

CITY OF MOUNT GAMBIER

Meeting to be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier
on Tuesday 15th October, 2013 at 6.00 p.m.

AGENDA

CONSIDERATION FOR EXCLUSION OF PUBLIC

moved that the following item(s) be received, discussed and considered in confidence by excluding the public pursuant to Section 90 (2) of the Local Government Act, 1999 and an order be made that the public (with the exception of other Council Members and Council Officers now present) be excluded from the meeting in order for the item(s) to be considered in confidence as the Council (or Committee) is satisfied that the item is a matter that can be considered in confidence pursuant to the grounds referenced in Section 90 (3) of the said Act:

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
Corporate and Community Services Committee		
13.	<u>SALE OF LAND FOR NON PAYMENT OF RATES</u> – Notice of Intention to Sell Land for Non-Payment of Council Rates – Ref. AF11/830	(b)
Strategic Planning and Development Policy Committee		
1.	<u>STRATEGIC PLANNING AND DEVELOPMENT POLICY REPORT NO. 9/2013</u> - Development Control - Regulating - Local Heritage and Lakes Zone Development Plan Amendment (DPA) - Ref. AF11/290	(m)
Motion With Notice		
1.	<u>SOCIAL, CULTURAL AND COMMUNITY SERVICES</u> Schools, TAFE and University Advice and Information – Ref. AF11/1599	(d)
	CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL	

seconded

IN CONFIDENCE**CORPORATE AND COMMUNITY SERVICES****13. SALE OF LAND FOR NON PAYMENT OF RATES - Notice of Intention to Sell Land for Non-Payment of Council Rates - Ref. AF11/830**

Goal: Governance

Strategic Objective: Evaluate the effectiveness of all service delivery initiatives against the returns and/or benefits to the community.

The Director, Corporate Services reported:

(a) Section 184(1) of the Local Government Act, 1999 provides a power for Council to sell land if an amount payable by way of rates in respect of land has been arrears for three (3) years or more;

(b) Properties situated at:

16 Vansittart Road, Mount Gambier has an outstanding balance (rates, fines and interest and legal fees) of \$2,881.40.

8 Agnes Street, Mount Gambier has an outstanding balance (rates, fines and interest and legal fees) of \$3,119.65

3 Dampier Court, Mount Gambier has an outstanding balance (rates, fines and interest and legal fees) of \$3,314.00.

(c) the rates have now become outstanding for a period exceeding three (3) years and Council should exercise its right pursuant to Chapter 10, Part 1, Division 9 of the Local Government Act, 1999 to seek to sell the land for non payment of Council rates, fines etc;

(d) in terms of the disbursement of any funds as a result of the sale of the property, Section 184 (11) of the Local Government Act 1999 provides:

“(11) Any money received by the council in respect of the sale of land under this section will be applied as follows:

(a) firstly - in paying the costs of the sale and any other costs incurred in proceeding under this section;

(b) secondly - in discharging any liabilities to the council in respect of the land;

(c) thirdly - in discharging any liability to the Crown for rates, charges or taxes, or any prescribed liability to the Crown in respect of the land;

(d) fourthly - in discharging any liabilities secured by registered mortgages, encumbrances or charges;

(e) fifthly - in discharging any other mortgages, encumbrances and charges of which the council has notice;

- (f) *sixthly - in payment to the owner of the land.*"
- (e) Section 185 also provides guidance where Council cannot sell the subject land:
- "(1) If after a council has made reasonable attempts to sell land on account of arrears of rates it appears that the council has no reasonable prospect of selling the land within a reasonable time, or if the current valuation of land under this Part is less than the amount of outstanding rates, the council may apply to the Minister who is responsible for the administration of the Crown Lands Act 1929 for an order under this section.*
- (2) On the receipt of an application by a council under subsection (1), the Minister may, after consultation with the council and being satisfied that it is appropriate to do so, order:*
- (a) in the case of land held from the Crown under a lease, licence or agreement for purchase—that the land be forfeited to the Crown (and the lease, licence or agreement is cancelled);*
- (b) in any other case—that the land be transferred to the Crown or to the council.*
- (3) An order under subsection (2):*
- (a) must be in writing and signed by the Minister; and*
- (b) (i) in the case of land held from the Crown under a lease, licence or agreement for purchase—operates to cancel the lease, licence or agreement;*
- (ii) in any other case—operates as an instrument of transfer passing title to the land to which it relates."*

Cr Smith moved it be recommended:

- (a) the report be received;**
- (b) the Chief Executive Officer be empowered to take whatever action is necessary to dispose of the following properties for non payment of rates and other charges due to Council, in accordance with the provision of Chapter 10, Part 1, Division 9 of the Local Government Act, 1999.**

<u>Address</u>	<u>Three years to 26/9/2013</u>
16 Vansittart Road, Mount Gambier Lot 1 FP 50126 CT 6008/565	Rates, Fines, Interest, Legal Fees <u>\$2881.40</u>
8 Agnes Street, Mount Gambier Lot 47 DP 1431 CT 5688/760	Rates, Fines, Interest, Legal Fees <u>\$3119.65</u>
3 Dampier Court Street, Mount Gambier Lot 72 DP 58237 CT 5858/557	Rates, Fines, Interest, Legal Fees <u>\$3314.00</u>

- (c) Mayor and Chief Executive Officer be authorised to sign and affix the common seal to any contract and transfer affecting the sale of the allotment being disposed of by Council, as vendor, for non payment of rates should such a sale be finally necessary;**
- (d) the Chief Executive Officer be empowered to engage legal counsel or agent to act on Councils behalf in this matter;**
- (e) should Council be required to appoint an Agent in respect of the sale then Council approach 3 Agents to ascertain their respective fees etc.;**
- (f) pursuant to the powers contained in Section 44 of the Local Government Act 1999, Council hereby delegates to the Chief Executive Officer the power to determine the date, time and place for the conduct of the public auction subject to compliance with Section 184 of the Act.**

Cr Lee seconded

Carried

14. **CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL**

moved that an order be made pursuant to Section 91 (7) of the Local Government Act, 1999 that the document in relation to item 13 which has been considered by the Corporate and Community Services Committee on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

ITEM NO.	SUBJECT MATTER	ELEMENTS TO BE KEPT CONFIDENTIAL	DURATION, CIRCUMSTANCES OR REVIEW
CORPORATE AND COMMUNITY SERVICES			
13.	<u>SALE OF LAND FOR NON PAYMENT OF RATES</u> – Notice of Intention to Sell Land for Non-Payment of Council Rates – Ref. AF11/830	All Details	12 months
STRATEGIC PLANNING AND DEVELOPMENT POLICY COMMITTEE			

1.	<u>STRATEGIC PLANNING AND DEVELOPMENT POLICY REPORT NO. 9/2013</u> - Development Control - Regulating - Local Heritage and Lakes Zone Development Plan Amendment (DPA) - Ref. AF11/290	All Details	Until Council Meeting 15 th October, 2013
MOTION WITH NOTICE			
1.	<u>SOCIAL, CULTURAL AND COMMUNITY SERVICES</u> Schools, TAFE and University Advice and Information – Ref. AF11/1599	All Details	6 months

Meeting closed at

LD/FM

MINUTES OF THE MEETING OF THE CITY OF MOUNT GAMBIER HELD AT THE COUNCIL
CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT GAMBIER ON TUESDAY 15TH
OCTOBER, 2013 AT 6.01 P.M.

CONSIDERATION FOR EXCLUSION OF PUBLIC

Cr Smith moved that the following item(s) be received, discussed and considered in confidence by excluding the public pursuant to Section 90 (2) of the Local Government Act, 1999 and an order be made that the public (with the exception of other Council Members and Council Officers now present) be excluded from the meeting in order for the item(s) to be considered in confidence as the Council (or Committee) is satisfied that the item is a matter that can be considered in confidence pursuant to the grounds referenced in Section 90 (3) of the said Act:

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Strategic Planning and Development Policy Committee		
1.	<u>STRATEGIC PLANNING AND DEVELOPMENT POLICY REPORT NO. 9/2013</u> - Development Control - Regulating - Local Heritage and Lakes Zone Development Plan Amendment (DPA) - Ref. AF11/290	(m)
Motion With Notice		
1.	<u>SOCIAL, CULTURAL AND COMMUNITY SERVICES</u> Schools, TAFE and University Advice and Information – Ref. AF11/1599	(d)
	CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL	

Cr Von Stanke seconded

Carried

IN CONFIDENCE

CORPORATE AND COMMUNITY SERVICES

13. SALE OF LAND FOR NON PAYMENT OF RATES - Notice of Intention to Sell Land for Non-Payment of Council Rates - Ref. AF11/830

Goal: Governance

Strategic Objective: Evaluate the effectiveness of all service delivery initiatives against the returns and/or benefits to the community.

The Director, Corporate Services reported:

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(b) Properties situated at:

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(c) the rates have now become outstanding for a period exceeding three (3) years and Council should exercise its right pursuant to Chapter 10, Part 1, Division 9 of the Local Government Act, 1999 to seek to sell the land for non payment of Council rates, fines etc;

(d) in terms of the disbursement of any funds as a result of the sale of the property, Section 184 (11) of the Local Government Act 1999 provides:

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(a) firstly - in paying the costs of the sale and any other costs incurred in proceeding under this section;

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(c) thirdly - in discharging any liability to the Crown for rates, charges or taxes, or any prescribed liability to the Crown in respect of the land;

(d) fourthly - in discharging any liabilities secured by registered mortgages,

encumbrances or charges;

(e) fifthly - in discharging any other mortgages, encumbrances and charges of which the council has notice;

(f) sixthly - in payment to the owner of the land.”

(e) Section 185 also provides guidance where Council cannot sell the subject land:

“(1) If after a council has made reasonable attempts to sell land on account of arrears of rates it appears that the council has no reasonable prospect of selling the land within a reasonable time, or if the current valuation of land under this Part is less than the amount of outstanding rates, the council may apply to the Minister who is responsible for the administration of the Crown Lands Act 1929 for an order under this section.

(2) On the receipt of an application by a council under subsection (1), the Minister may, after consultation with the council and being satisfied that it is appropriate to do so, order:

(a) in the case of land held from the Crown under a lease, licence or agreement for purchase—that the land be forfeited to the Crown (and the lease, licence or agreement is cancelled);

(b) in any other case—that the land be transferred to the Crown or to the council.

(3) An order under subsection (2):

(a) must be in writing and signed by the Minister; and

(b) (i) in the case of land held from the Crown under a lease, licence or agreement for purchase—operates to cancel the lease, licence or agreement;

(ii) in any other case—operates as an instrument of transfer passing title to the land to which it relates.”

Cr Smith moved it be recommended:

(a) the report be received;

(b) the Chief Executive Officer be empowered to take whatever action is necessary to dispose of the following properties for non payment of rates and other charges due to Council, in accordance with the provision of Chapter 10, Part 1, Division 9 of the Local Government Act, 1999.

Address

16 Vansittart Road, Mount Gambier
Lot 1 FP 50126 CT 6008/565

Three years to 26/9/2013

Rates, Fines, Interest,
Legal Fees

\$2881.40

8 Agnes Street, Mount Gambier
Lot 47 DP 1431 CT 5688/760

Rates, Fines, Interest,
Legal Fees
\$3119.65

3 Dampier Court Street, Mount Gambier
Lot 72 DP 58237 CT 5858/557

Rates, Fines, Interest,
Legal Fees
\$3314.00

- (c) Mayor and Chief Executive Officer be authorised to sign and affix the common seal to any contract and transfer affecting the sale of the allotment being disposed of by Council, as vendor, for non payment of rates should such a sale be finally necessary;
- (d) the Chief Executive Officer be empowered to engage legal counsel or agent to act on Councils behalf in this matter;
- (e) should Council be required to appoint an Agent in respect of the sale then Council approach 3 Agents to ascertain their respective fees etc.;
- (f) pursuant to the powers contained in Section 44 of the Local Government Act 1999, Council hereby delegates to the Chief Executive Officer the power to determine the date, time and place for the conduct of the public auction subject to compliance with Section 184 of the Act.

Cr Lee seconded

Carried

Cr Maher moved the recommendation of the Corporate and Community Services Committee as contained in item 13 be adopted.

Cr White seconded

Carried

CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL

Cr Von Stanke moved that an order be made pursuant to Section 91 (7) of the Local Government Act 1999 that the documents in relation to the following items, which have been considered by Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

ITEM NO.	SUBJECT MATTER	ELEMENTS TO BE KEPT CONFIDENTIAL	DURATION, CIRCUMSTANCES OR REVIEW
CORPORATE AND COMMUNITY SERVICES			
13.	<u>SALE OF LAND FOR NON-PAYMENT OF RATES</u> – Notice of Intention to Sell Land for Non-	All details	12 months

	Payment of Council Rates – Ref. AF11/830		
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Cr Smith seconded

Carried

Cr Smith moved that an order be made pursuant to Section 91 (7) of the Local Government Act 1999 that the documents in relation to the following items, which have been considered by Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

ITEM NO.	SUBJECT MATTER	ELEMENTS TO BE KEPT CONFIDENTIAL	DURATION, CIRCUMSTANCES OR REVIEW
STRATEGIC PLANNING AND DEVELOPMENT POLICY COMMITTEE			
1.	STRATEGIC PLANNING AND DEVELOPMENT POLICY REPORT NO 9/2013 – Development Control – Regulating – Local Heritage and Lakes Zone Redevelopment Plan Amendment (DPA) – Ref. AF11/290	All details	Until Public Consultation commences

Cr Von Stanke seconded

Carried

Cr Maher moved that an order be made pursuant to Section 91 (7) of the Local Government Act 1999 that the documents in relation to the following items, which have been considered by Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

ITEM NO.	SUBJECT MATTER	ELEMENTS TO BE KEPT CONFIDENTIAL	DURATION, CIRCUMSTANCES OR REVIEW
MOTION WITH NOTICE			
1.	SOCIAL, CULTURAL AND COMMUNITY SERVICES Schools, TAFE and University Advice and Information – Ref. AF11/1599	All details	6 months

Cr Von Stanke seconded

Carried

Meeting closed at 7.22 p.m.

FM