

CONFIDENTIAL ITEMS 2003 – SEPTEMBER 2011

#	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
60	4 July 2011	Bald Hills Rd/Springs Rd Intersection Options & Land Acquisition	Reason: 90(3)(h) compulsory land acquisition processes and legal advice. relating to acquisition	Attachments Minutes		The report, attachments and all minutes be retained in confidence until settlement of the matter and that this order be reviewed every 12 months.	3 Sept 12		Released 3 Sept 2013

4.2 **REPORT TITLE:** **WARD DONATIONS EXPENDITURE**
 1 JULY 2010 TO 30 JUNE 2011
 DATE OF MEETING: **4 JULY 2011**
 FILE NUMBER: **10/030/003**

Seconded Councillor Bailey and CARRIED

RECOMMENDATIONS FROM ADVISORY COMMITTEES

NIL

QUESTIONS ARISING FROM COUNCIL MEETING

NIL

5 **CONFIDENTIAL REPORTS**

9.25pm Councillor Hamilton rose and left her chair

9.26pm Councillor Hamilton took her chair

REPORT TITLE: **CONFIDENTIAL REPORT:**
 BALD HILLS ROAD / SPRINGS ROAD
 INTERSECTION OPTIONS AND LAND
 ACQUISITIONS
DATE OF MEETING: **4 JULY 2011**
FILE NUMBER: **46/050/009 (TRIM REF 11/45924)**

Moved Councillor Corbell that Council:

1. Pursuant to Section 90(2) of the Local Government Act 1999 orders that all members of the public except the:

- Chief Executive Officer
- General Manager, Infrastructure & Projects
- General Manager, Corporate Services
- General Manager, Council Services
- Manager Projects
- Senior Project Manager - Infrastructure
- Minute Secretary

be excluded from attendance at the meeting for Agenda Item 16.1 Bald Hills Road / Springs Road Intersection Options and Land Acquisitions.

2. The Council is satisfied that pursuant to Section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information relating to compulsory land acquisition processes and legal advice, which will be discussed in detail by Council members.

3. 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 this information may compromise the Council's position.

Seconded Councillor Bailey and CARRIED

9.26pm Councillor Stokes rose and left the Chamber

Moved Councillor Bailey that Council:

4. Endorses a single lane roundabout (Option 4/Attachment 4) as its preferred design option for the junction upgrade.
5. Authorises the publication in the Government Gazette of a Notice of Acquisition for the Compulsory Purchase of a portion of the Di Nardo land as shown in the plan in Attachment 6 by no later than 16 August 2011 and gives delegation to the Chief Executive Officer to sign the notice and any other documents required to give effect to the acquisition.
6. Authorises the Chief Executive Officer or nominee to make an offer of compensation to Mr Di Nardo based on an updated valuation report prepared by Council's independent valuer and to arrange for the payment of the offer of compensation into the Supreme Court within seven (7) days of the date of the offer.
7. Endorses negotiations aimed at securing the required land identified on the Brockhoff corner of the intersection (approximately 80m²) via a boundary adjustment which would correct current encroachments and anomalies while maintaining the current total allotment size and notes that a further Report will be made to Council regarding the progress of negotiations within another 3 months.
8. having considered Agenda Item 16.1 Bald Hills Road / Springs Road Intersection Options and Land Acquisitions in confidence under 90(2) and (3)(h) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the report, attachments and all minutes be retained in confidence until settlement of the matter and that this order be reviewed every 12 months.

Seconded Councillor Hamilton and CARRIED

MEETING DECLARED CLOSED AT 9.35PM

MAYOR

DATE

16. CONFIDENTIAL REPORTS

**16.1 REPORT TITLE: CONFIDENTIAL REPORT:
BALD HILLS ROAD / SPRINGS ROAD
INTERSECTION OPTIONS AND LAND
ACQUISITIONS**

DATE OF MEETING: 4 JULY 2011

FILE NUMBER: 46/050/009 (TRIM REF 11/45924)

Strategic Plan Ref:

This report links to Goal Area 4, Infrastructure and Human Settlements, Strategy 4.5 - Improved Transportation Services, a safe and integrated transport network - Target T27 to implement the Transport Master Plan and Target T28 to complete the upgrade of Bald Hills Road. Further, this item also links to the general desired outcome contained in Strategy 4.3 for "Accessible and Safe Communities".

Purpose:

To summarise the intersection upgrade options considered to date and seek endorsement of the preferred option for the Bald Hills Road and Springs Road intersection.

Summary – Key Issues:

1. Design options for the junction upgrade have been analysed with a preferred Option recommended for Council endorsement.
2. In light of the recommended Option, if endorsed by Council, land acquisition for the two remaining corners of the junction needs to be progressed.

Recommendation:

That Council:

1. Pursuant to Section 90(2) of the Local Government Act 1999 orders that all members of the public except the:

- Chief Executive Officer
- General Manager, Infrastructure & Projects
- General Manager, Corporate Services
- General Manager, Council Services
- Manager Projects
- Senior Project Manager - Infrastructure
- Minute Secretary

be excluded from attendance at the meeting for Agenda Item 16.1 Bald Hills Road / Springs Road Intersection Options and Land Acquisitions.

The Council is satisfied that pursuant to Section 90(3)(h) of the Act, the information to be received, discussed or considered in relation to this

Agenda item is information relating to compulsory land acquisition processes and legal advice, which will be discussed in detail by Council members.

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 this information may compromise the Council's position.

2. Endorses a single lane roundabout (Option 4/Attachment 4) as its preferred design option for the junction upgrade.
3. Authorises the publication in the Government Gazette of a Notice of Acquisition for the Compulsory Purchase of a portion of the Di Nardo land as shown in the plan in Attachment 6 by no later than 16 August 2011 and gives delegation to the Chief Executive Officer to sign the notice and any other documents required to give effect to the acquisition.
4. Authorises the Chief Executive Officer or nominee to make an offer of compensation to Mr Di Nardo based on an updated valuation report prepared by Council's independent valuer and to arrange for the payment of the offer of compensation into the Supreme Court within seven (7) days of the date of the offer.
5. Endorses negotiations aimed at securing the required land identified on the Brockhoff corner of the intersection (approximately 80m²) via a boundary adjustment which would correct current encroachments and anomalies while maintaining the current total allotment size and notes that a further Report will be made to Council regarding the progress of negotiations within another 3 months.
6. having considered Agenda Item 16.1 C Bald Hills Road / Springs Road Intersection Options and Land Acquisitions in confidence under 90(2) and (3)(h) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the report, attachments and all minutes be retained in confidence until settlement of the matter and that this order be reviewed every 12 months.

Background:

1. The intersection of Bald Hills Road and Springs Road is currently uncontrolled apart from stop signs for each of the Springs Road approaches to the intersection. Attachment 1 illustrates the current intersection format and its location.
2. Council's 2008 consultation work and development of concept designs for Bald Hills Road identified the need for improved traffic control and upgrades for this intersection based on traffic volumes and crash

history. The consultation work showed the community's preference was for a roundabout to be constructed.

3. Council's 2009 endorsed Transport Master Plan (TMP) also reiterates the need for an intersection upgrade (TMP Action A1.1.6) recommending a roundabout installation.
4. Council made provision in the 2009/10 Council budget for the implementation of a roundabout at the Bald Hills and Springs Road Intersection as part of the overall Bald Hills Road Upgrade project.
5. The Council considered this project at the Council meeting of 3 August 2009 where it approved a preliminary roundabout design which identified the areas where the acquisition of land would be required and, further, gave authority to staff to undertake negotiations with the four (4) adjoining owners for the acquisition of the required land to enable the Project to proceed to construction.
6. The north corner (McDonald) and south corner (Stephenson) have been acquired by agreement. Negotiations were not successful for the west corner (Brockhoff) and the east corner (Di Nardo).
7. In December 2009, Council gave authority to request approval from the Minister for State/Local Government Relations under Section 191 of the Local Government Act 1999 to the compulsory acquisition of land from two allotments (Brockhoff and Di Nardo) immediately adjacent to the Bald Hills Road / Springs Road intersection. The Minister approved the use of compulsory acquisition for both parcels.
8. For the Di Nardo Land (east corner) a Notice of Intention has been served by Council, an appeal against the Notice was made to the Minister but was not successful. For the Brockhoff Land (west corner) a Notice of Intention has not yet been served by Council following other issues raised by the Brockhoff family relating to a previous compulsory acquisition by Council.
9. Council has been advancing reconstruction of Bald Hills Road. To date, Stage 1 between Yaktanga Way and Springs Road has largely been completed and Stage 2 from Springs Road to Hartman Road will be practically complete by the end of the 2011 calendar year. Each section of reconstruction falls short of the intersection and as such an upgrade to the intersection will become increasingly important.
10. This will be a key intersection on the route connecting some of the newly rezoned land to the south of the town with a future freeway interchange at Bald Hills Road. In this regard, under the Heads of Agreement between the State Government and the Developer Consortium, a portion of Springs Road east is to be upgraded as part of the connector road. The Heads of Agreement list the construction of a roundabout at this location but funding is assumed to be from the

State/Federal Black Spot program, there is no developer funding contribution.

11. The Parsons Brinkerhoff report on the infrastructure impacts of the MDPA advised that the resulting increased traffic volumes may require a dual lane roundabout in approximately 10 to 15 years depending on the rate at which land is developed. Council did concept design work to see if a dual lane roundabout could be staged with a single lane and expansion to two lanes when required by increased traffic volumes.
12. The dual lane concept can not easily be staged and would require a significant upfront cost increase as well as increases in land acquisition on three corners of the junction. Black Spot funding would not cover the increase land cost and may not be provided for the increase construction cost of dual lanes.

Discussion:

13. With the above background information and work done to date, a range of options have been investigated. These options are summarised below. Attachments 2 – 5 illustrate options 2 – 5 respectively while Attachment 7 discusses the advantages and disadvantages of each in greater depth. For illustrative purposes, Attachment 9 shows a birds-eye view of the recommended Option 4.
14. Option 1 - Simply maintain the current lane arrangements and leave the intersection uncontrolled except for the Stop signs on the Springs Rd approaches. There is already a strong warrant to make improvements to the intersection and staff therefore believe improved control at this location is needed. This Option is not recommended given the road safety risks involved.
15. Option 2 - Traffic Signals with single through lane on Bald Hills Road. Whilst this option would improve upon the currently uncontrolled intersection, it does not provide the level of safety afforded by a roundabout nor, due to the deep cutting on Springs Road East, does it remove the need to acquire land. Further it does not reflect the community desire for a roundabout. Accordingly, this option is not recommended.
16. Option 3 - Traffic Signals with sheltered turn lanes – ultimate conditions. As for option 2. This option is not recommended.
17. Option 4 - Single lane roundabout. This option will service projected traffic volumes safely for a 10 to 15 year timeframe depending on growth rates. As a design solution, it has previously been accepted as a treatment qualifying for Black Spot funding contribution. It fits with the community's desire for a roundabout treatment at this site. Roundabouts generally are more flexible in terms of changes in traffic regimes. This option is therefore recommended.

18. Option 5 - Dual Lane Roundabout. The need for a dual lane device is not anticipated for around 15 years and would require further land acquisitions with substantially increased costs and a longer timeframe. There are no obvious economies nor is there a clear prospect of extra funding for the higher costs therefore this option not recommended.
19. The best endeavours have been made to ensure all reasonable and practical options have been considered.

Land Acquisition Considerations

20. The recommended design Option 4/Attachment 4 (single lane roundabout) has been refined to reduce land acquisition requirements as much as possible without compromising safety. Sufficient land for this design has already been acquired on the North corner (McDonald) and South corner (Stephenson).

Di Nardo Land (East Corner)

21. For the east corner of the junction, the blue line on attachment 4 shows the new boundary required which is well within the red lines which show the extent of the Minister approved compulsory purchase parcel. In order to proceed with the compulsory purchase Council needs to serve a Notice of Acquisition by 23 August 2011 at the latest. There are three main alternatives which could be pursued by Council.
 - A) Proceed with the compulsory purchase.
 - B) Negotiate by agreement to purchase the smaller amount of land needed and shown by the blue line.
 - C) Negotiate by agreement to purchase the whole of Mr Di Nardo's holding (10.34 Ha) which has been valued confidentially for Council at \$1.07m.
22. Option B would reduce Council's land acquisition cost however lengthy negotiations with Mr Di Nardo in the past have borne little fruit. Council's solicitor has advised that it is not possible to serve a notice of acquisition for a different area of land to that specified in the original Notice of Intention. A new Notice of Intention for a smaller land area would allow Mr Di Nardo to make another appeal to the Minister with further costs and delays.
23. Option C could be pursued if Council had other strategic reasons to purchase the entire holding.
24. The risk is that further negotiations with Mr Di Nardo would result in Council losing its right to proceed with the compulsory process and having to restart the lengthy acquisition process from the beginning. The legislation requires Council to publish a Notice of Acquisition no later than 18 months from the date of the Notice of Intention (dated 22 February 2010). It is therefore recommended that Council approve the

service of a Notice of Acquisition for compulsory purchase of the Di Nardo land as shown in the plan in Attachment 6 by no later than 16 August 2011.

25. If Council wishes, Mr Di Nardo could be approached regarding Options B or C however it is unlikely that either option B or C could be negotiated, approved and contracted prior to 16 August. One of Mr Di Nardo's objections to the Compulsory Purchase has been the need for new access arrangement which Council has offered to provide.
26. The alternative access has been designed by Council's consulting engineer, Wallbridge and Gilbert. The access meets the required safety standards and is much safer than the current access at the corner of the junction but Mr Di Nardo does not accept the proposal in spite of very lengthy discussions. Council looked into the possibility of moving Mr Di Nardo's shed, to provide an access point in his preferred location, but this would cost several hundred thousand dollars.
27. An advantage with the Compulsory Purchase process is that compensation for issues such as access is decided by the Court if they cannot be agreed between the parties but those proceedings don't hold up the acquisition. It would therefore appear best to proceed with the Notice of Acquisition given the limited time left before Council loses its current right to proceed on that basis.
28. Council will also need to make an offer of compensation to Mr Di Nardo. A valuation totalling \$33,000 (including compensation for Disturbance) was prepared for Council in September 2009, it will need to be updated but is not expected to change greatly. The accommodation works proposed by Council include construction of a new access drive and the addition of an awning to the existing shed. These works have been estimated to cost in the region of \$70,000. Both amounts will be determined by the Court if they cannot be agreed with Mr Di Nardo.

Brockhoff Land (West Corner)

29. Attachment 4 shows that the required land for Option 4 (blue line) is also considerably reduced from the parcel which has been approved by the Minister for compulsory acquisition (red line) and now only amounts to approximately 80m². The reduction in land needed is due to a reduced roundabout diameter achieved through a design review process.
30. In 2010 the Brockhoff family made a Deputation to Council regarding the proposed acquisition and issues related to a past acquisition by Council of land which is now part of the Laratinga Wetlands. The matter was determined by the Courts but the Brockhoff family is of the view that the resulting acquisition disadvantaged them in relation to their remaining holding.

31. The family has stated that it is willing to sell the parcel required for the roundabout construction, but only if Council sells them back part of its former holding, which comprises a grassed area adjoining the wetlands. Following the Deputation the Brockhoff family was asked to provide further details regarding its request. No further information has been provided to date.
32. There would be a number of constraints to selling the land sought by the Brockhoff family including EPA buffer requirements for the Wetlands and the current Community Land designation. If Council were to agree in principle to the Brockhoff proposal, resolution of the issue would require negotiations with the EPA and Brockhoff family, community consultation and Ministerial approval and may never reach a successful conclusion.
33. One issue that has come to the notice of staff is that there are a number of boundary anomalies relating to the Brockhoff land. An option is to approach the family on the basis of undertaking a boundary adjustment which would maintain the current total allotment size and be as much in their favour as Council's with no loss of land area and possibly an increase in the Brockhoff holding. Attachment 8 shows a surveyor's report, which identifies the anomalies.
34. If a boundary adjustment was undertaken Council would need to provide parts of the existing road reserve along Bald Hills and Springs Roads in return for receiving land for the roundabout and other road encroachments.
35. It is recommended that a boundary adjustment option be discussed with the Brockhoff family with a view to achieving agreement in principle within 2 months. If in principle agreement is not reached in that timeframe then Council will need to give consideration to progressing with a compulsory purchase but could pursue the smaller amount of land (80m² shown in blue) to limit the impact on the Brockhoff family. The Minister has approved the compulsory purchase but Council has not yet served a Notice of intention. There is no statutory time limit applying to serving the Notice of Intention but as the Minister has approved the compulsory acquisition of a different area of land, it would be prudent to request the Minister to amend the previous approval.

Funding

36. Due to delays in finalising land acquisition the Black Spot funding provided for 2010/11 for the construction of a roundabout is expected to lapse. Design and associated costs to date have been claimed from the current funding allocation. This funding does not cover land acquisition by Council. The 2011/12 Council Draft budget allows for \$100,000 expenditure with the assumption that the remaining land acquisition will not be completed till the 2012/13 financial year and that

construction is targeted once land acquisition has been finalised in 2013/14.

37. It is anticipated that a further Black Spot funding application would receive favourable consideration. The Heads of Agreement between the State Government and the Developer Consortium assumes Black Spot funding will be provided for this roundabout. There have already been two lapsed Black Spot grants due to land acquisition delays therefore a further application should be made once all land acquisitions have been resolved.

Community Engagement:

Not applicable.

Policy:

NA.

Budget:

See above.

Statutory/Legal:

Legal advice has been received on the compulsory acquisition process see comments above.

Staff Resource Requirements:

Project Management is being provided through in house resources while designs are being performed by consultant engineering firms.

Environmental:

NA.

Social:

Improve road safety with an improved junction.

Risk Assessment:

A risk matrix has been prepared for the project.

Asset Management:

Will upgrade an existing asset and improve service level.

Conclusion:

Upon resolution of the preferred option and the negotiation and/or compulsory acquisition of the necessary land, work can re-commence on the detailed design and construction of an upgrade to this important intersection which is needed to close the gap between the road upgrade works that are currently in progress.

Key Contact

Matthew Dawkins, Senior Project Manager – Infrastructure, Infrastructure and Projects

Manager or Sponsor of Project

David Morton, Manager Projects, Infrastructure and Projects

Attachments

- Attachment 1 – Location and current intersection format (TRIM ref 11/46250)
- Attachment 2 – Traffic Signals – single through lane (TRIM ref 11/53724)
- Attachment 3 – Traffic Signals – sheltered turn lane - ultimate (TRIM ref 11/53723)
- Attachment 4 – Single Lane roundabout option (TRIM ref 11/53725)
- Attachment 5 – Dual Lane roundabout – ultimate (TRIM ref 11/53722)
- Attachment 6 – Plan of a portion of the Di Nardo land which will be the subject of a Notice of Acquisition for Compulsory Purchase. (TRIM ref 11/60205)
- Attachment 7 – Options Summary Table (TRIM 11/53721)
- Attachment 8 – Surveyors plan of Brockhoff holding (TRIM 11/53727)
- Attachment 9 – Birds eye view of the preferred Option #4 (TRIM 11/53726)

**District Council of Mount Barker
Confidential Report : 4 JULY 2011 - ATTACHMENT 1**



Confidential Attachment 1 to Item 16.1

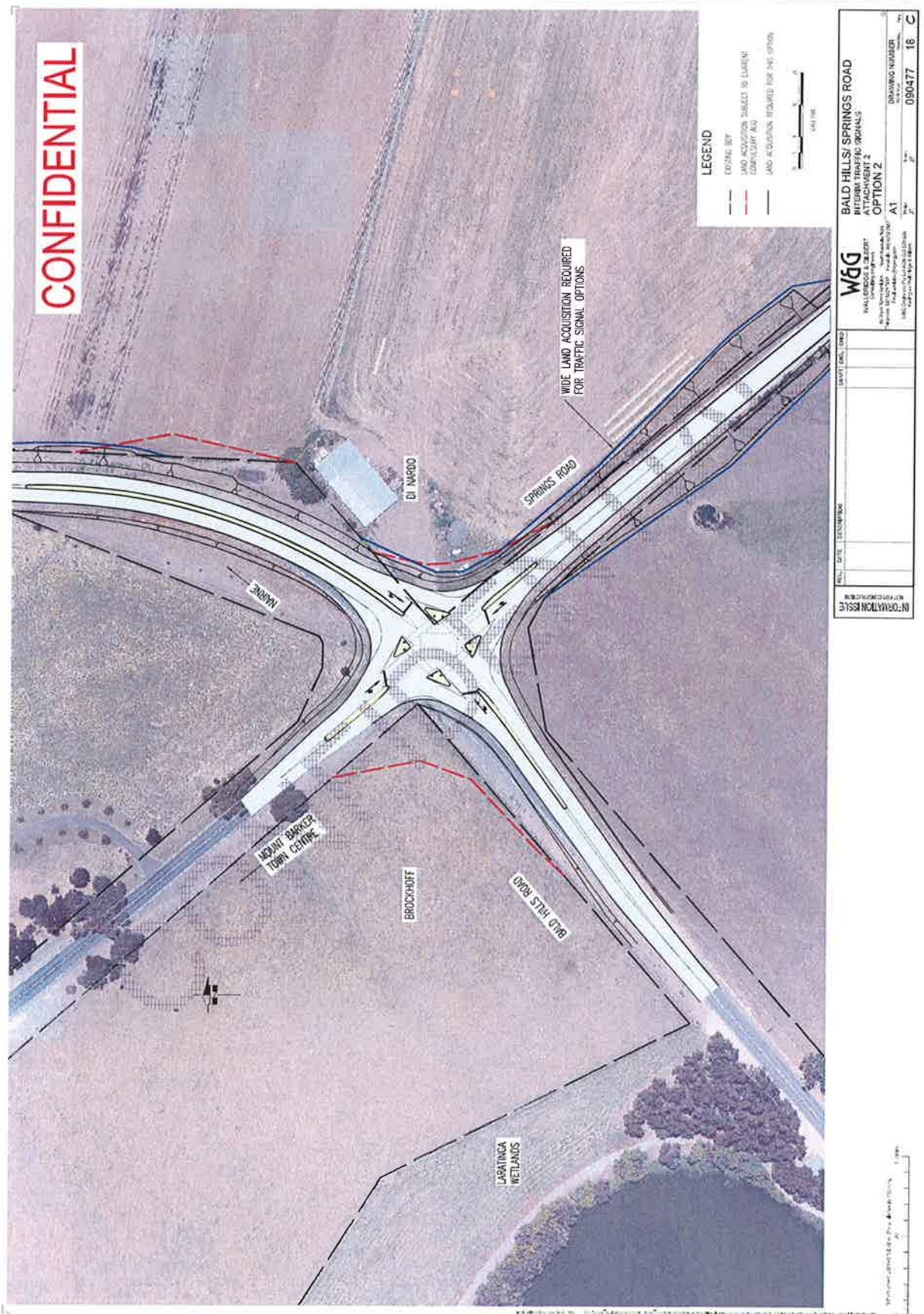
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Created on: Monday, 6 June 2011 By: mtb

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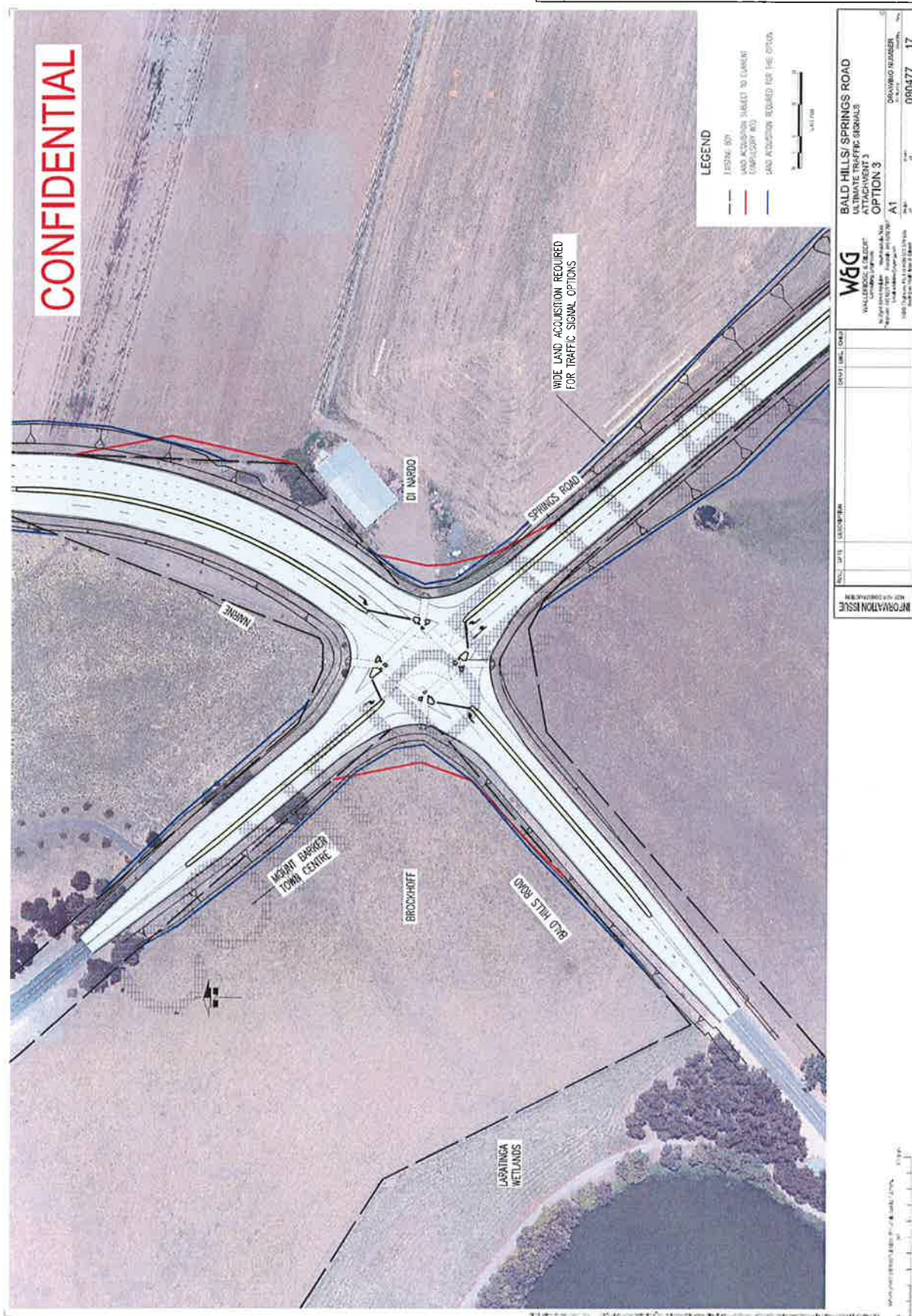


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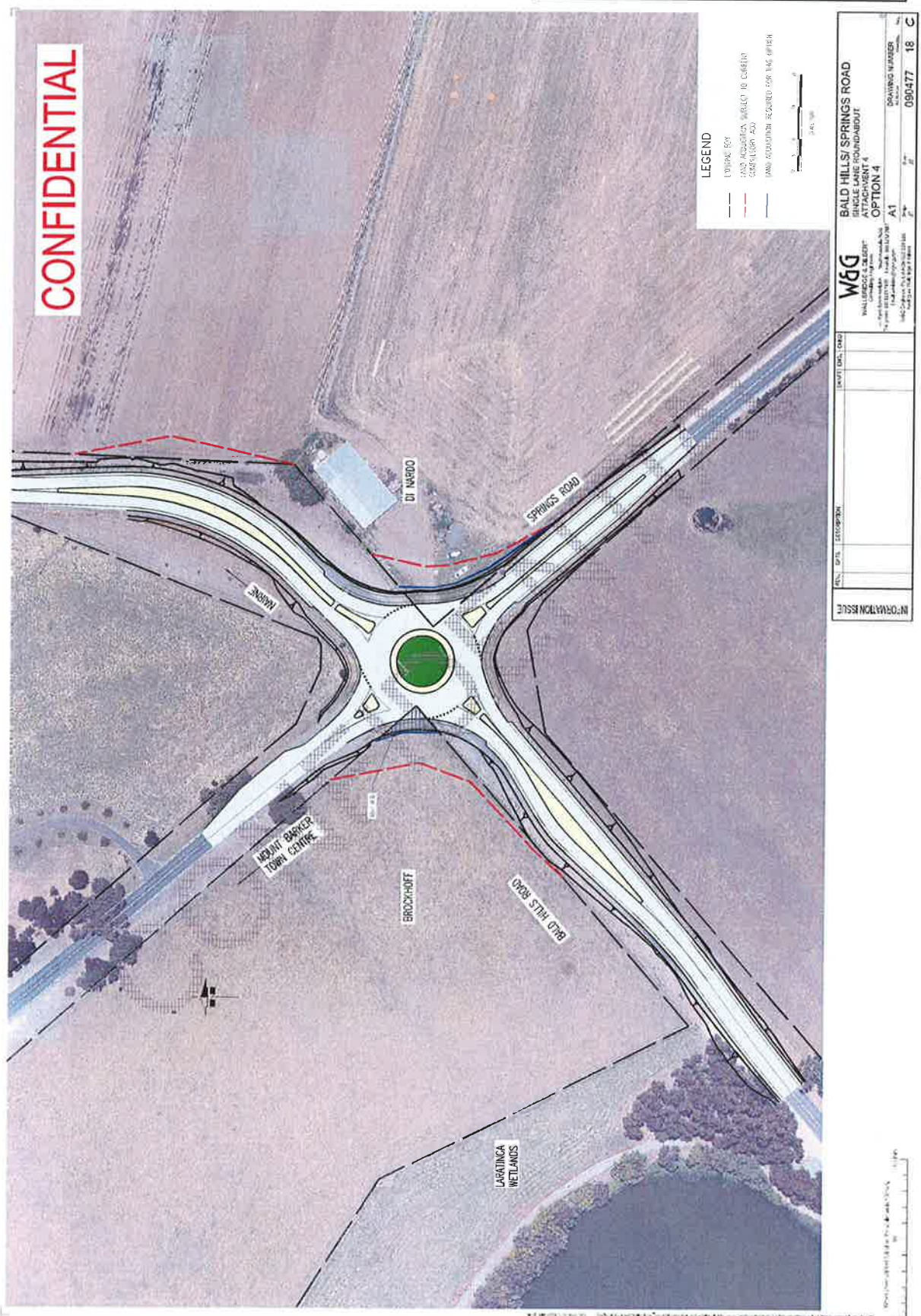
Confidential Attachment 2 to Item 16.1



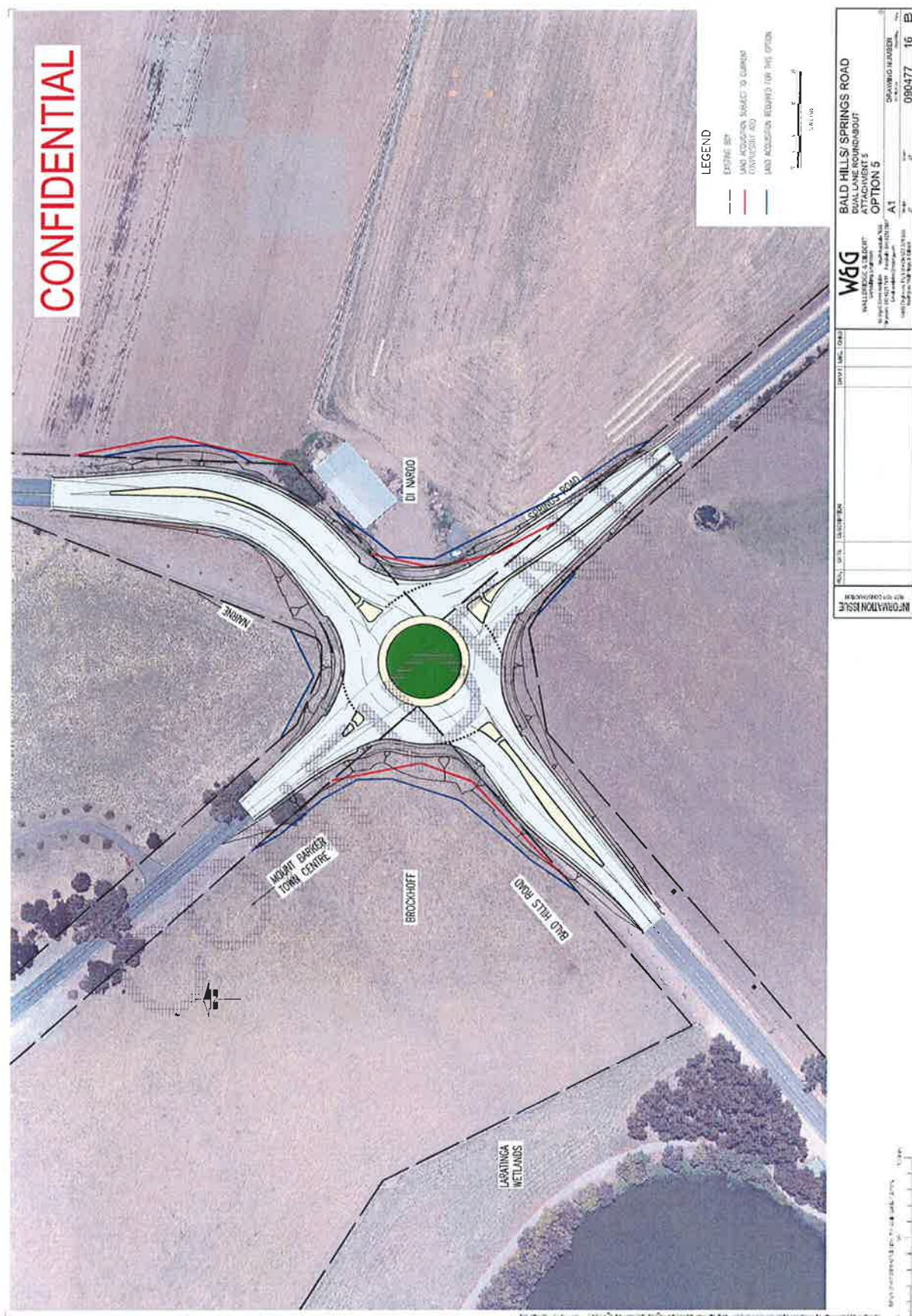
Confidential Attachment 3 to Item 16.1



Confidential Attachment 4 to Item 16.1

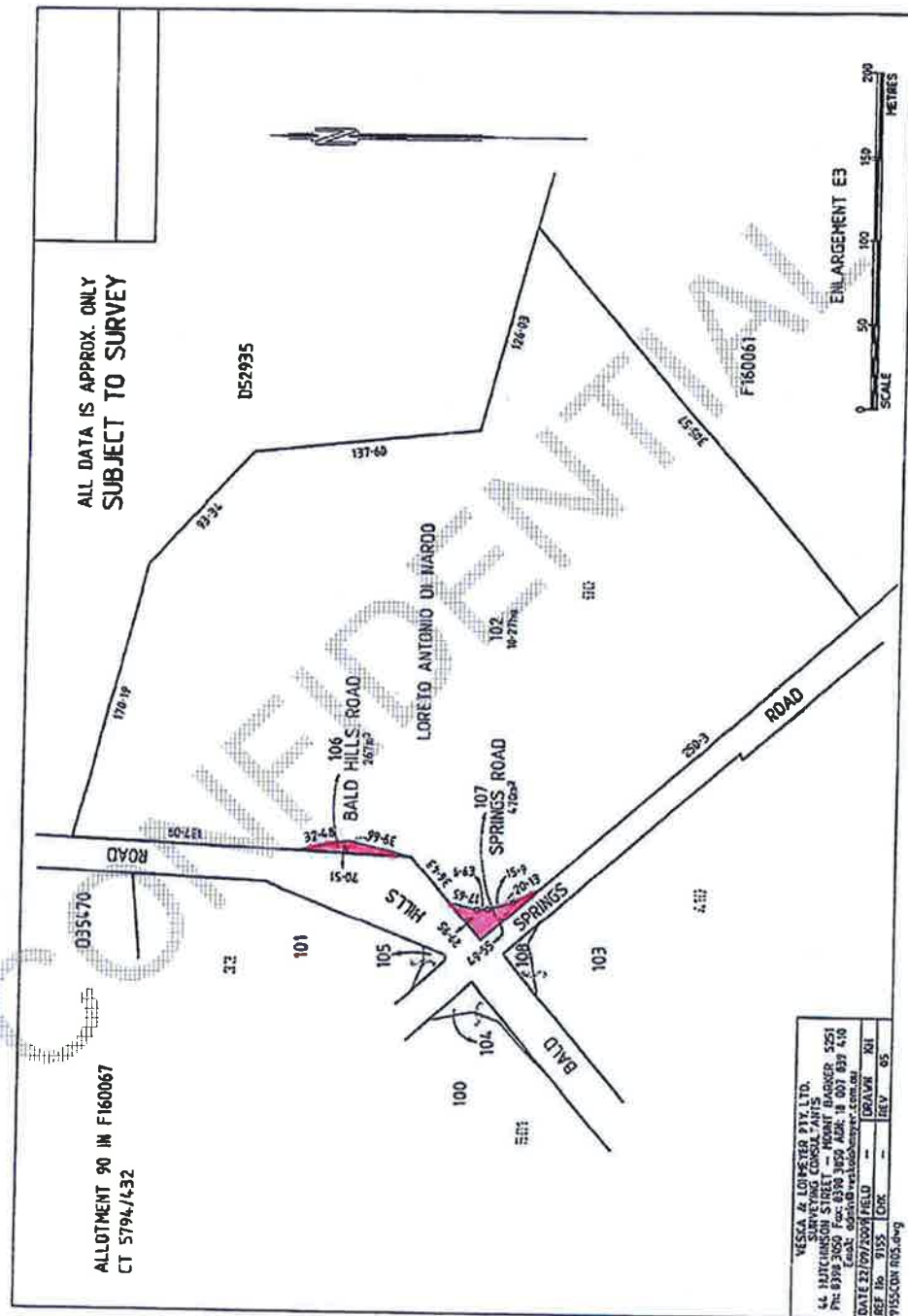


Confidential Attachment 5 to Item 16.1



Confidential Attachment 6 to Item 16.1

Attachment 6



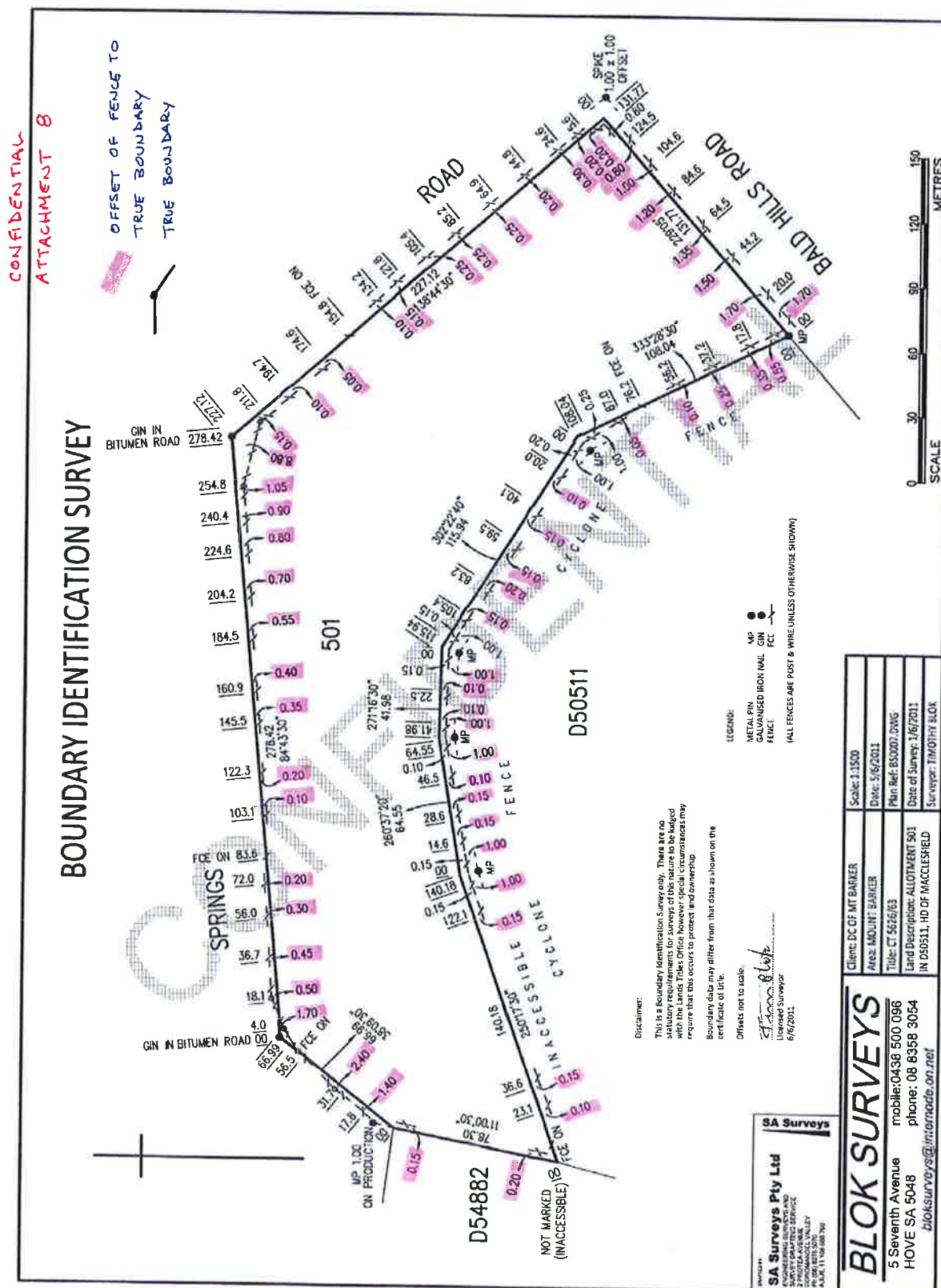
Confidential Attachment 7 to Item 16.1

**16.1 Report Title: confidential report :Bald Hills Road / Bald Hills Road / Springs Road Intersection Options and Land Acquisitions
Attachment 7: Bald Hills / Springs Road Intersection Upgrade Options (no particular order).**

Option	Description	Advantages	Disadvantages	Staff Recommendation
Opt 1 See Attach. 1	Simply maintain the current lane arrangements and leave the intersection uncontrolled except for the Stop signs on the Springs Rd approaches.	Minimum cost other than the overdue road pavement rehabilitation.	With the growth in the district and associated traffic volume increases, the crash history at this site will increase.	There is already a strong warrant to make improvements to the intersection and staff therefore believe improved control at this location is needed. It is not recommended that no action is taken given the risks.
Opt 2 See Attach. 2	Traffic Signals with single through lane on Bald Hills Road.	Typically a smaller land footprint at the intersection than an equivalent capacity roundabout device. Traffic signals may sometimes be a lower cost option but may well not be the case in this instance.	The design requirement for each through movement to be designed for the full design speed on a green light (80 kph), stopping sight line distances are much longer than those for a roundabout device. In this case, this would mean a deep cutting to remove the crest on the eastern approach of Springs Road necessitating a wide road reserve width and associated land acquisition.	Whilst this option would improve upon the currently uncontrolled intersection, it does not provide the level of safety afforded by a roundabout nor, due to the deep cutting, does it remove the need to acquire land. Further it does not reflect the community desire for a roundabout. Accordingly, this option is not recommended.
Opt 3 See Attach. 3	Traffic Signals with sheltered turn lanes – ultimate conditions.	Typically a smaller land footprint at the intersection than an equivalent capacity roundabout device. Traffic signals may sometimes be a lower cost option but may well not be the case in this instance.	As for Option 2.	As for option 2. This option is not recommended.
Opt 4 See Attach. 4	Single lane roundabout	This single lane roundabout solution designed only for B-Double vehicles on Bald Hills Road requires a land footprint	Still requires acquisition of further land which is likely to be resisted by the owners.	This option will service projected traffic volumes safely for a 10 to 15 year timeframe depending on growth rates. As a design solution, it has

Opt 5 See Attach. 5	Dual Lane Roundabout	within with the land area that is currently the subject of a compulsory land acquisition process.		previously been accepted as a treatment qualifying for Blackspot funding contribution. It fits with the community's desire for a roundabout treatment at this site. Roundabouts generally are more flexible in terms of changes in traffic regimes. This option is therefore recommended by staff.
		Caters for long term predicted traffic volumes. Acquisition of the required land now for this option could facilitate a staged construction approach whereby a single lane device is built in the first instance. It fits broadly with the community's desire for a roundabout solution. This option will service the projected traffic volumes for ultimate development of the MDPA rezoned lane predicted to be reached in 15 years time.	This option would necessitate the purchase of a much larger parcel. The land required exceeds the area under which there is currently a compulsory land acquisition process running. A significant timeframe would be needed to recommence a new acquisition process and secure the required land. The warrant for the dual lane device depicted in the attachment is 15 years away depending on the actual growth in traffic volumes.	As the need for a dual lane device is not anticipated for around 15 years plus the need for a much larger land acquisition and associated cost and timeframe, this option is therefore not recommended by staff.

Confidential Attachment 8 to Item 16.1



Confidential Attachment 9 to Item 16.1

