

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
116	5 June 2017	Confidential Item: Strategic Land Parcel	<p><b>Section 90 (3) (b) Order</b></p> <p>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, Deputy Chief Executive Officer / General Manager Infrastructure and Projects General Manager Planning and Development, General Manager Corporate Services, General Manager Council Services and Acting Executive Assistant to the Mayor and CEO, be excluded from attendance at the meeting for Agenda Item 18.1 Strategic Land Parcel.</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:</p> <ul style="list-style-type: none"> <li>- Conducting business; or</li> <li>- Proposing to conduct business; and</li> <li>- Would prejudice the commercial position of the Council.</li> </ul> <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</p>	<p>The council report, related documents and all minutes be retained in confidence until the Council has concluded all commercial negotiations and settled the purchase of portion of the subject land or resolves that Council no longer has a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.</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:</p> <ul style="list-style-type: none"> <li>- Conducting business; or</li> <li>- Proposing to conduct business; and</li> <li>- Would prejudice the commercial position of the Council.</li> </ul> <p>In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to</p>	<p>Until the Council has concluded all commercial negotiations and settled the purchase of portion of the subject land or resolves that Council no longer has a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.</p>	4 Sep 17	3 Sep 18	<p><i>Report, attachments and Minutes released on website 9 May 2018</i></p>

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			<p>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.</p> <p><b>Section 91(7) Order</b> Pursuant to Section 90 (3) (b) That having considered Agenda Item 18.1 Strategic Land Parcel 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, related documents and all minutes be retained in confidence until the Council has concluded all commercial negotiations and settled the purchase of portion of the subject land or resolves that Council no longer has a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.</p> <p>2. That having reviewed the confidentiality orders related to the retention of confidentiality orders for:</p> <ul style="list-style-type: none"> <li>- 7 September 2015 – Mount Barker Town Centre Commercial Strategies Update;</li> <li>- 19 October 2015 – Mount Barker Town Centre Land Strategy ;</li> <li>- 21 December 2015 – Mount Barker Town Centre Land Strategy; and</li> </ul>		<p>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.</p>				

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			<p>- 17 October 2016 – Mount Barker City Centre Land Strategy</p> <p>That the confidential council reports, related documents and all minutes be retained in confidence until the Council has concluded commercial negotiations and settled the purchase of portion of the subject land or resolves that Council no longer has a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.</p>						

RELEASED

**18. CONFIDENTIAL REPORTS**

- 18.1      REPORT TITLE:            CONFIDENTIAL ITEM: STRATEGIC LAND PARCEL**
- DATE OF MEETING:      5 JUNE 2017**
- FILE NUMBER:            DOC/17/52747**
- ATTACHMENTS:          1. LOCATION PLAN 17/53686**  
**2. POINTS FOR CONSIDERATION IN THE**  
**PURCHASE NEGOTIATIONS**

**Mount Barker 2035 – District Strategic Plan:**

- The Urban Environment
- Development of the Mount Barker Regional Town Centre.

**Purpose:**

To:

- provide an update on the status of the Woolworths land; and
- seek updated authority for a pro-active approach to seek to purchase portion of the site.

**Summary – Key Issues:**

- It is understood that the Woolworths site is again available for purchase.
- Updated authority for a pro-active approach to seek to purchase portion of the site is recommended.

**Recommendation:****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, Deputy Chief Executive Officer / General Manager Infrastructure and Projects General Manager Planning and Development, General Manager Corporate Services, General Manager Council Services and Acting Executive Assistant to the Mayor and CEO, be excluded from attendance at the meeting for Agenda Item 18.1 Strategic Land Parcel.

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; or
- Proposing to conduct business; and
- Would prejudice the commercial position of the Council.

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.

*Please note:*

*If adopted, the recommendations below will vary previous resolutions from Council meetings since the elections that were held in November 2014. This reflects the changing circumstances in respect of the Woolworths site. In turn, procedurally this requires a formal Notice of Motion which is immediately below.*

2. Pursuant to Regulation 21 of the Local Government (Procedures at Meetings) Regulations, the Chief Executive Officer recommends that Council amend by exception (i.e. unless amended by the recommendations below, the previous resolutions relating to this matter of 7 September 2015, 19 October 2015, 21 December 2015 and 17 October 2016 remain) and:
3. Reaffirm that a strategic objective is to secure land somewhere in the order of 600 – 1,000m<sup>2</sup> for the purposes of achieving community open space in the form of a Mount Barker Town Square, at an actual location that is yet to be determined;
4. Acknowledging that based on previous communications, the likelihood of purchasing 600 – 1,000m<sup>2</sup> of the Woolworths site is considered remote, authorise the Chief Executive Officer to undertake commercial negotiations to purchase up to 3,000m<sup>2</sup> of land that is currently owned by Woolworths and bounded by Druids Avenue, Morphett Street, Hutchinson Street and Stephen Street, Mount Barker at a purchase price that would not exceed the rate of \$800m<sup>2</sup> (excluding GST) and having regard to the points contained in attachment 2.

5. Note that should these commercial negotiations be fruitful, a further agenda item would be prepared to clearly set out what Council can proceed with and to seek authority for the Mayor and Chief Executive Officer to formalise and execute the necessary documentation.

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

6. Pursuant to Section 90 (3) (b)  
That having considered Agenda Item 18.1 Strategic Land Parcel 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, related documents and all minutes be retained in confidence until the Council has concluded all commercial negotiations and settled the purchase of portion of the subject land or resolves that Council no longer has a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.
7. That having reviewed the confidentiality orders related to the retention of confidentiality orders for:
  - 7 September 2015 – Mount Barker Town Centre Commercial Strategies Update;
  - 19 October 2015 – Mount Barker Town Centre Land Strategy ;
  - 21 December 2015 – Mount Barker Town Centre Land Strategy; and
  - 17 October 2016 – Mount Barker City Centre Land StrategyThat the confidential council reports, related documents and all minutes be retained in confidence until the Council has concluded commercial negotiations and settled the purchase of portion of the subject land or resolves that Council no longer has a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.

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#### **Background:**

1. This site has been the subject of a number of previous Council meeting agenda items. The most recent being on 17 October 2016 when it was resolved (confidentially) to authorise the Chief Executive Officer in

consultation with the Mayor to lodge a Council expression of interest with CBRE in purchasing portion of the site.

2. That occurred but was not successful. Emmett Property was successful in gaining what is understood to be an option to purchase the site and representatives of Emmett did meet with Council officers to discuss their development intentions and to see what interest Council had in the site.

**Discussion:**

3. Verbal advice received by Council is that the option to purchase the Woolworths site that Emmett Property negotiated via the CBRE Expressions of Interest process has lapsed.
4. It is understood that the Emmett Group interest has concluded and they will not have any further direct involvement in the purchase of the site.
5. Approaches from other developers regarding what interest Council has in the site have been made on an informal basis.
6. Whilst the intentions of Woolworths Limited are not yet known, it is likely that further approaches will be received from developers given the site is again understood to be available for purchase.
7. Given this situation it is prudent for Council to be clear as to its interest in the site so as to enable a proactive approach to be taken. Accordingly the above recommendations largely reflect an updating of the previous authority via confidential council meeting resolutions albeit with some further flexibility than previously but with no change to the amount per m2.

**Community Engagement:**

Informing only	Information is to remain confidential whilst commercial negotiations continue to occur.
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**Policy:**

Not applicable.

**Budget:**

A Council land purchase for up to \$2.4 million would be funded via further borrowings.

**Statutory/Legal:**

It is intended that any land purchased by Council would be excluded from classification as community land pursuant to the Local Government Act.

Current zoning of the site is Regional Town Centre which in summary allows for a broad range of commercial, retail , residential, educational, office and civic type uses.

**Staff Resource Requirements:**

The recommendations can be implemented using existing staff resources.

**Environmental:**

Portion of the site is known to be contaminated, this issue is covered in attachment 2.

**Social:**

There would be considerable social and economic benefit if the long vacant Woolworths site is developed.

**Risk Assessment:**

If Council does not take a pro-active role the ability to secure a suitable site for the need of a Mount Barker Town Square is at risk given the very limited location options for such a use.

**Asset Management:**

Nil associated with the recommendations.

**Conclusion:**

Given the change in status of the Woolworths site, updated authority is recommended to enable Council's interest in purchasing portion of the site for strategic reasons to be progressed.

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**Key Contacts**

David Morton  
Strategic Projects Manager

Brian Clancey  
Deputy Chief Executive Officer, General Manager  
Infrastructure & Projects

**Sponsor of Project**

Andrew Stuart, Chief Executive Officer





# **Mount Barker District Council** **Woolworths Site**

**Attachment 1 to Item 18.1**

Showing total land area of 11,345 m<sup>2</sup>; and 3,000m<sup>2</sup> area previously identified for purchase; and area subject of contamination



**MOUNT BARKER**  
**DISTRICT COUNCIL**

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Mount Barker SA 5251  
advanced  
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Map Zoom: 0.2257 km  
Map Scale: 1:1,143  
Created on: Thursday, 24 September 2015 By:

**Attachment 2 to Item 18.1****Attachment 2****Points for Consideration in the Purchase Negotiations**

(These are not in any particular order)

Facilitation of Employment Generation

A role of Council is to facilitate economic development and employment generation. An objective would be to see some productive use occur on the site, or at least portion of the site rather than have it continue to be under-utilised. In a similar vein to the role played by Council in enabling the construction of the Bald Hills Road freeway interchange to proceed, Council could facilitate the breaking of the impasse that has seen this key site lay idle for such a long time.

Partnering Opportunities

Opportunities may exist for Council to strategically partner with a developer. This may include the possibility of a co-ordinated approach to infrastructure provision like shared car parking for example.

Site Contamination

Portion of the site is known to contain contamination – refer location plan (attachment 1). Council has access to limited information regarding this contamination and as part of a due diligence process would require access to more current information on the contamination. That in turn would inform anticipated implications (e.g. required remediation or other site works and preliminary estimate of cost) of the contamination for likely land uses.

Due Diligence

A suitable period of time would be required to enable Council to undertake due diligence in respect of the specific land that is being considered for purchase.

Actual Location

The actual location of the land considered for purchase has implications for market value, access and use. Previously Council's interest has been in respect of the Southern portion of the site with Morphett Street frontage seen as being important for the purposes of linkages to Gawler Street and amenity.

Adjacent Land Uses

Immediately adjacent land uses proposed by a developer are of further consideration. This could range from highly desired such as employment generation and providing additional services for the benefit of the community e.g. such as health and well-being related, to less desired such as another fast food outlet.

Purchase Mechanism

Such a land purchase by Council could occur by direct means i.e. a contract for sale and purchase between Council and the land owner or by other means such as Council settling a contract that is 'signed over' by a third party similar to what occurred with the purchase by Council of land on Bollen Road from the Herbig Family via developer Burke Urban. The important consideration will be the outcome for Council and any implications arising from the purchase mechanism.

RELEASED



## **18. CONFIDENTIAL REPORTS**

<b>18.</b>	<b>REPORT TITLE:</b>	<b>CONFIDENTIAL ITEM: STRATEGIC LAND PARCEL</b>
	<b>DATE OF MEETING:</b>	<b>5 JUNE 2017</b>
	<b>FILE NUMBER:</b>	<b>DOC/17/52747</b>
	<b>ATTACHMENTS:</b>	<b>1. LOCATION PLAN 17/53686</b>
		<b>2. POINTS FOR CONSIDERATION IN THE PURCHASE NEGOTIATIONS</b>

Moved Councillor Campbell that:

### **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, Deputy Chief Executive Officer / General Manager Infrastructure and Projects General Manager Planning and Development, General Manager Corporate Services, General Manager Council Services and Acting Executive Assistant to the Mayor and CEO, be excluded from attendance at the meeting for Agenda Item 18.1 Strategic Land Parcel.

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Seconded Councillor Bettcher

CARRIED  
OM20170605.18

### **Disclosure of Material Conflict of Interest Declaration**

<i>Refer to Item</i>	:	4.2
<i>Was Councillor Campbell granted approval by the Minister to Participate in the meeting, pursuant to section 71(3) of the Act?</i>	:	No approval requested
<i>Did Councillor Campbell take part in the meeting?</i>	:	No
<i>Did Councillor Campbell remain in the chamber?</i>	:	No
<i>Councillor Campbell rose and left the chamber at</i>	:	9.16pm
 <i>Councillor Seager took his chair at</i>	:	 9.16pm

Moved Councillor Hamilton that:

2. Pursuant to Regulation 21 of the Local Government (Procedures at Meetings) Regulations, the Chief Executive Officer recommends that Council amend by exception (i.e. unless amended by the recommendations below, the previous resolutions relating to this matter of 7 September 2015, 19 October 2015, 21 December 2015 and 17 October 2016 remain) and:
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5. Note that should these commercial negotiations be fruitful, a further agenda item would be prepared to clearly set out what Council can proceed with and to seek authority for the Mayor and Chief Executive Officer to formalise and execute the necessary documentation.

Seconded Councillor Seager

CARRIED  
OM20170605.19

Moved Councillor Hamilton that:

**Section 91(7) Order**

6. Pursuant to Section 90 (3) (b)

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Seconded Councillor Buchmann

CARRIED  
OM20170605.20

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MEETING DECLARED CLOSED AT 9.41PM

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MAYOR

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DATE