

41 CONFIDENTIAL REPORTS

**41.1 REPORT TITLE: CONFIDENTIAL REPORT - STRATEGIC
 LAND PARCELS
 DATE OF MEETING: 7 OCTOBER 2008
 AUTHORS: DAVID NINIO, BRIAN CLANCEY
 DEPARTMENT: CHIEF EXECUTIVE OFFICER
 DEPARTMENT
 MANAGER: ANDREW STUART
 FILE NUMBER: 64/050/008**

Moved Cr Irvine that Council:

1. orders pursuant to Section 90(2) and 90(3) of the Local Government Act 1999 that the public be excluded from attendance at the meeting to consider in confidence matters regarding:
 - (b) information the disclosure of which:
 - (i) 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; and
 - (ii) would, on balance, be contrary to the public interest.
2. permits the Chief Executive Officer, General Manager Infrastructure & Projects, General Manager Strategy Development and Communities, General Manager Corporate, and the Minute Secretary to remain in the room.

Seconded Cr Brazher-Delaine and CARRIED

Moved Cr Gamble that Council:

3. recognises that there is a requirement for additional land to be acquired by Council for recreation and other purposes given the needs arising from district wide population growth;
4. authorises the Mayor and Chief Executive Officer to execute, sign and seal all the necessary documentation to accept the offer from the Stephenson Family in accordance to attachments 1 and 2 for the purchase by Council of proposed allotment 412 (36.73 hectares) for \$4,950,000 (plus GST if applicable) subject to:
 - the essential conditions of offer contained in attachments 1 and 2;

- Council's consideration of a prudential report as required pursuant to Section 48 of the Local Government Act 1999 (attachment 6) by no later than 7 March 2009 and Council at its complete discretion having the right to proceed or terminate the contractual obligations with the Stephenson Family.
5. determines that upon acquisition of proposed allotment 412 (if Council determines to proceed with the contractual obligations with the Stephenson Family following consideration of the prudential report) that this land be excluded from classification as community land under the Local Government Act 1999;
 6. notes that a further Council meeting agenda item will be prepared following the completion of the Prudential Report for consideration of the Report and a recommendation for Council which will have the right at its complete discretion to proceed or terminate the contractual obligations with the Stephenson Family for the purchase of proposed allotment 412 (36.73 hectares).
 7. authorises the issuing of a Public Statement regarding the signing of the contract to purchase (subject to conditions) proposed allotment 412 (36.73 hectares) as soon as practicable following the execution of all documentation by Council and the Stephenson Family;
 8. authorises the Mayor and Chief Executive Officer to execute, sign and seal all the necessary documentation to accept the offer from Stephenson Family in accordance to attachment 1 for the purchase by Council of proposed allotment 413 (1,265m²) for \$50,000 (plus GST if applicable) for road reserve;
 9. authorises the Mayor and Chief Executive Officer to execute, sign and seal all the necessary documentation to accept the offer from Stephenson Family for Council to have first right of refusal to purchase proposed allotment 410 and proposed allotment 411 (pursuant to attachment 1);
 10. authorises the Chief Executive Officer (or their delegate) to enter into commercial negotiations with representatives of St Francis De Sales College (the College) on the possible sale of portion of the Council land located adjacent to the College (approximately 8.22 hectares including an area of 4.22 hectares which is already the subject of a license to the College) contingent on a determination from Council to exclude the land from Community Land Classification

following community consultation and other requirements of the Local Government Act 1999.

11. authorises Council staff to brief representatives of the Mount Barker Football Club on the current status of negotiations with the Stephenson Family.
12. authorises Council staff to provide a briefing to the owners of the five nearby properties shown on the location plan (attachment 7).

Seconded Cr Brazher-Delaine and CARRIED

Moved Cr Irvine that Council

13. orders pursuant to Section 91(7), (8) and (9) of the Local Government Act 1999 that the discussion, reports, attachments and minutes relating to this item be kept confidential until 1 October 2009.
14. subject to Section 90 of the Local Government Act 1999 as amended, the public be readmitted to the meeting at the conclusion of the item.

Seconded Cr Bails and CARRIED

MEETING DECLARED CLOSED AT 8.05PM

MAYOR

DATE

17. CONFIDENTIAL REPORTS

17.1 REPORT TITLE: CONFIDENTIAL REPORT - STRATEGIC LAND PARCELS

DATE OF MEETING: 7 OCTOBER 2008

AUTHORS: DAVID NINIO, BRIAN CLANCEY

DEPARTMENT: CHIEF EXECUTIVE OFFICER

**DEPARTMENT
MANAGER: ANDREW STUART**

REPRESENTORS: N/A

FILE NUMBER: 64/050/008

ATTACHMENTS:

- 1. ESSENTIAL CONDITIONS OF OFFER**
- 2. COUNCIL LETTER TO THE STEPHENSONS**
- 3. PROPOSED BOUNDARY REALIGNMENT PLAN**
- 4. INITIAL BOUNDARY REALIGNMENT PLAN**
- 5. PLAN OF COLLEGE LAND**
- 6. SECTION 48, LOCAL GOVERNMENT ACT 1999**
- 7. LOCATION PLAN**

PURPOSE

1. To brief Council on the essential conditions of offer (refer to attachments 1 and 2) from Kevin, Malcolm and Yvonne Stephenson (The Stephenson Family) to sell two parcels of land on Bald Hills Road to Council (refer to attachment 3).
2. To seek authority to execute conditional contracts to purchase the two parcels of land from the Stephenson Family.
3. To update Council on the most recent discussions held with representatives of the St Francis De Sales College (the College) and seek authority to enter into negotiations with the College regarding Council land adjacent to the College.

RECOMMENDATION

That Council:

1. orders pursuant to Section 90(2) and 90(3) of the Local Government Act 1999 that the public be excluded from

attendance at the meeting to consider in confidence matters regarding:

- (b) information the disclosure of which:
 - (i) 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; and
 - (ii) would, on balance, be contrary to the public interest.
- 2. permits the Chief Executive Officer, General Manager Infrastructure & Projects, General Manager Strategy Development and Communities, General Manager Corporate, and the Minute Secretary to remain in the room.
- 3. recognises that there is a requirement for additional land to be acquired by Council for recreation and other purposes given the needs arising from district wide population growth;
- 4. authorises the Mayor and Chief Executive Officer to execute, sign and seal all the necessary documentation to accept the offer from the Stephenson Family in accordance to attachments 1 and 2 for the purchase by Council of proposed allotment 412 (36.73 hectares) for \$4,950,000 (plus GST if applicable) subject to:
 - the essential conditions of offer contained in attachments 1 and 2;
 - Council's consideration of a prudential report as required pursuant to Section 48 of the Local Government Act 1999 (attachment 6) by no later than 7 March 2009 and Council at its complete discretion having the right to proceed or terminate the contractual obligations with the Stephenson Family.
- 5. determines that upon acquisition of proposed allotment 412 (if Council determines to proceed with the contractual obligations with the Stephenson Family following consideration of the prudential report) that this land be excluded from classification as community land under the Local Government Act 1999;

6. notes that a further Council meeting agenda item will be prepared following the completion of the Prudential Report for consideration of the Report and a recommendation for Council which will have the right at its complete discretion to proceed or terminate the contractual obligations with the Stephenson Family for the purchase of proposed allotment 412 (36.73 hectares).
7. authorises the issuing of a Public Statement regarding the signing of the contract to purchase (subject to conditions) proposed allotment 412 (36.73 hectares) as soon as practicable following the execution of all documentation by Council and the Stephenson Family;
8. authorises the Mayor and Chief Executive Officer to execute, sign and seal all the necessary documentation to accept the offer from Stephenson Family in accordance to attachment 1 for the purchase by Council of proposed allotment 413 (1,265m²) for \$50,000 (plus GST if applicable) for road reserve;
9. authorises the Mayor and Chief Executive Officer to execute, sign and seal all the necessary documentation to accept the offer from Stephenson Family for Council to have first right of refusal to purchase proposed allotment 410 and proposed allotment 411 (pursuant to attachment 1);
10. authorises the Chief Executive Officer (or their delegate) to enter into commercial negotiations with representatives of St Francis De Sales College (the College) on the possible sale of portion of the Council land located adjacent to the College (approximately 8.22 hectares including an area of 4.22 hectares which is already the subject of a license to the College) contingent on a determination from Council to exclude the land from Community Land Classification following community consultation and other requirements of the Local Government Act 1999.
11. authorises Council staff to brief representatives of the Mount Barker Football Club on the current status of negotiations with the Stephenson Family.
12. authorises Council staff to provide a briefing to the owners of the five nearby properties shown on the location plan (attachment 7).

13.orders pursuant to Section 91(7), (8) and (9) of the Local Government Act 1999 that the discussion, reports, attachments and minutes relating to this item be kept confidential until Council has determined to proceed or terminate the contractual obligations with the Stephenson Family for the purchase of proposed allotment 412 (36.73 hectares).

14.subject to Section 90 of the Local Government Act 1999 as amended, the public be readmitted to the meeting at the conclusion of the item.

BACKGROUND

Council recognised some time ago that there is a requirement for additional land to be acquired by Council for recreation and other purposes given the needs arising from district wide population growth. Council's Development Plan also encourages the reservation of land in advance of need (refer Form of Development – Objective 13)

At a Council Meeting held on 16 June 2008, Council discussed an item in confidence and resolved to:

1. *authorise Council Officers to progress negotiations with the Stephenson Family based on the possible acquisition by Council of:*
 - (a) *Proposed Allotments 410 and 412 (a total of approximately 51.47ha) as shown on attachment 3 which includes the homestead on current allotment 41 but excludes proposed allotment 411 or;*
 - (b) *Proposed Allotments 412 and 413 (a total of approximately 48.58ha) as shown on attachment 3 which excludes the homestead and land shown as proposed allotment 410 and excludes proposed allotment 411. Note that proposed allotment 413 is identified for Road reserve.*
2. *authorise Council officers to continue discussions with the representatives of St Francis De Sales College (The College) on the possible sale by Council of a portion of land contained in the Big Green which will be the subject to the required statutory process referred to in recommendation 5 b) below;*
3. *Note that a further report shall be presented to a Council meeting by no later than 15 December 2008 which:*

- a) *would include an update on the negotiations with the Stephenson Family and the discussions held with the College.*
 - b) *may include seeking council authority to undertake community consultation for the proposed exclusion of land from Community Land classification on the Big Green in accordance with the disclosure requirements of the Local Government Act 1999 including the proposed sale of portion of the land to the College and possible use of the balance of the land.*
- 4. *authorise Council officers to contact Ms C L Lambe the owner of the property located on Bald Hills Road (the land identified as lot 81 on attachments 1 and 2) to firstly brief her about the possible acquisition by Council of portion of the Stephenson Land and the intended subsequent use for public purposes such as the establishment of recreational and sporting facilities and of treated waste water storage; and secondly to gauge her willingness or otherwise to sell her property to Council;*
 - 5. *authorise Council Officers to brief representatives of the Mount Barker Football Club on the current status of the possible configurations of the Stephenson land that may be available for sale to Council;*
 - 6. *note that Mrs S. A Flett the owner of the property located on Springs Road (shown in attachment 3) has been consulted on the possible acquisition by Council of land from the Stephenson Family and the intended subsequent use for public purposes such and authorise Council Officers to keep Mrs Flett informed as per her verbal request;*
 - 7. *note that investigations are occurring in relation to the possible acquisition by Council of another parcel of land currently on the market as to its suitability for treated waste water storage (the Brown Land)*

DISCUSSION

Commercial Negotiations with the Stephenson Family

At the Council meeting held on 3 December 2007 it was resolved to authorise Council staff to negotiate with the Stephenson Family for the proposed acquisition of land on Bald Hills Road.

Negotiations have involved numerous meetings involving representatives of the Stephenson Family, the Mayor, the Chief Executive Officer, the General Manager Infrastructure and Projects and the Special Projects Officer.

Exchange of valuations

Council and the Stephenson Family each arranged their own valuation advice and these were exchanged.

Council's valuations on different parcels of land were carried out by Egan National Valuers.

The Stephenson Family valuations were carried out by Mr Lindsay Wapper.

There were significant variations in the valuation amounts from the different valuers. Refer to attachments 3 and 4 for the valuation figures.

Essential conditions of Offer from the Stephenson Family

At the request of Council, at a meeting held on 12 September 2008, the Stephenson Family submitted an offer to Council in accordance to the essential conditions of offer contained in attachment 1.

The offer is to be treated as two distinctive and separate contracts:

1. the purchase of proposed allotment 412 (36.73 hectares) for \$4,950,000 (plus GST if applicable). The Stephenson Family also subsequently agreed (refer attachment 2) that this contract would be subject to Council undertaking within 5 months a prudential review and Council's determination to proceed or terminate the contract following consideration of the recommendations and findings of the Prudential Report (refer attachment 6). This means that Council has the option to proceed or terminate the contract to purchase following its consideration of the Prudential Report.
2. the purchase of proposed allotment 413 (1,265m²) for \$50,000 (plus GST if applicable) for road reserve.

Commercial consideration of Offer

There is evidence that developers are actively trying to secure land (and in some cases it is understood have already secured land) in the fringe areas of the town of Mount Barker for future potential residential development. There is no sale evidence to substantiate this activity as contracts/options are normally entered between developers and land owners that are subject to rezoning for residential development.

The Stephenson Family advised Council that developers had made approaches to them indicating much higher purchase amounts subject to re-zoning of the land to allow residential development.

Mr Lindsay Wapper on behalf of the Stephenson family carried out a hypothetical valuation on proposed allotment 412 (previously proposed to be 48.49 ha) shown on attachment 3 assuming a residential development in 8 years which indicated a land value of \$12.3 million. If apportioned on 36.73ha (revised area of proposed allotment 412) the value would be \$9.3 million.

First Right of Refusal

The offer from the Stephenson Family grants Council a first right of refusal to purchase the remaining land (proposed allotments 410 and 411) shown on attachment 3. This means that Council has an opportunity to match any unconditional offers if the properties are placed on the market.

Land for Road Widening

Council has commissioned the preparation of a concept design for the proposed upgrading of Bald Hills Road from the Princes Highway to Hartman Road. Proposed allotment 413 would become road reserve and provide additional width for future road purposes.

Prudential Requirements under the Local Government Act 1999

Section 48 of the Local Government Act 1999 (attachment 6) provides for the requirement for a prudential for certain activities. In the case of the Stephenson Land, Section 1(A)(b) states that “...a Council must obtain and consider a report that addresses the prudential issues set out in subsection (2) before the Council engages in any project(ii) where the expected capital cost of the project over the ensuing five years is likely to exceed \$4,000,000...” As the purchase price of the Stephenson Land is over this amount a prudential review is required.

Section 48(2) of the Act sets out the criteria for the prudential which includes assessing the relationship between the project and Council's strategic management plans and Development Plan.

The recommendations and findings of the Prudential Report will be the subject of a further report to the Council for consideration enabling the Council to determine whether to proceed or terminate the contract.

In accordance with the Act, the Prudential Report must be available for public inspection at the principal office of the Council once the Council has made a decision on the relevant project. The Council may however take steps to prevent the disclosure of specific information in order to protect the commercial value or to avoid disclosing the financial affairs of a person (other than the council).

Resource Implications

In the event that Council decides to proceed with the purchase of proposed allotment 412 and is successful in acquiring the land, there will clearly be a need to implement a range of planning, development and other processes over the ensuing years.

This could include:

1. the development of a master plan in consultation with the community and the users;
2. the preparation of a development strategy for the land and the costs associated with that;
3. the installation of major infrastructure;
4. funding for the development – Council and external sources; and
5. preparation and agreement around governance models in terms of use and management.

All of this will mean significant Council resources both physical and financial (with operating and capital budget implications) will need to be directed to the project (over a period of time) to ensure success and may require the establishment of a dedicated project resource team.

Grant Funding Opportunities

In terms of grant funding, staff will pursue a number of options initially including State Government Metropolitan Open Space System (MOSS) funding and Federal Government Regional Partnership funding. In addition the State Department of Recreation and Sport will be approached to determine possible options via them.

It may also be possible to obtain private funding support however this will require a careful and structured approach if it is to be successful. Staff have been in contact with Planning SA to clarify the process of obtaining MOSS support funding.

Land Use

The land is located in the Rural Mount Barker Zone and is also within the high bushfire risk area of the Development Plan. Nevertheless the current zoning allows for the development of the land as a 'Recreation Area and associated uses' as a merit development.

Council may be aware that there is a current application that has received development approval in relation to a boundary alignment

for this property. The current proposed purchase area will require an amendment to that approved plan and given there has been no final clearance this is likely to be possible via making an amendment to the application in hand. In the alternative a new application will be necessary, and this is not seen as being problematic.

If the acquisition by Council of proposed allotment 412 proceeds it is proposed to exclude this land from classification as community land under the Local Government Act 1999 (refer recommendation 5). The rationale for this is that the future development of the land will require very substantial work and retention of flexibility is important prior to community consultation and Council decision making on this. This will allow funding and governance issues to be resolved without closing off some options for the development of the land.

Once substantial progress has occurred with the development of the land, Council can review the merit or otherwise of having classification as community land apply to portions of the land.

Impact of Transport Master Plan

The project brief for the preparation of the new district wide Transport Master Plan (TMP) includes an assessment of a ring route for Mount Barker south. This is to be further considered at a forthcoming workshop involving Council Members and staff and the consultants preparing the TMP. Options for the route may impact on the Stephenson land.

Waste Water Storage Needs

The opportunity for Council to secure an option to purchase proposed allotment 410 (or possibly a portion subject to various issues) is important given Council's need for land for the purposes of additional storage capacity for treated waste water.

A further report to a Council meeting on the proposed acquisition of the 'Brown Land' for the purposes of establishing some additional storage capacity for treated waste water is anticipated by early November 2008.

Acquisition of the Brown Land would enable provision in the order of 125 mega litres of storage capacity for treated waste water. Council's additional storage capacity needs are in excess of this amount and will increase over time, hence the need to keep open the option to pursue additional storage capacity on proposed allotment 410.

Discussions with St Francis De Sales College

As per previous information, discussions have continued between Council staff and representatives of the College regarding the spatial needs and aspirations of the College.

Representatives of the College are to present a briefing to Council Members in late October on the master planning process for the College and the spatial needs arising in order to meet its immediate (for 2009), medium and long term expanding student numbers.

The College representatives have reaffirmed their strong interest in negotiating with Council the purchase by the College of approximately 8.22 hectares of Council land located adjacent to the College including 4.22 hectares which is already the subject of a license to the College (refer to attachment 5).

The College representatives are aware of the Council's objective to secure other land for recreational purposes prior to taking decisions regarding the Council land adjacent to the College.

Mount Barker Football Club

It is proposed that a further update is provided to representatives of the Mount Barker Football Club on a confidential basis to inform them on the current status of negotiations with the Stephenson Family

Briefing to nearby owners

Authority has previously been provided for Council officers to brief nearby land owners being Mrs S Flett and Ms C Lambe. It is proposed to provide a further briefing to these land owners given the proximity of their property to the Stephenson Land.

It is also proposed to brief for the first time the owners of the property immediately to the east of the Stephenson Land being P and H Runge, the owners of the property immediately to the north east W H Chester and the Mount Barker and Hahndorf Golf Club (refer recommendation 12 and attachment 7 location plan).

POLICY IMPLICATIONS

1. Financial/budget

Funding for the purchase of the Stephenson Land has not been included in the 2008/2009 annual budget. Funding for the purchase of this land will be considered in accordance with Council's draft long term financial model and will be further informed by the Prudential Report. Funding will be covered in the further Council meeting agenda item to be prepared post the Prudential report (see recommendation 6)

2. Legal

Local Government Act 1999, Section 48 - Prudential Report.

Local Government Act 1999, Section 193 - Community Land.

Development Plan

Council's Development Plan encourages that land be set aside in advance of need and would allow the land to be developed for recreation purposes as a merit application.

3. Staffing/Work Plans

The process to date has required substantial council staff time and external services in specialist areas like surveying and valuation.

External services will be required for other matters such as contract preparation and conveyancing.

Also refer to the body of the report under the sub heading of Resource Implications.

4. Environmental

Acquisition of the land would provide opportunities for environmental benefits such as in relation to the creek.

5. Social

Considerations include various community objectives including:

- adequate open space to cater for recreation and sporting needs;
- adequate public purpose land;
- further extensions of the linear trail to provide safe off road routes for pedestrians and cyclists and promote exercise and healthy lifestyles; and

6. Strategic Plans

Community Strategic Plan 2004 – 2007

Leisure, Recreation, Arts and Sport

Goal: Support, encourage and provide a range of accessible facilities, programs and events that everybody in the community will be able to use and enjoy

Transport Master Plan

As previously highlighted, the preparation of the new Transport Master Plan will need to consider the opportunities and implications arising in relation to the Stephenson land and the Council land adjacent to St Francis De Sales College.

COMMUNITY CONSULTATION**1. Customer Needs Analysis**

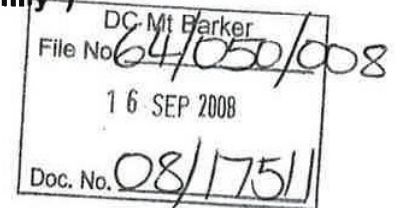
The representatives of the Stephenson family have been given a courtesy overview awareness (verbal) of this agenda item.

2. Promotion/Communications

Not applicable at this time.

A public statement is proposed to be issued by Council as per recommendation 7. This will enable the provision of appropriate information to the community regarding the actions and intentions of Council regarding this land.

Attachment 1 to Item 17.1

Essential Conditions of Offer**From Malcolm David Stephenson, Kevin Keith Stephenson and****Yvonne Patricia Stephenson ("the Stephenson Family")****Meeting Held on 8 September 2008****1. Definition of the Land**

Allotment 412 in part CT 5454/304 and part CT 5712/675 and part CT 5719/769 as defined in the Veska & Lohmeyer Plan dated 2 Sept 2008 ("Allotment 412").

and

Allotment 413 in part CT 5719/769 as defined in the Veska & Lohmeyer Plan dated 2 Sept 2008 ("Allotment 413")

2. Format of Documentation

One Contract for Sale and Purchase of Land Allotment 412 (36.73 ha)

One Contract for Sale and Purchase of Land Allotment 413 (1265 square metres) for Road Widening

3. Offer to Council

Purchase Price Allotment 412 \$4.95 million plus GST if applicable

Purchase Price Allotment 413 \$0.05 million plus GST if applicable

Total Consideration \$5 million plus GST if applicable

4. Deposit: Nil.**5. Method of Payment of Purchase Price for Allotments 412 and 413:**
Cash at Settlement**6. Responsibility for the preparation and Lodgement of plans for the proposed boundary realignment.**

The Stephenson Family

7. Settlement Dates

Allotment 412 shall settle six months from the date of lodgement of the plan of boundary realignment with Council or the approval and deposit of the plan of the boundary realignment at the Land Titles Office whichever is the latter.

Allotment 413 shall settle upon the deposit of the plan at the Land Titles Office vesting the land as a Road reserve *with unrestricted access to be maintained to Allotment 410.*

8. **Costs:** All costs associated with these transactions will be borne by Council inclusive of the relocation of the fence.
9. **First right of Refusal:** Council will be granted written options of first right of refusal to purchase Allotment 410 being part CT 5454/304 and part CT 5719/769 and Allotment 411 being part CT 5712/675 i.e. Council will be given an opportunity to match any genuine demonstrated unconditional offer submitted by a third party to purchase Allotment 410 or Allotment 411.

10. Access to Allotment 410

Sufficient access will be granted to Council to undertake the necessary investigations of the land contained in Allotment 410 to assess the suitability of the land for the establishment of treated waste water storage facilities. *The said land will be maintained or returned to prior state before investigations started.*

11. Access for testing of the bore on allotment 412

Access will be provided to Council to allotment 412 for the purpose of testing of the bore located on the land.

12. **License to occupy Allotment 412** From the date of settlement of Allotment 412 Council will grant to Kevin Stephenson or any other party nominated by the Stephenson Family a twelve months license fee free period to occupy Allotment 412. If the twelve month license period is extended by Council then Council shall be entitled to give the licensee 3 months written notice to take possession of the land and upon the expiry of that 3 month notice period, the licensee shall surrender and give vacant possession of all the licensed land to Council.

13. Conditions Precedent:

- Allotment 412, Council formal approval and approval/ deposit of the plan for the boundary realignment.
- Allotment 413, upon lodgement at the Land Titles Office of the plan of land division vesting the land as a road reserve.

14. Confidentiality

The parties shall maintain confidential the contents of this offer until the Council determines otherwise.

Signed by Kevin Stephenson
On behalf of the Stephenson Family

A handwritten signature in black ink, appearing to read 'K. Stephenson', written in a cursive style.

Dated: 16.9.2008



THE DISTRICT COUNCIL OF MOUNT BARKER

P.O. BOX 54, Mount Barker S.A., 5251 – Telephone: 8391-7200
DX address: DX 51708, Mount Barker

Facsimile: (08) 8391-7299
web site: www.dcmrbarker.sa.gov.au

Reference:

25 September 2008

64/050/008

Mr Kevin Stephenson
P O Box 1
Mount Barker SA 5251

CONFIDENTIAL

Dear Kevin

**Re: Essential Condition of Offer
From the Stephenson Family to Council**

Thank you for forwarding me the signed essential conditions of offer from the Stephenson Family to Council.

The essential conditions of offer will be presented as soon as practicable to Council for its consideration.

As discussed at our meeting held on 12 September 2008 attended by Malcolm, Heather, yourself, Andrew Stuart Brian Clancey and myself it was agreed that an additional condition to the essential conditions of offer will be incorporated to the effect that:

"Following consideration by Council of the prudential report by no later than 5 months from date of Council approval to enter into a contract with the Stephenson Family, Council at its complete discretion will have the right to proceed or terminate the contractual obligations with the Stephenson Family for proposed allotment 412, in part Certificate of Title Volume 5454 Folio 304, part Certificate of Title Volume 5712 Folio 675 and part Certificate of Title Volume 5719 Folio 769 as defined in the Veska and Lohmeyer Plan".

Please let me know as soon as possible if you have any queries or concerns about the abovementioned recommendation proposed for the Council Report.

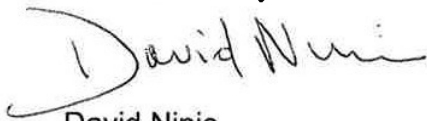
I confirm sequential points raised in our discussion this morning:

- A confidential briefing was provided to Council Members on Wednesday 24 September 08 regarding the proposed acquisition of the land from the Stephenson Family. The briefing went well.
- Council members are keen to have a tour of the land. As discussed this is to occur at 8am tomorrow (Friday 26 September 08).

- Following the tour of the land, a confidential agenda item will be presented to a Council meeting for its consideration. This is likely to be a special meeting and could be held as early as late next week.

I shall be taking annual leave from Friday 26 September 2008 until the 9 October 2008. During my absence please contact Brian Clancey if you require any update (telephone number 83917218 Mob 0408814111).

Yours sincerely

A handwritten signature in black ink, appearing to read 'David Ninio', with a large, stylized initial 'D'.

David Ninio

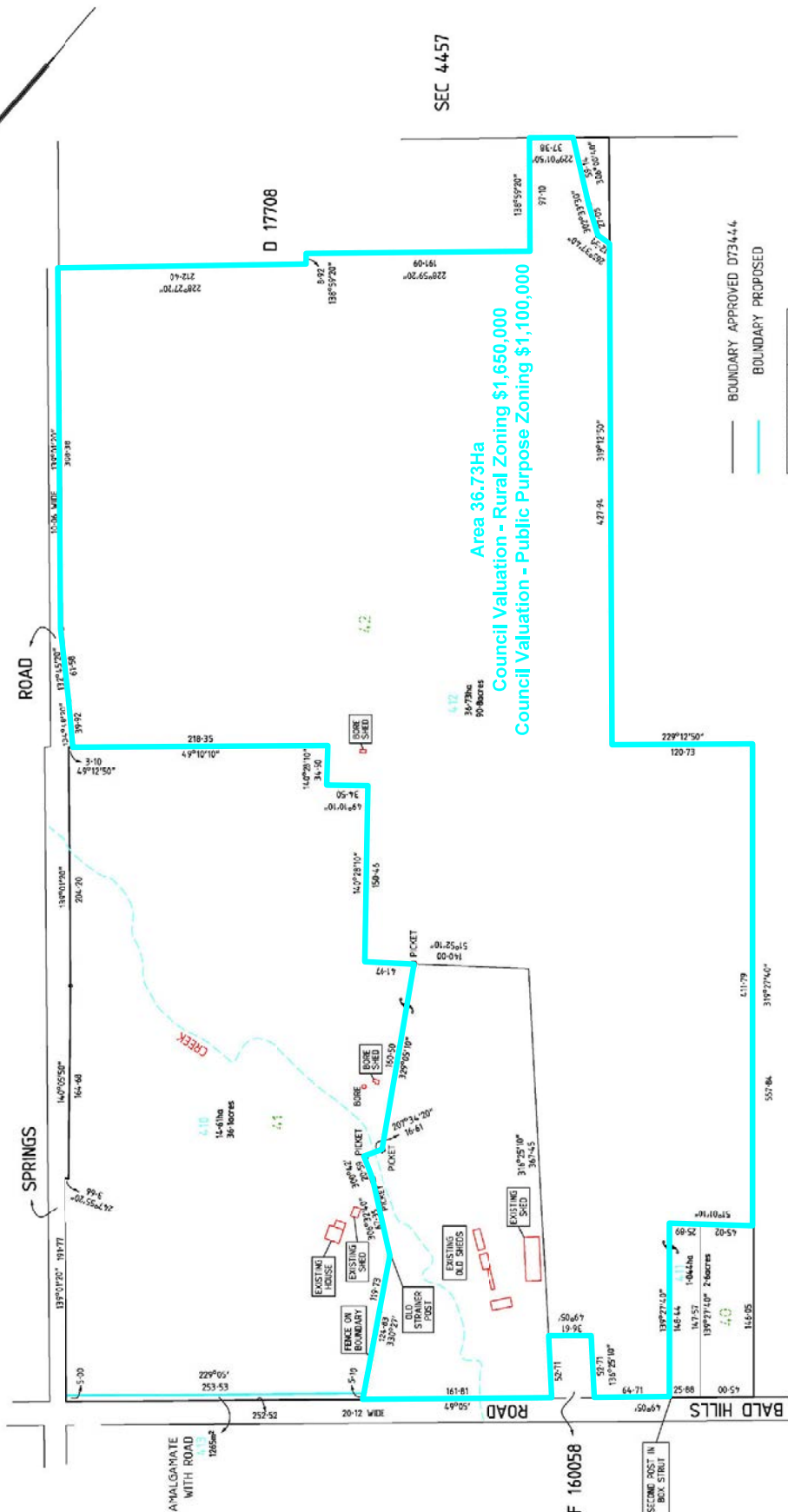
SPECIAL PROJECTS OFFICER

Direct Line: 8391 7229

E-mail: dninio@dcmtbarker.sa.gov.au

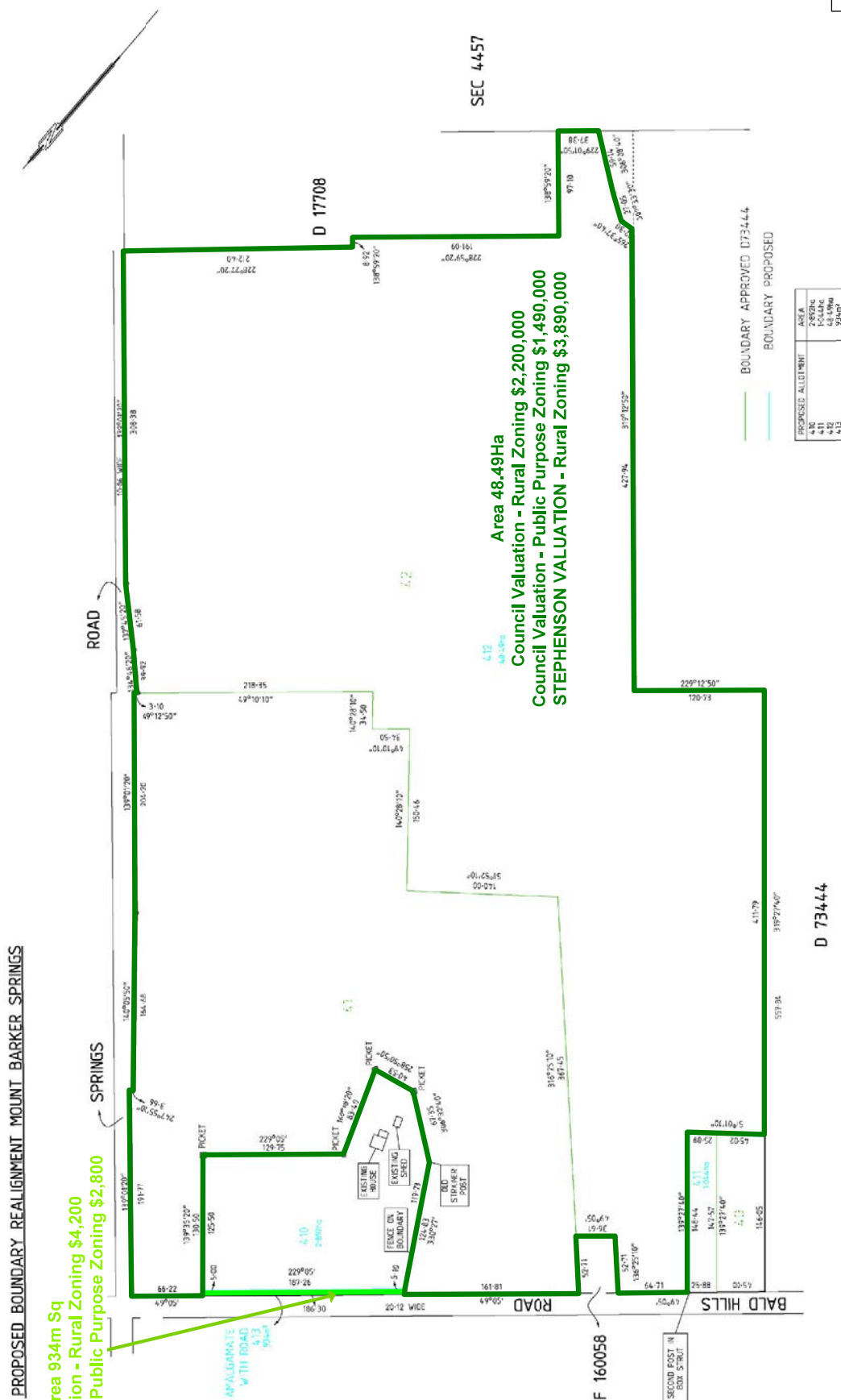
Cc: Andrew Stuart, Brian Clancey

PROPOSED BOUNDARY REALIGNMENT MOUNT BARKER SPRINGS



PROPOSED ALLOTMENT	AREA
4.1	11.45ha
4.2	1.44ha
4.3	1.44ha
4.4	1.44ha

<p>STATEMENTS CONCERNING EASEMENTS, ANNOTATIONS AND APPROPRIATIONS</p>		<p>THIS SURVEY DOES NOT DEPICT ALL EXISTING SERVICES EITHER ABOVE OR BELOW GROUND. PLEASE NOTIFY RELEVANT AUTHORITIES BEFORE ANY CONSTRUCTION COMMENCES</p>	
<p>VESKA & LOHMEYER PTY. LTD. SURVEYING CONSULTANTS 111 LINDSEY STREET, MOUNT BARKER, 5091 PH: 08 9395 5555 FAX: 08 9395 5555 DATE: 02/01/08 FIELD: SF DRAWN: SF REF: No 61548 CHK: — REV: 01 61548 CON 3.015 R02</p>		<p>LAND DESCRIPTION ALLOTMENT 40, 41 AND 42 IN D 73444. PLAN NOT YET DEPOSITED</p>	
<p>NOY REF: 0627-1-1-0-00 TITLE REFERENCE: C.T. 5454/304, C.T. 5855/956, C.T. 5712/675 & C.T. 5719/769</p>		<p>REGISTRATION AREA: MOUNT BARKER LOCALITY: MOUNT BARKER TOWN: THE D.C. OF MOUNT BARKER</p>	
<p>ALL DATA IS APPROX. ONLY SUBJECT TO SURVEY</p>		<p>SCALE: 0 5 10 15 METRES (Scale 1:2000 at A2 Sheet)</p>	



Area 934m Sq
Council Valuation - Rural Zoning \$4,200
Council Valuation - Public Purpose Zoning \$2,800

Area 48,49Ha
Council Valuation - Rural Zoning \$2,200,000
Council Valuation - Public Purpose Zoning \$1,490,000
STEPHENSON VALUATION - Rural Zoning \$3,890,000

PROPOSED ALLOTMENT	AREA
430	2.892ha
411	1.044ha
412	4.845ha
413	93.6m ²

STATEMENTS CONCERNING EASEMENTS, ANNOTATIONS
AND AMENDMENTS

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THIS SURVEY DOES NOT DEPICT ALL EXISTING SERVICES
EITHER ABOVE OR BELOW GROUND. PLEASE NOTIFY RELEVANT
AUTHORITIES BEFORE ANY CONSTRUCTION COMMENCES

LAND DESCRIPTION	ACRES	DATE
ALLOTMENT 40, 41 AND 42 IN D 73444.	1.00	12/1/78
PLAN NOT YET DEPOSITED		

SCALE	5	10	15	20	METRES
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UP REF 6627-7-e,m
TITLE REFERENCE C.T. 5454/304, C.T. 5855/956,
C.T. 5712/675 & C.T. 5719/769.

REGISTRATION AREA..... DIVISION.....
 MACLESFIELD
 MOUNT BARKER
 THE DISTRICT OF MOUNT BARKER

NOTES

ALL DATA IS APPROX. ONLY

SUBJECT TO SURVEY

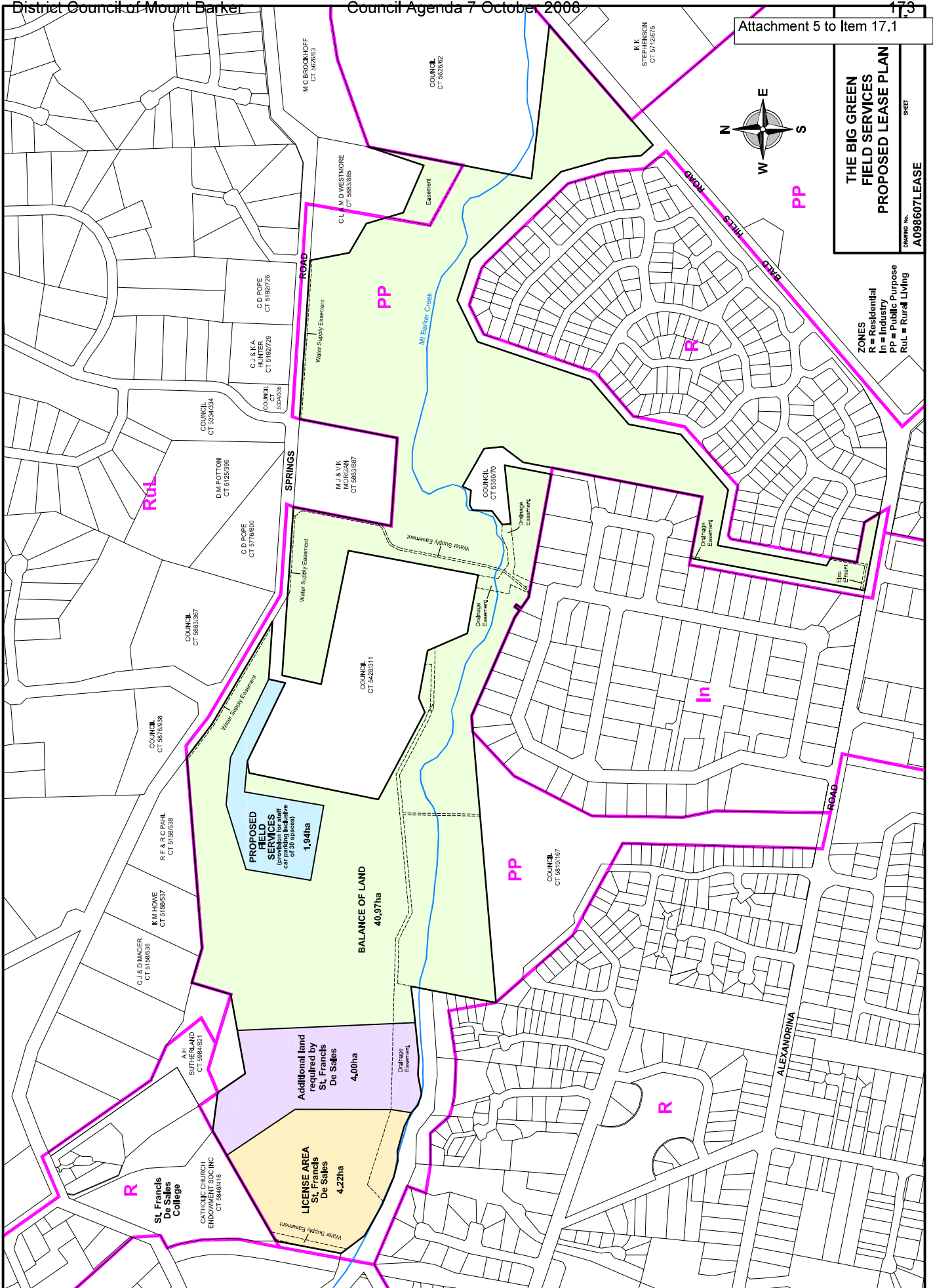
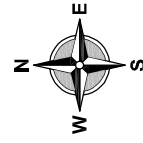
1990-1999 = 87 (Share)

106 STORE NOJ 5919

**THE BIG GREEN
FIELD SERVICES
PROPOSED LEASE PLAN**

DRAWING NO.
A098607/LEASE

ZONES
R = Residential
In = Industry
PP = Public Purpose
RuL = Rural Living



Local Government Act 1999—25.1.2007
Chapter 4—The council as a body corporate
Part 1—Fundamental features
Division 5—Principal office

- (3) A council should consult with its local community in accordance with its public consultation policy about the manner, places and times at which its offices will be open to the public for the transaction of business, and about any significant changes to these arrangements.

Part 2—Commercial activities and restrictions

46—Commercial activities

- (1) A council may in the performance of its functions and subject to this Act engage in a commercial activity or enterprise (*a commercial project*).
- (2) A council may, in connection with a commercial project—
- (a) establish a business;
 - (b) participate in a joint venture, trust, partnership or other similar body.

47—Interests in companies

- (1) A council must not—
- (a) participate in the formation of a company; or
 - (b) acquire shares in a company.
- (2) However, subsection (1) does not—
- (a) limit the investment of money under this Act; or
 - (b) limit the ability of a council to participate in the formation of, or to become a member of, a company limited by guarantee established as a national association to promote and advance the interests of an industry in which local government has an interest.

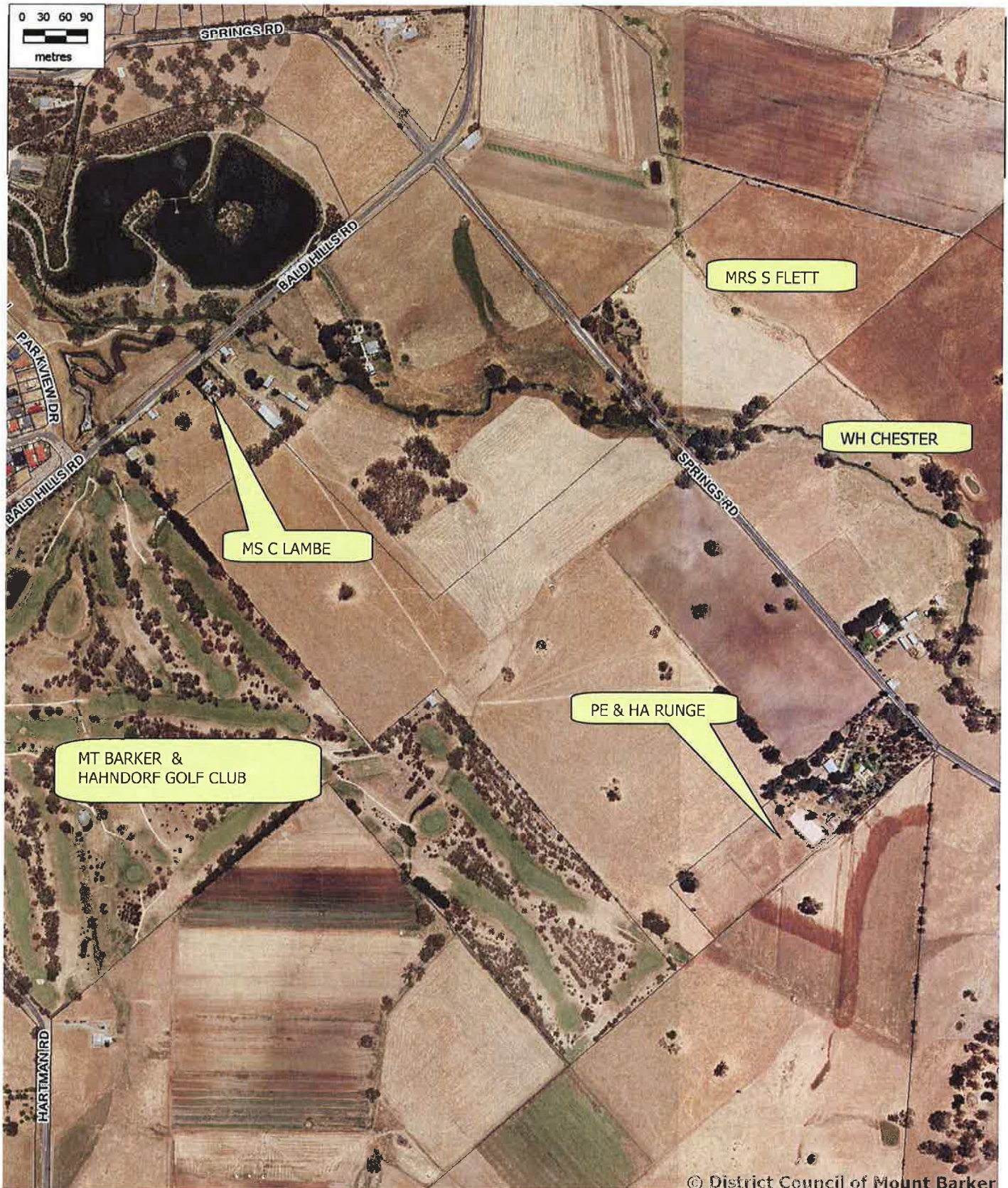
Part 3—Prudential requirements for certain activities

48—Prudential requirements for certain activities

- (1) A council must obtain and consider a report that addresses the prudential issues set out in subsection (2) before the council—
- (a) engages in a commercial project (including through a subsidiary or participation in a joint venture, trust, partnership or other similar body) where the expected recurrent or capital expenditure of the project exceeds an amount set by the council for the purposes of this section; or
 - (b) engages in any project (whether commercial or otherwise and including through a subsidiary or participation in a joint venture, trust, partnership or other similar body)—
 - (i) where the expected expenditure of the council over the ensuing five years is likely to exceed 20 per cent of the council's average annual operating expenses over the previous five financial years (as shown in the council's financial statements); or
 - (ii) where the expected capital cost of the project over the ensuing five years is likely to exceed \$4 000 000.

25.1.2007—Local Government Act 1999
The council as a body corporate—Chapter 4
Prudential requirements for certain activities—Part 3

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- (2) The following are prudential issues for the purposes of subsection (1):
- (a) the relationship between the project and relevant strategic management plans;
 - (b) the objectives of the Development Plan in the area where the project is to occur;
 - (c) the expected contribution of the project to the economic development of the local area, the impact that the project may have on businesses carried on in the proximity and, if appropriate, how the project should be established in a way that ensures fair competition in the market place;
 - (d) the level of consultation with the local community, including contact with persons who may be affected by the project and the representations that have been made by them, and the means by which the community can influence or contribute to the project or its outcomes;
 - (e) if the project is intended to produce revenue, revenue projections and potential financial risks;
 - (f) the recurrent and whole-of-life costs associated with the project including any costs arising out of proposed financial arrangements;
 - (g) the financial viability of the project, and the short and longer term estimated net effect of the project on the financial position of the council;
 - (h) any risks associated with the project, and the steps that can be taken to manage, reduce or eliminate those risks (including by the provision of periodic reports to the chief executive officer and to the council);
 - (i) the most appropriate mechanisms or arrangements for carrying out the project.
- (3) A report is not required under subsection (1) in relation to—
- (a) road construction or maintenance; or
 - (b) drainage works.
- (4) A report under subsection (1) must be prepared by a person whom the council reasonably believes to be qualified to address the prudential issues set out in subsection (2).
- (5) A report under subsection (1) must be available for public inspection at the principal office of the council once the council has made a decision on the relevant project (and may be available at an earlier time unless the council orders that the report be kept confidential until that time).
- (6) However, a council may take steps to prevent the disclosure of specific information in order to protect its commercial value or to avoid disclosing the financial affairs of a person (other than the council).
- (7) The provisions of this section extend to subsidiaries as if a subsidiary were a council subject to any modifications, exclusions or additions prescribed by the regulations.



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Map Zoom: 1388 m
Map Scale: 1:7,031

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