



LAWYERS
MELBOURNE | GEELONG

ABN: 26 965 814 421

Our reference: RMM:40064584
Direct Line: Rob McGirr - 03 9612 7209
Email: rob.mcgirr@wisemah.com.au

Thursday, 7 June 2018

Andrew Sherman
Principal
Russell Kennedy
Level 12, 469 La Trobe Street
MELBOURNE VIC 3000

BY EMAIL: ASherman@rk.com.au ;

Dear Andrew,

Proposed works at Walkerville Retarding Basin

We refer to your letter of 1 June 2018. We are instructed that, in accordance with your client's request, our clients are prepared to refrain from commencing proceedings until after your client's meeting on 27 June 2018.

As you are aware Dr Bennett's report confirmed that the water in the dam is not fit for irrigation and stock watering purposes. Having regard to that conclusion we ask that your client acknowledge that our client should not use the water in the dam for irrigation or stock watering purposes or alternatively, if it is not prepared to make that acknowledgement, that it accepts that it is liable for any losses our client may suffer as a result of its use of the water for irrigation and stock watering purposes.

In the short term, given the need for the works to be undertaken on the dam and the fact that the water in the dam is not fit for irrigation and stock watering purposes our client does not presently intend to take or use any water from the dam.

You have repeatedly observed that it is our client's "unilateral decision" to not take and use the water from the dam. Our client has not taken or used the water from the dam because, in breach of your client's obligations under the water taking agreement, your client has not ensured that the water is fit for irrigation and stock watering purposes. Our client decision to not taken or use the water in the dam is consistent with its obligation to mitigate its loss. If your client is of the view that our client should take and use the water in the dam, despite the observations made by Dr Bennett, we ask that you confirm that view by written response.

If within 7 days of Council's consideration of the matter at its meeting on 27 June 2018 Council does not convey to us a resolution or at least a process to resolve our clients claims and the quality of water in the dam, which is acceptable to our client, we are instructed to issue proceedings.

In the meantime, we **enclose** copy of summary of our clients claim for the opportunity cost of being able to take the water. The amount claimed for the period 27 February 2017 to 25 June 2018 is \$249,369.75 together with interest.

Kind regards,

WISEWOULD MAHONY

Partner: Rob McGirr

Accredited Commercial Litigation Specialist | Insurance and Litigation

Email: rob.mcgirr@wisemah.com.au

Phone: (03) 9612 7209

Enc.

Invoice Date	Due Date	Invoice Description	Outstanding Invoice Amount	Interest Rate	
				Statement Date	31/05/2018
27/02/2017	26/03/2017	Water	\$ 74,274.20	\$	8,770.46
26/04/2017	25/05/2017	Water	\$ 21,221.20	\$	2,157.00
26/06/2017	25/07/2017	Water	\$ 21,221.20	\$	1,802.35
7/12/2017	6/01/2018	Water	\$ 53,053.00	\$	2,107.58
26/12/2017	25/01/2018	Water	\$ 10,610.60	\$	366.28
31/12/2017	30/01/2018	Interest	\$ 7,901.26	\$	261.93
26/01/2018	25/02/2018	Water	\$ 10,610.60	\$	276.17
26/02/2018	25/03/2018	Water	\$ 10,610.60	\$	194.77
26/04/2018	25/05/2018	Water	\$ 21,221.20	\$	-
22/05/2018	25/06/2018	Interest	\$ 8,035.29	\$	-
22/05/2018	25/06/2018	Water	\$ 10,610.60	\$	-
			<u>\$ 249,369.75</u>	\$	<u>15,936.55</u>
		Less Interest previously charged		\$	7,901.26
				<u>\$</u>	<u><u>8,035.29</u></u>



ANSEVATA NOMINEES PTY LTD

A.B.N. 44 013 158 909

C/O J. RICH & PARTNERS

P.O. BOX 2285

BRIGHTON VICTORIA 3186

AUSTRALIA

Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00001112 Date: 27/02/2017 Page: 1 Your Ref: Terms: Net 30th after EOM
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Details	Total (ex-GST)
28 Jul 2016 to 26 February 2017 @ \$139,920 p.a. covering 52.8MI @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.	\$81,620.00 -\$7,345.80

Delivery Via: Delivery Date: Salesperson:	Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET	Subtotal: \$74,274.20 Freight (ex-GST): \$0.00 GST: \$0.00 Total (inc-GST): \$74,274.20 Paid to Date: \$0.00 Balance Due: \$74,274.20
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How to pay

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EFT DETAILS

NATIONAL AUSTRALIA BANK
 BERJAK NOMINESS (VIC) PTY LTD
 BSB NO. 083-337
 ACCOUNT NO. 79 483-8795



by mail

Detach this section and mail your cheque to...

ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00001112

Amount Due: \$74,274.20



ANSEVATA NOMINEES PTY LTD

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Tax Invoice

<p>SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953</p>	<p>Invoice #: 00001113 Date: 26/04/2017 Page: 1 Your Ref: Terms: Net 30th after EOM</p>
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Details	Total (ex-GST)
27 Feb 2017 to 26 April 2017 @ \$139,920 p.a. covering 52.8ML @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.	<p>\$23,320.00 -\$2,098.80</p>

<p>Delivery Via: Delivery Date: Salesperson:</p>	<p>Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET</p>	<table border="1"> <tr> <td>Subtotal:</td> <td style="text-align: right;">\$21,221.20</td> </tr> <tr> <td>Freight (ex-GST):</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>GST:</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Total (inc-GST):</td> <td style="text-align: right;">\$21,221.20</td> </tr> <tr> <td>Paid to Date:</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Balance Due:</td> <td style="text-align: right;">\$21,221.20</td> </tr> </table>	Subtotal:	\$21,221.20	Freight (ex-GST):	\$0.00	GST:	\$0.00	Total (inc-GST):	\$21,221.20	Paid to Date:	\$0.00	Balance Due:	\$21,221.20
Subtotal:	\$21,221.20													
Freight (ex-GST):	\$0.00													
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Total (inc-GST):	\$21,221.20													
Paid to Date:	\$0.00													
Balance Due:	\$21,221.20													

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ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00001113

Amount Due: \$21,221.20



ANSEVATA NOMINEES PTY LTD

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P.O. BOX 2285
BRIGHTON VICTORIA 3186
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Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00001114 Date: 26/06/2017 Page: 1 Your Ref: Terms: Net 30th after EOM
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Details	Total (ex-GST)
27 April 2017 to 26 June 2017 @ \$139,920 p.a. covering 52.8Ml @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation	\$23,320.00
Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.	-\$2,098.80

Delivery Via: Delivery Date: Salesperson:	Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET	Subtotal: \$21,221.20 Freight (ex-GST): \$0.00 GST: \$0.00
		Total (inc-GST): \$21,221.20 Paid to Date: \$0.00
		Balance Due: \$21,221.20

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NATIONAL AUSTRALIA BANK
BERJAK NOMINESS (VIC) PTY LTD
BSB NO. 083-337
ACCOUNT NO. 79 483-8795



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ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00001114

Amount Due: \$21,221.20



ANSEVATA NOMINEES PTY LTD

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Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00002812 Date: 7/12/2017 Page: 1 Your Ref: Terms: Net 30th after EOM
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Details	Total (ex-GST)
27 June 2017 to 26 November 2017 @ \$139,920 p.a. covering 52.8Ml @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation	\$58,300.00
Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.	-\$5,247.00

Delivery Via:	Delivery Address:	Subtotal:	\$53,053.00
Delivery Date:	SOUTH GIPPSLAND SHIRE	Freight (ex-GST):	\$0.00
Salesperson:	COUNCIL	GST:	\$0.00
	PRIVATE BAG 4,	Total (inc-GST):	\$53,053.00
	9 SMITH STREET	Paid to Date:	\$0.00
		Balance Due:	\$53,053.00

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 ACCOUNT NO. 79 483-8795



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ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00002812

Amount Due: \$53,053.00



ANSEVATA NOMINEES PTY LTD

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C/O J. RICH & PARTNERS
P.O. BOX 2285
BRIGHTON VICTORIA 3186
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Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00001704 Date: 26/12/2017 Page: 1 Your Ref: December 2017 Terms: Net 30th after EOM
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Details	Total (ex-GST)
27 November 2017 to 26 December 2017 @ \$139,920 p.a. covering 52.6Ml @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.	\$11,660.00 -\$1,049.40

Delivery Via: Delivery Date: Salesperson:	Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET	Subtotal: \$10,610.60 Freight (ex-GST): \$0.00 GST: \$0.00 Total (inc-GST): \$10,610.60 Paid to Date: \$0.00 Balance Due: \$10,610.60
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How to pay

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EFT DETAILS

NATIONAL AUSTRALIA BANK
BERJAK NOMINEES (VIC) PTY LTD
BSB NO. 083-337
ACCOUNT NO. 79 483-8795



by mail

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ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00001704 Amount Due: \$10,610.60



ANSEVATA NOMINEES PTY LTD

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 C/O J. RICH & PARTNERS
 P.O. BOX 2285
 BRIGHTON VICTORIA 3186
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Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00002813 Date: 31/12/2017 Page: 1 Your Ref: Interest Terms: Net 30th after BOM
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Details	Total (ex-GST)
Penalty Interest charged on outstanding amounts as per statement at the rate of 10% p.a. from invoice due date date until December 31 2017	\$7,901.26

Delivery Via: Delivery Date: Salesperson:	Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET	Subtotal: \$7,901.26 Freight (ex-GST): \$0.00 GST: \$0.00 Total (inc-GST): \$7,901.26 Paid to Date: \$0.00 Balance Due: \$7,901.26
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How to pay

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EFT DETAILS

NATIONAL AUSTRALIA BANK
 BERJAK NOMINESS (VIC) PTY LTD
 BSB NO. 083-337
 ACCOUNT NO. 79 483-8795



by mail

Detach this section and mail your cheque to...

ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00002813

Amount Due: \$7,901.26



ANSEVATA NOMINEES PTY LTD

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 AUSTRALIA

Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00001705 Date: 26/01/2018 Page: 1 Your Ref: January 2018 Terms: Net 30th after EOM
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Details	Total (ex-GST)
27 December 2017 to 26 January 2018 @ \$139,920 p.a. covering 52.6MI @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.	\$11,660.00 -\$1,049.40

Delivery Via: Delivery Date: Salesperson:	Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET	Subtotal: \$10,610.60 Freight (ex-GST): \$0.00 GST: \$0.00 Total (inc-GST): \$10,610.60 Paid to Date: \$0.00 Balance Due: \$10,610.60
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NATIONAL AUSTRALIA BANK
 BERJAK NOMINESS (VIC) PTY LTD
 BSB NO. 083-337
 ACCOUNT NO. 79 483-8795



by mail

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ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00001705

Amount Due: \$10,610.60



ANSEVATA NOMINEES PTY LTD

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Tax Invoice

<p>SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953</p>	<p>Invoice #: 00002003 Date: 26/02/2018 Page: 1 Your Ref: February 2018 Terms: Net 30th after EOM</p>
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Details	Total (ex-GST)
<p>27 January 2018 to 26 February 2018 @ \$139,920 p.a. covering 52.6Ml @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.</p>	<p>\$11,660.00 -\$1,049.40</p>

<p>Delivery Via: Delivery Date: Salesperson:</p>	<p>Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET</p>	<table border="1"> <tr> <td>Subtotal:</td> <td style="text-align: right;">\$10,610.60</td> </tr> <tr> <td>Freight (ex-GST):</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>GST:</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Total (inc-GST):</td> <td style="text-align: right;">\$10,610.60</td> </tr> <tr> <td>Paid to Date:</td> <td style="text-align: right;">\$0.00</td> </tr> <tr> <td>Balance Due:</td> <td style="text-align: right;">\$10,610.60</td> </tr> </table>	Subtotal:	\$10,610.60	Freight (ex-GST):	\$0.00	GST:	\$0.00	Total (inc-GST):	\$10,610.60	Paid to Date:	\$0.00	Balance Due:	\$10,610.60
Subtotal:	\$10,610.60													
Freight (ex-GST):	\$0.00													
GST:	\$0.00													
Total (inc-GST):	\$10,610.60													
Paid to Date:	\$0.00													
Balance Due:	\$10,610.60													

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NATIONAL AUSTRALIA BANK
BERJAK NOMINESS (VIC) PTY LTD
BSB NO. 083-337
ACCOUNT NO. 79 483-8795



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ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00002003 Amount Due: \$10,610.60



ANSEVATA NOMINEES PTY LTD

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 C/O J. RICH & PARTNERS
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Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00001805 Date: 26/04/2018 Page: 1 Your Ref: Terms: Net 30th after EOM
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Details	Total (ex-GST)
27 February 2018 to 26 April 2018 @ \$139,920 p.a. covering 52.6ML @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation	\$23,320.00
Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.	-\$2,098.80

Delivery Via: Delivery Date: Salesperson:	Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET	Subtotal: \$21,221.20 Freight (ex-GST): \$0.00 GST: \$0.00 Total (inc-GST): \$21,221.20 Paid to Date: \$0.00 Balance Due: \$21,221.20
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How to pay

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EFT DETAILS

NATIONAL AUSTRALIA BANK
 BERJAK NOMINESS (VIC) PTY LTD
 BSB NO. 083-337
 ACCOUNT NO. 79 483-8795



by mail

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ANSEVATA NOMINEES PTY LTD (MARAPANA)

Invoice #: 00001805

Amount Due: \$21,221.20



ANSEVATA NOMINEES PTY LTD

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 C/O J. RICH & PARTNERS
 P.O. BOX 2285
 BRIGHTON VICTORIA 3186
 AUSTRALIA

Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00001806 Date: 22/05/2018 Page: 1 Your Ref: Interest Terms: Net 30th after EOM
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Details	Total (ex-GST)
Penalty Interest charged on outstanding amounts as per statement at the rate of 10% p.a. from Invoice due date until May 31 2018 less amount previously invoiced	\$8,035.29

Delivery Via:	Delivery Address:	Subtotal:	\$8,035.29
Delivery Date:	SOUTH GIPPSLAND SHIRE	Freight (ex-GST):	\$0.00
Salesperson:	COUNCIL	GST:	\$0.00
	PRIVATE BAG 4,	Total (inc-GST):	\$8,035.29
	9 SMITH STREET	Paid to Date:	\$0.00
		Balance Due:	\$8,035.29

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EFT DETAILS

NATIONAL AUSTRALIA BANK
 BERJAK NOMINEES (VIC) PTY LTD
 BSB NO. 083-337
 ACCOUNT NO. 79 483-8795



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ANSEVATA NOMINEES PTY LTD

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 AUSTRALIA

Tax Invoice

SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET LEONGATHA VIC 3953	Invoice #: 00001807 Date: 22/05/2018 Page: 1 Your Ref: Terms: Net 30th after EOM
---	--

Details	Total (ex-GST)
27 April 2018 to 26 May 2018 @ \$139,920 p.a. covering 52.6Ml @ \$2,650 per ML as charged by Ruralco for Golbourne River allocation Less 9% to allow for the lower rainfall at the PVE as compared to the rainfall of Wilson's Promontory as used by the Tomkinson Group.	\$11,660.00 -\$1,049.40

Delivery Via: Delivery Date: Salesperson:	Delivery Address: SOUTH GIPPSLAND SHIRE COUNCIL PRIVATE BAG 4, 9 SMITH STREET	Subtotal: \$10,610.60 Freight (ex-GST): \$0.00 GST: \$0.00
		Total (inc-GST): \$10,610.60 Paid to Date: \$0.00
		Balance Due: \$10,610.60

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