

32 **INFORMATION REPORTS**

32.1 **REPORT TITLE: SIMS ROAD NATIVE VEGETATION
CLEARANCE UPDATE**
DATE OF MEETING: 15 SEPTEMBER 2008
AUTHOR: GREG SARRE
AUTHOR'S TITLE: MANAGER STRATEGIC PLANNING
REPRESENTORS: NIL
FILE NUMBER: PF 151779
**DEPARTMENT: STRATEGY, DEVELOPMENT AND
COMMUNITIES**
**DEPARTMENT
MANAGER: BILL CHANDLER**

Moved Councillor Hamilton that the report be noted.

Seconded Councillor Gamble and CARRIED.

CORRESPONDENCE

NIL

QUESTIONS ARISING FROM COUNCIL MEETING (10 MINUTES)

NIL

33 **CONFIDENTIAL REPORTS**

33.1 **REPORT TITLE: CONFIDENTIAL REPORT- POSSIBLE
ACQUISITION OF LAND.**
DATE OF MEETING: 15 SEPTEMBER 2008
AUTHOR: DAVID NINIO
SPECIAL PROJECTS OFFICER
FILE NUMBER: 154948
DEPARTMENT: INFRASTRUCTURE AND PROJECTS
**DEPARTMENT
MANAGER: BRIAN CLANCEY**

Moved Councillor 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:

(a) 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 attendance at the meeting.

Seconded Councillor Wilksch and CARRIED.

33.2

Moved Councillor Kuchel that Council:

3. Authorise Council Officers to brief nearby property owners to the Brown Land about the possibility of Council establishing treated water storage facilities on portion of the Brown Land.
4. Note the update of investigations carried out on the Brown Land about the possibility of establishing treated waste water storage facilities on portion of the Brown Land and that a further report is intended to be presented to Council by late October 2008.

Seconded Councillor Gamble and CARRIED.

33.3

Moved Councillor Irvine that:

5. 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 9 September 2009.
6. Subject to Section 90 of the Local Government Act 1999 as amended, readmit the public to the meeting at the conclusion of this item.

Seconded Councillor Gamble and CARRIED.

MEETING DECLARED CLOSED AT 7.40PM

MAYOR

DATE

17. CONFIDENTIAL REPORTS

- 17.1 REPORT TITLE: CONFIDENTIAL REPORT- POSSIBLE
ACQUISITION OF LAND.**
- DATE OF MEETING: 15 SEPTEMBER 2008**
- AUTHOR: DAVID NINIO
SPECIAL PROJECTS OFFICER**
- DEPARTMENT: INFRASTRUCTURE AND PROJECTS**
- DEPARTMENT
MANAGER: BRIAN CLANCEY**
- REPRESENTORS: N/A**
- FILE NUMBER: 154948**
- ATTACHMENTS: 1. THE BROWN LAND
2. LETTER FROM MR MILLAR
3. SKETCH PLAN SHOWING PROPOSED
LOCATION OF WATER STORAGE
FACILITY AND THE HOUSE.**

PURPOSE

1. To update Council on the current status of investigations to establish additional treated waste water storage facilities on Allotment 12 located at Bald Hills Road, Nairne as shown on attachment 1 (the Brown Land); and
2. To authorise Council Officers to brief nearby property owners to the Brown Land about the possibility of Council establishing treated waste water storage facilities on portion of the Brown Land.

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:

(a) 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 attendance at the meeting.
- 3. Authorise Council Officers to brief nearby property owners to the Brown Land about the possibility of Council establishing treated water storage facilities on portion of the Brown Land.
- 4. Note the update of investigations carried out on the Brown Land about the possibility of establishing treated waste water storage facilities on portion of the Brown Land and that a further report is intended to be presented to Council by late October 2008.
- 5. 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 9 September 2009.
- 6. Subject to Section 90 of the Local Government Act 1999 as amended, readmit the public to the meeting at the conclusion of this item.

BACKGROUND

At a confidential meeting held on 14 July 2008 Council resolved to:

- 1. *Note the Council's need to secure access to land in a strategic location for the purpose of establishing additional treated waste water storage facilities in order to secure its existing and future treated water storage capacity requirements.*
- 2. *Note the preliminary Waste Water Storage Assessment prepared for Council by Walbridge and Gilbert.*
- 3. *Authorise the Chief Executive Officer to finalise negotiations with the vendors' agent and to enter into a contract for Sale and Purchase of the Brown land by 16 July 2008 contained*

in Certificate of Title Volume 6007 Folio 935 substantially in accordance to the following conditions:

- (a) Purchase Price \$985,000 plus GST if applicable*
 - (b) Deposit \$25,000 to be paid on 16 November 2008 subject to a separate formal Council resolution within four months of execution of contract.*
 - (c) Council will pay a non refundable amount of \$20,000 to the vendor (which will not be credited to the purchase price) in four instalments as follows:
\$5000 on 16 July 2008
\$5000 on 16 August 2008
\$5000 on 16 September 2008
\$5000 on 16 October 2008*
 - (d) In consideration of the \$20,000 payment by Council referred to in (c) above, the Council will not be liable to complete settlement under the contract unless Council has on or before 15 November 2008 passed a resolution approving the sale and purchase of the Brown land along with a resolution to execute under seal all of the necessary transfer documentation required to complete settlement.*
 - (e) If Council decides not to pass a resolution to purchase the Brown land referred to in (d) above , then the contract shall lapse and neither party will have any liability to the other in relation to any matter arising out of the contract (except for the \$20,000 payment by Council to the vendor referred to in (c) above).*
 - (f) Settlement date 15 January 2009 (settlement will only occur if Council makes a resolution on or before 15 November 2008 to finalise the transaction).*
 - (g) The vendor will grant uninterrupted access to Council from the date of execution of contract to settlement date.*
- 4. Note that the proposed contract referred to in recommendation 3 above does not commit Council to proceed with the purchase of the Brown land unless Council makes a resolution to do so by 15 November 2008.*
- 7. Note that unless Council determines by Council resolution on or before 15 November 2008 to finalise the contract, the Council's financial liability is limited to \$20,000.*

8. *Note that following the further necessary investigations a further Council report will be submitted by no later than 15 November 2008.*
9. *Note that if following the further investigations the recommendation is to proceed with the purchase of the Brown land, the portion of the Brown land that is surplus to what is required for the storage of treated waste water would be intended to be disposed of by Council subject to a boundary realignment being approved.*
10. *Determine that the land contained in Certificate of Title Volume 6007 Folio 935 (the Brown Land) be excluded from Community Land Classification under the Local Government Act upon transfer of the Brown Land to Council (this will only occur if Council proceeds to settlement)*
 - a) *write to the Southern & Hills LGA and LGASA and Adelaide Hills Regional Development Board and Murraylands Regional Development Board seeking that representations be made to the EPA requesting long term policy certainty for:*
 - i. *treated waste water continuing to be able to be discharged to watercourses; and*
 - ii. *the requirements for the management of treated waste water.*

DISCUSSION

Briefing to nearby property owners

Mr and Mrs Millar, the owners, of allotment 22 located on Little Dublin Road (refer to attachment 1) have written to Council requesting information about the intended use by Council of the Brown Land (refer to attachment 2 for letter from Millar). They were informed by Mr Brown of Council's offer to purchase their property on allotment 12 (refer to attachment 1). Allotments 21 and 11 have already been purchased by Council from Mr and Mrs Millar and Mr and Mrs Brown as part of the proposed freeway interchange (refer to attachment 1).

The preferred option is to confidentially brief Mr and Mrs Millar on the intended use of the Brown property. This will ensure that accurate information is provided rather than risk Mr and Mrs Millar potentially seek information from other sources.

If Mr and Mrs Millar are briefed it is appropriate that the other relevant nearby owners are also briefed.

The owners of the property, Mr R. O Rees and Mrs A. C Morriss located to the north of the Brown property (refer to attachment 1) have also approached Council regarding access to re claimed water for irrigation. Other property owners along Bald Hills Road from Little Dublin Road to Princes Highway are interested in the availability of reclaimed water for irrigation. They are also interested in the status of the Brown Land.

Update of Preliminary Site Assessment – Brown Land

As indicated in the previous Council report, the services of Mr Richard Crabb were retained to project manage the site investigations.

Preliminary work undertaken at the time of writing this report includes:

- the preparation of a concept plan for the siting of a 125 ML storage dam;
- a possible land division arrangement to separate the existing dwelling on a 10 ha allotment; and
- initial meetings with the relevant state agencies who will be party to the Development Assessment Commission's evaluation of a later Development Application should Council proceed with the proposal.

Once Officers have considered the preliminary views of the state agencies and are satisfied that no major impediments exist to a Development Approval, then more detailed investigations will be undertaken including a ground survey, geotechnical investigation, a more detailed (preliminary) design and whole of life costing of the proposed Dam and associated infrastructure.

The objective is to present a complete assessment for consideration at a Council meeting by late October 2008.

Valuation of the Brown Land

The enclosed indicative sketch plan that defines the house on 10 ha and the remaining land on 7.6 ha has been prepared as part of the preliminary work. This sketch is at this stage purely indicative as areas could change as further investigations are carried out (refer to attachment 3)

As mentioned in the previous Council report the proposal if the Brown land is purchased, is to undertake a boundary realignment which would enable the sale of the house and the establishment of the treated waste water storage facilities on the remaining land. Valuation instructions have been issued to determine the market value of the Brown Land in total. In addition the Valuer has been requested to value the house located on the Brown Land together with 10 ha and to also value the remaining 7.6 ha of land.

POLICY IMPLICATIONS

1. Financial/budget

For Financial/Budget impact associated with the recommendations in this agenda item, please refer to previous agenda items, 14 July 2008 for further information.

2. Legal

Planning

The Brown Land is located in a rural zone. The construction of treated waste water storage would constitute development and require approval from the Development Assessment Commission.

In order to meet the objectives of this zone, the Development Application would need to satisfy that the proposed treated water storage facility the outcome of which do not adversely impact on existing water courses and compliment rural activities within this zone.

Regulatory Approvals

In addition to the planning consideration the proposed treated water storage facility would need to satisfy the regulatory bodies.

3. Staffing/Work Plans

In addition to internal staff resources, the further investigations required to assess the viability of establishing on the Brown land treated water treated water storage requires expert external advice. The Services of Richard Crabb and Wallbridge and Gilbert have been retained.

4. Environmental

Securing suitable land for the storage of treated waste water and stormwater harvesting will have environmental benefits.

5. Social

The conservation and reuse of water has significant social benefits.

6. Strategic Plans

Strategy for future collection, treatment and reuse for STEDS effluent - 2020 KBR August 2003

Mount Barker District's Community Strategic Plan 2004 – 2007**3. Environment**

Goal “ Promote value conserve and manage the natural and built environment for the benefit of current and future generations and at every opportunity observe the principles of ecological sustainability “.

Object 4 states “Provide a leadership role in a range of environmental issues including water management.

Strategy 3.10 states “Develop a water resource management strategy that encompasses all areas on water quality and flooding involving all key stakeholders. Take advantage of potential opportunities through use of reclaimed effluent stormwater.

COMMUNITY CONSULTATION

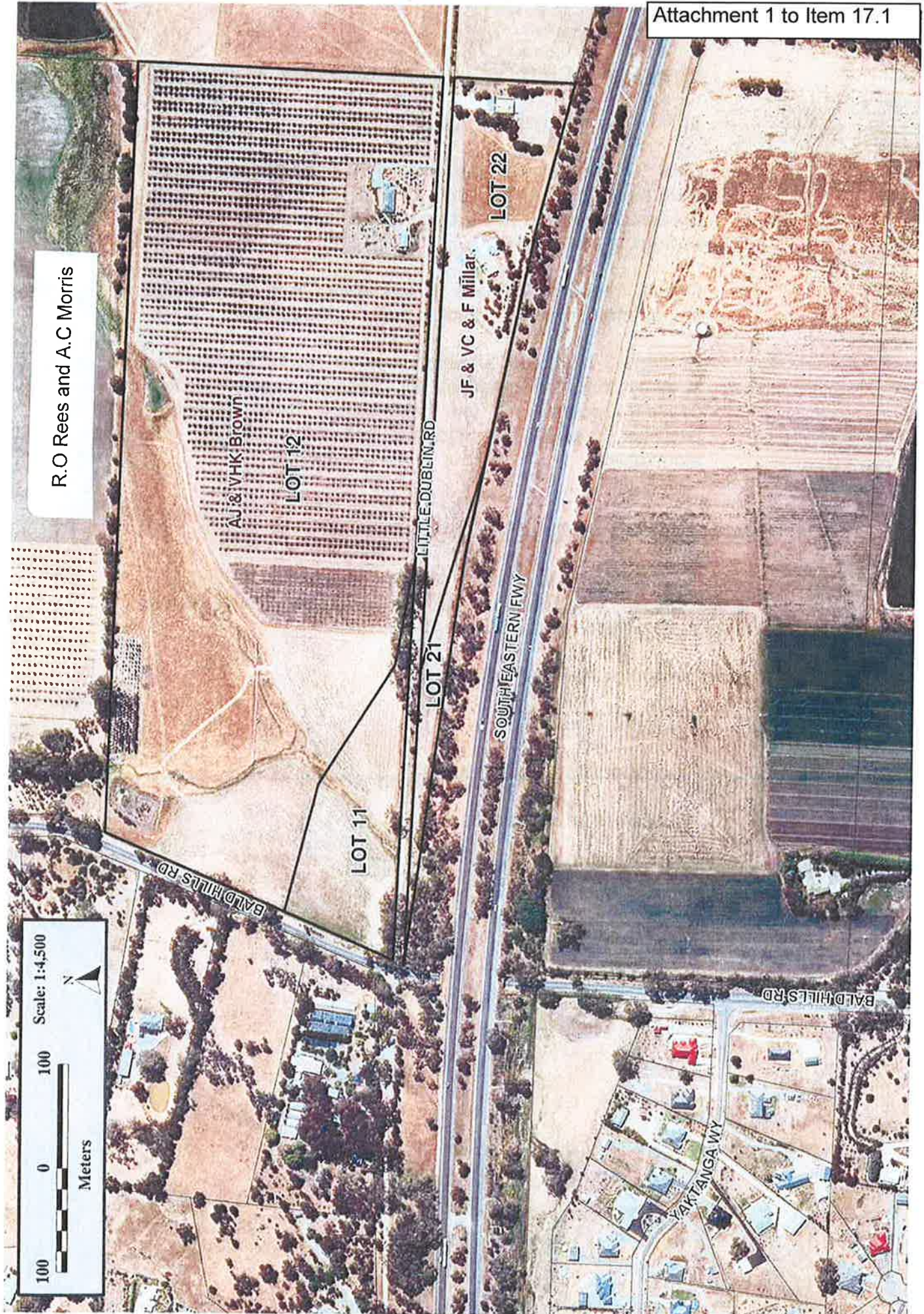
This report proposes to brief the relevant nearby owners to the Brown property about the possibility of establishing treated waste storage facilities on portion of the Brown Land.

1. Customer Needs Analysis

Not applicable.

2. Promotion/Communications

Not applicable at this time.



Attachment 2 to Item 17.1

John & Vivienne Millar
PO Box 130
Littlehampton
5250

David Ninio
Mt Barker Council
PO Box 54
Mt Barker
5251

27th August 2008

David

Further to our recent phone conversation:

Please find enclosed a copy of our most recent water bill. As discussed there is an extra amount included for multiple water meters. As this situation is beyond our control I do not see why we should have to pay for multiple meters. Can you please take care of this matter for me?

As also discussed, Andrew has informed me that the council has made an offer to buy his property subject to it being suitable for the councils needs. When I asked Andrew what the council intends to do with the property he told me that he did not know. I would like to request that we be informed of the Councils intended use of the property. As a ratepayer and adjoining neighbour to the property I believe that I have a right to know what the council intends to do with the property. In this day and age of freedom of information, it is unacceptable to me to be told that the intended use is confidential. Surely it would be better for all concerned to have this matter sorted out prior to the council spending nearly one million dollars of rate payer's money, only to find out that there is a groundswell of opposition from adjoining neighbours properties because they do not agree with Councils intended use. On the other hand I would also like to know if I have to start considering the sale of my own property before I continue spending more money on improvements that I may or may not get to enjoy the benefits of.

Your reply within 7 days would be greatly appreciated.

Regards

John Millar



To Brian Clancy
Please let me know
what to do.
David
28/8/08

District Council of Mount Barker
Bald Hills Road

Attachment 3 to Item 17.1



District Council of Mount Barker
 6 Dutton Road
 Mount Barker SA 5251

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Map Zoom: 975.4 m

Map Scale: 1:4,939

Created on: Wednesday, 23 July 2008 By: mth

**District Council of Mount Barker – Monday 15 SEPTEMBER 2008
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