

CONFIDENTIAL ITEMS 2003 – AUGUST 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
127	15 January 2018	Strategic Land Acquisition	<p><u>Section 90 (3) (b) Order</u></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, A/g General Manager Council Services, and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.1 Strategic Land Acquisition.</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/entity with whom the Council is:</p> <ul style="list-style-type: none"> - Conducting business or proposing to conduct business; and - Would prejudice the commercial position of the Council. <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 is satisfied that the principle that the meeting be conducted in a place open to the public</p>	Council agenda item, related documents and all minutes	<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/entity with whom the Council is:</p> <ul style="list-style-type: none"> - Conducting business or proposing to conduct business; and - Would prejudice the commercial position of the Council. <p>In addition the disclosure of this information would, on balance, be contrary to the public interest. The public interest</p>	Retained in confidence until the Council and related parties have concluded all commercial negotiations and either settled the purchase of the subject land or Council has resolved to no longer have a direct interest in acquiring 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.	2 Oct 18	Within 12 months	<i>Report, attachments and Minutes released on website 26 August 2019</i>

CONFIDENTIAL ITEMS 2003 – AUGUST 2019

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			<p>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><u>Section 91(7) Order</u></p> <p>2. Pursuant to Section 90 (3) (b) That having considered Agenda Item 18.1 Strategic Land Acquisition 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 agenda item, related documents and all minutes be retained in confidence until the Council and related parties have concluded all commercial negotiations and either settled the purchase of the subject land or Council has resolved to no longer have a direct interest in acquiring 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>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.</p>				

18. CONFIDENTIAL REPORTS

- 18.1 REPORT TITLE: CONFIDENTIAL ITEM: STRATEGIC LAND ACQUISITION**
- DATE OF MEETING: 15 JANUARY 2018**
- FILE NUMBER: DOC/18/1669**
- ATTACHMENTS: ATTACHMENT 1. DOC/18/2214 - LOCATION PLAN AND SUBJECT LAND
ATTACHMENT 2. DOC/17/86336 & DOC/17/105384 COUNCIL LETTER AND RESPONSE FROM THE MINISTER FOR EMERGENCY SERVICES
ATTACHMENT 3. DOC/18/2215 - DRAFT ALLOTMENT LAYOUT
ATTACHMENT 4. DOC/18/2213 - PLAN SHOWING FLOOD RISK**

Mount Barker 2035 – District Strategic Plan:

Community Wellbeing

To facilitate the provision of community facilities and infrastructure to meet current and future needs.

Purpose:

To gain authority to make an offer to purchase the land on the corner of Bald Hills and Springs Roads, Mount Barker (see attachment 1) from Mr Kevin Stephenson and to proceed with the acquisition if the Council offer is accepted.

Summary – Key Issues:

- The subject land is strategically located for a number of reasons
- A preferred use for portion of the subject land is for the Metropolitan Fire Service and related emergency services
- Given the age and attitude of the land owner, it is preferable for Council to be pro-active and seek to achieve acquisition now, with settlement to be staged over two years.

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, Deputy Chief Executive Officer / General Manager Infrastructure and Projects, General Manager Planning and Development, General Manager Corporate Services, General Manager Council Services, and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.1 Strategic Land Acquisition.

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/entity 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.

2. Authorise the Chief Executive Officer to make a formal offer to Mr Kevin Stephenson to purchase the subject land (as shown approximately in attachment 1 as parcel C) for the sum of \$2 million to be payable in four approximately equal instalments over a 2 year period, unless Council seeks to settle in full earlier.
3. Exclude the subject land (as shown approximately in attachment 1 as parcel C) from classification as community land under the Local Government Act 1999.

4. Delegate authority to the Mayor and Chief Executive Officer to finalise and execute all necessary documentation in the event that the Council offer is accepted.
5. Note that the existing first right of refusal that Council has over the adjacent land (shown in attachment 1 as parcels A and B) will be preserved if the purchase of the subject land proceeds.

Section 91(7) Order

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

That having considered Agenda Item 18.1 Strategic Land Acquisition 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 agenda item, related documents and all minutes be retained in confidence until the Council and Mr Stephenson have concluded all commercial negotiations and either settled the purchase of the subject land or Council has resolved to no longer have a direct interest in acquiring 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.

Background:

1. Council has a first right of refusal over the land shown in attachment 1 – location plan. This arises from the 2008 contract to purchase the nearby land from the Stephenson Family (portion of this being the location for the Regional Sports Hub).
2. The subject land is as shown approximately in attachment 1 (parcel C) and is approximately 50,560m² (5.06 hectares).
3. This was the subject of a confidential briefing for Council Members immediately prior to the Council meeting held at the Meadows Bowling Club in Spring 2017.
4. The intent of the Metropolitan Fire Service (MFS) is to transition from the existing largely volunteer based service provider the Country Fire Service (CFS) to the MFS over time. This process has commenced with the provision of equipment and training to the CFS from the MFS.
5. The MFS site criteria contains specific requirements in relation to response times and hence proximity to and ease of access to the freeway and crossing of it.

6. Over a period of time the MFS has identified a number of possible sites and assessed the associated implications.
7. The subject land is understood to be the site that is now preferred by the MFS.
8. Council wrote to the then Minister for Emergency Services in August 2017 and a subsequent response from the current Minister in October 2017 are both attached (attachment 2).

Discussion:

9. The subject land is a very strategic parcel given its location with major exposure to both Bald Hills Road and Springs Road (future bus route) and close proximity to the new freeway interchange.
10. It is also between the Laratinga Wetlands and the site for the new Regional Sports Hub.
11. To achieve the acquisition of the subject land (Parcel C) a development application for land division will be required. It is currently envisaged that this would likely see the creation of four allotments being similar to the concept layout shown in attachment 3.
12. This would facilitate title to the subject land and the staged settlement. It does not preclude future adjustment of allotment boundaries in order to for example accommodate the specific needs of the MFS.
13. This pro-active approach is somewhat similar to the approach that was taken by Council in acquiring two parcels of land (for on/off ramps) years in advance of the new freeway interchange at Bald Hills Road being constructed.
14. As yet, there is no guarantee that the new MFS facility will be constructed at this location. That has been made clear to Mr Stephenson i.e. a Council purchase would not be encumbered in respect of land use.
15. It is understood that procurement of land in Mount Barker is a priority for the MFS but the timing of this is unclear particularly given the forthcoming State election.
16. Equally whilst preferred by Council, it is not known as yet whether the MFS presence would include other emergency service providers such as the Country Fire Service (CFS), State Emergency Service (SES) and SA Ambulance Service. A consolidated location is the stated preference of the MFS.

17. If that was the case the MFS has indicated that a maximum footprint of around 20,000m² (2 hectares) would be required.
18. The subject land is constrained by the topography of the site with a portion being the subject of a steep slope as shown by the closeness of the contours in attachment 1.
19. Mr Stephenson has made known that he would receive a formal approach from Council to purchase the subject land for a total of \$2 million which can be paid in four approximately equal instalments over a period of not more than two years.
20. He has also made known that he would discuss such an approach with his family including his wife and sister (who lives diagonally opposite and overlooks the subject land) i.e. he has not indicated that such a proposal would be accepted.
21. If the subject land is acquired by Council, then the Council would retain the first right of refusal over the balance of the land shown in attachment 1 (being marked as parcels A and B).
22. Mr Stephenson has verbally indicated that he is open to selling the balance of the land with frontage to Springs Road (parcel B being approximately 6.8 hectares) for an amount of \$2 million with staged settlement over 2 years.
23. Council is aware that a private school organisation retains an interest in this land. Portion of this land is constrained by the creek (see attachment 1) and flooding risk as shown in attachment 4.
24. Mr Stephenson has also indicated that if Council wanted to purchase both the subject land and the adjacent land with Springs Road frontage (parcel B) he would be seeking a total of \$4 million payable on a staged basis.
25. A valuation report is yet to be procured by Council. This can occur for both the subject land (Parcel C) and parcel B and when received, be made known to Council Members on a confidential basis.
26. Irrespective of that report, Mr Stephenson has made clear that there is no point in Council submitting an offer below the above amounts.
27. By way of some form of comparison/guide, the land purchased by Council from the Adelaide Polo Club in 2014 for \$3 million was 8 hectares (including the clubroom building) being \$375k per hectare compared to

the subject land in 2018 – 2020 for \$2 million and 5.1 hectares being \$392k per hectare.

Community Engagement:

Not applicable at this time.

The community is aware of the MFS intention to have a presence in Mount Barker.

Policy:

Not applicable.

Budget:

Adjustment to the 2017/18 capital budget will only be required if the acquisition proceeds and the first instalment payable by Council of \$500,000 is required within 2017/18 which is considered to be very unlikely.

If that is required, such adjustment can be made via the budget review process.

This is capital expenditure that would be funded using Council's loan facility with the Local Government Finance Authority and in accordance with Council's Treasury and Funding policies.

Statutory/Legal:

The subject land should be excluded from classification as community land under the Local Government Act given the Council objective of subsequently selling portion to the State Government for emergency services.

The subject land is located within the area of the 2010 Ministerial DPA being zoned residential neighbourhood and allowing for a variety of uses including emergency services.

The acquisition amount is well below the threshold in the Local Government Act requiring when a Prudential Report must be prepared.

Staff Resource Requirements:

The recommendations can be implemented within existing staff resources.

Some specialist external resources will be required including survey and legal.

Environmental:

Flooding risk is applicable to portion of the subject land as shown in attachment 4.

Social:

A pro-active approach by Council in seeking to secure a suitable site for the MFS will ensure that this essential service for the community will have a suitable location.

Risk Assessment:

The State Government thinking may change and ultimately the MFS may not locate on this site.

Council would still own the subject land and be in a position to determine a disposal strategy or alternative use.

If Council does not take a pro-active approach, the land owner may change their current thinking and/or receive an offer for the subject land from a private party which could be above or well above what Council is prepared to pay i.e. the first of refusal to Council requires a matching offer from Council within 30 days.

Asset Management:

Until settlement of the subject land is completed, the current owner Mr Kevin Stephenson would retain responsibility for the management of the land.

Following settlement this would become a Council responsibility with an option being to seek to negotiate a licence with Mr Stephenson to continue to manage the land until it is required by Council.

Conclusion:

That Council be pro-active and make a formal approach to Mr Kevin Stephenson in relation to the purchase of the subject land as shown in attachment 1 and outlined above.

Key Contact

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

Sponsor of Project

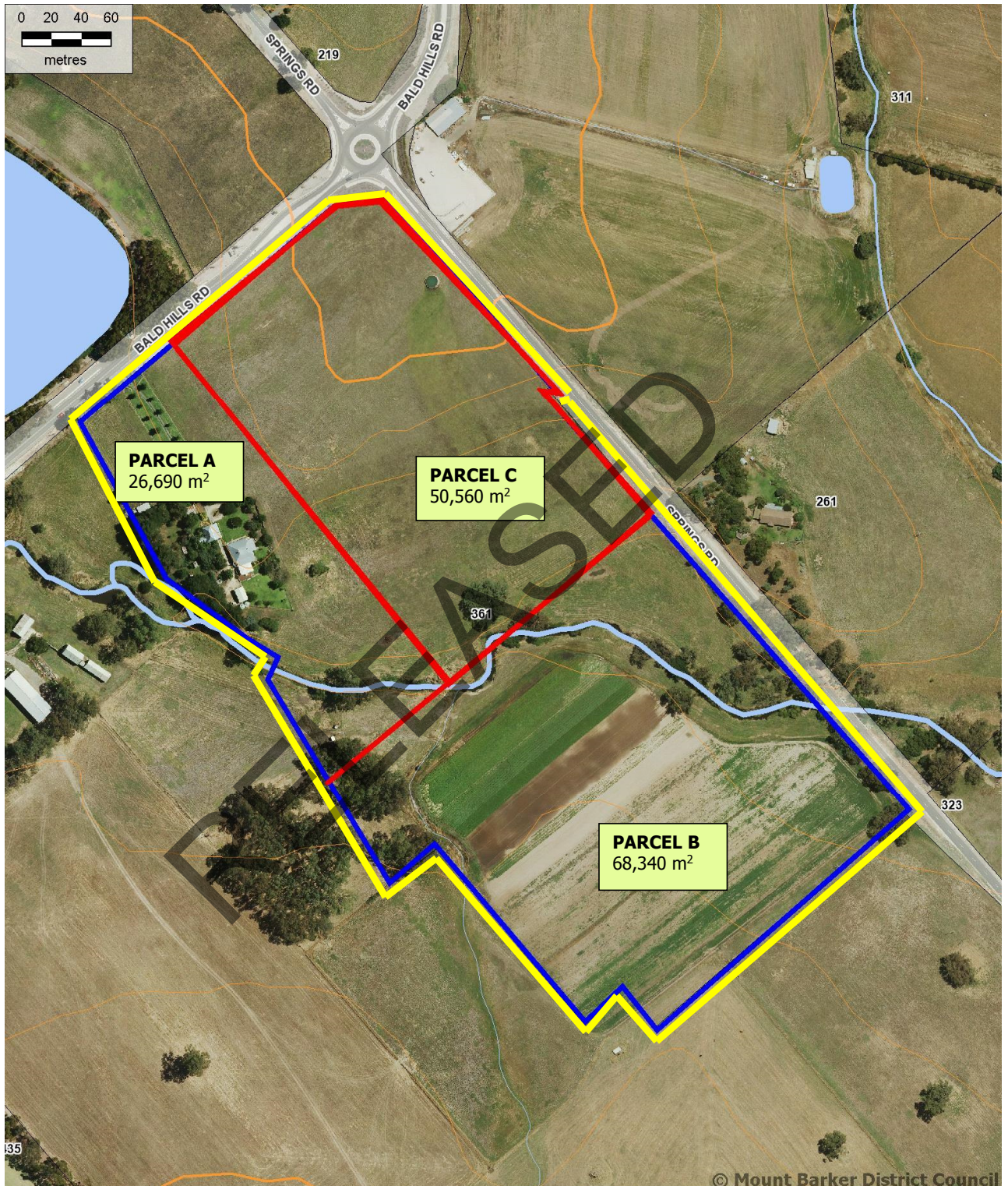
Andrew Stuart
Chief Executive Officer



**Mount Barker District Council
Kevin Stephenson Land**

Attachment 1 to Item 18.1

Land over which Council currently has a first right of refusal



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**MOUNT BARKER
DISTRICT COUNCIL**

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

Telephone (08) 8391 7200
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Map Zoom: 0.6634 km
Map Scale: 1:3,359
Created on: Thursday, 21 December 2017 By: advanced

Attachment 2 to item 18.1

OFFICE OF THE MAYOR

Reference: 17/84147

22 August 2017

**MOUNT BARKER**
DISTRICT COUNCIL

Hon Peter Malinauskas MLC
Minister for Emergency Services
GPO Box 668
ADELAIDE SA 5001

Dear Minister

RE: Metropolitan Fire Service in Mount Barker

The impact of the State Government rezoning of land in Mount Barker and Nairne in 2010 is now very evident with the construction of over 400 new dwellings being completed annually in the growth area of Mount Barker alone, resulting in an increase in population of over 1,000 people each year.

That rezoning is now expected to ultimately see an additional 30,000 residents.

To facilitate supporting retail and commercial development, the Council gained approval in 2016 for changes to the Development Plan allowing 5 storey high development in the Mount Barker City Centre.

All of this growth requires adequate infrastructure and service provision. In 2014 State Cabinet supported the "Mount Barker, Littlehampton and Nairne Strategic Infrastructure Plan" that was jointly prepared by the State Government and Council.

That Plan recognized the need for the Metropolitan Fire Service (MFS) to come to Mount Barker (in a sensitive manner) to provide the required emergency response capacity.

Council is aware that an assessment of possible sites has been undertaken. Council would welcome the opportunity to meet with you to discuss working collaboratively with the State Government to facilitate this need, inclusive of some land within Council's ownership that has been identified as being a site of interest. As land becomes increasingly sought after and location options reduce, it would be preferable to have a site secured as soon as practicable as a first step in this process.

Yours sincerely

Ann Ferguson OAM JP
Mayor

Hon Chris Picton MP**Government
of South Australia**

MES17D0134

Mayor Ann Ferguson OAM JP
District Council of Mount Barker
6 Dutton Road
MOUNT BARKER SA 5251

Mt. Barker DC
File No: <u>FOL/19/5029</u>
17 OCT 2017
Doc. No:
Asses No:
Parcel No:
Prop No:
SCANNED

Dear Mayor Ferguson

Thank you for your letter dated 22 August 2017 to the former Minister for Emergency Services, Hon Peter Malinauskas MLC, regarding the provision of fire services at Mount Barker.

The question of what service delivery model for emergency services best meets the evolving community risk for Mount Barker has been under active consideration since 2013.

It is recognised that a change in the service delivery model for the greater Mount Barker community will be required at some time in the future. It is also acknowledged that other locations across Australia with similar population and incident workloads have some variation of paid or retained response.

Any changes to the existing emergency response arrangements for the Mount Barker community need to take into account constraints driven by facilities, staffing and funding.

A move from the existing Country Fire Service (CFS) volunteer model to a Metropolitan Fire Service (MFS) 'retained' station is most likely the logical evolution.

I am advised that the Emergency Services Sector Executive continues to progress work on a state-wide Emergency Services Plan and Mount Barker features as a key issue.

As it is, I am further advised that the Mount Barker CFS Brigade is meeting required response time frames and the community is being well served. As such, the cost of establishing an MFS station has not justified the potentially small benefits of this change, when weighed against other priorities in the sector.

Minister for Police
Minister for Correctional Services
Minister for Emergency Services
Minister for Road Safety
Minister Assisting the Minister for Health
Minister Assisting the Minister for Mental Health and Substance Abuse
Level 2, 45 Pirie Street, ADELAIDE SA 5000 | GPO Box 668 ADELAIDE SA 5001 | DX 450
Tel 08 8463 6641 | Fax 08 8463 6642 | Email Minister.Picton@sa.gov.au



In the meantime, CFS continues to work with the Mount Barker Brigade to ensure the current service levels are maintained. A new urban pumper will be delivered to the brigade this financial year under the CFS capital program and additional specialised equipment has been provided. MFS will continue to support the CFS with specialist equipment as and when required.

As Mount Barker is an identified area of growth, the Emergency Services sector is considering the potential acquisition of a strategic land holding for the sector.

As such, I welcome the opportunity for the Government to work collaboratively with the Mount Barker District Council to identify potential appropriate strategic land holdings.

I trust the information is of assistance.

Yours sincerely



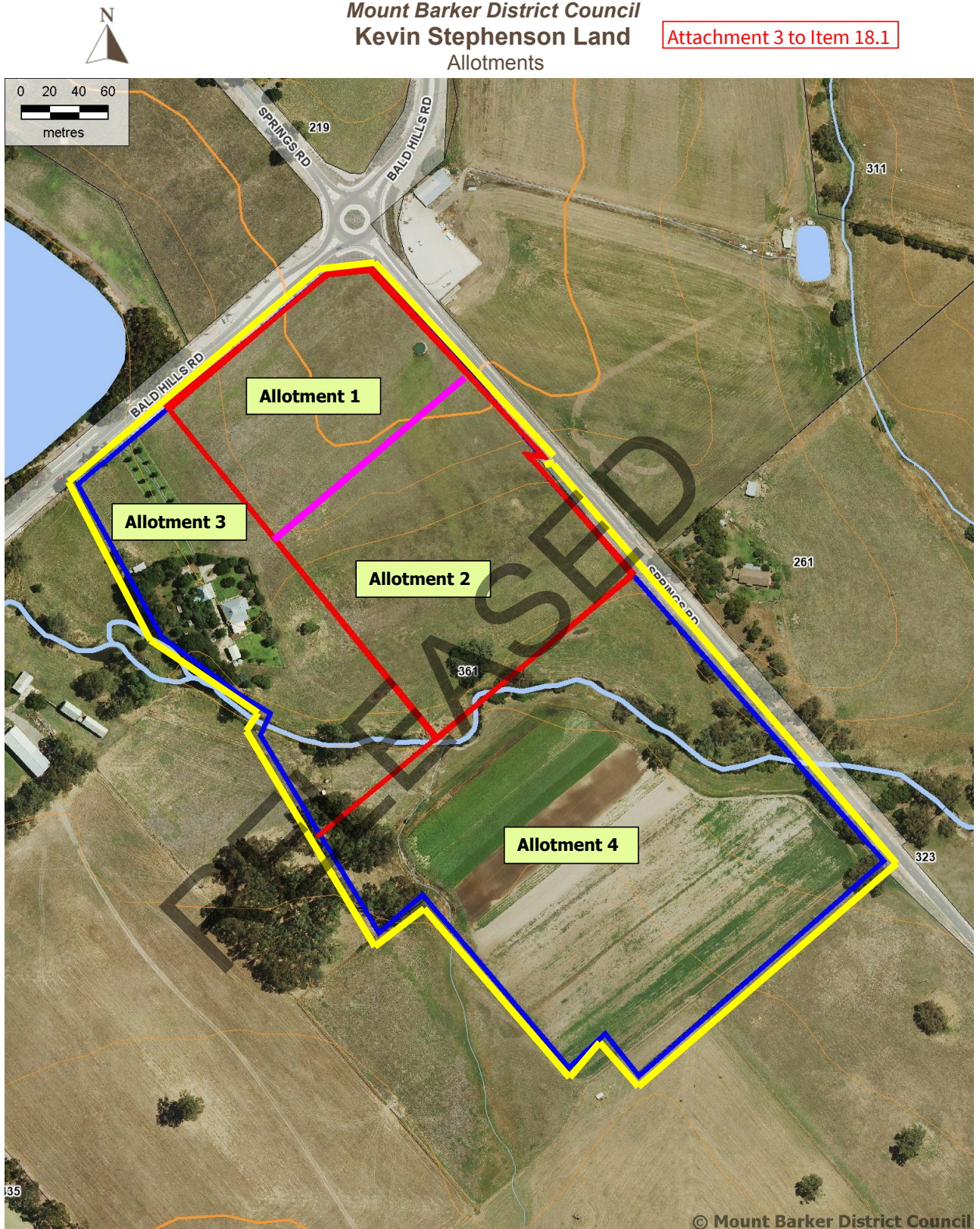
Hon Chris Picton MP
Minister for Emergency Services

10 / 10 / 2017

PS - As the new member I look forward to us working with the Council and community of Mount Barker on improving our emergency services. CP.

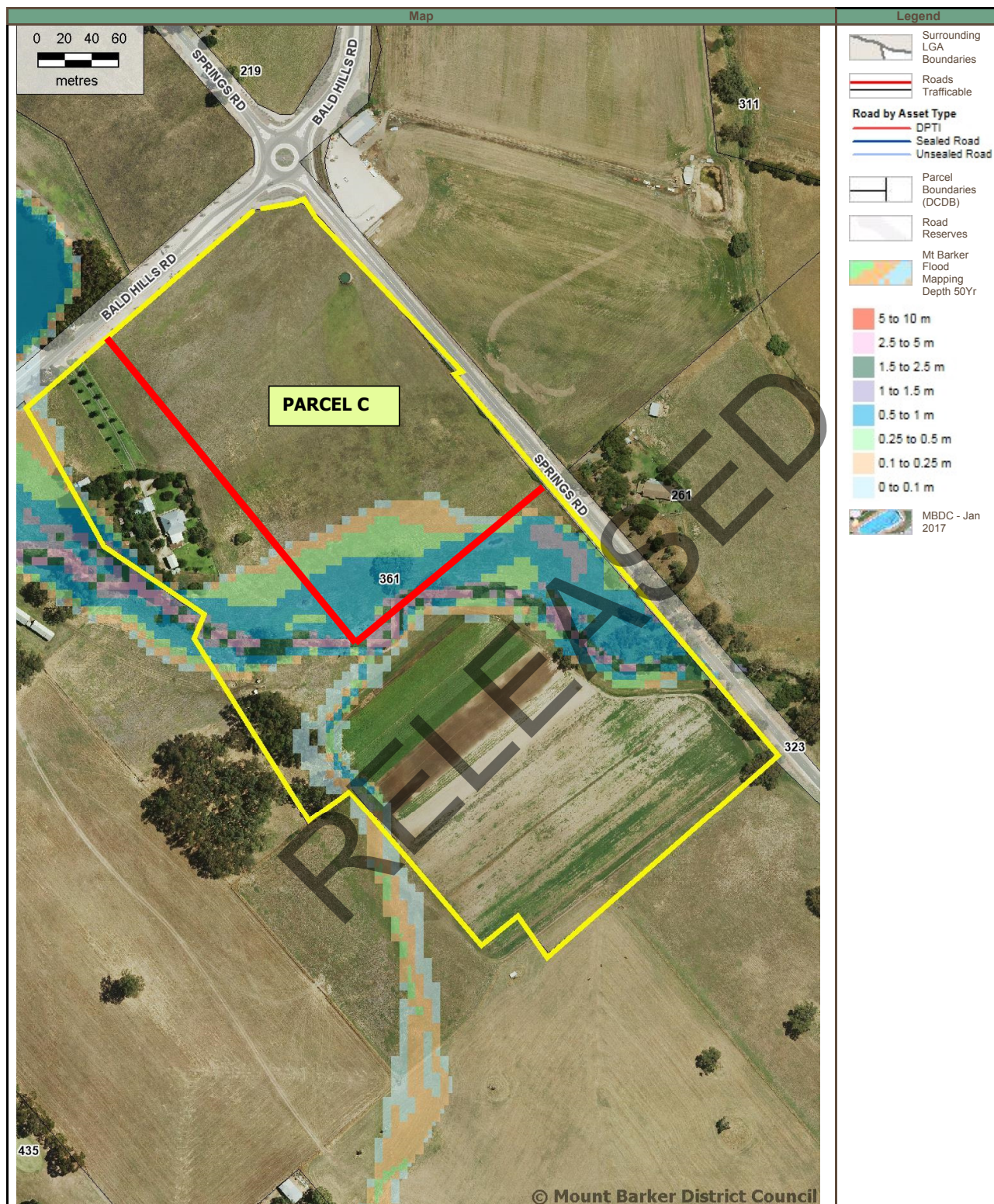
Mount Barker District Council
Kevin Stephenson Land
Allotments

Attachment 3 to Item 18.1



Mount Barker District Council
Kevin Stephenson Land
Flood Risk

Attachment 4 to Item 18.1



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Map Zoom: 0.5901 km
Map Scale: 1:3,690

Created on: Monday, 8 January 2018 By: advanced

18.1	REPORT TITLE:	CONFIDENTIAL ITEM: STRATEGIC LAND ACQUISITION
	DATE OF MEETING:	15 JANUARY 2018
	FILE NUMBER:	DOC/18/1669
	ATTACHMENTS:	ATTACHMENT 1. DOC/18/2214 - LOCATION PLAN AND SUBJECT LAND ATTACHMENT 2. DOC/17/86336 & DOC/17/105384 COUNCIL LETTER AND RESPONSE FROM THE MINISTER FOR EMERGENCY SERVICES ATTACHMENT 3. DOC/18/2215 - DRAFT ALLOTMENT LAYOUT ATTACHMENT 4. DOC/18/2213 - PLAN SHOWING FLOOD RISK

Moved Councillor Irvine 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, Deputy Chief Executive Officer / General Manager Infrastructure and Projects, General Manager Planning and Development, General Manager Corporate Services, A/g General Manager Council Services, and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.1 Strategic Land Acquisition.

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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.

Seconded Councillor Morrison

CARRIED
OM20180115.21

9.24pm Councillor Grosser entered the chamber and took his chair

Moved Councillor Irvine that Council:

2. authorise the Chief Executive Officer to make a formal offer to Mr Kevin Stephenson to purchase the subject land (as shown approximately in attachment 1 as parcel C) for the sum of \$2 million to be payable in four approximately equal instalments over a 2 year period, unless Council seeks to settle in full earlier.
3. exclude the subject land (as shown approximately in attachment 1 as parcel C) from classification as community land under the Local Government Act 1999.
4. delegate authority to the Mayor and Chief Executive Officer to finalise and execute all necessary documentation in the event that the Council offer is accepted.
5. note that the existing first right of refusal that Council has over the adjacent land (shown in attachment 1 as parcels A and B) will be preserved if the purchase of the subject land proceeds.

Seconded Councillor Keen

CARRIED
OM20180115.22

Moved Councillor Seager that Council:

Section 91(7) Order

6. Pursuant to Section 90 (3) (b)
That having considered Agenda Item 18.1 Strategic Land Acquisition 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 agenda item, related documents and all minutes be retained in confidence until the Council and Mr Stephenson have concluded all commercial negotiations and either settled the purchase of the subject land or Council has resolved to no longer have a direct interest in acquiring 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.

Seconded Councillor Morrison

CARRIED
OM20180115.23