

**CONFIDENTIAL ITEMS 2003 – SEPTEMBER 2011**

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommendation- action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
66	7 May 2012	Offer to Purchase Property	<p>Pursuant to Section 90(3)(b) Pursuant to Section 90(2). "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 prejudice the commercial position of the Council and/or the potential vendor in that the information to be considered includes commercial costings and other 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 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</p>	Report Attachments Minutes		Pursuant to Section 91(7) of the Act orders that the council report, attachments and all minutes remain confidential for 12 months.	3 Sept 12		Released 3 Sept 2012

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#	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
				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 potential contract negotiations. Section 91(7) Order That having considered Agenda Item 16.1 "Opportunity for Property Purchase" 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, attachments and all minutes remain for 12 months.					

	All Information released
	Part Information released
	Information remains Confidential

**100      CONFIDENTIAL REPORTS**

**100.1      REPORT TITLE:      CONFIDENTIAL REPORT: OPPORTUNITY  
   FOR PROPERTY PURCHASE  
                 DATE OF MEETING: 7 MAY 2012  
                 FILE NUMBER:      200584**

Moved Councillor Campbell that Council:

**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 Infrastructure & Projects, General Manager Council Services, General Manager Corporate Services and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 16.1, "Opportunity For Property Purchase."

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 prejudice the commercial position of the Council and/or the potential vendor in that the information to be considered includes commercial costings and other 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 potential contract negotiations.

Seconded Councillor Hamilton and CARRIED

Moved Councillor Gamble

- 2      That Council authorise the Chief Executive Officer to write to Mr Gary Minuzzo (lead owner) to inform him and the other current owners of the property on Hutchinson Street and Morphett Street, Mount Barker that Council appreciates the opportunity to purchase the above property however the price and conditions specified by Mr Minuzzo in his email advice to the Chief Executive Officer dated 19 April 2012 exceeds

independent valuation advice and any reasonable margin to secure the property for public purpose; and

- 3 Council may consider any other future offer by the owners that accords more closely to market valuation.

#### 4 Section 91(7) Order

That having considered Agenda Item 16.1 "Opportunity for Property Purchase" 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 and all minutes remain confidential for 12 months.

Seconded Councillor Stokes and CARRIED

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MEETING DECLARED CLOSED AT 8.53PM

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MAYOR

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DATE

15. QUESTIONS ARISING FROM COUNCIL MEETING

See next  
page

**16. CONFIDENTIAL REPORTS****16.1. REPORT TITLE: CONFIDENTIAL REPORT: OPPORTUNITY FOR PROPERTY PURCHASE****DATE OF MEETING: 7 MAY 2012****FILE NUMBER: 200584****Strategic Plan Ref:**

Goal One People, Communities and Culture

1.1, 1.2 1.5 1.7. – Strengthen identity and culture through celebrations, festivals, events, support arts and culture

Goal Area 4 Infrastructure and Human Settlements

**Purpose:**

For Council to consider an offer to purchase a property located on the corner of Hutchinson Street and Morphett Street, Mount Barker (CT5132/874) 23 Morphett Street, Mount Barker.

**Summary – Key Issues:**

1. Following further discussions with the owners, the owners of the property have offered the property for possible purchase by Council at a specified price and terms.
2. Community sentiment expressed during the Mount Barker Town Centre Review (Stage 1) consultation program has strongly advocated for public space outcomes in this vicinity (note: these views were expressed without reference to cost.)

**Recommendation:**

That Council:

**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 Infrastructure & Projects, General Manager Council Services, General Manager Corporate Services and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 16.1, "Opportunity For Property Purchase."

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 prejudice the commercial position of the Council and/or the potential vendor in that the information to be considered includes commercial costings and other 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 potential contract negotiations.

- 2 That Council authorise the Chief Executive Officer to write to Mr Gary Minuzzo (lead owner) to inform him and the other current owners of the property on Hutchinson Street and Morphett Street, Mount Barker that Council appreciates the opportunity to purchase the above property however the price and conditions specified by Mr Minuzzo in his email advice to the Chief Executive Officer dated 19 April 2012 exceeds independent valuation advice and any reasonable margin to secure the property for public purpose; and
- 3 Council may consider any other future offer by the owners that accords more closely to market valuation.
- 4 Section 91(7) Order  
That having considered Agenda Item 16.1 "Opportunity for Property Purchase" 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 and all minutes remain confidential for 12 months.

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**Background:**

- 1 Mr Gary Minuzzo is the 'lead' owner of the subject property. A meeting with Mr Minuzzo on 19 January 2012 was facilitated by Mr Grant Gilbert. At the meeting Mr Minuzzo confirmed that the owners of the property have determined their intention to sell and wish to offer the opportunity to purchase to Council.
- 2 The property is understood to have been purchased for \$950,000 approximately 3 years ago. The current owners have incurred costs (approximately 8% per annum) for design, contamination reports, etc. The purchase price and costs is approximately \$1,450,000 in total commitment by the current owners.

3. In discussion with Mr Minuzzo the current owners' objective was represented as one of minimising any loss upon sale.
4. Discussions have been held with Mr Minuzzo in accordance with Council's resolution of 6 February 2012.
5. Negotiations have culminated in Mr Minuzzo confirming a price of \$1,350,000 with unconditional settlement in 30 days. The offer is valid to 1 May 2012 (refer attachment 1, email dated 19 April 2012.)

**Discussion:**

6. An independent valuation was sought from Jones Lang LaSalle. The valuation opinion is attached (refer attachment 2.) The valuation was offered to Mr Minuzzo as a basis on which Council could prepare an offer.
7. Mr Minuzzo expressed the view that the valuation was conservative and in his view a figure closer to \$1,100,000 was more realistic.
8. Further discussions and negotiations ensued and Mr Minuzzo was encouraged to finalise an offer to Council in writing which is specified in attachment 1.
9. The 'gap' between valuation (whether it is the independent valuation or Mr Minuzzo's own opinion) and asking price ranges between about 50% and 22.5% and considered too high.
10. It is possible that at some future time the owners may wish to reconsider their position expressed in the email of 19 April 2012,

**Policy:**

NA

**Budget:**

Not budgeted for in capital budget for 2011/12.

**Statutory/Legal:**

NA.

**Environmental:**

To be advised.

**Staff Resource Requirements:**

Any purchase would require coordination and management from several areas of Council.

**Social:**

Purchasing the property would contribute to social and community arts/culture outcomes for the District.



**Risk Assessment:**

The possibility of contamination may be a matter requiring further investigation.

Public Amenity outcomes

**Asset Management:**

Opportunity to seek grant funding if a purchase proceeds.

**Conclusion:**

The owner(s) may, at some future time, reconsider the asking price and if that occurs Council will be advised.

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**Key Contact**

Andrew Stuart, Chief Executive Officer

**Manager or Sponsor of Project**

Andrew Stuart, Chief Executive Officer

**Attachments**

1. Email to Chief Executive Officer Andrew Stuart from Mr Gary Minuzzo 19 April 2012 (12/028320)
2. Extract from Independent Valuation (12/016378)

## Confidential Attachment 1 to Item 16.1

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**From:** Garry Minuzzo <gminuzzo@minuzzo.com.au>  
**Sent:** Thursday, 19 April 2012 8:09 PM  
**To:** Andrew Stuart  
**Subject:** Re: Morphet St Mt Barker

Andrew

Further to our meeting on Wednesday 18-4-12 and your email dated the 19-4-12 we confirm the following

- The purchase of \$1,350,000.00
- Settlement to be 30 days on execution of the contract of sale.
- Unconditional.
- Our offer is valid for to the 1-5-12

We are aware that you are submitting our offer to the council meeting being held on the 30th of April 2012. We would appreciate an indication of council in principle opinion of our offer prior to the council meeting.

Regards Garry

**Garry Minuzzo**  
CEO  
Minuzzo Project Management

**P:** 8331 9300 **F:** 8331 9311  
**M:** 0411 592 785

**E:** [gminuzzo@minuzzo.com.au](mailto:gminuzzo@minuzzo.com.au)

<http://www.minuzzo.com.au/>



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## Confidential Attachment 2 to Item 16.1



## Extract from Valuation

The discount rates used in these two calculations are:

- a) Rental Income Cash Flow 8% - considered a minimum risk, given the remaining short term nature of each tenancy
- b) Increased Value of the Land in 5 years 2 months – 6% - considered a lower risk than in a).

Our calculation is as follows:

Market Value of 23 Morphett St Mt Barker					Date	2-Feb-12
Land Area sqm					403	
Value of Land based on					2,000 /sqm	\$806,276
Tenants Cash Flow based on assumed CPI annual increases						
	Feb-13	Feb-14	Feb-15	Feb-16	Feb-17	
Cotter	\$26,729	\$27,531	\$28,357	\$29,207	\$35,098	
Bishop	\$11,870	\$12,226	\$12,593	\$2,162	\$0	
	\$38,599	\$39,757	\$40,950	\$31,369	\$35,098	
NPV of Total Rental Income Stream above @ 8% Discount Rate						\$152,205
Plus Land Value at Apr 2017 estimated at \$990,768 discounted at 6% to present						\$733,204
						\$885,409
Market Value						\$890,000

Please note that our opinion of the property's current market value, assuming the two leases over the property did not exist, would be \$806,276, rounded to \$810,000 excluding GST.

As the leases do exist however, it is our opinion that the Market Value of the property which is the subject of this report as at the date of our inspection on 2 February 2012, is the sum of:

**\$890,000**

**Eight Hundred and Ninety Thousand Dollars**

This value is exclusive of any GST

The sales evidence detailed in this letter and value calculation detailed above, to the best of our knowledge, is exclusive of GST.



Finally, and in accordance with our normal practice, we confirm that this letter is confidential to the District Council of Mount Barker for its own internal purposes only. No responsibility is accepted to any third party and neither the whole of the letter or any part or reference thereto, may be published in any document, statement or circular nor in any communication with third parties without our prior written approval of the form and context in which it will appear.

Yours sincerely  
Jones Lang LaSalle

A handwritten signature in dark ink, appearing to read "John L. Kenny", written over a large, light grey, diagonal watermark that says "CONFIDENTIAL".

**John L. Kenny FAPI**  
Certified Practising Valuer  
Senior Valuer, Valuations & Advisory

The opinion of value expressed in this report is that of the valuer who undertook the valuation and who is the primary signatory on the report. That valuer verifies that the report is genuine and endorsed by Jones Lang LaSalle.

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