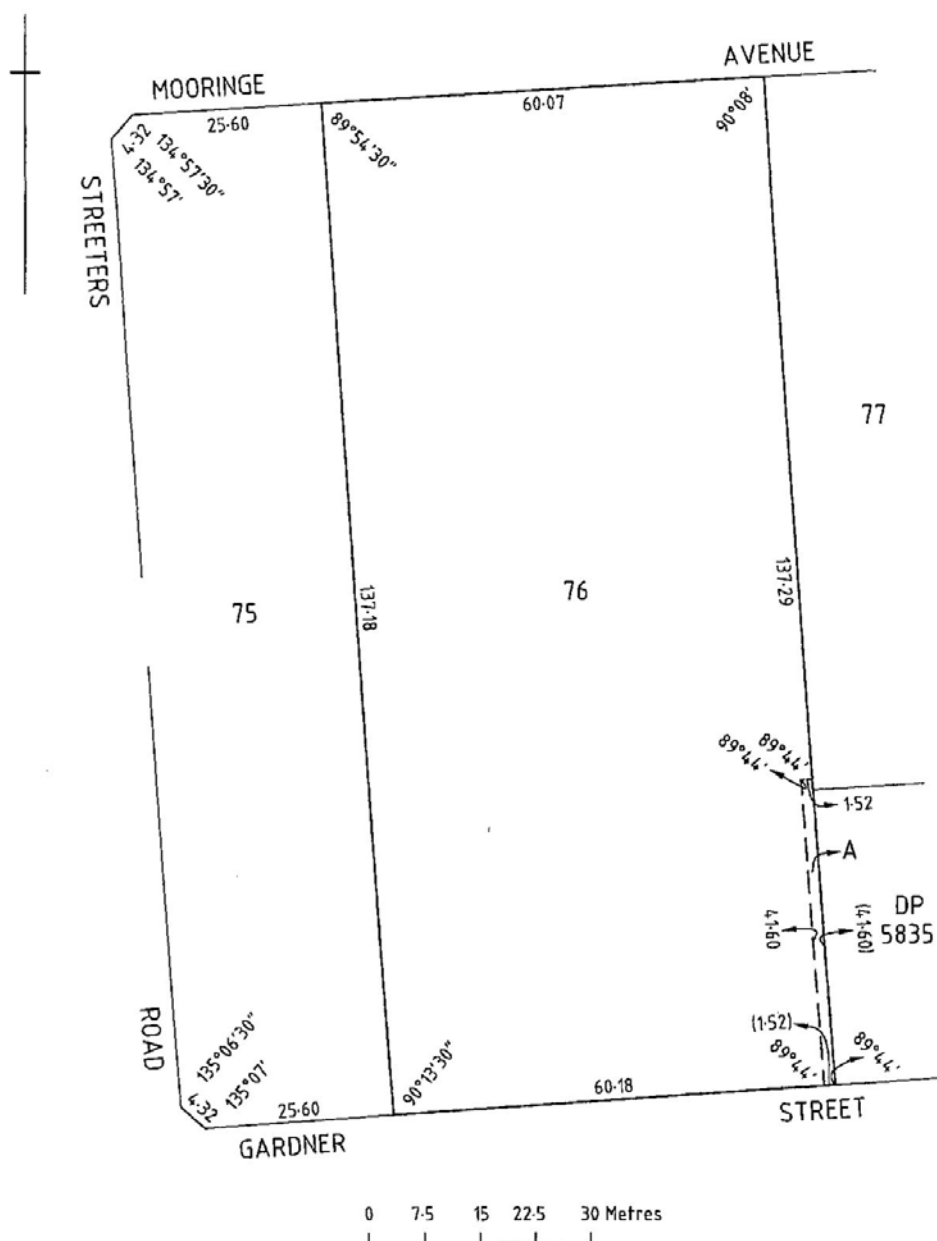
* Denotes the dealing has been re-lodged.



Government of South Australia
Department of Planning,
Transport and Infrastructure

Product
Date/Time

Register Search
04/02/2016 09:47AM





Government of South Australia
Department of Planning,
Transport and Infrastructure

Product
Date/Time

Register Search
04/02/2016 09:46AM

The Registrar-General certifies that this Title Register Search displays the records maintained in the Register Book and other notations at the time of searching.



Registrar-General

Certificate of Title - Volume 5899 Folio 549

Parent Title(s) CT 5804/25
Dealing(s) SC 9610579
Creating Title
Title Issued 06/08/2003
Edition 1
Edition Issued 06/08/2003
Diagram Reference 3486110

REAL PROPERTY ACT, 1886



Estate Type

FEE SIMPLE

Registered Proprietor

BITUMAX PTY. LTD. (ACN: 007 591 835)
OF LEVEL 39 AMP CENTRE 50 BRIDGE STREET SYDNEY NSW 2000

Description of Land

ALLOTMENT 75 FILED PLAN 6524
IN THE AREA NAMED PLYMPTON
HUNDRED OF ADELAIDE

Easements

NIL

Schedule of Dealings

NIL

Notations

Dealings Affecting Title

NIL

Priority Notices

NIL

Notations on Plan



Government of South Australia
Department of Planning,
Transport and Infrastructure

Product
Date/Time

Register Search
04/02/2016 09:46AM

NIL

Registrar-General's Notes

NIL

Administrative Interests

NIL

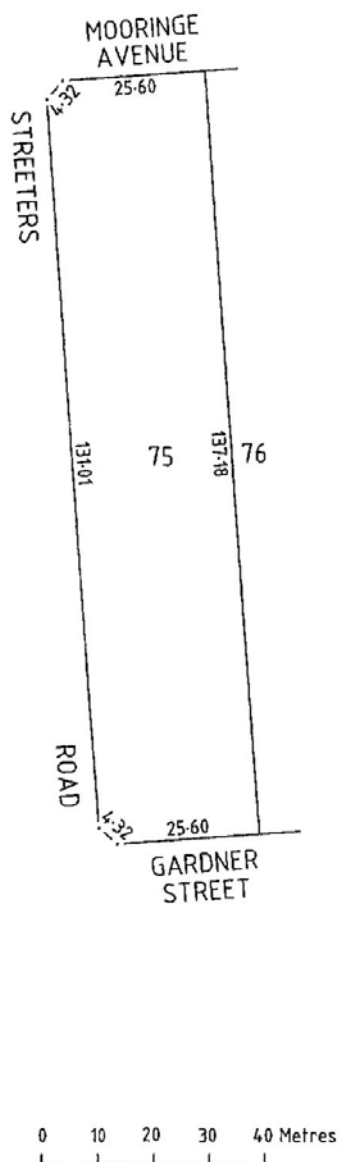
* Denotes the dealing has been re-lodged.



Government of South Australia
Department of Planning,
Transport and Infrastructure

Product
Date/Time

Register Search
04/02/2016 09:46AM



HOLMES DYER

Appendix 2. Opportunities & Constraints Plan



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Appendix 3. Concept Plan



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HOLMES DYER

Appendix 4. Infrastructure Assessment



Holmes Dyer
Reid House
Level 3 15 Featherstone Place
ADELAIDE SA 5000

12th May 2017

Job No. ADL170667

Attention: Ms. Sarah Gilmour

Dear Sarah

**FORMER BORAL PATCHING PLANT, NORTH PLYMPTON – CIVIL, TRAFFIC AND STORMWATER
DESKTOP ASSESSMENT (STAGE ONE)**

WGA has been requested by Holmes Dyer to provide a high level confirmation that infrastructure and services exist or can be provided to service a potential residential land development at the Former Boral Patching Plant in North Plympton. The locality of the site is demonstrated in the attachments to this letter. The subject site is currently zoned industrial and the advice given in this letter is the first stage of forming a Statement of Justification in support of rezoning the land as residential.

1. SERVICES CONSIDERED

The assessment has been undertaken using Dial Before You Dig information, which is attached to this letter, and the SA Government's Location SA Map viewer. Further detail will be sought from the relevant service authorities including City of West Torrens (Council) in the next stage of the feasibility analysis.

The infrastructure considered as part of this preliminary investigation includes:

- Potable water;
- Sewer;
- Non-potable water;
- Electricity;
- Domestic gas;
- Telecommunications;
- Traffic; and
- Stormwater

2. POTABLE WATER

SA Water potable water mains exist directly adjacent the site. A 100mm diameter main is located within Gardner Street, to the south of the development, and a 200mm diameter exists within Mooringe Avenue to the north. It appears feasible to provide a connection via an internal water main to service a potential redevelopment of the site for residential use. Any requirement for augmentation will be confirmed by SA Water in the next stage of the investigation, however it is understood this site does not lie within any augmentation charge zone.

60 Wyatt Street
Adelaide SA 5000
T: 08 8223 7433
WGASA Pty Ltd
ABN 97 617 437 724

ADELAIDE DARWIN MELBOURNE PERTH WHYALLA

3. SEWER

Two SA Water sewer gravity mains exist directly adjacent the site. A 150mm vitrified clay (VC) diameter gravity main is located within Gardner Street, to the south of the development, and a 525mm diameter PVCU gravity main exists within Mooringe Avenue to the north. The site topography appears relatively flat, and two existing sewer connections are located on the north western corner of the site. From the layouts provided it is likely that these connections will need to be disconnected. It is expected that a new gravity main would be installed within the proposed internal road and could be connected into the existing sewer main in Mooringe Avenue or Gardner Street. It is understood that this site lies outside of the SA Water augmentation charge zone, however this will be confirmed in the next stage of investigation.

4. NON-POTABLE WATER

Non-potable water was not identified within the vicinity of the site from a preliminary desktop analysis. The potential for connection to a reclaimed water scheme can be investigated through City of West Torrens and SA Water during the next stage of investigation.

5. ELECTRICITY

SA Power Networks (SAPN) overhead power lines are located along both Mooringe Avenue and Gardner Street. An existing underground low voltage cable is also located along the western side of Streeters Road (to the west of the site). Currently the site has both low voltage and high voltage electricity connections fed from the overhead power lines along Mooringe Avenue. WGA considers that the proposed development would be serviced by new connections from the overhead powerlines on either Mooringe Ave or Gardner St. Electricity infrastructure would be installed within an internal common service trench with connections to individual allotments. Standard augmentation charges for SAPN would apply, however this is subject to SAPN confirmation that the proposed development does not exceed current substation capacity.

6. DOMESTIC GAS

High pressure APA gas mains are located within Mooringe Avenue and Gardner Street. It is expected that a connection would be possible from either of the existing mains or utilise an existing site connection already in place. An internal gas main would be installed within the development by APA, with individual allotment connections. Generally APA charges do not apply to connecting new residential developments. This will be confirmed with APA in the next stage of the investigation.

7. TELECOMMUNICATIONS

Telstra infrastructure exists along Mooringe Avenue to the site's north. It is anticipated that this infrastructure can be used to provide a telecommunications connection to the site. There is no in-service National Broadband Network (NBN) infrastructure within the direct vicinity of the site, however a NBN pit and pipe network can be designed and installed within the development so that a connection can be provided once NBN infrastructure is expanded this area.

8. TRAFFIC

The two concept layouts enclosed propose two new site access points, being:

1. Off Mooringe Avenue; and
2. Off Gardner Street.

Positioning of intersections appear adequate and have sufficient separation from existing junctions.

Internal road networks will need to be reviewed with minimum 6.0 m wide carriageways provided with indented parking, or 7.2 m wide carriageway with on-street parking, designed to cater for residential traffic and garbage truck use. Parking layouts would need to comply with AS 2890.1 for off-street parking on a private road, or AS 2890.5 for on-street parking on a public road. Number of visitor parks will need to be in accordance with Council's Development Plan.

9. STORMWATER

Existing stormwater mains exist along the southern verge of Gardner Street and along the eastern verge of Streeters Road. There is also a side entry pit located at the north western corner of the site which would be the most logical connection point for the development. An internal underground network would be required to collect stormwater runoff prior to leaving the site. City of West Torrens standards ordinarily require that new developments detain peak post-development outflow in a 1 in 20 year ARI event to the pre-development 1 in 20 year ARI level (assuming a pre-development runoff coefficient of 0.25). It is noted in this case however, that a residential development would likely decrease the impervious nature of the site, which means detention may not be required. Site specific stormwater requirements would need to be further refined through discussions with Council, which would include the imposed stormwater quality requirements.

A review of the publicly available City of West Torrens flood maps indicates that the land parcel is outside of the Brownhill Keswick Creek 1 in 100 year ARI flood zone. The 1 in 500 year ARI flood map does show flooding nearer the site, however no inundation is shown. At this stage of the assessment no foreseeable flood risk issues appear evident.

10. QUALIFICATION

This services review is provided by WGA for information only and has been developed upon information available in undertaking the desktop assessment. WGA does not accept any responsibility or liability arising from:

1. Discrepancies of changes required to service the site;
2. Use of the report for any purpose not agreed to by WGA in writing.

To the extent permitted by law, WGA excludes all such liability. This material is used entirely at the user's own risk.

It is considered likely that changes or modifications to the recommendations will be required following detailed discussion with respective service authorities.

I trust this information is of assistance and should you require any clarification, please don't hesitate to contact the undersigned on (08) 8223 7433

Yours faithfully



Scott McClean
for
WGA

Attached: 1. Site Layout Plans
2. Flood Maps
3. Dial Before You Dig References

SMc:nd



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Enquiry Summary Manual Print

The assets owners listed below have been requested to contact you with information about their asset locations within 2 working days.

Additional time should be allowed for information issued by post. It is **your responsibility** to identify the presence of any underground assets in and around your proposed dig site. Please be aware, that not all asset owners are registered with the Dial Before You Dig service, so it is **your responsibility** to identify and contact any asset owners not listed here directly.

** Asset owners highlighted by asterisks ** require that you visit their offices to collect plans.

Asset owners highlighted with a hash require that you call them to discuss your enquiry or to obtain plans.

^^ **Permit Request Sent.** Some DBYD Local Government are now using the Permit Manager system to run their permit application process. If your enquiry is in the area of one of those councils, the council takes the enquiry you have lodged with DBYD and converts it to a permit application. In such cases, a status of "Permit Request Sent" will be shown in the table below.

- If plans are not received within 2 working days, contact the asset owners directly & quote their Sequence No.
- ALWAYS perform an onsite inspection for the presence of assets. Should you require an onsite location, contact the asset owners directly.
Please remember, plans do not detail the exact location of assets.
- Pothole to establish the exact location of all underground assets using a hand shovel, before using heavy machinery.
- Ensure you adhere to any State legislative requirements regarding Duty of Care and safe digging requirements.
- If you damage an underground asset you MUST advise the asset owner immediately.
- By using this service, you agree to Privacy Policy and the terms and disclaimers set out at www.1100.com.au
- **For more information on safe excavation practices, visit www.1100.com.au**

Enquiry Lodging Details

Job No	12140944
Job lodged on	05/04/2017 - 11:43:01 am
Priority	Normal
Job was lodged by	Web
Delivery Method	Email - sarahg@holmesdye.com.au

Enquiry Details

Address	Cnr Streeters Rd Mooringe Avenue North Plympton SA 5037
Job Purpose	Design
Activity	Planning & Design
Job Start	07/04/2017
Job Completion	14/04/2017
User Reference	0102 Boral Site
Working on Behalf of	Private
Location of Workplace	Private Property

Notes/Description of Works

4/5/2017

1100.com.au

Your request has been submitted.

Shortly you will receive an email confirming your enquiry and listing the asset owners who will contact you regarding the location of their assets.

It is **your responsibility** to identify the presence of any underground assets in and around your proposed dig site.

Please be aware, that not all asset owners are registered with the Dial Before You Dig service, so it is **your responsibility** to identify and contact any asset owners not listed here directly.

**** Asset owners highlighted by asterisks **** require that you visit their offices to collect plans.

Asset owners highlighted with a hash require that you call them to discuss your enquiry or to obtain plans.

^^ Permit Request Sent. Some DBYD Local Government are now using the Permit Manager system to run their permit application process. If your enquiry is in the area of one of those councils, the council takes the enquiry you have lodged with DBYD and converts it to a permit application. In such cases, a status of "Permit Request Sent" will be shown in the table below.

To facilitate communication and allow for a single point of access, Dial Before You Dig has allowed this process, including the documentation, to be accessed via our system.

Please note that any issues arising from a permit application must be taken up directly with the relevant council as this is not part of the Dial Before You Dig process.

Utility List

The following authorities are affected by this enquiry

Type	Sequence No	Authority	Phone	Status
Gas & Petroleum	60202342	APA, Sa	0881154500	Notification Sent
Communications	60202339	Nextgen, NCC - SA	1800032532	Notification Sent
Electricity	60202340	SA Power Networks	0882920218	Notification Sent
Water	60202343	SA Water	0874241117	Notification Sent
Communications	60202341	Telstra SANT	1800653935	Notification Sent



Job No 12140944

 Phone: 1100
www.1100.com.au

Caller Details

Contact: Ms Sarah Gilmour
Company: Holmes Dyer Pty Ltd
Address: Level 3 15 Featherstone Place
 Adelaide SA 5000

Caller Id: 1705572 **Phone:** 0872311889
Mobile: 0488013289 **Fax:** Not Supplied
Email: sarahg@holmesdyer.com.au

Dig Site and Enquiry Details

WARNING: The map below only displays the location of the proposed dig site and does not display any asset owners' pipe or cables. The area highlighted has been used only to identify the participating asset owners, who will send information to you directly.



User Reference: 0102 Boral Site
Working on Behalf of: Private
Enquiry Date: 05/04/2017 **Start Date:** 07/04/2017 **End Date:** 14/04/2017

Address: Cnr Streeters Rd Mooringe Avenue
 North Plympton SA 5037

Job Purpose: Design
Onsite Activity: Planning & Design
Location of Workplace: Private Property
Location in Road: Not Supplied

- Check that the location of the dig site is correct. If not you must submit a new enquiry.
- Should the scope of works change, or plan validity dates expire, you must submit a new enquiry.
- Do NOT dig without plans. Safe excavation is your responsibility. If you do not understand the plans or how to proceed safely, please contact the relevant asset owners.

Notes/Description of Works:
 Not Supplied

Your Responsibilities and Duty of Care

- If plans are not received within 2 working days, contact the asset owners directly & quote their Sequence No.
- ALWAYS perform an onsite inspection for the presence of assets. Should you require an onsite location, contact the asset owners directly. Please remember, plans do not detail the exact location of assets.
- Pothole to establish the exact location of all underground assets using a hand shovel, before using heavy machinery.
- Ensure you adhere to any State legislative requirements regarding Duty of Care and safe digging requirements.
- If you damage an underground asset you MUST advise the asset owner immediately.
- By using this service, you agree to Privacy Policy and the terms and disclaimers set out at www.1100.com.au
- For more information on safe excavation practices, visit www.1100.com.au

Asset Owner Details

The assets owners listed below have been requested to contact you with information about their asset locations within 2 working days. Additional time should be allowed for information issued by post. It is **your responsibility** to identify the presence of any underground assets in and around your proposed dig site. Please be aware, that not all asset owners are registered with the Dial Before You Dig service, so it is **your responsibility** to identify and contact any asset owners not listed here directly.

** Asset owners highlighted by asterisks ** require that you visit their offices to collect plans.

Asset owners highlighted with a hash require that you call them to discuss your enquiry or to obtain plans.

Seq. No.	Authority Name	Phone	Status
60202342	APA, Sa	0881154500	NOTIFIED
60202339	Nextgen, NCC - SA	1800032532	NOTIFIED
60202340	SA Power Networks	0882920218	NOTIFIED
60202343	SA Water	0874241117	NOTIFIED
60202341	Telstra SANT	1800653935	NOTIFIED

END OF UTILITIES LIST

Lodge Your Free Enquiry Online – 24 Hours a Day, Seven Days a Week



SOUTH AUSTRALIAN
WATER CORPORATION

Notification number: 12140944
Sequence number: 60202343
Enquiry date: 5/04/2017 11:43:00 AM
Enquiry location: Mooringe Avenue, North Plympton SA 5037

Ms Sarah Gilmour
Holmes Dyer Pty Ltd
Level 3 15 Featherstone Place
Adelaide SA 5000

Dial Before You Dig Response – SA Water Assets Identified

Dear Ms Sarah Gilmour

Thank you for contacting Dial Before You Dig (DBYD) prior to engaging in work or activities which may affect the water and sewerage infrastructure of SA Water Corporation.



Our records indicate there has been SA Water infrastructure identified within your nominated search area and has been shown on the attached plan.

Disclaimer

The information has been generated by an automated system based on the area highlighted. It is your responsibility to ensure that the dig site is properly defined when submitting your Dial Before You Dig enquiry. If the information does not match the dig site or you have received this message in error please resubmit your enquiry.

This advice and/or information is given for your private use only. The accuracy of the advice and information is not guaranteed and no responsibility is accepted by the crown, the South Australian Water Corporation or their officers, agents or servants for any loss or damage caused by reliance upon this advice and/or information, as a result of any error, omission, incorrect description or statement therein whether caused by negligence or otherwise.

The information contained in this message may be confidential and may also be subject of legal, professional or public interest immunity. If you are not the intended recipient any use, disclosure or copying of this document is unauthorised. If you have received this message in error, please contact Dial Before You Dig.

For further enquiries or assistance with interpretation of plans and search content, or to report any obvious errors with the data provided, please contact our DBYD support team via email dialbeforeyoudig@sawater.com.au

Thank you for contacting DBYD service.

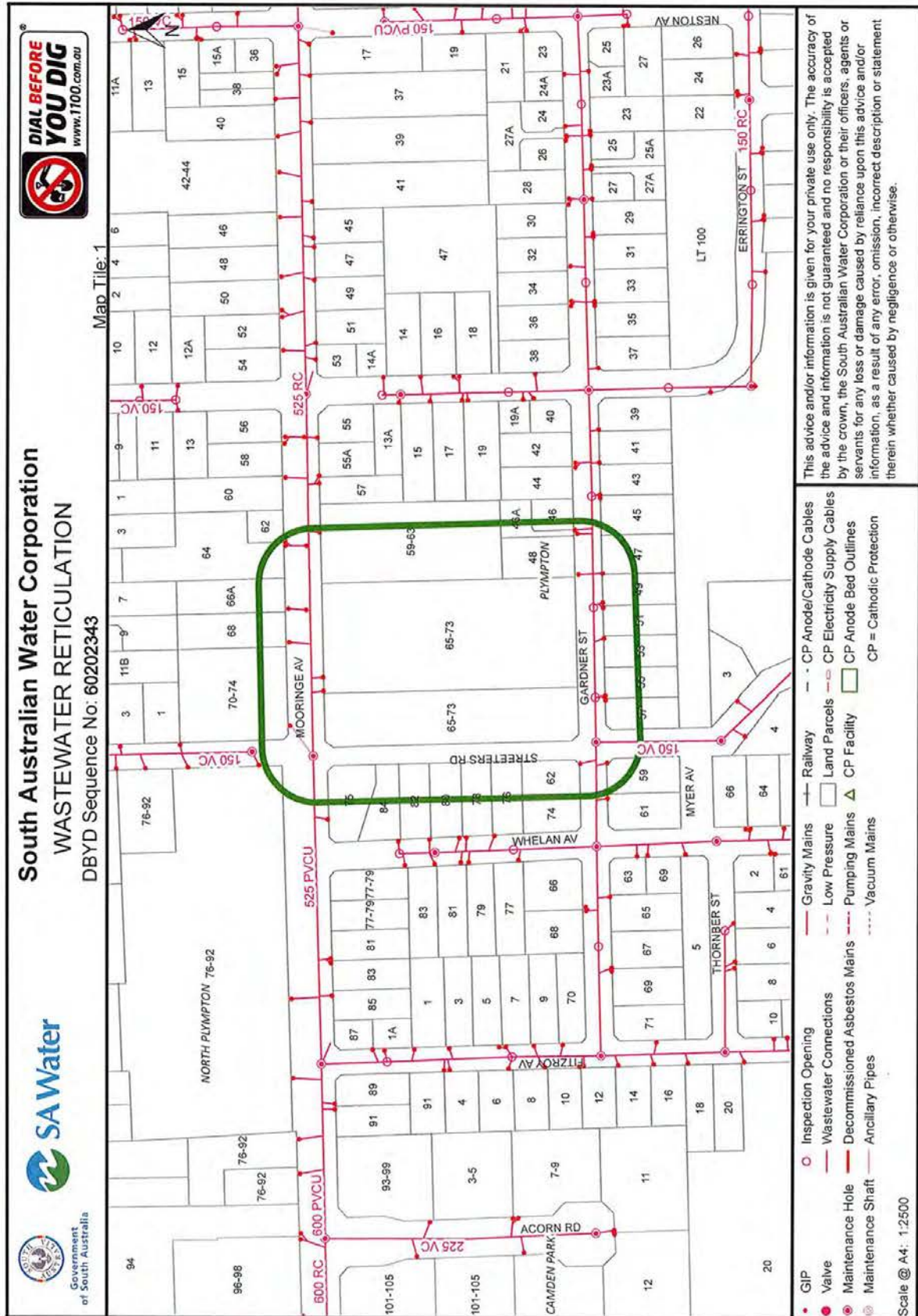
Yours sincerely

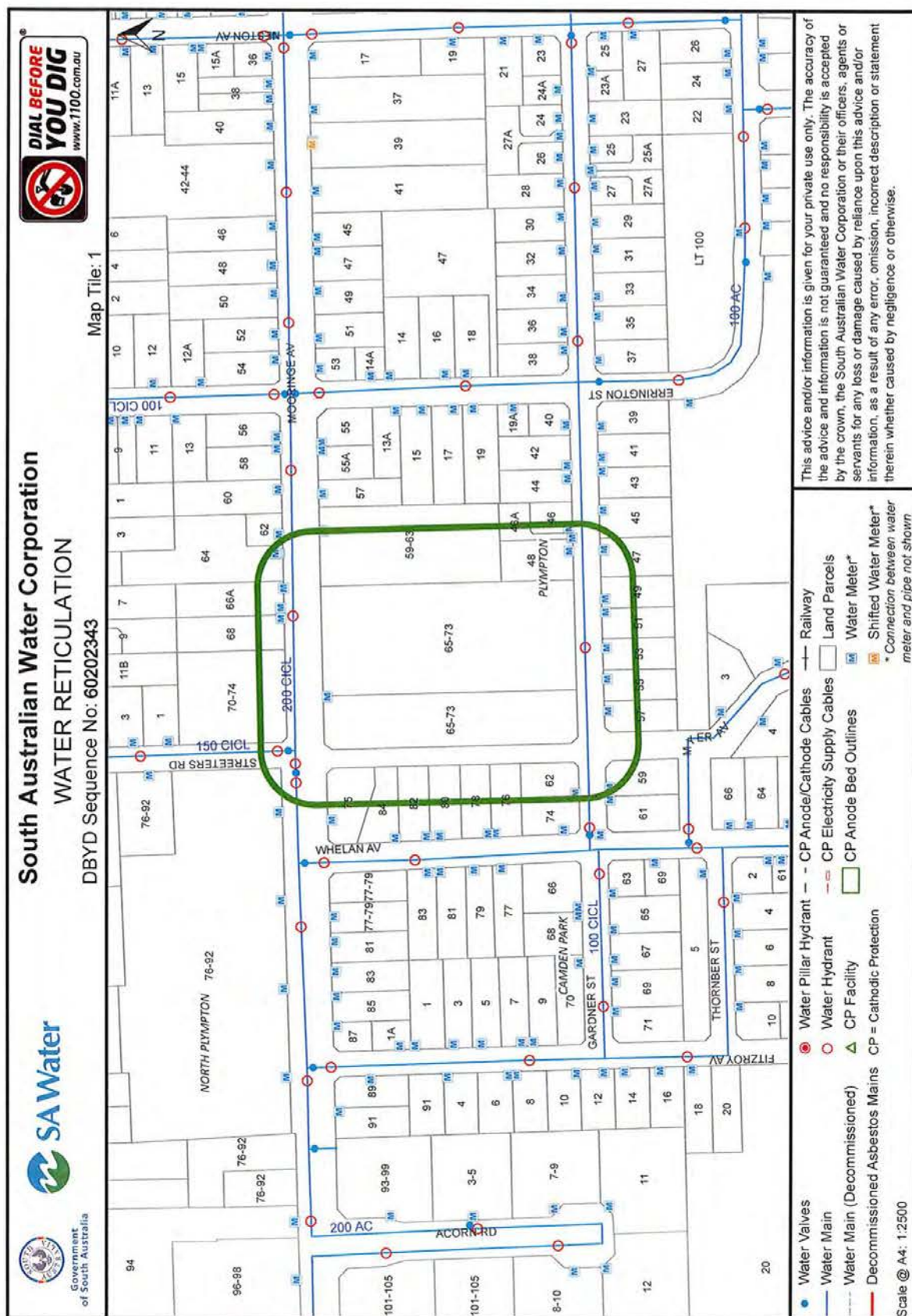
Dial Before You Dig Support Team
SA Water Corporation

Please note: Any damage to SA Water infrastructure must be reported immediately to Service Faults and Emergencies (24 hours, 7 days) on 1300 883 121



Government
of South Australia







Telstra DBYD Data Extraction

For non-ground breaking activities -

***Planning and design, conveyancing, tendering, educational or research, other data gathering**

Note - The supply of any Telstra data for non ground breaking activities is at Telstra's discretion. Data supply may be refused on commercial, privacy, security or other reasons.

*Planning and design requests submitted by identified utilities intending works on their own assets ***may** be exempt from the \$55 (GST inc) extraction fee for Standard Telstra Responses for non ground breaking activities. This is at Telstra's discretion and conditions may apply. Data extraction fees for all non standard responses however will still apply. Eg for large projects or non standard formats.

The supply of any data for non ground breaking activities is not subject to a 48hr response time; however Telstra will endeavour to respond within 48hrs for all standard responses.

Standard Telstra Response - for non ground breaking activities \$55 (GST inc)

Criteria - Each request only requires a single delivery from Telstra (as in 1 request 1 Delivery). A single delivery is either -

- **1 x Email with 1 x PDF map file** containing one or two A3 map pages (depending on network). Covers areas up to approx 500m in size.
- or-
- **1 x Email with 1 x DWF map file**. Covers areas up to approx 3km in size.
- or-
- **1 x *Posted delivery** - (*only if email unavailable or at Telstra's discretion)
 - Posted is either -
 - Posted softcopy of standard response on disk
 - or-
 - Posted printed hardcopy – maximum of 2 x A3 sheets only.

Non-Standard Response – for non ground breaking activities (fees apply)

Data Use Agreement (required for DXF format) **\$110 (GST inc)**

- Projects** - If a response takes more than 30mins to extract data in any format will be at an hourly rate (**\$110** per hour GST inc).
- Projects that take 1 day or longer will be quoted individually.
 - (All data will be provided in softcopy only - not printed).

Note - Multiple part requests through DBYD for one project will be amalgamated and considered a single project for data extraction charging purposes. Posted responses cannot be delivered within 48hrs, allow several days for delivery. Postage is by Australia Post standard delivery. Express delivery at additional cost. All prices and specifications are subject to change.

TELSTRA CORPORATION LIMITED (ABN 33 051 775 556) |
TELSTRA PLAN SERVICES | July 2014

PAGE 1/2



Telstra DBYD Data Extraction

For ground breaking activities -

***Manual or mechanical excavation, horizontal boring, vertical boring, blasting**

Standard Telstra Response – for ground breaking activities cost to requestor - \$nil

Criteria - Each request only requires a single delivery from Telstra (as in 1 request 1 delivery).

A single delivery is defined as either -

- **1 x Email with 1 x PDF map file** containing one or two A3 map pages (depending on network). *Covers up to approx 500m.*
- or-
- **1 x Email with 1 x DWF map file.** *Covers up to approx 3km.*
- or-
- **1 x *Posted delivery** for customers requesting a response for their principal place of residence only, (and only when email delivery is unavailable or at Telstra's discretion).
Either -
 - Posted softcopy on disk (standard response only)
 - Posted printed hardcopy (A3 sheets only- at Telstra's discretion)

Non-Standard Telstra Response – for ground breaking activities (fees apply)

An extraction fee is incurred if the response exceeds a standard response i.e. -

- Use of data requires a data use agreement (for example DXF format)
- If an individual job or project requires more than a single delivery (as defined above)
- Specific printing and/or posting of requests that are not for the principle place of residence
- Any other response other than a Standard Telstra Response for ground breaking activities

Data extraction costs for ground breaking activities -

- Posted softcopy on disk of standard response when not principle place of residence- **\$22** (GST inc)
- Posted hardcopy of standard response i.e. when not principle place of residence – max of 2 x A3 sheets (at legible scale) - **\$22** GST inc. Note - large areas will not be printed and posted.
- Requires Data Use Agreement – i.e. requirement for DXF files - **\$110** (GST inc)
- Non standard response over 30 mins extraction time for softcopy will be at an hourly rate (**\$110 per hour** GST inc).
- Projects that take 1 day or longer will be quoted individually.

Note - Multiple part requests through DBYD for one project will be amalgamated and considered a single project for data extraction charging purposes. Printing/posting fee exemptions may be provided at Telstra's discretion. Postage is by Australia Post standard delivery. All posted plans will normally be extracted within 48 hrs; time in transit through post is additional and may take several days. Express delivery at additional cost. All prices and specifications are subject to change. Data extraction fees are based on various criteria including the principal excavation activity selected by the customer on the DBYD website. Telstra reserves the right to vary its fees in circumstances where the principal excavation activity is varied or misrepresented by the customer.

TELSTRA CORPORATION LIMITED (ABN 33 051 775 556) |
TELSTRA PLAN SERVICES | July 2014

PAGE 2/2

Sarah Gilmour

From: TAMS@dominoapp.in.telstra.com.au
Sent: Wednesday, April 5, 2017 11:17 AM
To: Sarah Gilmour
Subject: DBYD JOB: 12140944 SEQ:60202341-Mooringe AvenueNorth PlymptonSA 5037
Attachments: Data Extraction Fees - July 2014.pdf; Telstra Account Activation Form v5.pdf

Attention: Sarah Gilmour

Site Location: Mooringe Avenue, North Plympton, SA 5037

Your Job Reference: 0102 Boral Site

Activity Type: Planning & Design

Your request for Telstra information via DBYD (as detailed in the email subject line) requires an account to be set up as it is for a billable activity. DBYD activity descriptions that incur a Telstra data extraction fee currently include: *Conveyancing, *Planning and Design, Tendering and Subdivision* (further details of Telstra data extraction fees are attached for your reference).

Please note:

- If you are excavating (ground breaking) then you need to submit your DBYD request under a ground breaking activity type (for example - 'mechanical excavation'). The activity types listed above ('Conveyancing' 'Planning and Design' 'Tendering' and 'Subdivision') are considered desktop activities only (not for ground breaking).
- If you do not wish to receive the information requested for the activity type specified (for which an account is required), then no further action by you is required.

If you do wish to receive the information for the activity type you have specified then an account will need to be set up for invoicing purposes. A Telstra account/invoice activation form has been attached for you to complete and return.

If you wish to make an enquiry or seek clarification please contact:

(please quote the DBYD job number or the DBYD Telstra sequence number)

Email – NI.Planservice@team.telstra.com

Phone – Anthony on (07) 3455 2365

Postal – Telstra Plan Services
Locked Bag 3820
Brisbane Qld 4001

**Note some utilities can have exemptions from data extraction fees for planning & design, conditions apply.*

(See attached file: Data Extraction Fees - July 2014.pdf) (See attached file: Telstra Account Activation Form v5.pdf)



APA Group
PO Box 6014 Halifax Street
South Australia 5000

05/04/2017

Holmes Dyer Pty Ltd
Ms Sarah Gilmour
Level 3 15 Featherstone Place
Adelaide
SA 5000

sarahg@holmesdyer.com.au

Dear Ms Sarah Gilmour

Sequence Number: 80202342
Worksite Address: Mooringe Avenue
North Plympton
SA 5037

Thank you for your Dial Before You Dig enquiry regarding the location of Gas Assets, we can confirm that the APA Group's Network's Division has **Critical Gas Assets** in the vicinity of the above location.

You are hereby notified that **before you commence any works** you are required to complete the attached 'Work In The Vicinity Of Critical Gas Assets' request form and forward this to APA asap

As laid out in the **Duty of Care** requirements supplied, any activity in the vicinity of Critical Gas Assets operated by APA requires a Third Party Works Authorisation and potentially attendance on site by an APA representative during any work. Please ensure you read and comply with all the relevant requirements. Should you have any questions with regards to the attached information please contact our DBYD officer - (08) 8115 4500.

Caution - Damage to gas assets could result in possible explosion and fire with the risk of personal injury. For Gas Emergencies please call 1800 GAS LEAK (1800 427 532)

Please find enclosed the following information:-

- APA's Duty of Care. If you are unclear of your obligations under these requirements please contact the APA Representative listed above immediately
- An overview map with your requested area highlighted to assist in locating APA's Gas Assets
- A map(s) showing APA's Gas Assets in the requested area, this information is valid for 30 days from the date of this response, **please check this represents the area you requested**, if it does not, please contact the APA Representative listed above immediately
- A 'Work In The Vicinity Of Critical Gas Assets' request form, please complete and forward to APA asap via DBYDNetworksAPA@apa.com.au, Fax (08) 7131 0132 or the address above

The outcome of this request maybe that a qualified APA Group Representative will be required on site when you undertake your proposed works, if this is the case, this will need to be arranged dependent on their availability. Whilst we will aim to facilitate this within 2 business days from a decision, **this cannot be guaranteed**.

Please Note: For some DBYD enquiries, you might receive 2 responses from the APA Group. Please read both responses carefully as they will relate to different assets. It is your responsibility to action all requirements set out in APA Group responses.

Please take some time to review the entire response document and check the information supplied and please let us have any feedback by sending an email to DBYDNetworksAPA@apa.com.au or contacting us direct on (08) 8115 4500.



Duty of Care - Working Around Gas Assets

General Conditions

- This location enquiry is valid for 30 days from the date of this response
- Expired locations, i.e., over 30 days from the date of this response, require a new Dial Before You Dig request to validate location information
- The location information supplied in this document shall be used as a guide only. APA Group shall not be liable or responsible for the accuracy of any such information supplied pursuant to this request
- It is the responsibility of the excavator to expose all Gas Assets, including Gas Services pipelines (see below), **by hand** (Please Note: Do not use vacuum excavation systems as damage to Gas Assets may occur). Gas Asset depths may vary according to ground conditions
- Gas Service pipelines (inlet service) connecting Gas Assets in the street to the gas meter on the property are typically **not** marked on the map
- Generally, a map of the Gas Service pipeline (inlet service) connection can be found inside the gas meter box
- This information has been generated by an automated system based on the area highlighted in your DBYD request and has not been independently verified. **If is your responsibility** to ensure that the information supplied in this response matches the dig site you defined when submitting your Dial Before You Dig enquiry. If the information does not match the dig site or you have any question, please contact APA immediately using the details listed on the first page and / or please resubmit your enquiry
- For **Gas Emergencies** please call **1800 427 532**

Critical Gas Assets - Conditions

It is your responsibility to follow these important conditions when working in the vicinity of Critical Gas Assets:-

- **PRIOR** to any work commencing, a 'Work In The Vicinity Of Critical Gas Assets' request form **must be submitted** to APA Group, see form attached. Once submitted, if you have not received any response from APA within 2 business days please contact us immediately via (08) 8115 4500
- If a qualified APA Group Representative is required on site when you undertake your proposed works, this will need to be arranged dependent on their availability. Whilst we will aim to facilitate this within 2 business days from a decision, **this cannot be guaranteed**. Charges for APA Group supervision may apply
- Penalties apply to excavators commencing work in the vicinity of Critical Gas Assets **prior to receiving an APA Group 'Third Party Works Authorisation'**



operated by





Site Address	Mooringe Avenue North Plympton 5037	Sequence No	60202342
Email	sarahg@holmesdyer.com.au	Map Reference	UbdAde 129B11

Before you commence any works you are required to complete the attached 'Work In The Vicinity Of Critical Gas Assets' request form and forward this to APA
asap



ITEM	SYMBOL	TERMS	Map Key
LOW PRESSURE 1.2 - 1.7kPa	---	B - BOUNDARY	<div style="border: 1px solid black; width: 20px; height: 20px; margin: 0 auto; display: flex; align-items: center; justify-content: center;">1</div>
MEDIUM PRESSURE 35 - 100kPa	---	D - DEPTH	
HIGH PRESSURE 70 - 350kPa	---	Bok - Back of Kerb	
TRANSMISSION PRESSURE 900 - 15000kPa	---	Fok - Front of Kerb	
PROPOSED MAIN 1.2 - 15000kPa	---		
ABANDONED MAIN	---		
Scale 1:1000		0 0.01km	NORTH



WORK IN THE VICINITY OF CRITICAL GAS ASSETS

It is your responsibility to read and complete this request form

1. This request is required to confirm whether you need a 'Third Party Works Authorisation' and a qualified APA Group Representative on site when you undertake your proposed works
2. You **must not commence any excavation activity** in relation to this request without receiving a verbal or written confirmation re the outcome from an APA Group Representative. Once submitted, if you have not received any response from APA within 2 business days please contact us immediately via (08) 8115 4500
3. If a qualified APA Group Representative is required on site when you undertake your proposed works, this will need to be arranged dependent on their availability. Whilst we will aim to facilitate this within 2 business days from a decision, **this cannot be guaranteed**. Charges for APA Group supervision may apply
4. Penalties apply to excavators commencing work in the vicinity of Critical Gas Assets **prior to receiving an APA Group 'Third Party Works Authorisation'**
5. This request form must be accompanied by a detailed schedule of works

For further information refer to:

South Australia: Gas Industry Act 1997 – Section 83, Notice of work that may affect gas infrastructure.

Northern Territory: Energy Pipelines Act as in force at 8 March 2007 – Section 66, Threat to pipeline.

Return to: DBYDNetworksAPA@apa.com.au or APA Group, PO Box 6014, Halifax Street, SA 5000 or Fax to (08) 7131 0132 (Please note – new fax number)

Enquiries:

Should you have any questions with regards to the attached information please contact our Dial Before You Dig officer - (08) 8115 4500.

Work / Excavation Site Details:

Number:	Street:		
Suburb:		State:	
Sequence Number: 60202342			
Company Name			
Site Contact Person:			
Phone:		Mobile:	

**Description of Work / Excavation:**

Describe the work to be undertaken.			
Tick Applicable Box			
Excavation		Change to surface level	
Service crossing		Boring	
Proving		Other (provide details)	
Earthworks			
Excavator Size, Tooth Type & Tooth Size (provide details)			

Work / Excavation Drawings Attached:Yes ☐No ☐**Proposed Dates and Times:**

From			To	
Excavation	Date	Time	Date	Time
	/ /	am/pm	/ /	am/pm
Backfill	Date	Time	Date	Time
	/ /	am/pm	/ /	am/pm

Third Party Works Authorisation requested by:

Company Name			
Requestors Name			
Phone:			Mobile:
Fax:			Email:
Signature			
Office Use			
Field Manager			
Signature		Date	

Plant Location Details



05/04/2017

Ms Sarah Gilmour
Holmes Dyer Pty Ltd
Level 3 15 Featherstone Place
Adelaide, SA 5000
Phone: 0872311889
Fax: Not Supplied

Nextgen Networks Pty Ltd
Level 6, 333 Collins Street
Melbourne VIC 3000
T 1800 032 532
E DBYD@nextgengroup.com.au

Dear Ms Sarah Gilmour,

The following is a response to your Dial Before You Dig enquiry

Assets Affected: Nextgen Assets

Sequence No: 60202339
Location: Mooringe Avenue North Plympton, SA 5037

IMPORTANT:

- Please read and understand all the information and disclaimers provided below
- Sketches and Plans provided by Nextgen Networks are circuit diagrams only and indicate the presence of telecommunications plant in the general vicinity of the geographical area shown; exact ground cover and alignments cannot be given with any certainty and cover may alter over time. Telecommunications plant seldom follow straight lines and careful on site investigation is essential to uncover and reveal its exact position
- The accuracy and/or completeness of the information in the plans can not be guaranteed often due to changes in the surrounding land subsequent to Nextgen's deployment and, accordingly the plans are intended to be indicative only

"DUTY OF CARE"

When working in the vicinity of telecommunications plant you have a legal "Duty of Care" that must be observed. The following points must be considered:

1. It is the responsibility of the owner and any consultant engaged by the owner, including an architect, consulting engineer, developer, and head contractor to design for minimal impact and protection of Nextgen Networks plant. Nextgen Networks will provide free plans and sketches showing the presence of its network to assist at this design stage.
2. It is the owner's (or constructor's) responsibility to:
 - a) Request plans of Nextgen Networks plant for a particular location at a reasonable time before construction begins
 - b) Visually locate Nextgen Networks plant by vacuum excavation (pot-holing) where construction activities may damage or interfere with Nextgen Networks plant (see "Essential Precautions and Approach Distances" section for more information)
 - c) Contact Nextgen Networks Network (see below for details) if Nextgen Networks plant is wholly or partly located near planned construction activities

DAMAGE

ANY DAMAGE TO Nextgen Networks NETWORK MUST BE REPORTED TO 1800 032 532 IMMEDIATELY

- The owner is responsible for all plant damage when works commence prior to obtaining Nextgen Networks plans, or failure to follow agreed instructions
- Nextgen Networks reserves all rights to recover compensation for loss or damage to its cable network or other property including consequential losses

CONCERNING NEXTGEN NETWORK PLANS

- Phone 1100. Dial Before You Dig for free plans of Nextgen Networks plant locations. Please give at least 2 business days notice
- Nextgen Networks plans and information provided are valid for 30 days from the date of issue
- Nextgen Networks retains copyright in all plans and details provided in conjunction with your request. These plans and or details should be disposed of by shredding or any other secure disposal method after use
- Nextgen Networks plans or other details are provided for the use of the applicant, its servants, or agents, and shall not be used for any unauthorised purpose
- Please contact the Network Help Desk (see below for details) immediately should you locate Nextgen Networks assets not indicated on these plans
- Nextgen Networks, its servants or agents shall not be liable for any loss or damage caused or occasioned by the use of plans and or details so supplied to the applicant, its servants and agents, and the applicant agrees to indemnify Nextgen Networks against any claim or demand for any such loss or damage
- Please ensure Nextgen Networks plans and information provided remains on-site at all times throughout your construction phase

ESSENTIAL PRECAUTION AND APPROACH DISTANCE

NOTE: If the following clearances cannot be maintained, please contact the Nextgen Network Help Desk (see below for details) for advice on how best to resolve this situation

1. On receipt of plans and sketches and before commencing excavation work or similar activities near Nextgen Networks plant, carefully locate this plant first to avoid damage. Undertake prior exposure (vacuum excavation) such as potholing when intending to excavate or work closer to Nextgen Networks plant than the following approach distances:
 - Where Nextgen Networks plant is in an area where road and footpaths are well defined by kerbs or other features a minimum clear distance of 600mm must be maintained from where it could be reasonably presumed that plant would reside
 - In non established or unformed reserves and terrain, this approach distance must be at least 1.5 metres
 - In country/rural areas which may have wider variations in reasonably presumed plant presence, the following minimum approach distances apply:
 - a) Parallel to major plant: 10 metres (for optic fibre cable)
 - b) Parallel to other plant: 5 metres

Note: Even pot-holing needs to be undertaken with extreme care, common sense and employing techniques least likely to damage cables. For example - vacuum excavation.
- If construction work is parallel to Nextgen Networks plant, then careful pot-holing at least every 5m is required to establish the location of all plant, hence continuing nominal locations before work can commence
2. Maintain the following minimum clearance between construction activity and actual location of Nextgen Networks Plant.

Jackhammers/Pneumatic Breakers	<i>Not within 1.0m of actual locations</i>
Vibrating Plate or Wackers Packer Compactors	<i>Not within 0.5m of Nextgen Networks ducts 300mm compact clearance cover before compactor can be used across Nextgen Networks ducts, and 600mm clearance across Nextgen Networks cables in the solid</i>
Boring Equipment (in-line, horizontal and vertical)	<i>Not within 2.0m of actual location Constructor to check depth via vacuum excavation (pot-hole)</i>
Heavy Vehicle Traffic (over 3 tonnes)	<i>Not to be driven across Nextgen Networks ducts with less than 600mm cover. Not to be driven across Nextgen Networks fibre with less than 1.2m cover Constructor to vacuum excavate (pot-hole) and expose plant</i>
Mechanical Excavators, Boring and Tree Removal	<i>Not within 1.0m of actual location Constructor to vacuum excavate (pot-hole) and expose plant</i>

- All Nextgen Networks pits and manholes should be a minimum of 1.2m in from the back of kerb after the completion of your work
- All Nextgen Networks conduit should have the following minimum depth of cover after the completion of your work:

Footway 450mm

Roadway 450mm at drain invert and 600mm below the pavement subgrade level invert

- All Nextgen Networks fibre in the solid should have the following minimum depth of cover after the completion of your work:

Footway 600mm

Roadway 1200mm at drain invert and 1200mm below the pavement subgrade level invert

- For clearance distances relating to Nextgen Networks above ground infrastructure please contact the Network Help Desk (see below for details)

FURTHER ASSISTANCE

Over-the-phone assistance can be obtained by calling the Network Help Desk below.

Nextgen require 5 clear business days notice to conduct an on-site location. The initial on site location visit will not normally incur a charge, but at the discretion of Nextgen subsequent site visits may incur a charge to be applied at an hourly rate.

Where an on-site location is provided, the owner is responsible for all vacuum excavation work (pot-holing) to visually locate and expose Nextgen Networks plant.

If plant location plans or visual location of Nextgen Networks plant by vacuum excavation reveals that the location of Nextgen Networks plan is situated wholly or partly where the owner plans to work, then **Nextgen Networks** must be contacted through the **Network Help Desk** to discuss possible engineering solutions.

The contact number for the **Network Help Desk** is 1800 032 532.

NOTE:

If Nextgen Networks relocation or protection works are part of the agreed solution, then payment to Nextgen Networks for the cost of this work shall be the responsibility of the principal developer. The principal developer will be required to provide Nextgen Networks with the details of their proposed work showing how Nextgen Networks plant is to be accommodated and these details must be approved by the Nextgen National Operations Manager prior to the commencement of site works.

RURAL LANDOWNER - IMPORTANT INFORMATION

Where Nextgen Networks owned cable crosses agricultural land Nextgen Networks will provide a one off free-on-site electronic cable location. Please note that the exact location of cables can only be verified by visual proving by pot holing, which is not covered by this service. The Network Integrity HelpDesk Officer will provide assistance in determining whether a free-on-site location is required. Please ring the Nextgen Network Help Desk as listed above.

PRIVACY NOTE

Your information has been provided to Nextgen Networks by DBYD to enable Nextgen Networks to respond to your DBYD request. Nextgen Networks keeps your information in accordance with its privacy statement entitled 'Protecting Your Privacy' which can be obtained from Nextgen Networks either by calling 1800 032 532 or visiting our website www.nextgengroup.com.au

Warning: Nextgen Networks plans show only the presence of cables and plant. They only show their position relative to road boundaries, property fences etc, at the time of installation and Nextgen Networks does not warrant or hold out that such plans are accurate thereafter due to changes that may occur over time.

DO NOT ASSUME DEPTH OR ALIGNMENT of cables or plant as these vary significantly.

The customer has A DUTY OF CARE when excavating near Nextgen Networks cables and plant.

Before using machine excavators NEXTGEN PLANT MUST FIRST BE PHYSICALLY EXPOSED BY VACUUM EXCAVATION (potholing) to identify its location.

Nextgen Networks will seek compensation for damages caused to its property and losses caused to Nextgen Networks and its customers.

EXPERIENCED PLANT LOCATORS (for your area)

On-site assistance should be sought from an Experienced Plant Locator if the telecommunications plant cannot be located within 2.5 metres of the locations indicated on the drawings provided. On-site advice should be obtained from a suitably qualified contractor highly skilled in locating Nextgen Networks plant. If there is any doubt whatsoever about the actual location of the telecommunications plant, the best method for locating the telecommunications plant or the correct interpretation of the drawings provided. In the case where Nextgen Networks plant is outside a recognised road reserve Nextgen Networks recommends that the **Network Help Desk** is contacted for assistance prior to engaging an Experienced Plant Locator.

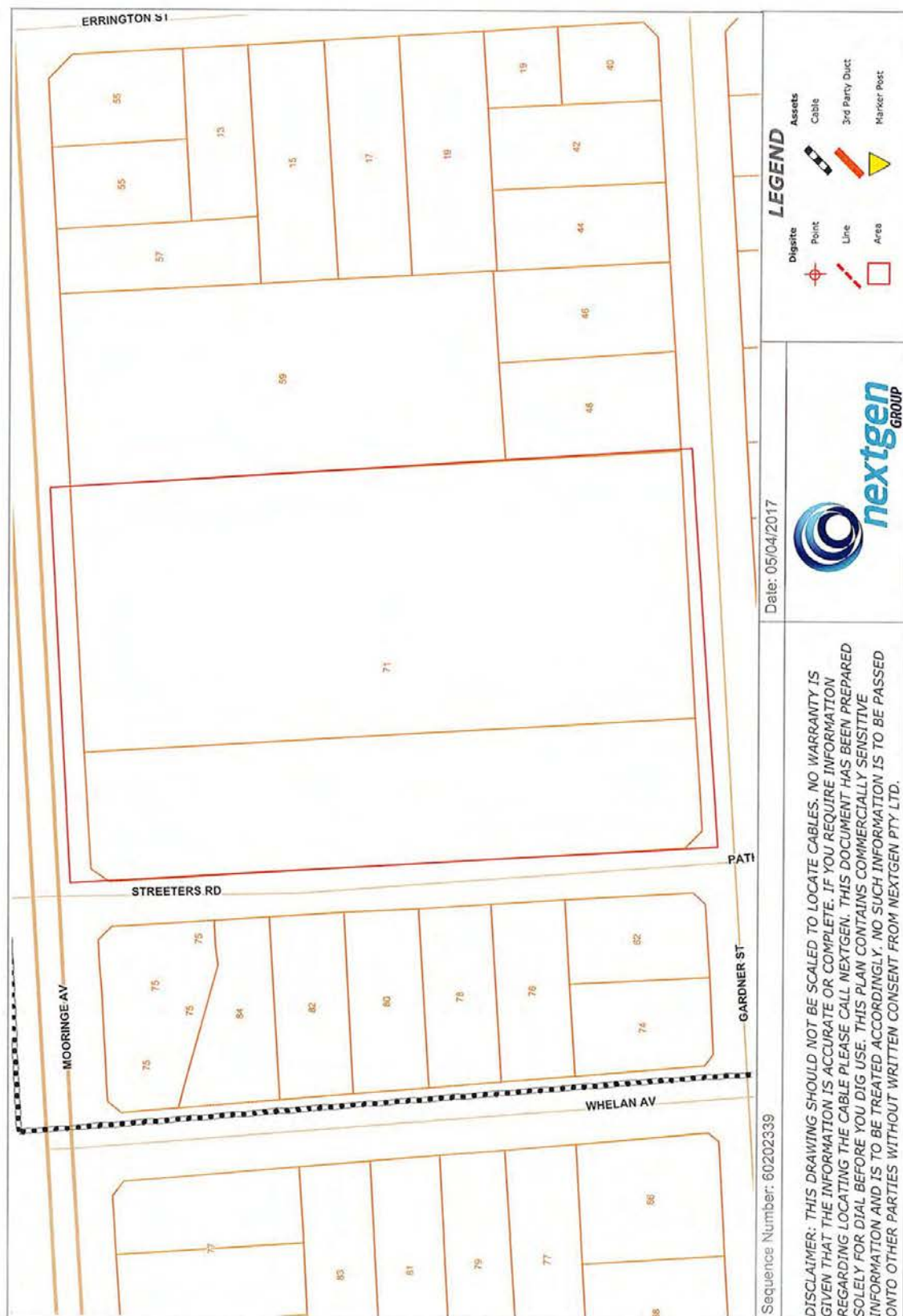
For the assistance of customers Nextgen Networks has established strict criteria to assess the skill of contractors that may be engaged by owners requiring Nextgen Networks plant locating services to perform any of the following activities if requested to do so by the owner:

- Review Nextgen Networks plans to assess the approximate location of Nextgen Networks plant
- Advise owners of the approximate location of Nextgen Networks plant according to the plans
- Advise the owners of the best method for locating Nextgen Networks plant
- Advise owners of the hazard of unqualified persons attempting to find the exact location of Nextgen Networks plant and working in the vicinity of Nextgen Networks plant without first locating its exact position
- Perform trial hole explorations by vacuum excavation (pot-holing) to expose Nextgen Networks plant with a high degree of skill, competence and efficiency and utilising all necessary safety equipment

Nextgen Networks does not accept any liability or responsibility for the performance of or advice given by any Plant Locator engaged by you but we will, if requested, recommend suitably qualified plant locators.

GENERAL DISCLAIMER

While reasonable measures have been taken to ensure the accuracy of the information contained in this plan response, neither Nexgen or PelicanCorp shall have any liability whatsoever in relation to any loss, damage, cost or expense arising from the use of this plan response or the information contained in it or the completeness or accuracy of such information. Use of such information is subject to and constitutes acceptance of these terms.



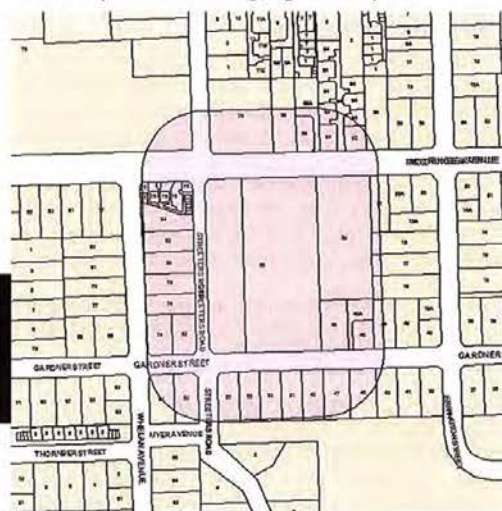
Sequence Number: 60202340

Date Requested: 05/04/17



Ms Sarah Gilmour
 Holmes Dyer Pty Ltd
 Level 3 15 Featherstone Place
 Adelaide SA 5000

Your Request Area is highlighted in pink



Underground cable locations ASSETS FOUND

Area as Requested:

Mooringe Avenue North Plympton SA 5037

The process:

1. You made an enquiry with Dial Before You Dig (1100).
2. Dial Before You Dig referred your enquiry to SA Power Networks (South Australia's Distribution Network).
3. SA Power Networks has checked their records and have found underground assets in your request area.
4. Please review the attached Asset Map(s) in regard to your excavation, as there may be some restrictions that apply if your excavation is greater than 300mm below ground level and less than 3.0m from an SA Power Networks Asset. Further explanation of restricted and exclusion zones can be found at <http://www.sapowernetworks.com.au/public/download.jsp?id=1775> OR search [sapowernetworks.com.au](http://www.sapowernetworks.com.au) for NICC 404 and by referring to the figure on page 10, 11 or 12.
5. An on-site assessment and/or technical drawings may also be necessary to ascertain the exact cable/asset location. This service can be provided by SA Power Networks and may incur a cost.
6. Please contact your local SA Power Networks Location Officer to schedule work or make further enquiries regarding this request either by return email or the contact number supplied. Other general enquiries can be made on (08) 8292 0218.
7. If you have damaged SA Power Networks Assets immediately notify Faults & Emergencies on 131 366.

Please note: Underground services in the vicinity of any proposed earthworks must be located by hand digging (pot-holing) prior to the commencement of works. Persons conducting works will be held responsible for any resulting loss or damage to the services associated with infrastructure

Important information and conditions of use for users of underground services information supplied by SA Power Networks

Indicative information only

The accompanying information is intended only to indicate the presence of SA Power Networks' underground services and/or to convey general indicative information in respect of the location marked on the plans. **The information does not necessarily provide current, comprehensive or accurate description or location of the underground services or associated infrastructure.**

The information may also describe or indicate the presence of underground services or infrastructure not owned by SA Power Networks, for example, electrical services connected to an SA Power Networks' service point. SA Power Networks takes no responsibility for services or infrastructure that is not owned or operated by SA Power Networks or the accuracy or completeness of their description or location in the accompanying information.

Obtaining more technical information from Network for planning or engineering design (non-digging) projects can be arranged through the SA Power Networks Builders and Contractors Electrical Service Line on 1300 650 014.

Identifying the location of underground services

Working near or around live electrical cables can be hazardous. **An on-site assessment is strongly recommended prior to undertaking ANY works and is necessary to determine the location of the underground services.** This can be undertaken by SA Power Networks or an alternative professional locating service provider. Enquiries can be made about SA Power Networks' cable location service by telephoning (08) 8292 0218.

Restrictions may apply in regard to your excavation particularly if your excavation is greater than 300mm below ground level and less than 3.0m from an SA Power Networks asset. Further explanation regarding restricted exclusion zones can be found at <http://www.sapowernetworks.com.au/public/download.jsp?id=1775> OR search sapowernetworks.com.au for NICC 404 and by referring to the figures on pages 10, 11 or 12.

Underground services in the vicinity of any proposed earthworks must be located by hand digging (pot-holing) prior to the commencement of the works. Persons conducting works will be held responsible for any resulting loss or damage to the services or associated infrastructure.

Working near high voltage 66kV underground cables

Persons intending to conduct earthworks in the vicinity of an SA Power Networks high voltage 66kV underground cable MUST first obtain a site-specific clearance by contacting the SA Power Networks Cable Management Technical Officer on 0403 582 130 or 0403 582 174.

Basis of information supply

The accompanying information is supplied at the request of, and is only provided for use by, the requestor. The information is valid for 30 days from the date of issue.

SA Power Networks, its employees, agents and contractors shall accept no responsibility for any inaccuracy or incompleteness in the information provided or liability in respect of any personal injury, death, loss or damage to any real or personal property or otherwise that arises out of or in connection with, directly or indirectly, the provision of or reliance upon the information.

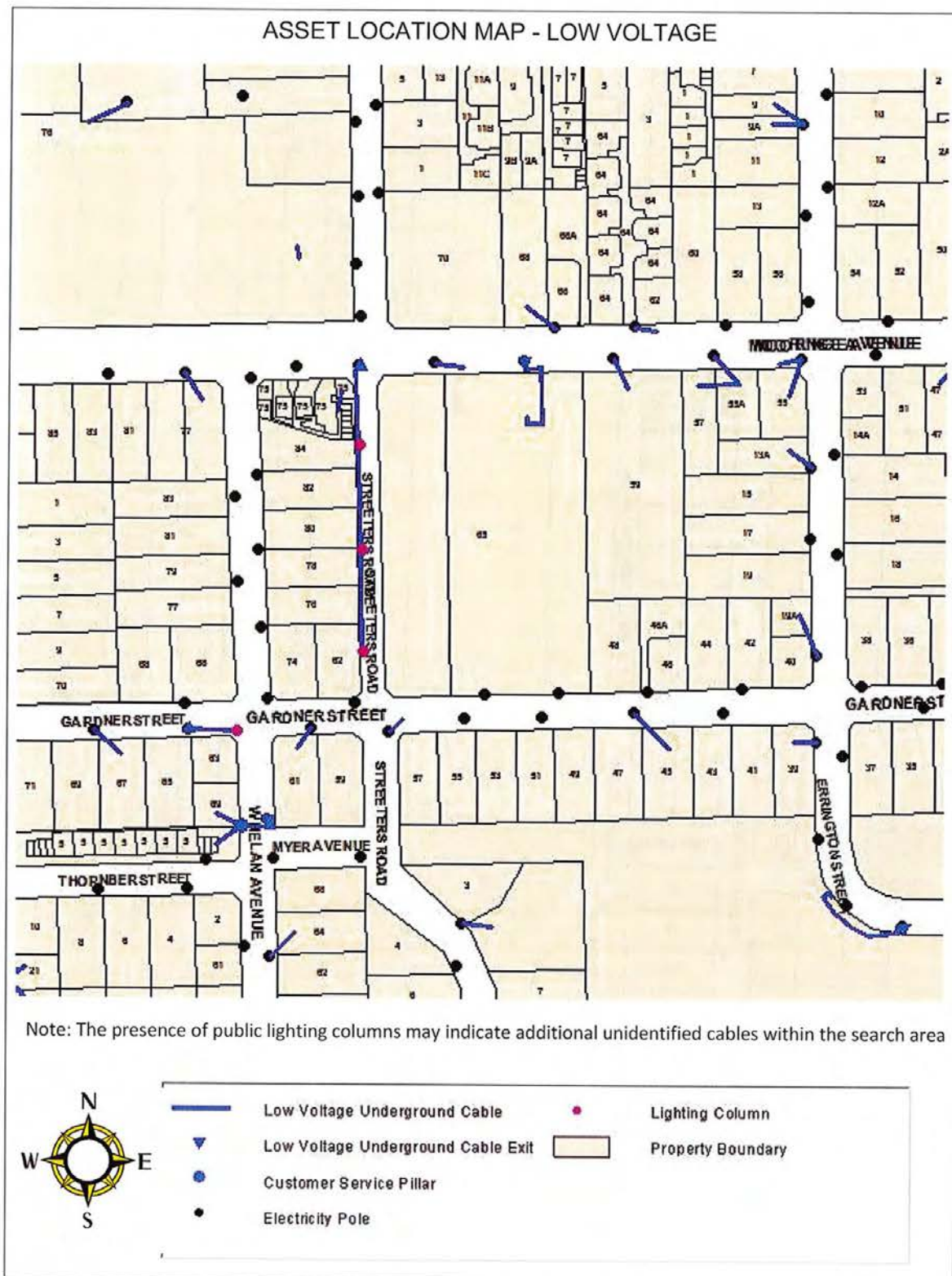
It is the requestor's responsibility to ensure that the information provided accords with the area depicted on the requestor's Dial Before You Dig request. The information provided should not be used in respect of any area outside of the area depicted on the Dial Before You Dig request. SA Power Networks does not warrant that the information is suitable for the requestor's intended purposes.

Any use of the accompanying information is subject to the requestor's agreement to the conditions contained in this document. Upon acceptance of these conditions, SA Power Networks grants the requestor permission to use the information. The information must be returned to SA Power Networks if the conditions are not accepted.

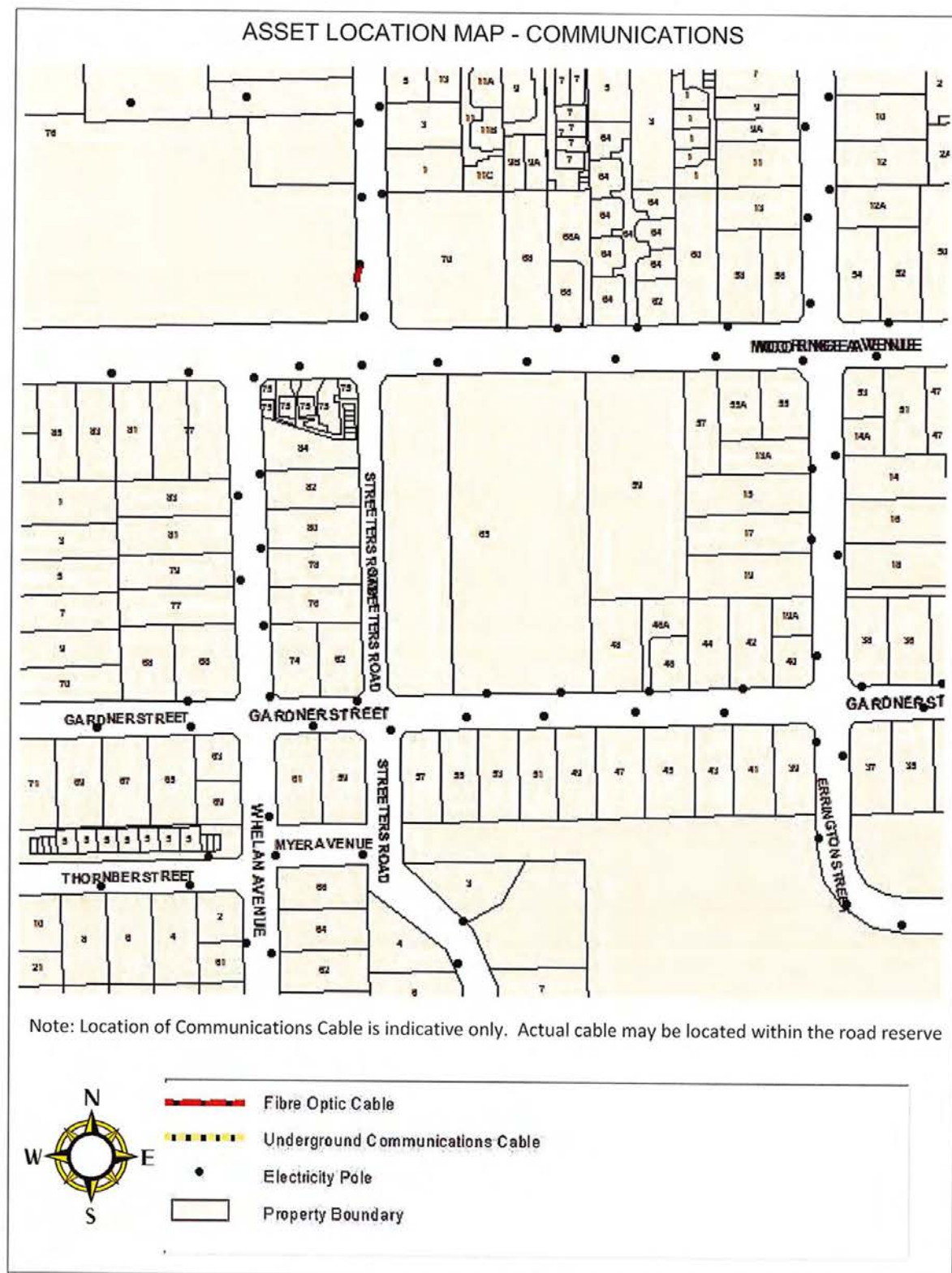
Important note: It is an offence under the Electricity Act 1996 (SA) to cause damage to or interfere with electrical infrastructure



The Plan/Sketch is supplied at your request and is subject to your agreement that SA Power Networks shall not be liable or responsible for the information supplied pursuant to this request. Upon acceptance of this condition SA Power Networks grants you permission to use the Plan/Sketch as a guide to the location of SA Power Networks underground installation. The Plan/Sketch must be returned to SA Power Networks if you fail to accept the conditions of use.

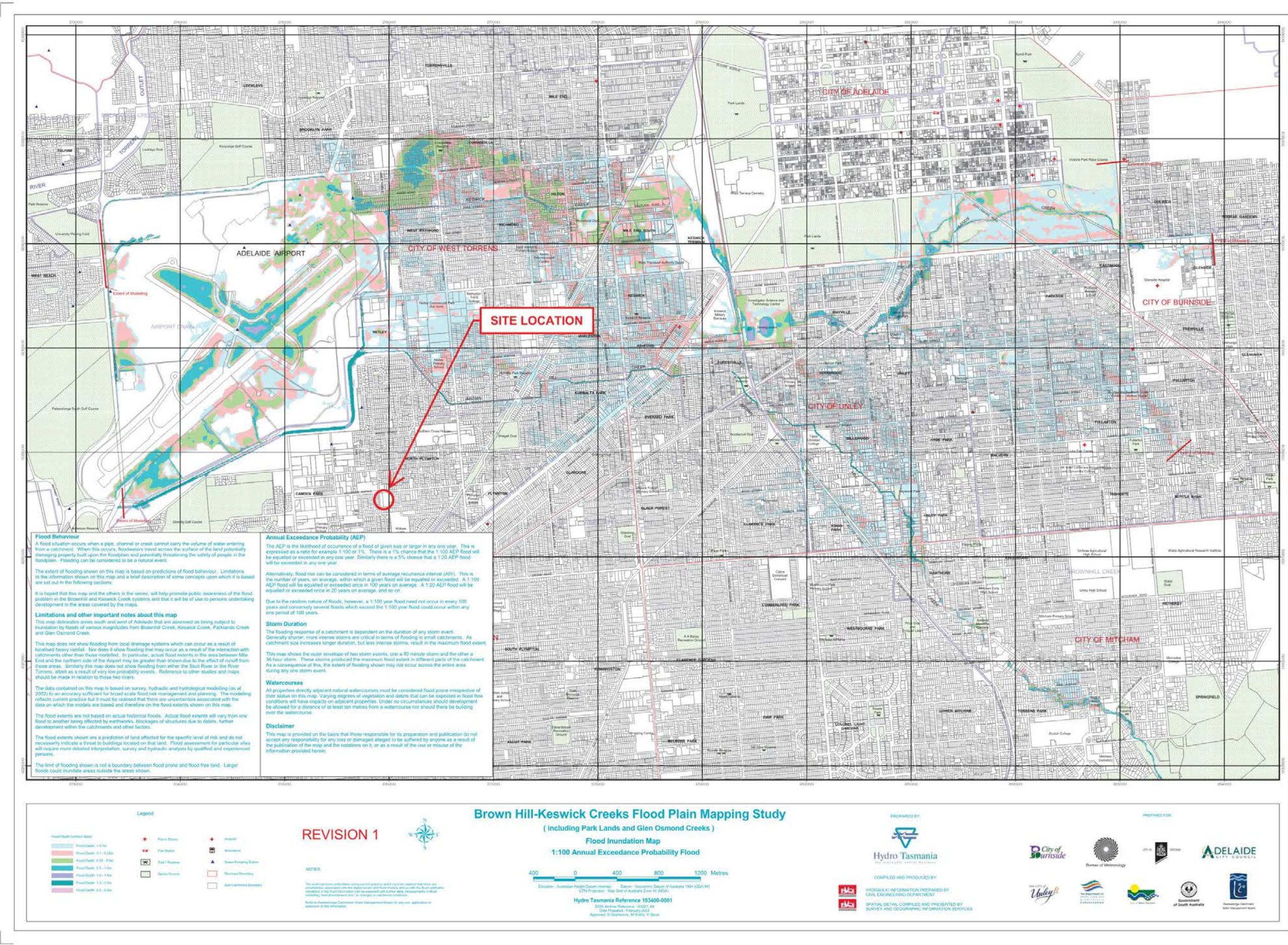


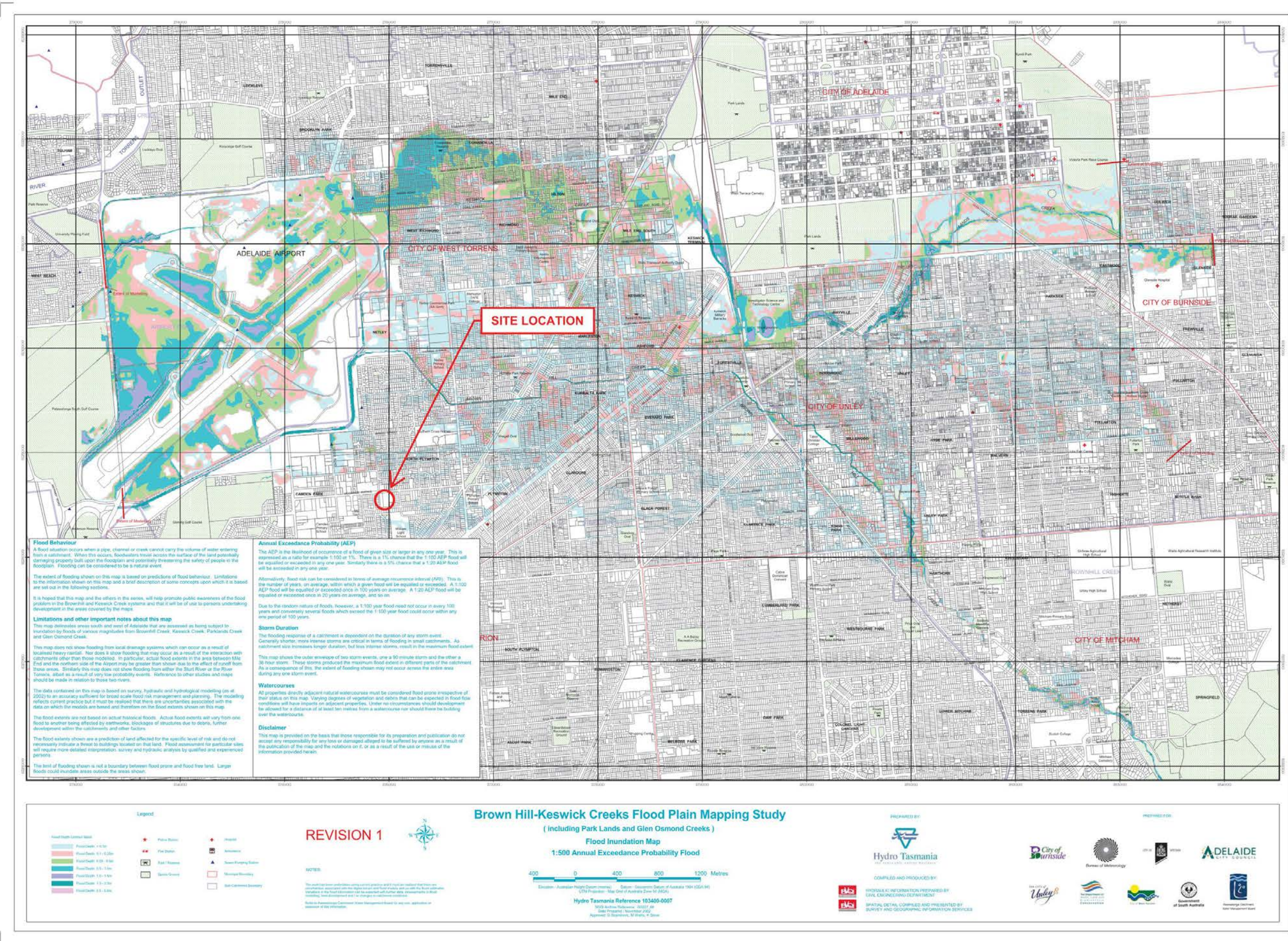
The Plan/Sketch is supplied at your request and is subject to your agreement that SA Power Networks shall not be liable or responsible for the information supplied pursuant to this request. Upon acceptance of this condition SA Power Networks grants you permission to use the Plan/Sketch as a guide to the location of SA Power Networks underground installation. The Plan/Sketch must be returned to SA Power Networks if you fail to accept the conditions of use.



The Plan/Sketch is supplied at your request and is subject to your agreement that SA Power Networks shall not be liable or responsible for the information supplied pursuant to this request. Upon acceptance of this condition SA Power Networks grants you permission to use the Plan/Sketch as a guide to the location of SA Power Networks underground installation. The Plan/Sketch must be returned to SA Power Networks if you fail to accept the conditions of use.

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HOLMES DYER

Appendix 5. Environmental Assessment



13 April 2017

Adelaide Capital Partners
11 Union Street
Stepney SA 5069

Attention: Mr. Andrew Gerlach
Via email: agerlach@adcappartners.com

ENVIRONMENTAL ASSESSMENT, REMEDIATION + AUDIT METHODOLOGY
69 MOORINGE AVENUE, NORTH PLYMPTON

Dear Secretary,

INTRODUCTION

Please find following an overview of the proposed methodology for the assessment, remediation and auditing of the above site to facilitate residential redevelopment.

BACKGROUND

Adelaide Capital Partners (ACP) has an interest in the Former Boral Batching Plant, North Plympton which is currently operated by Boral Asphalt SA/NT as an operations depot. ACP is seeking a rezoning of the land to facilitate residential development.

The site has historically been used for a range of uses, as summarised below:

- Prior to 1944 the land was used mainly for grazing livestock. From approximately 1953 to 1996 the subject land was used as an asphalt plant. During this time, uncontrolled fill including foundry sands and bitumen wastes were disposed at the site.
- Around 1996, remediation works were undertaken when Boral redeveloped the subject land for administrative and vehicle storage purposes. These remediation works included the excavation and off-site disposal of ~4,000m³ of waste soils from the previous disposal areas.

Previous environmental assessment and remediation works have been completed at the site from 1996 to present. These investigations have largely characterised the nature and extent of soil, groundwater and soil vapour. The known contamination status of the site has been considered in the context of possible residential land use, with no significant issues identified. However, additional environmental investigations are required to comply with current guidance.

Some residual soil contamination at the site is planned to be managed during geotechnical improvement undertaken as preliminary earthworks.

Residual groundwater contamination is largely confined to the site boundaries and will be managed in accordance with EPA requirements. It is noted that previous studies show groundwater flows in a north-west direction (toward the area zoned industry in the Development Plan). Regional groundwater quality is considered of low quality (saline and contaminated) and unsuitable for potable beneficial uses.

Mud Environmental Ref: ME-164.1
Page 1 of 2

The most recent assessment (2017) concludes that soil vapour is not considered to present a risk in the context of the proposed residential land use.

PROPOSED APPROACH

The proponent is committed to undertaking investigations to understand and enable appropriate response to contaminated land. The attached flowchart and following process is provided as an indicative work program for the subject land:

1. Update the Preliminary Site Investigation (PSI);
2. Complete additional investigations and prepare Detailed Site Investigation (DSI);
3. Prepare Remediation Management Plan (RMP) for the remediation works (including geotechnical improvement as required by geotechnical engineer);
4. Complete remediation works and prepare Remediation Validation Report (RVR); and
5. Prepare Environmental Management Plan (EMP) if required for management of any residual contamination for future users of the site (if required).

Should the Council agree to a rezoning process, Stages 1 and 2 could inform the investigations.

As a later stage, and if the planning authority deems that a Site Contamination Audit Report (SCAR) is required to facilitate redevelopment of the site, then at the appropriate time all works will be undertaken in accordance with the auditor's requirements.

CLOSURE

I trust that this provides you with sufficient detail on the proposed assessment of suitability for the above site. Please do not hesitate to contact the undersigned on 0439 725 754, or adrian@mudenvironmental.com.au, if you have any queries or require further information.

Yours Sincerely

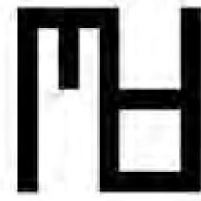


Adrian Webber
Director
Principal Environmental Engineer



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Attachments: 1. Flowchart



ATTACHMENT 1

