

CONFIDENTIAL ITEMS 2003 – APRIL 2023

#	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
172	17 January 2022	Confidential Item – Fulford Terrace, Littlehampton Development Site – Infrastructure Arrangements	<p>Section 90 (3) (d) Order Pursuant to Section 90(3)(d)</p> <p>1. 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 – Governance, Strategic Projects and Wastewater/Recycled Water; General Manager Corporate Services; General Manager, Infrastructure; Acting General Manager, Planning and Development; Acting General Manager, Community Services; Risk and Governance Officer / Executive Assistant to the Mayor; Executive Officer to the Summit Sport and Recreation Park Board, Executive Officer Sport and Recreation Development and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.1 Fulford Terrace, Littlehampton Development Site – Infrastructure Arrangements.</p> <p>The Council is satisfied that pursuant to Section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to :</p> <ul style="list-style-type: none"> • prejudice the commercial position of the person who supplied the information and • to confer a commercial advantage on a third party. <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 the continued non-disclosure of the information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.</p>	Report, attachment and all minutes	<p>The Council is satisfied that pursuant to Section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to :</p> <ul style="list-style-type: none"> • prejudice the commercial position of the person who supplied the information and • to confer a commercial advantage on a third party. <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 the continued non-disclosure of the information. The</p>	Retained in confidence until 17 January 2023 or such lesser period as may be determined by the Chief Executive Officer.	5 Sep 22	Within 12 months	<i>Report, Minutes and Attachments released on website 17 August 2023</i>

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			<p>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 result in a competitor receiving the information to the detriment of the developer.</p> <p>Section 91(7) Order Pursuant to Section 91(7)</p> <p>5. That having considered Agenda Item 18.1 Fulford Terrace, Littlehampton Development Site – Infrastructure Arrangements in confidence under 90(2) and 3(d) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the Council report, attachment and all minutes be retained in confidence until 17 January 2023 or such lesser period as may be determined by the Chief Executive Officer.</p> <p><u>Order History</u> 5 Sep 22</p>		<p>benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information.</p> <p>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 result in a competitor receiving the information to the detriment of the developer.</p>				

18. CONFIDENTIAL REPORTS

**18.1 REPORT TITLE: CONFIDENTIAL ITEM: FULFORD TERRACE,
LITTLEHAMPTON DEVELOPMENT SITE -
INFRASTRUCTURE ARRANGEMENTS**

DATE OF MEETING: 17 JANUARY 2022

FILE NUMBER: 21/166241

ATTACHMENTS:

- 1) Location Plan of Mark Fiora 2006 Subject Land Parcels 21/207990**
- 2) Article in The Courier Newspaper 2006 21/205003**
- 3) Location Plan of the late Mrs Bonetti Land 21/207991**
- 4) Location Plan Fulford Terrace Development Site 21/207992**
- 5) Location Plan Wastewater Connection Point 21/207997**
- 6) Commercial in Confidence Letter from Mark Fiora 21/172603**

Key Contact Brian Clancey, Deputy CEO/General Manager Governance and Wastewater/Recycled Water

Sponsor Andrew Stuart, CEO

Community Plan 2020-2035:

Implementation partnerships
Strategy 3.2 - Partner with developers to contribute financially to providing community infrastructure

Annual Business Plan:

Wastewater/Recycled Water:
Provide an affordable, cost-effective and reliable service offering to our wastewater customers

Purpose:

To seek authority to:

1. Vary the direct infrastructure obligations contained in the 2006 Infrastructure Agreement for the "Fiora Land" and to prepare and execute a supplemental agreement;
2. Reduce the standard council wastewater infrastructure fee to be applicable to the Gardner Street/Fulford Terrace, Littlehampton Development Site; and

3. Prepare and execute a wastewater commitment deed for the Fulford Terrace/Gardner Street development site.

Summary – Key Issues:

- Development of the land parcels fronting Gardner Street and Fulford Terrace, Littlehampton is now proposed;
- Variations to the transport infrastructure arrangements contained in a 2006 Infrastructure Agreement are recommended; and
- A reduction in the standard council wastewater infrastructure fee to be applicable to the Gardner Street/Fulford Terrace, Littlehampton Development Site is recommended.

Recommendation:

That Council:

Section 90 (3) (d) Order Pursuant to Section 90(3)(d)

1. 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 Corporate Services; General Manager, Infrastructure; Acting General Manager, Planning and Development; Acting General Manager, Community Services; and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.1 Fulford Terrace, Littlehampton Development Site - Infrastructure Arrangements.

The Council is satisfied that pursuant to Section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to :

- prejudice the commercial position of the person who supplied the information and
- to confer a commercial advantage on a third party.

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 the continued non-disclosure of the 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 this information may result in a competitor receiving the information to the detriment of the developer.

2. Has a short term suspension of normal council meeting proceedings to enable informal discussion of the matters that relate to decision making on this agenda item;
3. Ends the short term suspension of normal council meeting proceedings;
4. Approves the recommended changes to the 2006 Infrastructure Agreement executed by Council and Mr Mark Fiora as outlined below in points 27 – 30 inclusive;
5. Authorises the Chief Executive Officer or nominee to prepare and execute a Supplemental Agreement (to be executed by Council and Mr Mark Fiora) to formalise the approved changes to the 2006 Infrastructure Agreement;
6. Authorises a reduction of 7.5% in the standard council wastewater infrastructure fee (that is applicable at the time) for the Fulford Terrace/Gardner Street development site, given the circumstances outlined below in points 41 – 51 inclusive;
7. Authorises the Chief Executive Officer or nominee to finalise and execute a wastewater commitment deed for this development site that is consistent with recommendation 6; and

Section 91(7) Order Pursuant to Section 91(7)

8. That having considered Agenda Item 18.1 Fulford Terrace, Littlehampton Development Site - Infrastructure Arrangements in confidence under 90(2) and 3(d) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the Council report, attachment and all minutes be retained in confidence until 17 January 2023 or such lesser period as may be determined by the Chief Executive Officer.

Background:

1. Below is an overview of the long and considerable history of this matter, spanning some 17 years.

2. Given the extent of that history, recommendations for a suspension and subsequent resumption of formal council meeting procedures have been included above as it will be important that council members feel confident in their understanding of these matters, pre decision making occurring in the council meeting.
3. In 2006 the applicable State Government legislation of the time did not enable the rezoning of land or the approval of development applications to be accompanied by infrastructure obligations on developers of such land that was external to the actual development site.
4. To enable the rezoning of parcels of land in the townships of Mount Barker, Littlehampton, Nairne and Meadows to be progressed, council took the approach of requiring the owners of those land parcels to enter into Infrastructure Agreements (pre re-zoning).
5. This was an innovative approach that in summary required contributions from the developers of those land parcels to the provision of required infrastructure when undertaking development i.e. pay as you go.
6. The infrastructure contributions were in the following two categories:
 - Direct Infrastructure – on the advice of Frank Siow and Associates, required transport infrastructure (roads and footpaths) that was adjacent to or in close proximity to the subject land that was required due to the development of that land – for example the developer of the land on Hurling Drive Mount Barker was required to construct (amongst other things) roundabouts on Wellington Road at both Victoria Road and Albert Road.
 - Indirect Infrastructure – a financial contribution to council to cater for the aggregate impact of the numerous land parcels rezoned in 2006 to be available for a variety of purposes such as the upgrading of the recreational facilities at Anembo Park.
7. The innovative approach taken by council back in 2006 has proven to be highly successful and endured well over many years. It has seen the provision of significant community infrastructure, either direct from developers and/or via council with financial contributions from developers.
8. The Infrastructure Agreements executed in 2006 included land parcels in Littlehampton, Nairne, Mount Barker and Meadows. The final parcel to be developed is the Fulford Terrace, Littlehampton site.
9. In total nine Infrastructure Agreements were executed in 2006. The majority of the subject land owners executed such agreements. This included Mr

Mark Fiora who/nominee owned two such parcels of land in Littlehampton as shown in attachment 1.

10. Indeed, Mr Fiora publicly supported the approach of council which was very much welcomed by council at the time – see attachment 2.
11. The then owner of the land parcel (Mrs Bonetti now deceased) on the corner of Gardner Street and Old Princes Highway, Littlehampton as shown in attachment 3 was not prepared to execute such an Agreement.
12. Council then (in 2006) had two choices being:
 - Not to proceed with the rezoning of the two parcels of land shown in attachment 4 as to rezone only the land then held by Mr Fiora was not seen as constituting orderly development of land; or
 - Proceed with the rezoning of the two parcels of land and retrospectively seek to secure infrastructure contributions over the land then owned by Mrs Bonetti.
13. Council chose the latter option.
14. One of the infrastructure obligations contained in the 2006 Infrastructure Agreement executed by Mr Fiora for the Fulford Tce development site was to construct a footpath on William Street from Gardner Street to Darnley Street. This obligation was not triggered until development of the land on the corner of Gardner Street and Fulford Terrace was undertaken.
15. In 2017 council was undertaking other footpath construction works in Littlehampton and asked Mr Fiora to consider voluntarily bringing forward the timing of this obligation which Mr Fiora agreed to do which as stated in a council letter to Mr Fiora at that time, was very much appreciated. Mr Fiora paid council the full cost of the William Street footpath works being \$29,760.
16. The 2006 Agreement required Mr Fiora to provide council with a bank guarantee as security in relation to the indirect infrastructure obligations. Mr Fiora did so for the amount of \$192,500. The provision of the bank guarantee came at a cost to Mr Fiora and in July 2017 council agreed with Mr Fiora to accept security via the declaration of infrastructure separate rates releasing the bank guarantee that had been in place since 2006.
17. One of the obligations in the 2006 Agreement (the upgrading of junctions on the Old Princes Highway) was split with the developer of another site being located on Gum Tree Drive, Littlehampton. The development of that site was nearing completion which saw council and that developer (Nu Urban Ventures Pty Ltd – Mr Ian Quigley) reach agreement in 2012 that council

would accept payment of \$105,000 from the developer as a full discharge of the developer's obligation being 50% of that upgrading.

18. That obligation remains and is now to be 50% funded by council. This is considered further below.
19. In July 2017 council also declared a separate rate over the land that was owned by the late Mrs Bonetti. That was for direct infrastructure only as the Local Government Act doesn't allow for a separate rate to be imposed for indirect infrastructure purposes without the support of the land owner which was not forthcoming. The amount in July 2017 was \$377,000 which via annual indexation is now \$411,715.
20. The declaration of these separate rates by council in 2017 occurred following the required community consultation.
21. This amount of \$377,000 included a contribution of \$50,000 (2017 \$s annually indexed) "to the construction of pathways and associated landscaping and lighting within the Glebe land including connection to the Bonetti Land".
22. An overview of the long history and current issues was provided to council members in a confidential informal gathering that was held on 18 October 2021. That confidential presentation remains available to council members.
23. The land previously owned by the late Mrs Bonetti was purchased by Mr Fiora in 2020 (shown in attachment 3).
24. Mr Fiora has lodged a development application for the land shown in attachment 4 for which assessment is occurring pursuant to the Development Act 1993.

Discussion:

25. Now that Mr Fiora has acquired the adjacent land parcel previously owned by the late Mrs Bonetti and lodged a development application, the implications of the proposed development on the nearby roads are far clearer.
26. As a consequence, some changes to the Direct Infrastructure obligations contained in the 2006 Agreement executed by Mr Fiora are now proposed and in summary are:

Proposed Changes to the 2006 Agreement

Additional:

27. upgrade the section of Fulford Terrace from Gardner Street to the western edge of the Glebe land; and
28. provision of a footpath from the western edge of the Glebe land to Gardner Street and two pedestrian refuges on this section of the Old Princes Highway – portion of the footpath to be on the Old Princes Highway and portion within open space to be provided as part of the development;

Note: This is a direct requirement of the assessment of the development application and is included here simply because it would make sense to package all of the required road and footpath obligations into a single document (a Supplemental Agreement – see below).

Amended:

29. Instead of a roundabout on Gardner Street at the junction with William Street, a T junction (not at the junction with William Street) to provide vehicular access from Gardner Street to the development site.

To be Deleted:

30. Provision of a footpath on Baker Street from Gardner Street to Darnley Street. *Note: Instead this would be added to the council's footpath construction program to be funded by council.*

Supplemental Agreement

31. A Supplemental Agreement would be the mechanism to formalise all the agreed changes to the 2006 Agreement. This would include triggers for when the various obligations are required to be delivered, commensurate with the progressive delivery of the development.
32. This would be similar to the approach taken in relation to the Bluestone Development on Hurling Drive, Mount Barker which was the subject of two Supplemental Agreements to reflect agreed changes over time.
33. No changes are proposed to the remaining Direct and Indirect Infrastructure obligations contained in the 2006 Agreement. In summary, these obligations are:

Direct Infrastructure - Retained:

34. Upgrading of Gardner Street;

35. Upgrading of Junction of Gardner Street with the Old Princes Highway and access to Gum Tree Drive from the Old Princes Highway; *Note: As indicated above, council is to contribute 50% of the total cost.*

Indirect Infrastructure – Retained:

36. Payment to council for each new allotment when created. In 2021/22 the applicable amount is \$5,588 including GST per allotment.
37. In simple terms the proposed changes to the 2006 Agreement are considered to be appropriate (relative to need) and fair in relation to cost implications. These proposed changes have been agreed in principle with Mr Fiora and he is aware that a council meeting resolution to that effect is required.
38. Additional to the obligations outlined above, there will be other infrastructure obligations that Mr Fiora will need to satisfy. An example of that being stormwater infrastructure both within and external to the site the arrangements for which are derived from the development assessment process and would be finalised as part of the development approval. For context, the engineering consultants (Greenhill) retained by Mr Fiora have provided a preliminary estimate of cost for that being \$175,000.
39. Additional also is the obligation for Mr Fiora to now contribute \$50,000 (2017 \$s annually indexed and now \$54,145 “to the construction of pathways and associated landscaping and lighting within the Glebe land including connection to the Bonetti Land” given he is developing what was previously the Bonetti land.
40. This obligation is in lieu of what would have been an indirect infrastructure obligation had an Infrastructure Agreement (2006) been in place over the former Bonetti land. Indirect infrastructure obligations are payable as the development proceeds. In this case however Mr Fiora has indicated that he would pay the full amount to council upon making application for the issue of new titles for the first stage of the development.

Wastewater Infrastructure:

41. As per Council’s Wastewater Infrastructure Fees and Augmentation Costs Policy, Mr Fiora is responsible for the required wastewater infrastructure augmentation to connect the development site to the council’s network, the connection location for which is on the Old Princes Highway/North Terrace as shown in attachment 5.

42. Mr Fiora has written to council on a commercial in confidence basis – see attachment 6.
43. Within that letter Mr Fiora is seeking a reduction of 7.5% in the amount of the wastewater infrastructure fee that would be payable to council. Mr Fiora has chosen to have the site serviced by sewer, not via the Community Waste Management System. Hence the current (2021/22) standard fee for sewer is \$9,344 per each new allotment/property. A reduction of 7.5% would equal \$701 and the amount would then be \$8,643.
44. As advised to council members via a confidential memo dated 15 December 2021, the recent legal advice to council from Thomson Geer Lawyers confirms that council can vary the wastewater infrastructure fee from one development site to another.
45. In so doing, council needs to have regard to the circumstances that are unique to this particular development site, from the perspective of the provision of the wastewater service including the overall cost:benefit over the long term for the council owned and operated wastewater business, including economies of scale. The subsequent (additional) professional advice (December 2021) on this matter from Mr Richard Cawley of Inside Infrastructure (ex SA Water) recommends that council assess the effort and cost of setting individual Wastewater Infrastructure Fees for each development site (to be cost reflective) as opposed to having a standard/average type fee.
46. As indicated in the confidential presentation at the informal gathering for council members on 18 October 2021, the basis for recommending the reduction of 7.5% to the applicable sewer infrastructure fee is that the wastewater collection trunk main that services the entire township of Littlehampton has already been upgraded by council (in stages commencing in 2013/14).
47. The trunk main was upgraded from being a 150mm to a 300mm diameter with the exception of a short final section along the Old Princes Highway being 225mm diameter. The capacity required to cater for the Fulford Terrace/Gardner Street development site was of very little (if any) impact in determining the required capacity for this upgrading i.e. if these development parcels didn't exist, the main section would still have been upgraded to 300mm as at 225mm (the next size down) as this was assessed to be right on the margin capacity wise with the risk of not coping at peak demand times such as during a heavy rainfall event (stormwater intrusion).
48. Hence for council to provide a sewer service to this development site will not require any additional capital expenditure by council, only the augmentation infrastructure which is to be funded by Mr Fiora as shown in attachment 5.

49. Revenue from Mr Fiora to pay for the sewer infrastructure fee can be entirely directed by council to contribute to the cost of the Mount Barker wastewater treatment plant upgrading.
50. On this basis to support the request from Mr Fiora for the reduction in the sewer infrastructure fee of 7.5% for the Fulford Terrace/Gardner Street development site would be consistent with recent legal and professional advice and would still deliver a satisfactory result for council with forecast total revenue (over time from the developer) of just over \$1 million in current day dollars.
51. This excludes additional revenue that would be received from the annual service charge for sewer that will be payable by ratepayers. No reduction in the standard amount for the annual service charge for sewer is proposed and nor has this been sought.

Community Engagement:

Informing only	As per the confidential recommendation above.
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Policy:

- Wastewater Infrastructure Fees and Augmentation Costs Policy
- Infrastructure Contributions – Separate Rate Relief Policy

Long Term Financial Plan:

The adopted Long Term Financial Plan includes forecast revenue and expenditure in relation to infrastructure associated with residential development.

Budget:

By virtue of the council decision back in 2012, council will need to fund 50% of the total cost of the upgrading of the Junction of Gardner Street with the Old Princes Highway and access to Gum Tree Drive from the Old Princes Highway – the timing of this expenditure is not yet known.

Similarly the timing of infrastructure contributions from Mr Fiora to council is not yet known.

Current expectation is little or no council budget impact until 2022/23.

Statutory/Legal:

- 2006 Infrastructure Agreement
- Local Government Act 1999 – separate rates
- State Government (Dept. for Infrastructure & Transport) re Old Princes Highway

Staff Resource Requirements:

The recommendations can be implemented within existing staff resources.

External legal expertise will be required in relation to the preparation of a Supplemental Agreement.

Environmental:

The implementation of the various infrastructure obligations will have regard to existing environmental circumstances such as the trees within Gardner Street.

Social:

The infrastructure obligations will deliver community benefit extending beyond the future residents of the Fulford Terrace/Gardner Street development site.

Risk Assessment:

There is a risk that the cost of the upgrading of the junction of Gardner Street with the Old Princes Highway and access to Gum Tree Drive from the Old Princes Highway will exceed preliminary cost estimates, arising from the requirements of the Dept. for Infrastructure & Transport. That risk will equally apply to Mr Fiora.

The detail of the arrangements for this matter can be dealt with in due course, via an exchange of letter or formal agreement with Mr Fiora to ensure that the risk to council associated with being responsible for the funding of 50% of the total cost of this element is able to be managed.

Asset Management:

Upgraded and new assets will vest in council to operate and maintain with the exception of the Old Princes Highway road pavement which is a State Government responsibility.

Conclusion:

Adoption of the recommendations will see a range of community benefits achieved as the development of the Fulford Terrace/Gardner Street development site by Mr Fiora occurs.

Previous Decisions By/Information Reports to Council

Meeting Date	3 April 2017	CM Reference	DOC/17/10102
Title	LITTLEHAMPTON DEVELOPMENT SITES - PROPOSED INFRASTRUCTURE SEPARATE RATES		
Purpose	To seek authority to undertake community consultation on proposed infrastructure separate rates on two development sites in Littlehampton.		

Meeting Date	2 July 2012	CM Reference	DOC/90/005/073
Title	Gum Tree Drive/Princes Highway, Littlehampton – Infrastructure Agreement		
Purpose	To seek approval to accept a financial contribution from Nu Urban Ventures Pty Ltd in lieu of constructed works to upgrade the junction of Gum Tree Drive and the Princes Highway, Littlehampton to meet the Developer's direct infrastructure obligations pursuant to a 2006 Infrastructure Agreement between the Developer and the Council.		

Meeting Date	20 September 2006	CM Reference	DOC/
Title	PUBLIC AND PRIVATE SECTOR CONTRIBUTIONS TO INFRASTRUCTURE PROVISIONS		
Purpose	To seek Council endorsement of the collaborative approach to the provision of public infrastructure identified as a consequence of new urban growth opportunities as reflected in the District Wide Residential Plan Amendment Report (PAR).		

Attachment 1



District Council of Mount Barker

Council Agenda 20 September 2006

Attachment 2 to Item 18.1

6

Infrastructure fee a winner for home estate developers

A group of developers has welcomed the Mt Barker Council's plans to seek money from them to pay for new community infrastructure.

The council is working with the developers to create agreements that will see millions of dollars injected into upgrades for roads, footpaths and recreational facilities.

Some of the money would also fund the construction of a second freeway exit.

Littlehampton developer Mark Fiora, who is hoping to see council approval for a housing estate on Hallet Road, said the system was "fair" and "workable".

"I think it is a fair and just way of getting an increased population in a sustainable way, without putting the burden on other ratepayers," he said.

"Nobody likes extra costs, but when you look at the benefits I think it makes a lot of sense to do it this way.

"It is a win win situation for everyone."

Contribution

Under draft council plans, the Littlehampton development would contribute about \$42,900 to upgrade Hallet Rd and the Adelaide Road-Childs Road intersection.

All developers would also be asked to contribute a set fee per allotment - currently drafted at \$2650 - to pay for indirect infrastructure including a second freeway

exit, indoor and outdoor recreation facilities and town centre car parking.

Mr Fiora said the scheme was commonplace in some other states and that he believed it was only a matter of time before other SA councils followed suit.

"Once the Mt Barker Council does a scheme that is fair and workable, I think it will be something that other councils would look to pick up," he said.

Good initiative

Developer and real estate agent James Sexton said the scheme was a "very good initiative".

"If development is going to happen, then some of the responsibility has got to be passed on to the developers," Mr Sexton said.

SextonGlover represents several developers affected by the scheme and Mr Sexton also has plans for a 70-allotment estate in Nairne.

"All the developers we work with - and that is probably about 75% of the land that is coming up - are quite happy with it," Mr Sexton said.

"It is quite a high cost per allotment, but there's a genuine need for it so the developers can accept it."

Follow-up developer Clem Viney, who is proposing an estate at Meadows with more than 100 allotments, said he was also in favor of the scheme.

"I do believe that is a reasonable position that the council can take in requesting



Littlehampton developer Mark Fiora with plans for a housing estate on Hallet Road in the town. Mr Fiora is one of a group of developers who have thrown their support behind the Mt Barker Council's plans to seek funding contributions to pay for upgrades to roads and other infrastructure.

developers' contributions to infrastructure that will eventually have to be put in because of future development," Mr Viney said.

However, he said the council needed to identify how much money it intended to collect from developers

and justify the amount.

"It has to be a negotiated settlement," Mr Viney said.

"If they put a proposition to a developer it has got to be justified both in terms of the amount of money they are asking for and in regard to the spending of that amount."

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Attachment 3 to Item 18.1

Attachment 3

Location Plan of the late Mrs Bonetti Land



Attachment 4 to Item 18.1

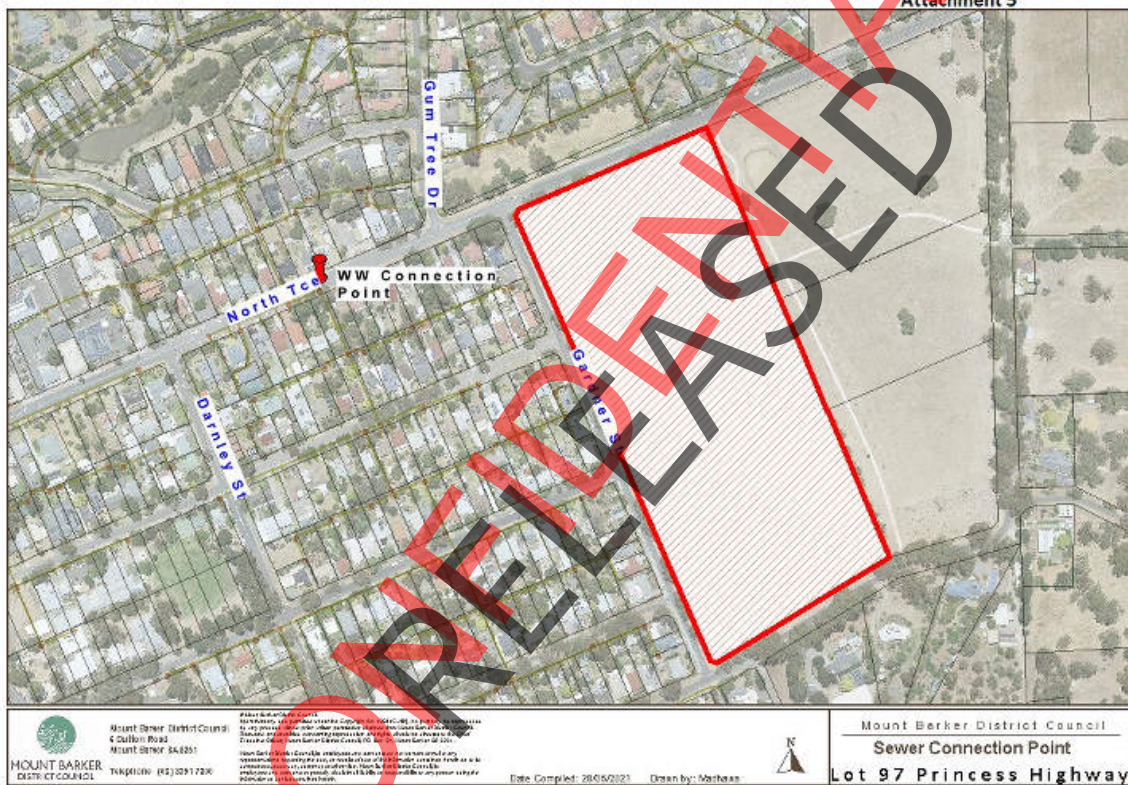
Attachment 4

Location Plan of Fulford Terrace Development Site



Attachment 5 to Item 18.1

Attachment 5



Attachment 6 to Item 18.1

Attachment 6

30/09/2021

Mr Brian Clancy
District Council of Mt Barker
6 Dutton Road Mt Barker
South Australia 5251

Commercial in confidence

Dear Brian

As you know I am currently getting approval through Council for a residential development on my land at Gardner Street.

Brian you may be aware I was one of the original Supporters of the Original Developers Infrastructure agreements in 2006. We collaborated with Council on an innovative approach taken for future infrastructure provisions and I went on public record with my full support including an article in the courier, as a local I understood the issues and fully supported the approach.

Brian, I have never had a problem with "paying my way" and doing what is fair. I think I have demonstrated this with several of my other projects in the community like building additional footpaths on Kym Avenue - (the Pines Littlehampton) and building South Australia's first private Bird Park with over 40 Nesting boxes at the Rise Littlehampton and adopted Hallett Rd Littlehampton with an additional 2000 tree plantings and the addition of a roundabout on Hallett Rd.

I've always taken personal pride in the projects I've created and tried to give to more to the community than necessary and have always been approachable from Council to help where I can and bring things forward and to work together to try to improve the area (Example Building a new footpath along Williams St Littlehampton many years ahead of any development to work in with MBC and bring forward upgrades for the township.

With this New project we always wanted this to be an outstanding award-winning development that becomes a place that locals will feel proud to live in – something that Littlehampton can be proud of. My Project consultants are working through the issues to get the final development approval which we are hoping will come through soon.

As part of this development, I obviously need to sort out a solution for dealing with wastewater on site.

In my initial discussions with you I understand that the standard single lot rate per allotment for connecting into the council system at Littlehampton will be \$9,433.00 per allotment as outlined on the Council website.

Whilst I completely understand the need for user pays when delivering things like sewer for a new development. I'm just seeking a fair deal, especially considering the number of connections (approximately 120) that will be provided as part of the project.

I'm happy to deal exclusively with MB Council regarding the delivery of wastewater and I am seeking some balance consistent with other new developments in Mt Barker who I in Commercial confidence understand are paying in the order of \$6000 – \$7500 per lot.

These are also based on large scale developments so I am seeking something that is fair and reasonable based on the number of connections we will provide plus the fact that we will be bringing new potential full sewer connections to the Council from our sewer works along Gardner Street and Fulford Terrace into the township.

If council were to agree with this figure 7.5 % reduction, I fully understand that it would be Subject to annual adjustment by council.

Then subject to viewing and being comfortable with the content of the council's model wastewater commitment deed, we would be prepared to execute a deed with council for the full development site and provide security in the way of separate rate or similar together with a 6-month payment term.

As you know Brian I am born and bred in the Mt Barker district, and I have lived in Littlehampton for over 20 years and have always tried to do the right thing.

Therefore, based on the above I am requesting that Council consider accepting a sewer connection fee for the project of - 7.5 % reduction Based on amount of connections and all above.

I look forward to hearing back from you on this and please give me a call if you wish to discuss.

" All we are after is fair and Reasonable "As per other developments

Kind Regards



Mark Fiora

Fiora Group C/O Box 479 Littlehampton South Australia 5250
Phone (08) 83911855 Mobile 0417292257
Email mark@fioragroup.com.au
Web www.fioragroup.com.au

17. **QUESTIONS ARISING FROM COUNCIL MEETING**

As per Council's Code of Practice for Meeting Procedures, whilst a public gallery is unable to be physically present, Questions Arising from the Council meeting are in abeyance.

18. **CONFIDENTIAL REPORTS**

Disclosure of perceived Conflict of Interest Declaration

Refer to Item : 4.1
The manner in which the Member dealt with the perceived conflict of interest at confidential item 18.1 : Councillor Leach remained in the meeting for confidential item 18.1 as he advised he will base his decision on the discussion.

If the member voted on the matter, the manner which he voted? : For Motions: 2, 3, 4, 5, 7, 8
Against Motions: 1, 6

18.1 REPORT TITLE: CONFIDENTIAL ITEM: FULFORD TERRACE, LITTLEHAMPTON DEVELOPMENT SITE - INFRASTRUCTURE ARRANGEMENTS
DATE OF MEETING: 17 JANUARY 2022
FILE NUMBER: DOC/21/166241
ATTACHMENTS:
1) Location Plan of Mark Fiora 2006 Subject Land Parcels DOC/21/207990
2) Article in The Courier Newspaper 2006 DOC/21/205003
3) Location Plan of the late Mrs Bonetti Land DOC/21/207991
4) Location Plan Fulford Terrace Development Site DOC/21/207992
5) Location Plan Wastewater Connection Point DOC/21/207997
6) Commercial in Confidence Letter from Mark Fiora DOC/21/172603

Moved Councillor Leach that Council:

Section 90 (3) (d) Order Pursuant to Section 90(3)(d)

1. 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 – Governance, Strategic Projects and Wastewater/Recycled Water; General Manager Corporate Services; General Manager, Infrastructure; Acting General Manager, Planning and Development; Acting General Manager, Community Services; Risk and Governance Officer / Executive Assistant to the Mayor; Executive Officer to the Summit Sport and Recreation Park Board, Executive Officer Sport and

Recreation Development and the Minute Secretary be excluded from attendance at the meeting for Agenda Item 18.1 Fulford Terrace, Littlehampton Development Site - Infrastructure Arrangements.

The Council is satisfied that pursuant to Section 90(3)(d) of the Act, the information to be received, discussed or considered in relation to this Agenda item is commercial information of a confidential nature (not being a trade secret) the disclosure of which could reasonably be expected to :

- prejudice the commercial position of the person who supplied the information and
- to confer a commercial advantage on a third party.

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 the continued non-disclosure of the 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 this information may result in a competitor receiving the information to the detriment of the developer.

8.10pm Councillor Bailey rose and left the meeting
8.12pm Councillor Bailey returned to the meeting and took her chair

8.14pm Councillor Bailey rose and left the meeting
8.15pm Councillor Bailey returned to the meeting and took her chair

Seconded Councillor Morrison

CARRIED
OM20220117.13

8.18pm Moved Councillor Bailey that Council:

2. Has a short term suspension of normal council meeting proceedings to enable informal discussion of the matters that relate to decision making on this agenda item;

Seconded Councillor Morrison

CARRIED
OM20220117.14

8.38pm Councillor Bailey rose and left the meeting
8.39pm Councillor Bailey returned to the meeting and took her chair

8.40pm Councillor Westwood rose and left the meeting
8.41pm Councillor Westwood returned to the meeting and took his chair

8.43pm Councillor Morrison rose and left the meeting
8.45pm Councillor Morrison returned to the meeting and took his chair

8.53pm Councillor Bailey rose and left the meeting
8.54pm Councillor Bailey returned to the meeting and took her chair

9.21pm Moved Councillor Orr that Council:

3. Ends the short term suspension of normal council meeting proceedings;

Seconded Councillor Leach

CARRIED
OM20220117.15

9.21pm Councillor Grosser rose and left the meeting

9.21pm Councillor Grosser returned to the meeting and took his chair

Moved Councillor Orr that Council:

4. Approves the recommended changes to the 2006 Infrastructure Agreement executed by Council and Mr Mark Fiora as outlined below in points 27 – 30 inclusive;

Seconded Councillor Westwood

CARRIED
OM20220117.16

Moved Councillor Orr

5. Authorises the Chief Executive Officer or nominee to prepare and execute a Supplemental Agreement (to be executed by Council and Mr Mark Fiora) to formalise the approved changes to the 2006 Infrastructure Agreement;

Seconded Councillor Seager

CARRIED
OM20220117.17

Moved Cr Seager

6. Authorises a reduction of 7.5% in the standard council wastewater infrastructure fee (that is applicable at the time) for the Fulford Terrace/Gardner Street development site, given the circumstances outlined below in points 41 – 51 inclusive;

Seconded Councillor Morrison

CARRIED
OM20220117.18

Councillor Leach called for a DIVISION

Mayor Ferguson declared the vote set aside

Those voting in the Affirmative: Councillors Seager, Orr, Morrison, Jones, Bailey, Westwood, Hardingham,

Those voting in the Negative: Councillors Leach, Minett, Grosser.

Mayor Ferguson declared the motion OM20220117.18 CARRIED

Moved Councillor Orr

7. Authorises the Chief Executive Officer or nominee to finalise and execute a wastewater commitment deed for this development site that is consistent with recommendation 6; and

Seconded Councillor Leach

CARRIED
OM20220117.19

Moved Councillor Bailey that Council:

Section 91(7) Order Pursuant to Section 91(7)

8. That having considered Agenda Item 18.1 Fulford Terrace, Littlehampton Development Site - Infrastructure Arrangements in confidence under 90(2) and 3(d) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the Council report, attachment and all minutes be retained in confidence until 17 January 2023 or such lesser period as may be determined by the Chief Executive Officer.

Seconded Councillor Morrison

OM20220117.20
