

AGENDA OF ORDINARY OPERATIONAL STANDING COMMITTEE MEETING

Meeting to be held in the Conference Room, Civic Centre, 10 Watson Terrace, Mount Gambier
on Tuesday, 12 June 2018 at 7:30 a.m.

PRESENT Mayor Andrew Lee

Cr Mark Lovett (Presiding Member)
Cr Christian Greco
Ct Steven Perryman
Cr Ian Von Stanke

COUNCIL OFFICERS	Chief Executive Officer	- Mr M McShane
	General Manager Community Wellbeing	- Ms B Cernovskis
	General Manager Council Business Services	- Mrs P Lee
	General Manager City Growth	- Dr J Nagy
	General Manager City Infrastructure	- Mr N Serle
	Manager Development Services	- Mrs T Tzioutziouklaris
	Administration Officer Executive Support	- Mrs F McGregor

WE ACKNOWLEDGE THE BOANDIK PEOPLES AS THE TRADITIONAL CUSTODIANS OF THE LAND WHERE WE MEET TODAY. WE RESPECT THEIR SPIRITUAL RELATIONSHIP WITH THE LAND AND RECOGNISE THE DEEP FEELINGS OF ATTACHMENT OUR INDIGENOUS PEOPLES HAVE WITH THIS LAND.

1. APOLOGY(IES)

Apology(ies) received from Cr Des Mutton

That the apology from Cr Mutton be received.

Moved: Seconded:

2. CONFIRMATION OF OPERATIONAL STANDING COMMITTEE MINUTES

Meeting held on 8 May 2018

That the minutes of the Operational Standing Committee meeting held on 8 May 2018 as previously circulated be confirmed as an accurate record of the proceedings of that meeting.

Moved: Seconded:

3. QUESTIONS

3.1. With Notice

Nil submitted.

3.2. Without Notice

4. DEPUTATIONS

Nil



8.4 Consideration for Exclusion of the Public

Item 8.5

The following Agenda Item 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 Mayor A Lee, Councillors - M Lovett, C Greco, S Perryman and I Von Stanke and Council Officers - M McShane, B Cernovskis, P Lee, J Nagy, N Serle, T Tzioutziouklaris and F McGregor) be excluded from the meeting in order for the Agenda Item (Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property) to be considered in confidence.

The Operational Standing Committee is satisfied that, pursuant to section 90(3)(a) of the Act the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of:

- Information concerning the personal affairs of any person (living or dead),
- Information the disclosure of which could reasonably be expected to prejudice the maintenance of law, including by affecting (or potentially affecting) the prevention, detection or investigation of a criminal offence or the right to a fair trial.
- Legal advice

The Council is satisfied that the information to be received, discussed or considered in relation to this item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of the occupier of the property.

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 as the matter is personal to the occupier of the property.

Item No.	Subject Matter	S90(3) Grounds
8.5	Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property - Report No. AR18/21507	(a), (f) and (h)

Moved:

Seconded:



8.5 Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property No. AR18/21507

COMMITTEE	Operational Standing Committee
MEETING DATE:	12 June 2018
REPORT NO.	AR18/21507
RM8 REFERENCE	AF16/293
AUTHOR	Tracy Tzioutziouklaris
SUMMARY	This matter involves legal action to require the cessation of the storage of scrap items, goods and materials on the subject property.
COMMUNITY PLAN REFERENCE	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage

REPORT RECOMMENDATION
<p>(b) That Operational Standing Committee Report No. AR18/21507 titled '<i>Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property</i>' as presented to the Operational Standing Committee on 12 June 2018 be noted.</p> <p>(b) The property owner be advised:</p> <p>(i) Council recognises the work undertaken to remove numerous scrap items, good and materials from the property to ensure compliance with the Orders as issued by the Environment, Resources and Development Court.</p> <p>(ii) Council will not undertake further action in relation to this matter at this time, however Council will pursue this matter further should scrap items, goods and materials start to again accumulate on the property.</p>

Moved:

Seconded:



Background

Council has previously considered this matter in relation to the storage of 11 unregistered vehicles, a boat and a further 4 vehicles parked in front of the property at 13 Powell Street, Mount Gambier. This matter has been ongoing for a lengthy period of time throughout 2016 and 2017 with little response from the land owner. Previously, Council was considering the options available to commence legal action for the breach of the Development Act, 1993.

Towards the end of 2017 Council commenced legal action pursuant to Section 85 of the Development Act 1993 against Mr J Jones of 13 Powell Street, Mount Gambier to prevent the use of the property at 13 Powell Street, Mount Gambier as a storage yard/junk yard and to have the 'Junk and/or scrap metal items' removed from the property.

This matter was heard in a Directions Hearing before Judge Cole of the Environment, Resources and Development Court on Tuesday 13th March, 2018 with the defendant agreed to Court Orders being issued requiring the following:

1. ceasing to store, and thereafter refraining from storing, any scrap items, goods and materials on the Subject Land from 13 April 2018; and
2. ceasing to use, and thereafter refraining from using, the Subject Land as a store, or a junk yard, or a scrap metal yard, or a wrecking yard from 13 April 2018, unless and until such time as development approval is obtained for any such use.

This is considered a successful outcome for Council and has avoided the requirement for the matter to be listed for argument. Should the defendant not comply with the Orders as issued by Judge Cole of the Environment Resources and Development (ERD Court) Court the defendant will be in Contempt of Court which is a serious offence attracting substantial penalties.

Discussion

Council Officers have been undertaking regular inspections of the property to monitor action undertaken by the property owner to comply with the Orders as issued by the ERD Court. As part of these inspections Council Officers have met onsite with the property owner, including follow up phone calls to ensure compliance with the Court Orders.

As it is evident the owner has taken considerable time to comply with the Court Orders as issued by the ERD Court, a formal letter dated 3rd May, 2018 from Council's Solicitor's was sent to the property owner clearly outlining the consequences of what would happen if the Court Orders were not complied with.

Council has a number of options available to it with respect to non compliance with the Court Orders. These include:

- Commence contempt proceedings against the property owner within the Environment, Resources and Development Court; or
- Council carry out the work required to comply with the Orders incurring costs in undertaking these actions. While Council may be able to recover costs as a debt against the property is likely that such costs may be unmet.



Prior to the preparation of this report a final site inspection of the property was undertaken on Tuesday 29th May, 2018. At the time of this inspection it was observed that significant action had been undertaken to satisfy the requirements of the Court Orders to cease storing scrap items, goods and materials on the property. A copy of the photographs from the inspections is attached to this report for Members perusal and information.

Whilst some materials have been observed as remaining on the property, it is not considered to be an inappropriate amount that would detrimentally impact upon the amenity of the surrounding locality and warrant any further action to be undertaken by Council.

Conclusion

Significant work has been undertaken by the property owner to comply with the Court Orders as issued by the Environment, Resources and Development Court.

It is acknowledge that some materials remain on the subject property, however it is considered to be stored in an acceptable manner that reduces the impact upon the amenity of the subject locality. The amount of scrap items, goods and materials remaining on the property do not warrant further action to be undertaken by Council.

Attachments

[Attachment 1 \(AR18/21491\): Photographs of 13 Powell Street, Mount Gambier](#)



Tracy TZIOUTZIOUKLARIS
MANAGER DEVELOPMENT SERVICES



Judy NAGY
GENERAL MANAGER CITY GROWTH

26 April 2018
MTT



8.6 Consideration for Keeping Items Confidential

That an order be made pursuant to Section 91(7) and recorded in the publicly released version of the minutes in accordance with Section 91(9) of the Local Government Act, 1999 that the document in relation to Item 8.8 which has been considered by the Council on a confidential basis pursuant to Section 90(3) be kept confidential.

Item No.	Subject Matter	S90(3) Grounds	Element To Be Kept Confidential	Duration
8.5	Illegal Development - Report No. AR18/21507	(a) & (f)	All details	Until the matter has been resolved. Where duration exceeds 12 months To be reviewed at least once

Moved:

Seconded:

Meeting closed at p.m.

AR18/20866



Photographs of 13 Powell Street, Mount Gambier

Tuesday 29th May, 2018

Tracy TZIOUZTIOUKLARIS
MANAGER DEVELOPMENT SERVICES





MINUTES OF ORDINARY OPERATIONAL STANDING COMMITTEE MEETING

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on Tuesday, 12 June 2018 at 7:30 a.m.

PRESENT Cr Mark Lovett (Presiding Member)
Cr Christian Greco
Cr Steven Perryman
Cr Ian Von Stanke

COUNCIL OFFICERS	Chief Executive Officer	- Mr M McShane
	General Manager Council Business Services	- Mrs P Lee
	General Manager City Growth	- Dr J Nagy
	General Manager City Infrastructure	- Mr N Serle
	Manager Development Services	- Mrs T Tzioutziouklaris
	Administration Officer - Executive Support	- Mrs F McGregor

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1. APOLOGY(IES)

Apologies received from Cr Des Mutton and Mayor Lee.

That the apology from Cr Mutton and Mayor Lee be received.

Moved: Cr Greco

Seconded: Cr Von Stanke

Carried

2. CONFIRMATION OF OPERATIONAL STANDING COMMITTEE MINUTES

Meeting held on 8 May 2018

That the minutes of the Operational Standing Committee meeting held on 8 May 2018 as previously circulated be confirmed as an accurate record of the proceedings of that meeting.

Moved: Cr Perryman

Seconded: Cr Von Stanke

Carried

3. QUESTIONS

3.1. With Notice

Nil submitted.

3.2. Without Notice

Nil submitted.

4. DEPUTATIONS

Nil



8.4 Consideration for Exclusion of the Public

Item 8.5

The following Agenda Item 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 Councillors - M Lovett, C Greco, S Perryman and I Von Stanke and Council Officers - M McShane, P Lee, J Nagy, N Serle, T Tzioutziouklaris and F McGregor) be excluded from the meeting in order for the Agenda Item (Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property) to be considered in confidence.

The Operational Standing Committee is satisfied that, pursuant to section 90(3)(a) of the Act the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of:

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- Legal advice

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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 as the matter is personal to the occupier of the property.

Item No.	Subject Matter	S90(3) Grounds
8.5	Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property - Report No. AR18/21507	(a), (f) and (h)

Moved: Cr Von Stanke

Seconded: Cr Greco

Carried



8.5 Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property No. AR18/21507

COMMITTEE RECOMMENDATION

- (a) That Operational Standing Committee Report No. AR18/21507 titled *'Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property'* as presented to the Operational Standing Committee on 12 June 2018 be noted.
- (b) The property owner be advised:
 - (i) Council recognises the work undertaken to remove numerous scrap items, good and materials from the property to ensure compliance with the Orders as issued by the Environment, Resources and Development Court.
 - (ii) Council will not undertake further action in relation to this matter at this time, however Council will pursue this matter further should scrap items, goods and materials start to again accumulate on the property.

Moved: Cr Greco

Seconded: Cr Von Stanke

Carried



8.6 Consideration for Keeping Items Confidential

That an order be made pursuant to Section 91(7) and recorded in the publicly released version of the minutes in accordance with Section 91(9) of the Local Government Act, 1999 that the document in relation to Item 8.8 which has been considered by the Council on a confidential basis pursuant to Section 90(3) be kept confidential.

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8.5	Illegal Development - Report No. AR18/21507	(a) & (f)	All details	Until the matter has been resolved. Where duration exceeds 12 months To be reviewed at least once

Moved: Cr Greco

Seconded: Cr Von Stanke

Carried

Meeting closed at 8.21 a.m.

AR18/22933

CONFIRMED THIS

DAY OF

2018.

.....
PRESIDING MEMBER



AGENDA OF ORDINARY COUNCIL MEETING

Meeting to be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier
on Tuesday, 19 June 2018 at 6.00 p.m.

PRESENT Cr Hanna Persello (Deputy Mayor)
Cr Christian Greco
Cr Mark Lovett
Cr Josh Lynagh
Cr Frank Morello
Cr Steven Perryman
Cr Penny Richardson
Cr Ian Von Stanke

COUNCIL OFFICERS	Chief Executive Officer	-	Mr M McShane
	General Manager City Growth	-	Dr J Nagy
	General Manager Council Business Services	-	Mrs P Lee
	General Manager City Infrastructure	-	Mr N Serle
	Manager Governance and Property	-	Mr M McCarthy
	Manager Business and Strategic Planning	-	Mrs T Tzioutziouklaris
	Media and Communications Coordinator	-	Ms S McLean
	Customer Service Officer	-	Ms S Moretti
	Administrative Officer Executive Support	-	Mrs M Telford

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1. APOLOGY(IES)

Apology(ies) received from Mayor Andrew Lee, Cr Des Mutton

That the apology from Mayor A Lee, Cr D Mutton be received.

Moved:

Seconded:

2. LEAVE OF ABSENCE

Cr Sonya Mezinec

3. CONFIRMATION OF COUNCIL MINUTES

Ordinary Meeting held on 15 May 2018

Special Council Meeting held on 22 May 2018

Special Council Meeting held on 13 June 2018

That the minutes of the Ordinary Council meeting held on 15 May 2018, the Special Council meeting held on 22 May 2018 and the Special Council meeting held on 13 June 2018 as previously circulated be confirmed as an accurate record of the proceedings of that meeting.

Moved:

Seconded:



17.4. Consideration for Exclusion of the Public

Item 17.5

The following Agenda Item 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 Councillors – H Persello, C Greco, M Lovett, J Lynagh, F Morello, S Perryman, P Richardson and I Von Stanke and Council Officers - M McShane, P Lee, J Nagy, N Serle, M McCarthy, T Tzioutziouklaris, S McLean, S Moretti and M Telford) be excluded from the meeting in order for the Agenda Item (Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property) to be considered in confidence.

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- Legal advice

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Item No.	Subject Matter	S90(3) Grounds
17.5	Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property - Report No. AR18/21507	(a), (f) and (h)

Moved:

Seconded:



IN-CONFIDENCE

17.5. Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property No. AR18/21507

COMMITTEE RECOMMENDATION

- (a) That Operational Standing Committee Report No. AR18/21507 titled *'Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property'* as presented to the Operational Standing Committee on 12 June 2018 be noted.
- (b) The property owner be advised:
 - (i) Council recognises the work undertaken to remove numerous scrap items, good and materials from the property to ensure compliance with the Orders as issued by the Environment, Resources and Development Court.
 - (ii) Council will not undertake further action in relation to this matter at this time, however Council will pursue this matter further should scrap items, goods and materials start to again accumulate on the property.

Moved:

Seconded:



17.6. Consideration for keeping Items Confidential

That an order be made pursuant to Section 91(7) and recorded in the publicly released version of the minutes in accordance with Section 91(9) of the Local Government Act, 1999 that the document in relation to Item 17.5 which has been considered by the Council on a confidential basis pursuant to Section 90(3) be kept confidential.

Item No.	Subject Matter	S90(3) Grounds	Element To Be Kept Confidential	Duration
17.5	Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property No. AR18/21507			Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property No. AR18/21507

Moved:

Seconded:



MINUTES OF ORDINARY COUNCIL MEETING

Meeting held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier
on Tuesday, 19 June 2018 at 6.00 p.m.

PRESENT

Cr Hanna Persello (Deputy Mayor)
Cr Christian Greco
Cr Mark Lovett
Cr Josh Lynagh
Cr Frank Morello
Cr Steven Perryman (arrived at 6.03 p.m.)
Cr Penny Richardson
Cr Ian Von Stanke (arrived at 6.08 p.m.)

COUNCIL OFFICERS

Chief Executive Officer	-	Mr M McShane
General Manager City Growth	-	Dr J Nagy
General Manager Council Business Services	-	Mrs P Lee
General Manager City Infrastructure	-	Mr N Serle
Manager Governance and Property	-	Mr M McCarthy
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1. APOLOGY(IES)

Apology(ies) received from Mayor Andrew Lee and Cr Des Mutton.

That the apology from Mayor A Lee and Cr D Mutton be received.

Moved: Cr Greco

Seconded: Cr Morello

Carried

2. LEAVE OF ABSENCE

Cr Sonya Meziniec

3. CONFIRMATION OF COUNCIL MINUTES

Ordinary Meeting held on 15 May 2018

Special Council Meeting held on 22 May 2018



17.4. Consideration for Exclusion of the Public

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Item No.	Subject Matter	S90(3) Grounds
17.5	Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property - Report No. AR18/21507	(a), (f) and (h)

Moved: Cr Greco

Seconded: Cr Lynagh

Carried



IN-CONFIDENCE

17.5. Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property No. AR18/21507

- (a) That Operational Standing Committee Report No. AR18/21507 titled *'Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property'* as presented to the Operational Standing Committee on 12 June 2018 be noted.
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 - (ii) Council will not undertake further action in relation to this matter at this time, however Council will pursue this matter further should scrap items, goods and materials start to again accumulate on the property.

Moved: Cr Lovett

Seconded: Cr Greco

Carried



17.6. Consideration for keeping Items Confidential

That an order be made pursuant to Section 91(7) and recorded in the publicly released version of the minutes in accordance with Section 91(9) of the Local Government Act, 1999 that the document in relation to Item 17.5 which has been considered by the Council on a confidential basis pursuant to Section 90(3) be kept confidential.

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17.5	Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property No. AR18/21507	(a) & (f)	All details	Illegal Development – Cessation of the Storage of Scrap Items, Goods and Materials on the Subject Property No. AR18/21507

Moved: Cr Greco

Seconded: Cr Lovett

Carried

