CONFIDENTIAL ITEMS 2003 – SEPTEMBER 2019

#	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
107	4 July 2016	Proposed Sale of Portions of Unmade Road known as Haines Road, Mount Barker	**Section 90 (3) (b) Order** 1. Pursuant to Section 90(3)(b) Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, four General Managers and the Executive Assistant to the Mayor and Chief Executive Officer be excluded from attendance at the meeting for the Agenda Item 17.2 Proposed sale of Portions of unmade road known as Haines Road, Mt Barker The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council in that the information to be considered includes financial information, the disclosure of which could prejudice the Council's commercial position during negotiations. In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances	Council report, related documents and all minutes	Information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council in that the information to be considered includes financial information, the disclosure of which could prejudice the Council's commercial position during negotiations. In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to	Until contracts for the sale and purchase of land (both Parcel 1 and 2) have been executed and all of the pre conditions to settlement have been satisfied or on 4 July 2017, whichever is the sooner. **Resolution – Council Meeting 5 June 2017** Extends the current confidentiality order for the Council Agenda Item 17.2 and minutes dated 4 July 2016 (minute reference OM20160704.47) to 4 July 2018 or until settlement of all of the Parcels "B", "C" and "D", whichever is the sooner or a lesser period as may be determined by the Chief Executive Officer and that this order be reviewed every 12 months.	2 Oct 18	Within 12 months	*Report attachments and minutes on website 5 September 2019*

RELEASED

CONFIDENTIAL ITEMS 2003 – SEPTEMBER 2019

#	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
			because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other land contract negotiations. Pursuant to Section 90 (3) (b) & (d) That having considered the Agenda Item 17.2 Proposed sale of Portions of unmade road known as Haines Road, Mt Barker in confidence under section 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 contracts for the sale and purchase of land (both Parcel 1 and 2) have been executed and all of the pre conditions to settlement have been satisfied or on 4 July 2017, whichever is the sooner.		the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other				

RELEASED

CONFIDENTIAL ITEMS 2003 – SEPTEMBER 2019

#	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
					land contract negotiations				

RELEASED

17.2 REPORT TITLE: CONFIDENTIAL ITEM: PROPOSED SALE OF PORTIONS OF UNMADE ROAD KNOWN AS HAINES ROAD, MT BARKER

DATE OF MEETING: 4 JULY 2016

FILE NUMBER: DOC/16/59381

Mount Barker 2035 – District Strategic Plan:
GL 3.4 Consider alternative means of raising revenue through innovation and partnership opportunities and disposal of surplus assets where appropriate.

Purpose:
To seek:

- approval to sell a portion of unmade road known as Haines Road shown as parcel 1 in attachment 2 comprising approximately 5,730m2 for $100,000 exclusive of GST to the adjoining owner; and
- delegation of authority to negotiate the sale of a second portion of the unmade road to the adjoining land owner, shown as parcel 2 in attachment 2

Summary – Key Issues:

1. Council has received an offer (see attachment 3) of $100,000 for a portion of unmade road known as Haines Road shown in attachment 2 comprising approximately 5,730m2 from the adjoining owner and is seeking an offer for the purchase of a second portion from another adjoining owner.
2. If adjoining development goes ahead without including the unmade road reserve Council will be liable for development and maintenance of the road reserve and the risk of it attracting undesirable behaviour.
3. If disposal is approved a road closure would be required prior to the sale.

RELEASED

Recommendation:

That Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)
   Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, four General Managers and the Executive Assistant to the Mayor and Chief Executive Officer be excluded from attendance at the meeting for the Agenda Item 17.2 Proposed sale of Portions of unmade road known as Haines Road, Mt Barker

The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council in that the information to be considered includes financial information, the disclosure of which could prejudice the Council's commercial position during negotiations.

In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other land contract negotiations.

2. Exercise the option to vary from the requirement in the Disposal of Council Land and Other Assets Policy to obtain a minimum of two independent valuations given the circumstances that exist including that the unmade road reserve can only be sold to adjacent land owners.
3. Approves the sale of a portion of unmade road (Parcel 1) known as Haines Road shown in attachment 2 comprising approximately 5,730m2 for $100,000 exclusive of GST to the adjoining owner.
4. Gives delegation to the CEO or nominee to negotiate and finalise sale and purchase documentation for Parcel 1.
5. Gives delegation to the CEO or nominee to negotiate and finalise sale and purchase documentation for any additional unneeded part of Parcel 2 shown in Attachment 2 for a value of no less than $17/m2 exclusive of GST to the adjoining owner.
6. Notes that a Road Closure process will be required for either Parcel 1 or 2 for a sale to occur.

Section 91(7) Order

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

7. That having considered the Agenda Item 17.2 Proposed sale of Portions of unmade road known as Haines Road, Mt Barker in confidence under section 90(2) and (3)(b) of the Local Government Act 1999, the Council

RELEASED

pursuant to Section 91(7) of the Act orders that the council report, related documents and all minutes be retained in confidence until contracts for the sale and purchase of land (both Parcel 1 and 2) have been executed and all of the pre conditions to settlement have been satisfied or on 4 July 2017, whichever is the sooner.

Background:

1. Council owns a road reserve to the east of Wellington Road which has never been developed as actual roads, see location plan, Attachment 1. The land is in the Growth Area, the adjoining allotment to the south is subject to a proposal to construct a Shopping Centre and the adjoining allotments to the north are all subject to residential subdivision proposals.

2. The road reserve is not required now or in the future as a functioning road based on Council's Master Plan. Council has written to all of the adjoining land owners on two occasions to seek expressions of interest in purchasing the road reserve. No tangible interest was received on either occasion.

3. If adjoining development goes ahead without including the road reserve Council will be liable for development and maintenance of the road reserve. The unneeded road reserve will potentially become an unsightly parcel prone to rubbish dumping and/or antisocial behaviour.

4. Council has had further discussions with adjoining developers to facilitate an integrated outcome for the road reserve and has now received an offer (see attachment 3) of $100,000 for the part of the road reserve adjoining the Ambleside Development (Parcel 1), see Attachment 2.

5. If a disposal is approved a formal road closure would be required prior to the sale.

6. Council has also had discussions with Wakefield Gardens Pty Ltd the developer of land between the Amblemead subdivision and Wellington Road which also adjoins part of the road reserve.

7. Wakefield Gardens Pty Ltd has expressed interest in acquiring some of the same road reserve which has a total area of approximately 2,106m2 (Parcel 2 in Attachment 2). A trail will pass through part of this Parcel to link the commercial centre to the residential estates and be retained in Council ownership but the remainder could be sold if approved by Council and incorporated into the proposed residential estate which would be the preferred outcome.

Discussion:

RELEASED

8. The land area (Parcel 1) of the part of the road reserve subject to an offer is approximately 5,730m2. The offer equates to $17.45/m2. Parcel 1 has not been valued however a similar area of road reserve which connects to the south was valued at $22.95/m2 in November 2014.

9. Council's Disposal of Council Land and Other Assets Policy allows a sale by negotiation:
    - "*with owners of land adjoining the Land or others with a pre-existing interest in the Land, or where the Land is to be used by a purchaser whose purpose for the Land is consistent with the Council's strategic objectives for the Land"* and:
    - *"If Land is to be disposed of via a select tender or direct sale and the expected value is more than $25,000, then (unless the Council resolves otherwise) a minimum of two independent valuations must be obtained to ensure that an appropriate market value is obtained."*

10. The offer of $100,000 for Parcel 1 has been increased from a lower initial figure of $72,000 and Council Staff believe this represents the maximum amount likely to be achievable and a good community outcome. The alternative will be to retain Parcel 1 and bear the cost impacts of ongoing development and maintenance as open space. Open space is provided for immediately adjacent to the unmade road reserve within the two adjacent residential developments.

11. Benefits of selling the land include:
    - Generating revenue for Council which can be used for other higher priorities.
    - Saving ongoing costs of maintaining the land.
    - Allowing a better integration of the land with the adjoining development.
    - Avoiding creation of an unsightly no-man's land with potential ongoing antisocial behaviour.

12. A Road Closure process will be required for the land if a sale is approved by Council. The land does not have a separate allotment and can only be sold to an adjoining owner via a road Closure and boundary adjustment to amalgamate the land into the adjoining allotment.

13. The exact land areas will be subject to survey.

14. For Parcel 1 the adjacent land owner has development approval and a timing imperative. Hence if Council was to delay decision making on the offer (attachment 3) it is anticipated that the offer will be withdrawn.

RELEASED

15. The land owner is undertaking the Amblemead development. That has seen the land owner take a lead role in the negotiation with two adjacent developers of a co-ordinated stormwater solution that will provide considerable community benefits. This model is one that Council has encouraged and would welcome in other locations.

16. The provision of an integrated stormwater management solution has resulted in the developer having to undertake additional works following the detailed design process. The incorporation of the road reserve provides for a more efficient use of the land and will result in less transport of excavated material off site. The benefit to existing downstream properties (external to the current development sites) from this integrated stormwater system will ensure that flooding that previously occurred in smaller 1 in 10 and 1 in 20 year events will no longer impact these downstream properties. This is in addition to the protection right up to the 1 in 100 year events. This integrated stormwater system for the development will save Council undertaking future stormwater infrastructure works to reduce flooding impact on these existing properties.

17. A matter not directly related but potentially of some interest is that the adjacent land owner has withdrawn the request to have portion of Sims Road renamed to Amblemead Drive.

Community Engagement:

Informing only	Via Council Report

Policy:
Disposal of Council Land and Other Assets Policy.

Budget:
If approved the land sales would provide capital revenue to Council. Settlements would be delayed given the legal requirement for Council to undertake a formal closure process for the unmade road.

Statutory/Legal:
Road closure requirements as set out in the Local Government Act 1999.

Staff Resource Requirements:
Will be managed by existing staff resources.

Environmental:
One tree is located on Parcel 1 it is a River Red Gum subject to the Native Vegetation Act, it is also a Regulated tree for the purpose of the Development Act with a circumference of 2.02 metres. It is a 'D' grade tree not worthy of forming constraints and not suitable for inclusion within urban development.

RELEASED

Parcel 2 contains a number of planted trees including one non remnant River Red Gum which is not worthy of forming constraints to development but would be subject to a Development Application for removal; there is also one potential remnant River Red Gum which is subject to the Native Vegetation Act.

Social:
Sale of Parcel 1 and part of Parcel 2 will prevent the land becoming unsightly and prone to rubbish dumping and/or antisocial behaviour.

Risk Assessment:
If the sales do not proceed Council will have to bear the cost impacts of ongoing development and maintenance.

Asset Management:
The sale of the two land parcels would avoid the cost of maintaining open space which is not required or of use to the community.

Conclusion:
Council has received an offer of $100,000 from the adjoining owner for a portion of unmade road known as Haines Road, comprising approximately 5,730m2. If adjoining development goes ahead without including the road reserve, Council will be liable for development and maintenance of the road reserve.

Key Contact
David Morton, Strategic Projects Manager

Manager or Sponsor of Project
Brian Clancey, General Manager Infrastructure and Services

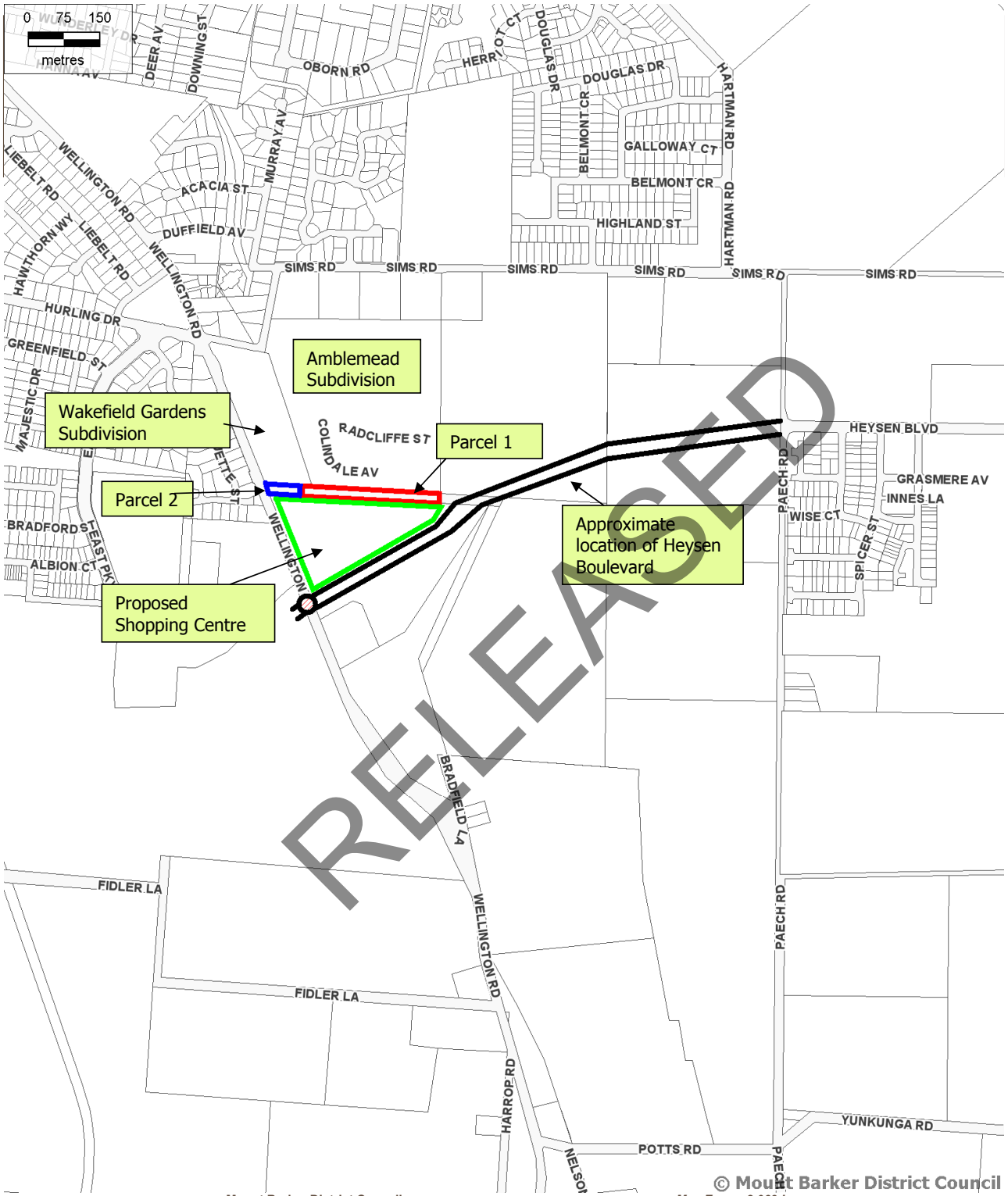
Attachments
1. Location Plan DOC/16/60013
2. Plan of Parcel 1 and Parcel 2 DOC/16/60014
3. Commercial in confidence offer from adjacent land owner for Parcel 1 DOC/16/61344

RELEASED

N

Mount Barker District Council
Location Plan

Attachment 1 to Item 17.2



RELEASED

© Mount Barker District Council

Map Zoom: 2.069 km
Map Scale: 1:10,480
Created on: Friday, 24 June 2016 By: advanced

Mount Barker District Council
Building 3, 6 Dutton Road
Mount Barker SA 5251

Telephone (08) 8391 7200
Facsimile (08) 8391 7299

MOUNT BARKER
DISTRICT COUNCIL

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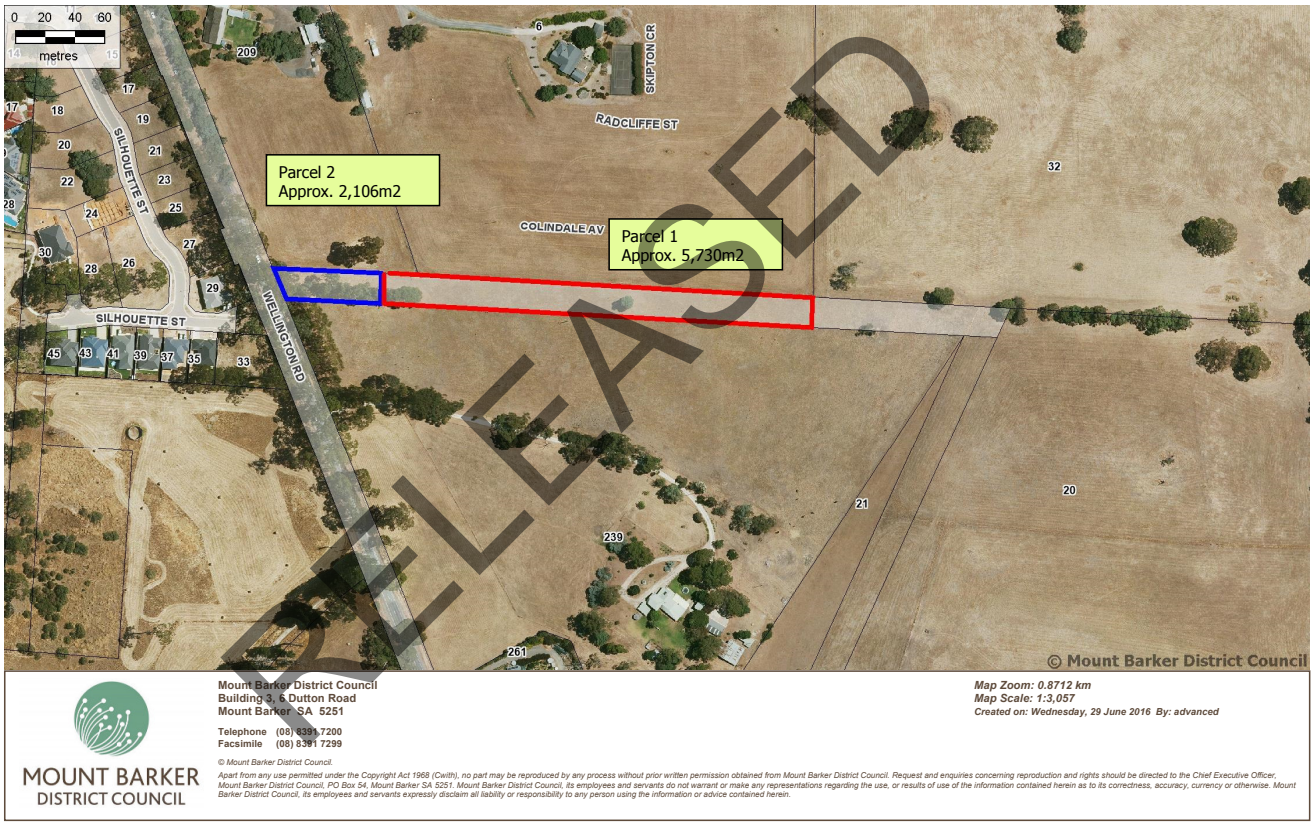
Mount Barker District Council

Attachment 2 to Item 17.2



MOUNT BARKER DISTRICT COUNCIL

Mount Barker District Council
Building 3, 6 Dutton Road
Mount Barker SA 5251

Telephone (08) 8391 7200
Facsimile (08) 8391 7299

Map Zoom: 0.8712 km
Map Scale: 1:3,057
Created on: Wednesday, 29 June 2016 By: advanced

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Attachment 3 to Item 17.2

AMBLEMEAD
- at Mount Barker -

Mt Barker District Council
Attn: Brian Clancey
6 Dutton Road
Mt Barker SA 5251

Tuesday 28th June 2016

Dear Brian,

Re: Haines Road Mount Barker - COMMERCIAL IN CONFIDENCE

Amblemead Mt Barker Pty Ltd will purchase the section of Haines Road as indicated on the attached Development Plan "A019715PROP(Q)" on the following terms to be formalised by way of a Contract of Sale:

Purchase Price:	$100,000
Deposit:	$5,000
Settlement:	To occur once the formal closure of Haines Road has occurred
Possession:	For the period prior to formal Haines Road closure, Mt Barker District Council is to provide a license for Amblemead Mt Barker Pty Ltd to utilise Haines Rd for development activity that is to include but not be limited to the disposal of fill and the installation of gas infrastructure.

Please counter sign this page to accept this offer.

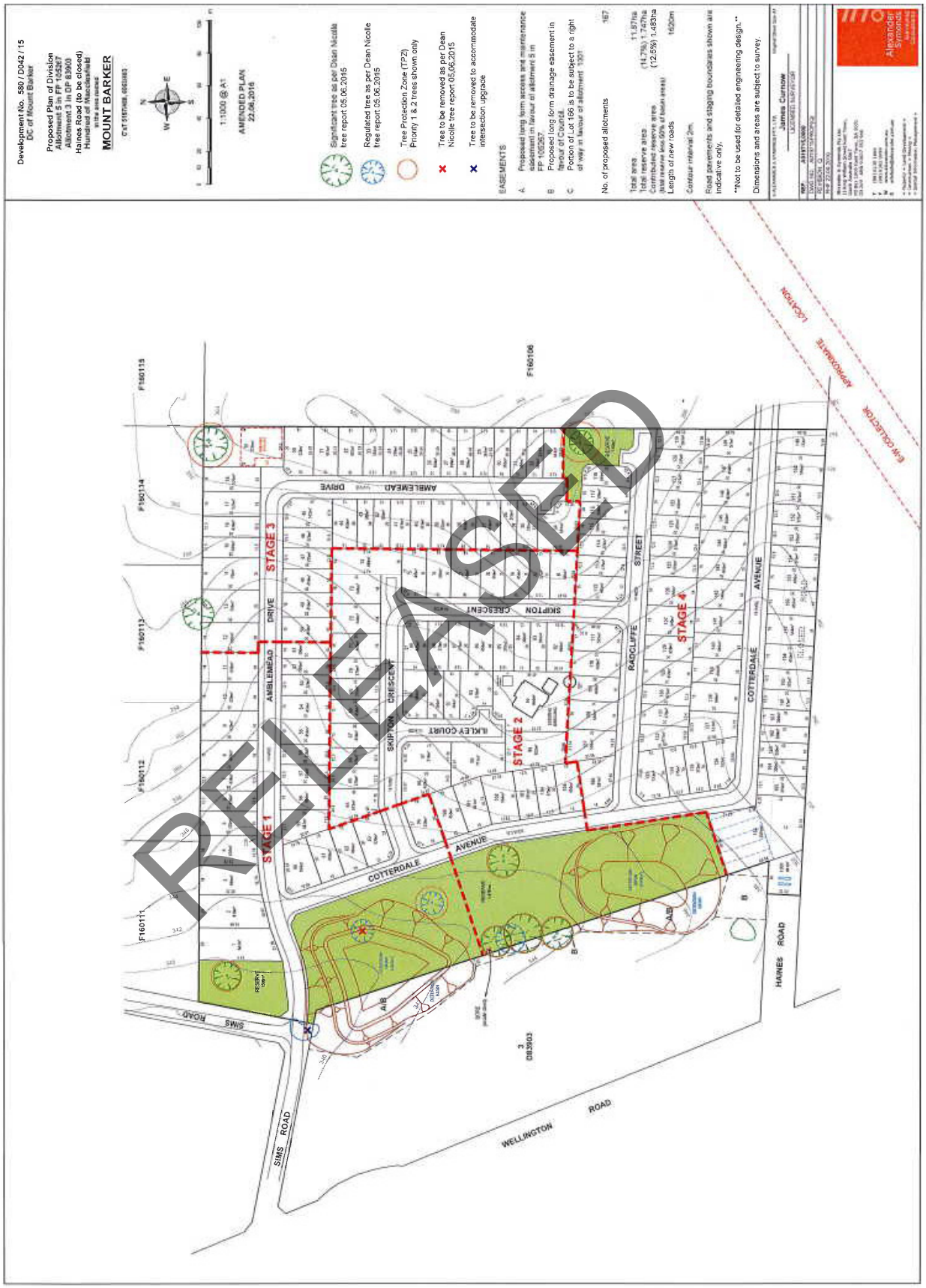
Yours faithfully,

Tim Cosh
Director
Amblemead Mt Barker Pty Ltd
Date: 28/6/16

ACCEPTED, please proceed to Contract preparation on the above basis.

Brian Clancey
General Manager Infrastructure & Projects
Date:

RELEASED

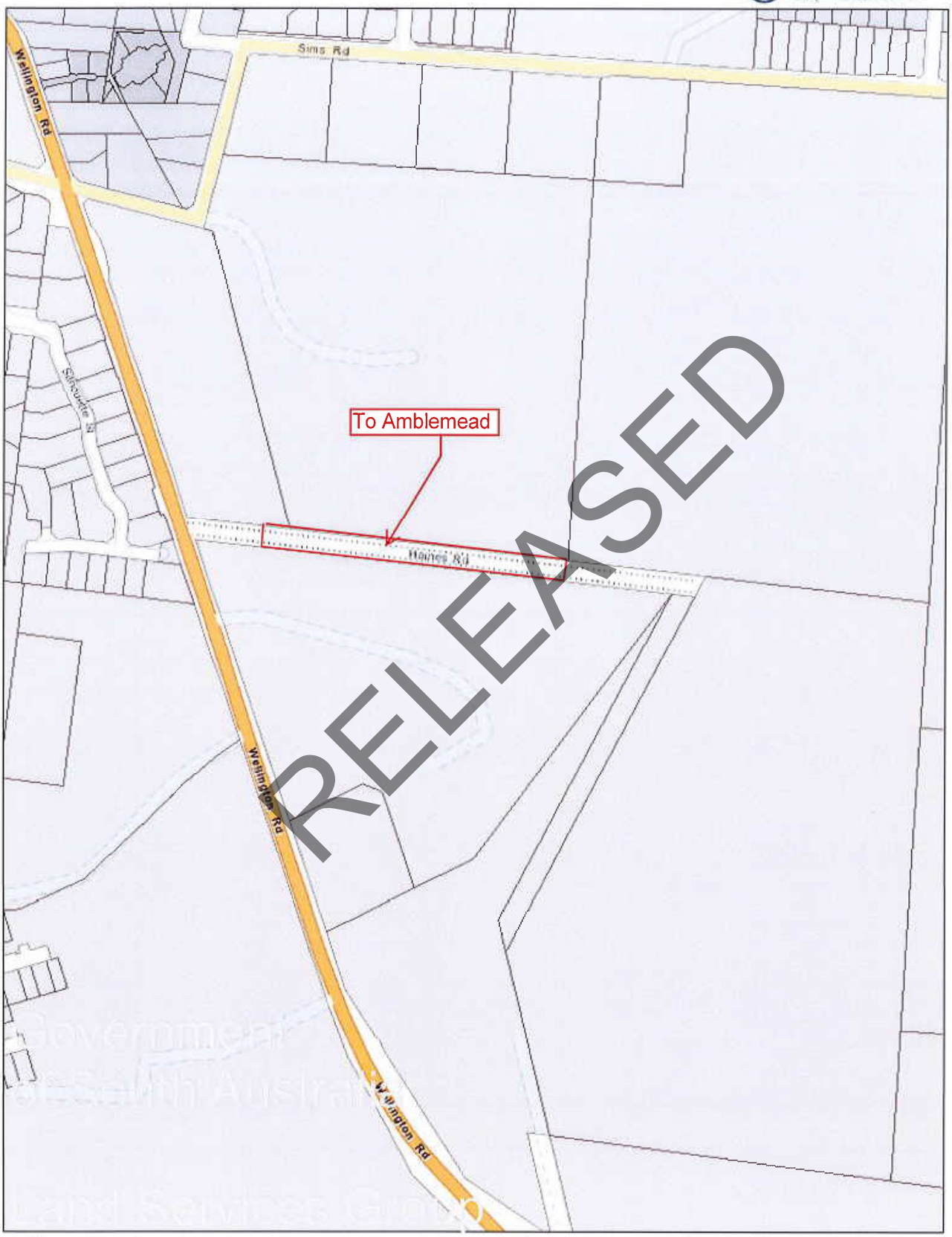

Development No. 580 / D042 / 15
DC of Mount Barker
Proposed Plan of Division
Allotment 5 in FP 105267
Allotment 3 in DP 83903
Haines Road (to be closed)
Hundred of Macclesfield
MOUNT BARKER
1:1000 @ A1
AMENDED PLAN
22.06.2016
Significant tree as per Dean Nicolle tree report 05.06.2015
Regulated tree as per Dean Nicolle tree report 05.06.2015
Tree Protection Zone (TPZ) Priority 1 & 2 trees shown only
Tree to be removed as per Dean Nicolle tree report 05.06.2015
Tree to be removed to accommodate intersection upgrade
EASEMENTS
No. of proposed allotments 167
Total area 11.87ha
Total reserve area (14.7%) 1.747ha
Contributed reserve area (12.5%) 1.483ha
Length of new roads 1620m
Contour interval 2m
Road pavements and staging boundaries shown are indicative only.
Not to be used for detailed engineering design.
Dimensions and areas are subject to survey.
James Curnow
Alexander Symonds
STAGE 1
STAGE 2
STAGE 3
STAGE 4
AMBLEMEAD DRIVE
SKIPTON CRESCENT
ILKLEY COURT
RADCLIFFE STREET
COTTERDALE AVENUE
HAINES ROAD
SIMS ROAD
WELLINGTON ROAD
EW COLLECTOR APPROXIMATE LOCATION
RELEASED

Land Services Group

The Property Location Browser is available on the Land Services Group Website: www.sa.gov.au/landservices

Date Created:
June 22, 2016

Government of South Australia
Department of Planning, Transport and Infrastructure



RELEASED

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17.2 REPORT TITLE: CONFIDENTIAL ITEM: PROPOSED SALE OF PORTIONS OF UNMADE ROAD KNOWN AS HAINES ROAD, MT BARKER
DATE OF MEETING: 4 JULY 2016
FILE NUMBER: DOC/16/59381

Moved Councillor Keen that Council:

Section 90 (3) (b) Order

1. Pursuant to Section 90(3)(b)
Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, four General Managers and the Executive Assistant to the Mayor and Chief Executive Officer be excluded from attendance at the meeting for the Agenda Item 17.2 Proposed sale of Portions of unmade road known as Haines Road, Mt Barker

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

Agenda item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business and would prejudice the commercial position of the Council in that the information to be considered includes financial information, the disclosure of which could prejudice the Council's commercial position during negotiations.

In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest in public access to the meeting has been balanced against the public interest in continued non-disclosure of this information. The benefit to the public at large resulting from withholding the information outweighs the benefit to it of disclosure of the information. The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter and in relation to other land contract negotiations.

Seconded Councillor Campbell CARRIED
OM20160704.45

Moved Councillor Keen that Council:

2. Exercise the option to vary from the requirement in the Disposal of Council Land and Other Assets Policy to obtain a minimum of two independent valuations given the circumstances that exist including that the unmade road reserve can only be sold to adjacent land owners.
3. Approves the sale of a portion of unmade road (Parcel 1) known as Haines Road shown in attachment 2 comprising approximately 5,730m2 for $100,000 exclusive of GST to the adjoining owner.
4. Gives delegation to the CEO or nominee to negotiate and finalise sale and purchase documentation for Parcel 1.
5. Gives delegation to the CEO or nominee to negotiate and finalise sale and purchase documentation for any additional unneeded part of Parcel 2 shown in Attachment 2 for a value of no less than $17/m2 exclusive of GST to the adjoining owner.
6. Notes that a Road Closure process will be required for either Parcel 1 or 2 for a sale to occur and that a further report will come to Council following consultation for the Road Closure.

Seconded Councillor Campbell CARRIED
OM20160704.46

RELEASED