

CONFIDENTIAL ITEMS 2003 – MAY 2018

| #  | 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   |
|----|-------------|--|---|--|--|---|------------------|------------------|---|
| 99 | 21 Dec 2015 | Mount Barker Town Centre Land Strategy | <p>Section 90 (3) (b) Order</p> <p>1.Pursuant to Section 90(3)(b)</p> <p>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, four general Managers, manager waste water operations and strategy and the Minute Secretary be excluded from attendance at the meeting for Agenda Item Mount Barker Town Centre Land Strategy Update.</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 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 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</p> | Council report (with the exception of point 13 below), related documents and all minutes | 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 financial information, the disclosure of which could prejudice the Council's commercial position during negotiations. | <p>Until a contract for the sale and purchase of the Woolworths land has been executed by Council and all of the pre conditions to settlement have been satisfied, or Woolworths sells the land to another party, or on 7 September 2016 whichever of these is the sooner.</p> <p>Extended Refer #116</p> | 4 Sep 17         | 3 Sep 18         | <i>22/12/15 – Public agenda on web updated to include Point 13 Report, attachments and Minutes released on website 9 May 2018</i> |

**CONFIDENTIAL ITEMS 2003 – 15 SEPTEMBER 2016**

| # | 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 |
|---|------|------------|--|--|---|-----------------------------|------------------|------------------|---------------|
|   |      |            | relation to other contract negotiations.<br>Section 91(7) Order<br>3.Pursuant to Section 90 (3) (b) & (d)<br>That having considered Agenda Item Mount Barker Town Centre Land Strategy Update 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 (with the exception of point 13 below), related documents and all minutes be retained in confidence until a contract for the sale and purchase of the Woolworths land has been executed by Council and all of the pre conditions to settlement have been satisfied, or Woolworths sells the land to another party, or on 7 September 2016 whichever of these is the sooner. |  |   |                             |                  |                  |               |

**17            CONFIDENTIAL REPORTS****17.1            REPORT TITLE:        CONFIDENTIAL: MOUNT BARKER TOWN  
CENTRE LAND STRATEGY UPDATE****DATE OF MEETING: 21 DECEMBER 2015****FILE NUMBER:        DOC/15/101856****Strategic Plan 2012-2017 Ref:**

Commence the implementation of the Mount Barker Town Centre Strategy.

**Purpose:**

To provide an update on the status of the confidential negotiations with Woolworths Limited regarding the revised offer made to purchase portion of the Woolworths site in the Mount Barker Town Centre.

**Summary – Key Issues:**

- As per the most recent Council meeting resolution, a revised offer was formally made to Woolworths Limited to purchase portion of the Woolworths site in the Mount Barker Town Centre;
- Woolworths Limited considered the Council's revised offer and has advised that the offer has not been accepted; and
- Woolworths Limited has advised of an intended process in 2016 to pursue the sale of the property.

**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, four general Managers and the Minute Secretary be excluded from attendance at the meeting for Agenda Item Mount Barker Town Centre Land Strategy Update.

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 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. Note the advice from Woolworths Limited (attachment 2) that the revised Council offer has not been accepted and the proposed approach of seeking Expressions of Interest in 2016.

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

3. Pursuant to Section 90 (3) (b) & (d)  
That having considered Agenda Item Mount Barker Town Centre Land Strategy Update 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 (with the exception of point 13 below), related documents and all minutes be retained in confidence until a contract for the sale and purchase of the Woolworths land has been executed by Council and all of the pre conditions to settlement have been satisfied, or Woolworths sells the land to another party, or on 7 September 2016 whichever of these is the sooner.

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#### **Background:**

1. Two previous items on this matter have been considered in confidence at the Council meetings held on 7 September and 19 October 2015.

2. Both of those agenda items are the subject of confidentiality orders as per the Council meeting resolutions.

**Discussion:**

3. The resolution of the Council meeting held on 19 October 2015 to make a revised offer was formally communicated to Woolworths Limited by the Chief Executive Officer – see attachment 1.
4. On 4 December 2015 Woolworths Limited representatives met with senior Council officers.
5. In summary the representatives advised that the Council's revised offer was not acceptable and that Woolworths Limited was going to undertake an Expressions of Interest process in 2016.
6. To their credit the representatives of Woolworths Limited chose to come and meet with Council to communicate their position and intentions rather than simply do this remotely via email or telephone.
7. A confirmation email has subsequently been received from Woolworths Limited – see attachment 2.
8. Understandably Woolworths Limited is seeking an exit on the most favourable commercial basis that they can secure.
9. As a consequence of the Woolworths Limited decision it is now likely that the site will remain vacant for a considerable period of time. At the meeting with the Woolworths Limited representatives, Council officers raised the issue of the site being kept neat and tidy in appearance.
10. There is no reason why Council wouldn't choose to respond to the intended Expressions of Interest process.
11. Hence it is in the best interests of Council and the community if all of the information relating to this matter remains confidential whilst (in effect) commercial considerations continue.
12. Notwithstanding that, there is a need for Council to be able to provide an update for public consumption given the level of community interest in this matter.
13. In that regard liaison has occurred with a representative of Woolworths Limited who has confirmed that they would not object to Council publicly stating as follows: *"Council has made offers to Woolworths Limited that have not been accepted. Council is continuing its discussions with Woolworths Limited regarding the future of the site and anticipates further opportunity to engage with Woolworths Limited in 2016."*

14. The Woolworths Limited representatives indicated that they are not pursuing an alternative site in Mount Barker for a Masters or Big W store. Hence the possibility of a land swap is not being entertained.
15. Woolworths limited is however committing further investment in Mount Barker via the new Dan Murphy's liquor store on Hutchinson Street and the new Woolworths store on Wellington Road.
16. Other possible sites for a town square in Mount Barker are still being pursued by Council – a verbal update on these can be provided at the Council meeting.

**Community Engagement:**

|                |   |
|----------------|---|
| Informing only | The community has demonstrated a desire for a town square in Mount Barker.<br><br>Refer point 13 above. |
|----------------|---|

**Policy:**

Not applicable.

**Budget:**

There is no provision in the 2015/16 budget for such a land purchase as this has not yet been agreed.

**Statutory/Legal:**

Not applicable at this time.

**Staff Resource Requirements:**

Not applicable at this time.

**Environmental:**

Not applicable at this time.

**Social:**

The desire of the community is to see a Town Square in Mount Barker.

**Risk Assessment:**

Not applicable at this time.

**Asset Management:**

Not applicable at this time.

**Conclusion:**

Council made a very reasonable revised offer well above valuation and notwithstanding that this was not accepted, it remains possible that Woolworths Limited will seek to revisit a Council offer in 2016.

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**Key Contact**

Brian Clancey  
General Manager  
Infrastructure & Projects

**Sponsor of Project**

Andrew Stuart  
Chief Executive Officer

**Attachments**

1. Council offer to Woolworths – 10 November 2015
2. Email from Woolworths Limited – 15 December 2015

RELEASED

**Attachment 1**

**From:** Andrew Stuart  
**Sent:** Tuesday, 10 November 2015 10:05 AM  
**To:** [tstock@woolworths.com.au](mailto:tstock@woolworths.com.au)  
**Subject:** FW: Offer to Purchase 3000 sq metres Morphett St  
**Importance:** High  
**Sensitivity:** Confidential

Hello Thomas

As per my most recent telephone call early last week please note below an offer made without prejudice in response to the Woolworths representations made to Council ( most recently as per your email November 9<sup>th</sup> reproduced below ) .

My authorization is reproduced below from Council's confidential minutes .  
You will note the offer is a two part offer but given the response from our last discussion this offer is made at the upper limit of Councils authorization - that is \$2.4 million ex GST for the land portion marked in blue in the attachment to this email .

I am most eager to pursue these negotiations given the community expectations that have grown ( as you are aware ) .

I would appreciate that you share this email with Woolworths hierarchy and look forward to a response.

Andrew

*Authorise the Chief Executive Officer to make an alternative offer of \$2 million (excluding GST) to, and undertake commercial negotiations with, Woolworths Limited for the purchase of approximately 3,000m<sup>2</sup> of land being portion of the land bounded by Morphett Street, Hutchinson Street, Druids Avenue and Stephen Street, Mount Barker (as shown in attachment 5).*

*Authorise the Chief Executive Officer to increase the offer up to but not exceeding \$2.4 million (excluding GST) in the event that Woolworths Limited does not accept the offer of \$2 million (excluding GST).*

*Delegate authority to the Mayor and Chief Executive Officer to execute all of the required documentation and apply the Council Common Seal to enable the purchase to proceed to settlement should Woolworths Limited accept an offer from Council for an amount up to \$2.4 million (excluding GST).*

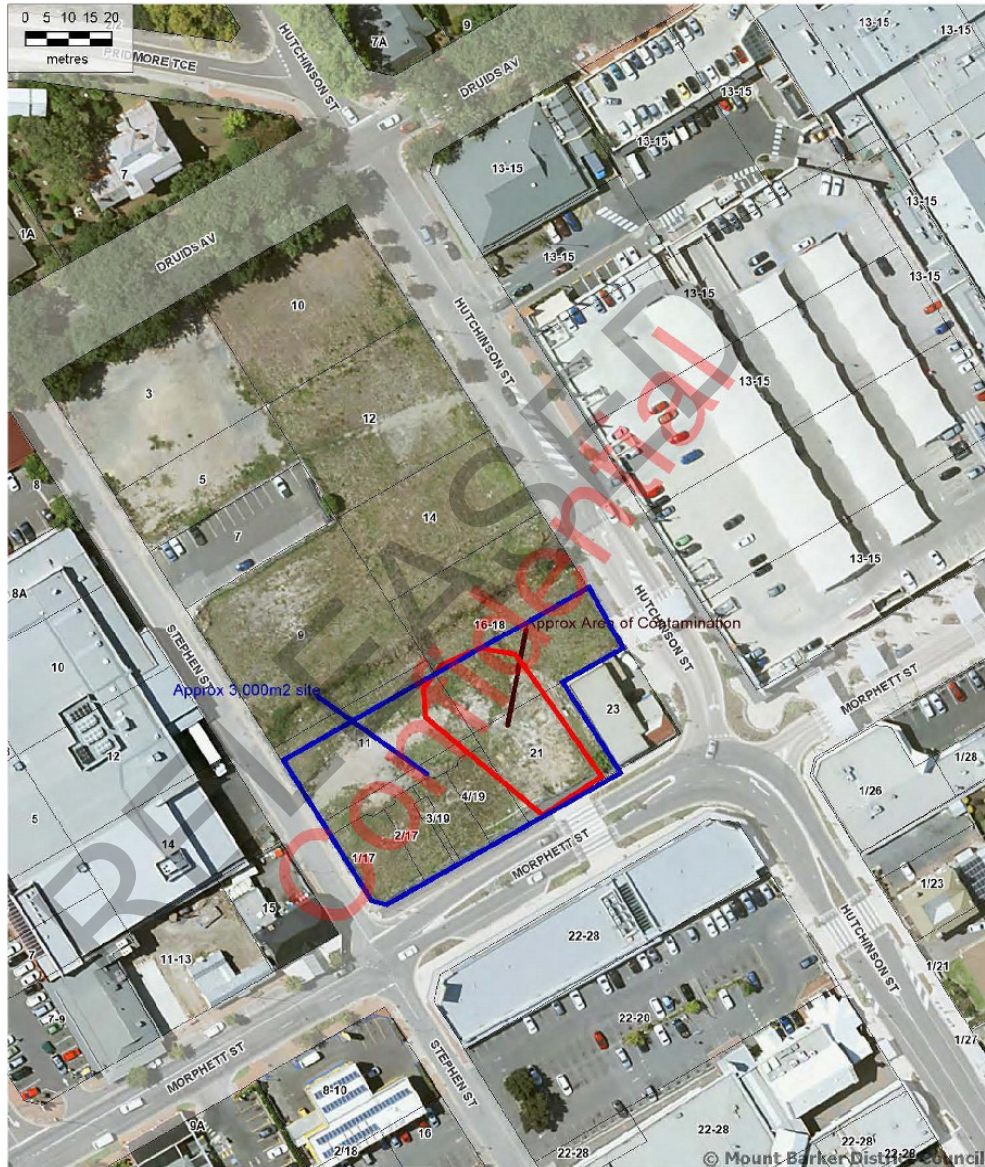


Mount Barker District Council

Confidential Council Agenda  
19 October 2015

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Attachment 5 to Item 17.1



Mount Barker District Council  
Building 3, 6 Dutton Road  
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advanced

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Map Zoom: 0.2257 km  
Map Scale: 1:1,143  
Created on: Thursday, 24 September 2015 By:

**Attachment 2**

**From:** Thomas Stock <[tstock@woolworths.com.au](mailto:tstock@woolworths.com.au)>  
**Date:** 15 December 2015 at 9:41:11 AM ACDT  
**To:** Andrew Stuart <[astuart@dcmtbarker.sa.gov.au](mailto:astuart@dcmtbarker.sa.gov.au)>  
**Cc:** Nick Steele <[nsteele@woolworths.com.au](mailto:nsteele@woolworths.com.au)>, Paul Doherty <[pdoherty@woolworths.com.au](mailto:pdoherty@woolworths.com.au)>  
**Subject: Re: FW: Offer to Purchase 3000 sq metres Morphett St**

Andrew,

Following our discussion of Friday 4 December 2015 we confirm that the decision has been taken by Woolworths Limited not to accept your offer.

As discussed Woolworths is considering an 'Expressions of Interest' campaign in early 2016 and would of course welcome Councils participation

in this process and any positive strategic planning assistance that Council might offer would be appreciated.

Again many thanks for your submission and the time taken to discuss our position.

Regards

Thomas Stock  
**Senior Project Manager - Woolworths Limited**  
Mobile: 0404 077 930 email: [tstock@woolworths.com.au](mailto:tstock@woolworths.com.au)  
[www.woolworthsshoppingcentres.com.au](http://www.woolworthsshoppingcentres.com.au)

**17. CONFIDENTIAL REPORTS**

**17.1 REPORT TITLE: CONFIDENTIAL: MOUNT BARKER TOWN  
CENTRE LAND STRATEGY UPDATE  
DATE OF MEETING: 21 DECEMBER 2015  
FILE NUMBER: DOC/15/101856**

Moved Councillor Campbell 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, four general Managers, manager waste water and the Minute Secretary be excluded from attendance at the meeting for Agenda Item Mount Barker Town Centre Land Strategy Update.

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 financial information, the disclosure of which could prejudice the Council's commercial position during negotiations.

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Seconded Councillor Irvine

**CARRIED**  
**OM20151221.13**

Moved Councillor Campbell that Council:

2. Note the advice from Woolworths Limited (attachment 2) that the revised Council offer has not been accepted and the proposed approach of seeking Expressions of Interest in 2016.

Seconded Councillor Morrison

**CARRIED**  
**OM20151221.14**

Moved Councillor Irvine that Council:

**Section 91(7) Order**

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

That having considered Agenda Item Mount Barker Town Centre Land Strategy Update 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 (with the exception of point 13), related documents and all minutes be retained in confidence until a contract for the sale and purchase of the Woolworths land has been executed by Council and all of the pre conditions to settlement have been satisfied, or Woolworths sells the land to another party, or on 7 September 2016 whichever of these is the sooner.

Seconded Councillor Campbell

CARRIED  
OM20151221.15

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RELEASED