

ATTACHMENT 1: REPORTS RELEASED (IN FULL OR PART) SINCE LAST REVIEW

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommend-action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
92	1 Sept 2014	Proposed Road Closure and Sale of Land	<p>Section 90 (3) (b) Order</p> <p>1. Pursuant to Section 90(3)(b) Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, General Manager Planning and Development, General Manager Infrastructure and Projects, General Manager Council Services, General Manager Corporate Services, Contracts Coordinator, Manager Projects and Minute Secretary be excluded from attendance at the meeting for Agenda 17.1 (Proposed Road Closure and Sale of Land).</p> <p>The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council in that the information to be considered includes valuation and other details the disclosure of which could prejudice the Council's commercial position during negotiations.</p> <p>In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of</p>	Council report, related documents and rec 3	The disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council in that the information to be considered includes valuation and other details the disclosure of which could prejudice the Council's commercial position during negotiations. In addition the disclosure of this information would, on balance, be contrary to the public interest.	Until settlement of the proposed land sale or such lesser period as may be determined by the Chief Executive Officer.	7 Sep 15		11 Aug 16

ATTACHMENT 1: REPORTS RELEASED (IN FULL OR PART) SINCE LAST REVIEW

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			<p>Council's commercial position may prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter.</p> <p>Section 91(7) Order</p> <p>5. Pursuant to Section 90 (3) (b) & (d)</p> <p>That having considered Agenda 17.1 Proposed Road Closure and Sale of Land, in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and recommendation 3 in the minutes be retained in confidence until settlement of the proposed land sale or such lesser period as may be determined by the Chief Executive Officer.</p>						

17. CONFIDENTIAL REPORTS

**17.1. REPORT TITLE: CONFIDENTIAL ITEM: PROPOSED ROAD
CLOSURE AND SALE OF LAND
ADJOINING
1 DUTTON ROAD, MT BARKER**

DATE OF MEETING: 1 SEPTEMBER 2014

FILE NUMBER: 14/078521

Strategic Plan Ref:

Outcome 15 - Organisational capacity for project delivery and effective and efficient services

Purpose:

Seek Council Approval to commence a road process in accordance with the Roads (Opening & Closing) Act 1991 to close a portion of public road adjoining 1 Dutton Road.

Summary – Key Issues:

- Following the construction of the roundabout adjoining the Park and Ride in Dutton Road several years ago, Council owns an area of land adjoining No 1 Dutton Road which is dedicated as public road but is surplus to Council's needs (refer to the portion of land marked "A" in the aerial photograph location plan in attachment 1).
- The owner of No 1 Dutton Road (Fiora Family trading as Chasse Pty Ltd) has expressed interested in acquiring the surplus land for use as car parking for a proposed application to redevelop the property.
- Approval is sought to commence a road closure process with the intention to subsequently sell the portion of road to the adjoining landowner to be merged with their own property, 1 Dutton Road, Mount Barker.

Recommendation:

That Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)
Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, General Manager Planning and Development, General Manager Infrastructure and Projects, General Manager Council Services, General Manager Corporate Services, Contracts Coordinator, Manager Projects and Minute Secretary be excluded from attendance at the meeting for Agenda 17.1 (Proposed Road Closure and Sale of Land Adjoining 1 Dutton Road, Mt Barker).

The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council in that the information to be considered includes valuation and other details the disclosure of which could prejudice the Council's commercial position during negotiations.

In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter.

2. Pursuant to Section 10 of the Roads (Opening & Closing) Act 1999, commence a road process to close a portion of road delineated and marked "A" in the Preliminary Plan provided in attachment 2 of this report and provide sufficient details for consultation to occur.
3. Give delegation to the CEO or his nominee to negotiate terms for the sale of the subject portion of road delineated and marked "A" in the Preliminary Plan provided in attachment 2 of this report to Chasse Pty Ltd to be merged with their property Allotment 1 in DP17900, contained within Certificate of Title Volume 5176 Folio 721 for a payment to Council of no less than \$90,000 (ex GST) subject to Council approval to close that portion of the road following the consultation process.
4. Note that a further report will be provided to Council seeking approval to close a portion of the road once the consultation process has been completed and the terms for a sale have been negotiated in principle.

Section 91(7) Order5. **Pursuant to Section 90 (3) (b) & (d)**

That having considered Agenda 17.1 (Proposed Road Closure and Sale of Land Adjoining 1 Dutton Road, Mt Barker), in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and recommendation 3 in the minutes be retained in confidence until settlement of the proposed land sale or such lesser period as may be determined by the Chief Executive Officer.

Background:

1. Following the construction of the roundabout adjoining the Park and Ride in Dutton Road Council owns an area of land adjoining No 1 Dutton Road which is dedicated as public road, and following the construction of the new roundabout, has become surplus to Council's needs. The location of the subject land is shown in Attachment 1, it currently comprises some informal parking which has been used by businesses on the adjoining land as well as an unused area.
2. The owner of No 1 Dutton Road (Chasse Pty Ltd) has expressed interest in acquiring the surplus land for use as car parking for a proposed application to redevelop the property.
3. The Council owned property has numerous services crossing it and would be useful for the provision of parking.
4. Due to the location of the site the only practical way for Council to sell the land would be to the adjoining owner via a boundary adjustment.
5. Chasse Pty Ltd has advised by e-mail that it would be prepared to pay \$90,000 (ex GST) for the Council land which has a land area of approximately 361m².
6. Council has received two valuations for the land:

m3	\$95,000 to \$110,000
Maloney Field Services	\$43,000
7. The difference between the valuation amounts is due to the different approaches taken by the valuers. m3 calculated an unencumbered value and then allowed a discount to reflect the sites restrictions. Maloney Field Services used the value of the potential to provide parking as a basis.

Discussion:

8. The different approaches reflect the difficulty of valuing a site which only has one potential buyer and severe limitations on development potential. The valuations can be seen as worst case and best case assessments.

9. Council Sale & Disposal of Council Land & Other Assets policy requires that two valuations be obtained for a direct sale to an adjoining owner with the sale price being the higher of the two valuations.
10. As the \$90,000 indicated by Chasse Pty Ltd is close to the lower figure of the higher valuation it is proposed that this amount be set as a minimum acceptable figure but that a higher sum be sought in negotiation.
11. A sale of the land to Chasse Pty Ltd would allow it to further develop its currently vacant site. A sale would therefore facilitate economic development while providing revenue to Council which would not otherwise be available.
12. Community consultation will commence in September but will conclude during the council caretaker period.
13. A further report will be provided to Council when community consultation for the commencement of the road process has been completed. This report will need to be considered by Council after the election has taken place. It is however recommended that the consultation be commenced, allowing negotiations to proceed with the purchaser who could also proceed with a Development Application.
14. Negotiation of the terms of a transfer will be in Principle subject to Council's consideration of the outcomes of the Community Consultation process. The consideration of a Development Application will also be independent of proposed transfer.
15. The subsequent sale of the land to Chasse Pty Ltd will be subject to Council resolving to close this part of the road reserve.

Community Engagement:

Decision to be made	Proposed road closure and sale of the land to an adjoining landowner.
Method of consultation, informing community & cost	Public notices Letters to adjoining landowners and relevant authorities Sign on subject land
Feedback to stakeholders/Council	Gazette notice
Timeframe for consultation	Commence 3 September 2014, conclude by 30 September 2014

Policy:

Disposal of Council Land and Other Assets Policy.

Budget:

There is no current budget for the sale process. If approved revenue will be generated less the costs related to the road closure process and boundary adjustment. Council's costs are estimated to be in the order of \$6,000.

Statutory/Legal:

It is proposed that the road be closed in accordance with the Roads (Opening & Closing) Act 1991.

Section 8 of the Local Government Act 1999 states that a Council must "seek to ensure that council resources are used fairly, effectively and efficiently;"

The land is not classified and Community Land pursuant to the Local Government Act.

Staff Resource Requirements:

If approved the process will be managed from existing resources.

Environmental:

A curtilage around the land to be sold has been allowed for the existing footpath and planting.

Social:

Not applicable

Risk Assessment:

If Council doesn't sell now to adjoining land owner, it could be a very long time before a subsequent disposal opportunity arises, if ever, given the unique circumstances.

The road closure process must be a decision of Council. The caretaker period for Council elections commence on 16 September and this process will not be completed by that date.

Asset Management:

Disposal of an unutilised asset.

Conclusion:

Sale of surplus road reserve adjoining 1 Dutton Road is proposed subject to the outcomes of a community consultation process with potential revenue generation of not less than \$90,000 (ex GST) less costs.

Key Contact

Bill Graham, Contracts Coordinator
David Morton, Manager Projects

Manager or Sponsor of Project

Brian Clancey, General Manager Infrastructure and Projects

Attachments

1. Aerial Photo Location Plan (14/076491)
2. Preliminary Plan (14/076488)



PRELIMINARY PLAN	
14/	
PLAN UNDER THE ROADS (OPENING & CLOSING) ACT, 1991 AS AMENDED	
TITLE REFERENCE FOR ROAD CT 6098/836	
IRRIGATION AREA	DIVISION
HUNDRED ... MACCLESFIELD	
AREA ... MOUNT BARKER	
COUNCIL ... DC OF MOUNT BARKER	
SCALE 0 5 10 20 30 40 METRES	
STATEMENTS CONCERNING EASEMENTS ANNOTATIONS AND AMENDMENTS ROAD TO BE CLOSED LETTERED A CLOSED ROAD TO MERGE WITH CT 5176/721	
CERTIFIED CORRECT AS TO INTENT	
DATED / /2014 DC OF MOUNT BARKER	
I HEREBY CERTIFY THAT THE PORTION OF ROAD TO BE CLOSED HEREON ARE ROAD WITHIN THE MEANING OF SECTION 3 OF THE ROADS (OPENING & CLOSING) ACT, 1991 AS AMENDED	
AUTHORITY REFERENCE: D84409, RP359, PUBLIC MAP	
08/08/2014 GLENN IAN HORDACRE LICENSED SURVEYOR	
Alexander & Symonds Pty.Ltd. 11 KING WILLIAM STREET, KENT TOWN P.O. BOX 1000 KENT TOWN 5071 Tel (08) 8130 1666 Fax (08) 8362 0099 A.B.N. 93 007 753 988	
REFERENCE A096114PP(A)	
RHF 07.08.2014	

Attachment 1 to Item 17.1

Councillor Bailey

- Council Information Session Growth Update
- Lights' View Elected Member briefing/tour
- Murray Darling Basin NRM Council Advisory Group meeting
- Top Hat meeting
- Mount Barker Show Society Committee meeting
- Bremer Barker Catchment Group
- Essence of Place, Hahndorf Academy
- General Store Gallery AGM

Councillor Grosser

- Lights' View Elected Member briefing/tour
- Prospect Hill Hall Committee meeting

Acting Mayor Westwood

- Mount Barker & Districts' Rifle Club Awards Ceremony

16. QUESTIONS ARISING FROM COUNCIL MEETING

- 16.1 Mr Nathan Rogers asked a question regarding references to council plans.
Acting Mayor Westwood and Mr Andrew Stuart, Chief Executive Officer provided a response at the meeting.

17. CONFIDENTIAL REPORTS

- 17.1. **REPORT TITLE: CONFIDENTIAL ITEM: PROPOSED ROAD CLOSURE AND SALE OF LAND ADJOINING 1 DUTTON ROAD, MT BARKER**
DATE OF MEETING: 1 SEPTEMBER 2014
FILE NUMBER: 14/078521

Moved Councillor Heath that Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)
Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, General Manager Planning and Development, General Manager Infrastructure and Projects, General Manager Council Services, General Manager Corporate Services, Contracts Coordinator, Manager Projects and Minute Secretary be excluded from attendance at the meeting for Agenda 17.1 (Proposed Road Closure and Sale of Land Adjoining 1 Dutton Road, Mt Barker).

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Seconded Councillor Bailey

CARRIED
OM20140901.15

Moved Councillor Heath that Council:

2. pursuant to Section 10 of the Roads (Opening & Closing) Act 1999, commence a road process to close a portion of road delineated and marked "A" in the Preliminary Plan provided in attachment 2 of this report and provide sufficient details for consultation to occur.
3. give delegation to the Chief Executive Officer or his nominee to negotiate terms for the sale of the subject portion of road delineated and marked "A" in the Preliminary Plan provided in attachment 2 of this report to Chasse Pty Ltd to be merged with their property Allotment 1 in DP17900, contained within Certificate of Title Volume 5176 Folio 721 for a payment to Council of no less than \$90,000 (ex GST) subject to Council approval to close that portion of the road following the consultation process.
4. note that a further report will be provided to Council seeking approval to close a portion of the road once the consultation process has been completed and the terms for a sale have been negotiated in principle.

Seconded Councillor Bailey

CARRIED
OM20140901.16

Moved Councillor Heath

Section 91(7) Order

5. Pursuant to Section 90 (3) (b) & (d)
That having considered Agenda 17.1 (Proposed Road Closure and Sale of Land Adjoining 1 Dutton Road, Mt Barker), in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and recommendation 3 in the minutes be retained in confidence until settlement of the proposed land sale or such lesser period as may be determined by the Chief Executive Officer.

Seconded Councillor Stokes

CARRIED
OM20140901.17

