

CONFIDENTIAL ITEMS 2003 – 16 SEPTEMBER 2014

#	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
86	7 April 2014	Land Acquisition Opportunity	<p>1. Pursuant to Section 90(3)(b) Pursuant to Section 90(2) of the Local Government Act 1999 orders that all members of the public except for the Chief Executive Officer, the four General Managers and the Executive Assistant to the Mayor and CEO be excluded from attendance at the meeting for Agenda Item 17.1 Land Acquisition Opportunity.</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:</p> <ul style="list-style-type: none"> <li>- conducting business; and</li> <li>- proposing to conduct business; and</li> <li>- would prejudice the commercial position of the Council</li> </ul> <p>in that the information to be considered includes detailed financial information, 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</p>	<p>Report, and that of 15 April 2013 and related documents and all minutes</p> <p>Extended at 26 May 2014 meeting</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:</p> <ul style="list-style-type: none"> <li>- conducting business; and</li> <li>- proposing to conduct business; and</li> <li>- would prejudice the</li> </ul>	<p>Retained in confidence until:</p> <ul style="list-style-type: none"> <li>(i) a contract has been executed for the sale and purchase of the land and Council has resolved to proceed to settle the contract; or</li> <li>(ii) 15 August 2014 whichever is the sooner.</li> </ul>	1 Sept 14	26 Feb 15	

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			<p>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 severely 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 and in relation to other contract negotiations.</p> <p>2. Retain the information presented on 15 April 2013 in confidence for a period as determined in (4) below.</p> <p>4. Pursuant to Section 90 (3) (b) &amp; (d) Having considered Agenda Item 17.1 Land Acquisition Opportunity 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 this council report, and that of 15 April 2013 and related</p>		<p>commercial position of the Council in that the information to be considered includes detailed financial information, 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</p>				

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			documents and all minutes be retained in confidence until: (i) a contract has been executed for the sale and purchase of the land and Council has resolved to proceed to settle the contract; or (ii) 15 August 2014 whichever is the sooner.		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				

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					commercial position may severely 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 and in relation to other contract negotiations.				

**17. CONFIDENTIAL REPORTS**

**17.1 REPORT TITLE: CONFIDENTIAL ITEM: LAND ACQUISITION OPPORTUNITY**  
**DATE OF MEETING: 7 APRIL 2014**  
**FILE NUMBER: 64/005/306**

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 orders that all members of the public except for the Chief Executive Officer, the four General Managers and the Executive Assistant to the Mayor and CEO be excluded from attendance at the meeting for Agenda Item 17.1 Land Acquisition Opportunity.

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
- proposing to conduct business; and
- would prejudice the commercial position of the Council

in that the information to be considered includes detailed financial information, 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 severely 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 and in relation to other contract negotiations.

2. Retain the information presented on 15 April 2013 in confidence for a period as determined in (4) below.
3. Note that a decision to proceed to settlement with the purchase of the polo grounds is to be determined and is to occur at a future

council meeting once all of the necessary information including an independent prudential report has been assembled and considered.

Seconded Councillor Irvine

CARRIED  
OM20140407.12

8.54pm Councillor Hamilton entered the chamber and took her chair.

Moved Councillor Westwood

**Section 91(7) Order**

4. Pursuant to Section 90 (3) (b) & (d)  
Having considered Agenda Item 17.1 Land Acquisition Opportunity 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 this council report, and that of 15 April 2013 and related documents and all minutes be retained in confidence until:

- (i) a contract has been executed by the Council and the Adelaide Polo Club for the sale and purchase of the Polo Grounds site on Barker Road and Council has resolved to proceed to settle the contract; or
- (ii) 15 August 2014 whichever is the sooner.

Seconded Councillor Heath

CARRIED  
OM20140407.13

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MEETING DECLARED CLOSED AT 8.56PM

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MAYOR

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DATE

**17. CONFIDENTIAL REPORTS**

**17.1 REPORT TITLE: CONFIDENTIAL ITEM: LAND ACQUISITION OPPORTUNITY**

**DATE OF MEETING: 7 APRIL 2014**

**FILE NUMBER: 64/005/306**

**Strategic Plan 2012-2017 Reference:**

Urban Growth

2.4 Continue Mount Barker Master Planning to pursue integrated and managed urban growth outcomes

**Purpose:**

To seek extension of the existing confidentiality order regarding commercial negotiations with the Adelaide Polo Club for the purchase of the Polo Grounds on Barker Road.

**Summary – Key Issues:**

- A contract to enable the purchase by Council of the polo grounds on Barker Road has not yet been signed due to the uncertainty of where the required SAPN infrastructure would be located.
- Given this circumstance there is a need to extend the current Council meeting confidentiality order regarding financial and other information that was considered in confidence at the Council meeting held on 15 April 2013 and not have this made public as yet.
- A further agenda item will be considered at a future Council meeting at which time a decision is to be made as to proceeding to settle a contract for the purchase of the polo grounds.

**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 orders that all members of the public except for the Chief Executive Officer, the four General Managers and the Executive Assistant to the Mayor and CEO be excluded from attendance at the meeting for Agenda Item 17.1 Land Acquisition Opportunity.

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
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in that the information to be considered includes detailed financial information, 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 severely 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 and in relation to other contract negotiations.

2. Retain the information presented on 15 April 2013 in confidence for a period as determined in (4) below.
3. Note that a decision to proceed to settlement with the purchase of the polo grounds is to be determined and is to occur at a future council meeting once all of the necessary information including an independent prudential report has been assembled and considered.

#### **Section 91(7) Order**

4. Pursuant to Section 90 (3) (b) & (d)

Having considered Agenda Item 17.1 Land Acquisition Opportunity 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 this council report, and that of 15 April 2013 and related documents and all minutes be retained in confidence until:

- (i) a contract has been executed by the Council and the Adelaide Polo Club for the sale and purchase of the Polo Grounds site on Barker Road and Council has resolved to proceed to settle the contract; or
  - (ii) 15 August 2014 whichever is the sooner.
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**Background:**

1. At the Council meeting held on 15 April 2013 there were a number of resolutions regarding the Polo Grounds site (see attachment 1).
2. The resolution regarding confidentiality expires on 15 April 2014.
3. Negotiations with the Adelaide Polo Club have been significantly delayed on account of the uncertainty as to where the required SA Power Networks (SAPN) 66kv lines will be located with two of the options under consideration having direct implications for the polo grounds land.
4. More recently Council has resolved to lease back portion of the polo grounds site to the Adelaide Polo Club in the event that Council does proceed to purchase the site.
5. The portion of the site to be leased back would be until the Polo Club relocates to new premises or 30 April 2016 whichever is the sooner.

**Discussion:**

6. It is anticipated that SAPN will determine that option 3 is preferred; this option does not impact the polo grounds.
7. Once a decision has been made by SAPN and publicly announced (and assuming that it is option 3) then a contract for the purchase of the polo grounds is expected to be able to be signed by Council and the Adelaide Polo Club, pursuant to the resolutions of the Council meeting on 15 April 2013.
8. A key issue is the risk of the commercial position of Council being compromised by the release of the information that is currently confidential (as considered at the Council meeting on 15 April 2013 – see attachment 2) given the Council is yet to sign a contract with the Adelaide Polo Club.
9. Hence it is considered to be in the best interest of the community that the information currently the subject of a council resolution continues to be confidential as per the above recommendation.
10. Of necessity the current recommendation needs to cater for both the scenario that Council does resolve to proceed with the purchase of the Polo Grounds and if unexpectedly this does not proceed.
11. The proposed purchase of the Polo Grounds is to be the subject of a future Council meeting agenda item that will include the following:
  - Prudential report prepared independently of Council;
  - Forecast revenues and expenditures including assumptions made and scenario analysis;

- Proposed disposal strategy for the part of the site not to be retained in Council ownership for community recreation purposes; and
- Risk matrix inclusive of identified risks and how these are to be managed.

**Community Engagement:**

Informing only	Not applicable.
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**Policy:**

Not applicable.

**Budget:**

No impact arising from the above recommendations.

**Statutory/Legal:**

The Local Government Act confidentiality provisions.

**Staff Resource Requirements:**

No impact arising from the above recommendations.

**Environmental:**

No impact arising from the above recommendations.

**Social:**

No impact arising from the above recommendations.

**Risk Assessment:**

Refer above.

**Asset Management:**

No impact arising from the above recommendations.

**Conclusion:**

Extension of the existing Council confidentiality order is recommended given a contract for the purchase of the polo grounds is yet to be finalised and executed.

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**Key Contact**

Brian Clancey, General Manager, Infrastructure & Projects

**Sponsor of Project**

Andrew Stuart, Chief Executive Officer

**Attachments**

1. Confidential Council meeting resolutions – 15 April 2013
2. Confidential agenda item – 15 April 2013