

CONFIDENTIAL ITEMS 2003 – MAY 2018

#	Date	Item Title	Confidential Order Details	Item being kept confidential - Agenda/ Attachment/ Minutes	Reason regarding retention or recommend-action to release	Resolution Regarding Action	Last Review Date	Next Review Date	Date Released
122	3 October 2017	Strategic Land Parcel	<p>Section 90 (3) (b) Order</p> <p>1. Pursuant to Section 90(3)(b) Pursuant to Section 90(2) of the Local Government Act 1999 the Council orders that all members of the public except the Chief Executive Officer, Deputy Chief Executive Officer / General Manager Infrastructure and Projects, General Manager Planning and Development, General Manager Corporate Services, General Manager Council Services, Manager Planning Policy and Strategy, Building and Recreation Manager, Strategic Projects Manager and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.2 Strategic Land Parcel.</p> <p>The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person/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</p>	Council report, related documents and all minutes be retained in confidence	<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</p>	<p>Until the Council and Burke Urban have concluded all commercial negotiations and either settled the purchase of the subject land or Council has resolved and Burke Urban has advised Council of no longer having a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.</p>		3 Sep 18	<i>Report, attachments and Minutes released on website 9 May 2018</i>

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#	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
			<p>be conducted in a place open to the public has been outweighed in the circumstances because the disclosure of Council's commercial position may severely prejudice Council's ability to be able to negotiate a cost-effective proposal for the benefit of the Council and the community in this matter.</p> <p>Section 91(7) Order</p> <p>7. Pursuant to Section 90 (3) (b) That having considered Agenda Item 18.2 Strategic Land Parcel in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and all minutes be retained in confidence until the Council and Burke Urban have concluded all commercial negotiations and either settled the purchase of the subject land or Council has resolved and Burke Urban has advised Council of no longer having a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.</p>		<p>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>				

18.2	REPORT TITLE:	CONFIDENTIAL ITEM: STRATEGIC LAND PARCEL
	DATE OF MEETING:	3 OCTOBER 2017
	FILE NUMBER:	DOC/17/97172
	ATTACHMENTS:	ATTACHMENT 1 - DOC/17/97751 - PLAN SHOWING LAND TO BE PURCHASED BY COUNCIL AND BURKE URBAN

Mount Barker 2035 – District Strategic Plan:

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

Purpose:

To seek authority for the Chief Executive Officer and the Mayor to negotiate the purchase of a portion of the Woolworths site.

Summary – Key Issues:

- Burke Urban has entered into a Heads of Agreement to purchase approximately half of the Woolworths site jointly with Council.
- Considerable community benefit can be gained by Council in pro-actively pursuing purchase of portion of the Woolworths site.
- An update is provided to Council to clarify the amount of land to be purchased by Council and the mechanism to be used.

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, Strategic Projects Manager and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.2 Strategic Land Parcel.

The Council is satisfied that pursuant to Section 90(3)(b) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which could reasonably be expected to confer a commercial advantage on a person/entity with whom the Council is:

- Conducting business; or
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- Would prejudice the commercial position of the Council.

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

Please note:

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

2. Pursuant to Regulation 21 of the Local Government (Procedures at Meetings) Regulations, the Chief Executive Officer recommends that Council amend by exception (i.e. unless amended by the recommendations below) the previous resolutions relating to this matter of 7 September 2015, 19 October 2015, 21 December 2015, 17 October 2016, 5 June 2017 and 7 August remain and in addition:
3. Authorise the Chief Executive Officer in liaison with the Mayor to negotiate a contract to purchase up to approximately 3,200m² of the Woolworths site outlined blue in Attachment 1 at up to \$800m² plus GST (upper total of approximately \$2,560,000 plus GST) subject to completion of due diligence by Council.
4. Note that if a subdivision application has not been approved in the required time for settlement to occur, approximately 800m² of the total 3,200m² of land referred to above in recommendation (3) and shown hatched in green on the Attachment 1 will be acquired by Council from Burke Urban or a related entity at up to \$800m² plus GST via a contract for purchase which is conditional only on subdivision application approval.

5. Authorise the Chief Executive Officer and the Mayor to execute any documents required for the purchase and transfer of the land referred to above in recommendations (3) and (4).
6. For clarity and consistent with the resolution of the Council meeting held on 7 September 2015, exclude the entire area of land shown outlined in blue in Attachment 1 from Community Land classification pursuant to the Local Government Act.

Section 91(7) Order

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

That having considered Agenda Item 18.2 Strategic Land Parcel in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and all minutes be retained in confidence until the Council and Burke Urban have concluded all commercial negotiations and either settled the purchase of the subject land or Council has resolved and Burke Urban has advised Council of no longer having a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.

Background:

1. The land owned by Woolworths and bounded by Druids Avenue, Morphet Street, Hutchinson Street and Stephen Street (the subject land) has been the subject of several previous council meeting agenda items, the most recent being a confidential item on 7 August 2017.
2. At its meeting of 5 June 2017 2017 Council resolved among other things to authorise the Chief Executive Officer to *undertake commercial negotiations to purchase up to 3,000m² of land that is currently owned by Woolworths and bounded by Druids Avenue, Morphet Street, Hutchison Street and Stephen Street.*
3. Burke Urban has now negotiated a heads of agreement with Fabcot Pty Ltd (a subsidiary of Woolworths which owns the land) to purchased approximately the southern half of the site jointly with Council. The main terms of the agreement are listed below:
 - Burke Urban to purchase the land outlined red in Attachment 1
 - Total land to be purchased by Council approximately 3,200m² (outlined blue in Attachment 1) of which approximately 800m²

(hatched green in Attachment 1) will be purchased from Burke Urban or a related entity following a boundary adjustment.

- Price to be paid by Council, a maximum of \$2,560,000 for 3,200m².
- Due diligence period allowed by Woolworths until approximately 17 November.
- 30 days settlement required from exchange of contracts (e.g. by approximately 15 December).

Discussion:

Strategic Objective

4. Currently Council does not own any land that is potentially suitable for a Mount Barker Town Square.
5. Purchasing a portion of the Woolworths site would at least provide Council with a site to either subsequently trade for a better site for a Town Square or to develop as a Town Square and possibly for other civic uses.
6. The proposed purchase by Council of approximately 2,400m² followed by a further approximately 800m² to be purchased from Burke Urban via a boundary adjustment is required because of the current lot configuration of the site.
7. The boundary adjustment will require a subdivision approval and while this can be commenced immediately and would ideally be concluded before Council was required to exchange contracts it likely that the revised titles will not have been issued at that point necessitating the purchase of 800m² from Burke Urban instead of from Woolworths direct.

Community Engagement:

Informing only	Not applicable
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Policy:

Not applicable.

Budget:

Total cost of \$2,560,000 (purchase price) plus stamp duty of approximately \$127,000 which would likely be funded from loan funds.

The purchase of a portion of the Woolworths land was not considered in the current Long Term Financial Plan, however inclusion of this purchase in line with

the terms listed above would not result in Council falling outside Council's Treasury policy.

Statutory/Legal:

Specialist legal advice would be required to input to and review the required documentation.

As per previous Council meeting resolutions, land purchased by Council would be excluded from classification as community land.

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

Purchase of land would not trigger the requirement for a prudential report.

Staff Resource Requirements:

The recommendations can be implemented using existing staff resources.

Environmental:

A portion of the site proposed for purchase by Council is known to be contaminated. Woolworths has provided information and reports about the contamination. The EPA has advised that while the site has been remediated there is still some residual contamination and some further work may be needed depending on the ultimate use of the site. Council is awaiting further information on this matter.

Social:

The community is seeking that a Town Square be established somewhere in the Mount Barker city centre.

Risk Assessment:

If Council is not pro-active in seeking to secure a portion of the Woolworths site the risk is that a suitable Town Square site may not be achieved which the community has actively lobbied for.

Due diligence process to be undertaken by Council, in particular in relation to the site contamination.

Asset Management:

Council would assume responsibility for the management of land that is purchased by Council.

Conclusion:

Community benefit can be gained by Council in pro-actively pursuing purchase of portion of the Woolworths site.

Key Contact

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

David Morton, Strategic Projects Manager

Sponsor of Project

Andrew Stuart, Chief Executive Officer

RELEASED

Mount Barker District Council

Attachment 1 to Item 18.2



**MOUNT BARKER
DISTRICT COUNCIL**

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

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Map Zoom: 0.2803 km
Map Scale: 1:1,419
Created on: Wednesday, 27 September 2017 By: advanced

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	FILE NUMBER:	DOC/17/97751
	ATTACHMENTS:	ATTACHMENT 1 - DOC/17/97751 - PLAN SHOWING LAND TO BE PURCHASED BY COUNCIL AND BURKE URBAN

Moved Councillor Seager 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, Manager Planning Policy and Strategy, Building and Recreation Manager, Strategic Projects Manager and Minute Secretary, be excluded from attendance at the meeting for Agenda Item 18.2 Strategic Land Parcel.

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Seconded Councillor Morrison

CARRIED
OM20171003.10

Moved Councillor Campbell that

2. Pursuant to Regulation 21 of the Local Government (Procedures at Meetings) Regulations, the Chief Executive Officer recommends that Council amend by exception (i.e. unless amended by the recommendations below) the previous resolutions relating to this matter of 7 September 2015, 19 October 2015, 21 December 2015, 17 October 2016, 5 June 2017 and 7 August remain and in addition:
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6. For clarity and consistent with the resolution of the Council meeting held on 7 September 2015, exclude the entire area of land shown outlined in blue in Attachment 1 from Community Land classification pursuant to the Local Government Act.

Seconded Councillor Morrison

Moved Councillor Bailey

CARRIED
OM20171003.11

Section 91(7) Order

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

That having considered Agenda Item 18.2 Strategic Land Parcel in confidence under 90(2) and (3)(b) of the Local Government Act 1999, the Council pursuant to Section 91(7) of the Act orders that the council report, related documents and all minutes be retained in confidence until the Council and Burke Urban have concluded all commercial negotiations and either settled the purchase of the subject land or Council has resolved and Burke Urban has advised Council of no longer having a direct interest in the subject land or such lesser period as may be determined by the Chief Executive Officer, and that this order be reviewed every 12 months.

Seconded Councillor Seager

CARRIED
OM20171003.12

RELEASED