

OPERATIONAL SERVICES COMMITTEE

Meeting to be held in the Conference Room, Operational Services Area, Level One of Civic Centre, 10 Watson Terrace, Mount Gambier, on Tuesday 14th February 2017 at 7.30 a.m.

AGENDA

PRESENT: Cr C Greco (Presiding Member)
Crs D Mutton, P Richardson and I Von Stanke

APOLOGIES: moved the apology received from Cr Morello be accepted.

seconded

COUNCIL OFFICERS: Chief Executive Officer, Mark McShane
Engineering Manager, Daryl Morgan
Administration Officer (Operational Services), Sarah Moretti

COUNCIL MEMBERS
AS OBSERVERS:

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.

CONSIDERATION FOR EXCLUSION OF PUBLIC

Cr moved that 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 - C Greco, D Mutton, P Richardson and I Von Stanke and Council Officers - M McShane, D Morgan and S Moretti) be excluded from the meeting in order for the agenda item (Development Control - Illegal Development - Operation of a Storage Yard - Ref. AF11/304) to be considered in confidence.

The Committee 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:

- S.90(3)(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and
- S.90(3)(i) - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.

The Committee 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

Operational Services Committee Agenda for 14th February 2017 Cont'd...

unreasonable disclosure of information concerning the personal affairs of a person. The information that is to be received, discussed or considered in relation to this item relates to the commencement of prosecution proceedings pursuant to the Development Act 1993.

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 of a personal nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)

seconded

IN CONFIDENCE**13. DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304**

The Project Officer reported:

- (a) For sometime now Council has been dealing with Jeremy Jones, owner of 13 Powell Street, Mount Gambier in regard to this property being used to store a number of vehicles (including 11 unregistered cars, 1 boat parked on the property and 4 cars parked in front of the property on Carthew Street);
- (b) the property fronts two streets which are Powell Street and Carthew Street;
- (c) Council has undertaken site inspections and has gathered evidence that vehicles have been stored on the subject property at 13 Powell Street for an extensive period;
- (d) A photograph of the site taken on 26th August 2016 is shown below:



- (e) Council has sent letters on the 5th July 2016, 8th September 2016 and 19th December 2016 to the owner, advising him that he is currently in breach of the Development Act;
- (f) the property is within the Residential Zone and the property is used for residential purposes. A storage yard within this zone would be non-complying;
- (g) the owner advised Council that he would have the cars removed by December 2016, which gave the owner sufficient time to remove the vehicles, however the vehicles have not been removed;
- (h) Council has since written (dated 19th of December 2016) to the owner informing him that Council is now reviewing options to take legal action in regard to the matter. Council has given the owner time to evaluate options and to respond to Council;

- (i) Council should now consider its response to the unapproved Storage Yard, as it is a breach of the *Development Act 1993* and appropriate legal action should be undertaken to enforce requirements of the Act and to eliminate the suspected breach;
- (j) Council has the following options:
 - issue an enforcement notice and prosecute the owner for the breach of the *Development Act 1993*; or
 - take no further action.
- (k) in determining its direction, Council should be aware of any precedence being established.

moved it be recommended:

- (a) The report be received;
- (b) Council seek advice from Mellor Olsson Lawyers of Adelaide in regard to the likelihood of successful prosecution and the likely outcome of any prosecution proceedings (including approximate costs to Council) regarding the illegal development at 13 Powell Street, Mount Gambier, and this information, when available, be provided in a further report to Council.

seconded

14. **CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL**

Cr moved that an order be made pursuant to Section 91 (7) and recorded in the publicly released version of the minutes in accordance with S91(9) of the Local Government Act, 1999 that the document in relation to item 13 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Date</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)	All details	Until the matter is resolved or abandoned, to be reviewed at least once in every year

seconded

15. CONSIDERATION FOR EXCLUSION OF PUBLIC

Cr moved that 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 - C Greco, D Mutton, P Richardson and I Von Stanke and Council Officers - M McShane, D Morgan and S Moretti) be excluded from the meeting in order for the agenda item (Development Control - Illegal Development - Operation of a Storage Yard - Ref. AF11/304) to be considered in confidence.

The Committee 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:

- S.90(3)(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and
- S.90(3)(i) - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.

The Committee 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 a person. The information that is to be received, discussed or considered in relation to this item relates to the commencement of prosecution proceedings pursuant to the Development Act 1993.

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 of a personal nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
16.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)

seconded

IN CONFIDENCE**16. DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304**

The Project Officer reported:

- (a) For sometime now Council has been dealing with Geoffrey Wilson, owner of 15 Comaum Avenue, Mount Gambier in regard to this property being used to store a number of vehicles (including 11 unregistered vehicles). There is also 1 medium sized bus and 4 registered vehicles in the driveway and 1 medium sized bus parked in front of the dwelling on Comaum Avenue;
- (b) Council has undertaken site inspections and has gathered evidence that vehicles have been stored for an extensive period;
- (c) Council has sent letters to the owner, (on dates: 19th April 2012, 4th September 2012, 4th August 2015, 25th September 2015 and 19th of December 2016) advising him that he is currently in breach of the Development Act;
- (d) A photograph of the site taken on 3rd February 2017 is shown below:



- (e) the owner does not wish to remove vehicles because they are his hobby and they are used as collectibles;
- (f) the property is within the Residential Zone and the property is used for residential purposes. A storage yard within this zone would be non-complying;
- (g) Council has since written to the owner informing him that Council is now reviewing options to take legal action, Council has given the owner time to evaluate options and to respond to Council;
- (h) Council should now consider its response to the unapproved Storage Yard, as it is a clear breach of the *Development Act 1993* and appropriate legal action should be undertaken to enforce requirements of the Act and to eliminate the suspected breach;

- (i) Council has the following options:
- issue an enforcement notice and prosecute the owner for the breach of the *Development Act 1993*; or
 - take no further action.
- (j) in determining its direction, Council should be aware of any precedence being established.

moved it be recommended:

- (a) The report be received;
- (b) Council seek advice from Mellor Olsson Lawyers of Adelaide in regard to the likelihood of successful prosecution and the likely outcome of any prosecution proceedings (including approximate costs to Council) regarding the illegal development at 15 Comaum Avenue, Mount Gambier, and this information, when available, be provided in a further report to Council.

seconded

17. **CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL**

Cr moved that an order be made pursuant to Section 91 (7) and recorded in the publicly released version of the minutes in accordance with S91(9) of the Local Government Act, 1999 that the document in relation to item 16 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Date</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
16.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)	All details	Until the matter is resolved or abandoned, to be reviewed at least once in every year

seconded

OPERATIONAL SERVICES COMMITTEE

Meeting held in the Conference Room, Operational Services Area, Level One of Civic Centre, 10 Watson Terrace, Mount Gambier, on Tuesday 14th February 2017 at 7.30 a.m.

MINUTES

PRESENT: Cr C Greco (Presiding Member)
Crs F Morello, P Richardson and I Von Stanke

APOLOGIES: Cr Greco moved the apology received from Mayor A Lee and Cr D Mutton be accepted.

Cr Von Stanke seconded

Carried

COUNCIL OFFICERS: Chief Executive Officer, Mark McShane
Engineering Manager, Daryl Morgan
Manager, Governance and Property, Michael McCarthy
Manager, Business and Strategic Planning, Tracy Tzioutziouklaris
Administration Officer (Operational Services), Sarah Moretti

COUNCIL MEMBERS

AS OBSERVERS: Nil

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.

MOTIONS WITHOUT NOTICE - Nil

12. CONSIDERATION FOR EXCLUSION OF PUBLIC

Cr Greco moved that 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 - C Greco, F Morello, P Richardson and I Von Stanke and Council Officers - M McShane, D Morgan, M McCarthy, T Tzioutziouklaris and S Moretti) be excluded from the meeting in order for the agenda item (Development Control - Illegal Development - Operation of a Storage Yard - Ref. AF11/304) to be considered in confidence.

The Committee 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:

- **S.90(3)(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and**
- **S.90(3)(i) - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.**

The Committee 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 a person. The information that is to be received, discussed or considered in relation to this item relates to the commencement of prosecution proceedings pursuant to the Development Act 1993.

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 of a personal nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)

Cr Morello seconded

Carried

IN CONFIDENCE

13. DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304

The Presiding Member reported:

- (a) For sometime now Council has been dealing with Jeremy Jones, owner of 13 Powell Street, Mount Gambier in regard to this property being used to store a number of vehicles (including 11 unregistered cars, 1 boat parked on the property and 4 cars parked in front of the property on Carthew Street);
- (b) the property fronts two streets which are Powell Street and Carthew Street;
- (c) Council has undertaken site inspections and has gathered evidence that vehicles have been stored on the subject property at 13 Powell Street for an extensive period;
- (d) A photograph of the site taken on 26th August 2016 is shown below:



- (e) Council has sent letters on the 5th July 2016, 8th September 2016 and 19th December 2016 to the owner, advising him that he is currently in breach of the Development Act;
- (f) the property is within the Residential Zone and the property is used for residential purposes. A storage yard within this zone would be non-complying;
- (g) the owner advised Council that he would have the cars removed by December 2016, which gave the owner sufficient time to remove the vehicles, however the vehicles have not been removed;
- (h) Council has since written (dated 19th of December 2016) to the owner informing him that Council is now reviewing options to take legal action in regard to the matter. Council has given the owner time to evaluate options and to respond to Council;

- (i) Council should now consider its response to the unapproved Storage Yard, as it is a breach of the *Development Act 1993* and appropriate legal action should be undertaken to enforce requirements of the Act and to eliminate the suspected breach;
- (j) Council has the following options:
 - issue an enforcement notice and prosecute the owner for the breach of the *Development Act 1993*; or
 - take no further action.
- (k) in determining its direction, Council should be aware of any precedence being established.

Cr Greco moved it be recommended:

- (a) The report be received;
- (b) Council seek advice from Mellor Olsson Lawyers of Adelaide in regard to the likelihood of successful prosecution and the likely outcome of any prosecution proceedings (including approximate costs to Council) regarding the illegal development at 13 Powell Street, Mount Gambier, and this information, when available, be provided in a further report to Council.

Cr Von Stanke seconded

Carried

14. CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL

Cr Greco moved that an order be made pursuant to Section 91 (7) and recorded in the publicly released version of the minutes in accordance with S91(9) of the Local Government Act, 1999 that the document in relation to item 13 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Date</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)	All details	Until the matter is resolved or abandoned, to be reviewed at least once in every year

Cr Von Stanke seconded

Carried

15. CONSIDERATION FOR EXCLUSION OF PUBLIC

Cr Greco moved that 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 - C Greco, F Morello, P Richardson and I Von Stanke and Council Officers - M McShane, D Morgan, M McCarthy, T Tzioutziouklaris and S Moretti) be excluded from the meeting in order for the agenda item (Development Control - Illegal Development - Operation of a Storage Yard - Ref. AF11/304) to be considered in confidence.

The Committee 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:

- S.90(3)(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and
- S.90(3)(i) - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.

The Committee 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 a person. The information that is to be received, discussed or considered in relation to this item relates to the commencement of prosecution proceedings pursuant to the Development Act 1993.

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 of a personal nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
16.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)

Cr Von Stanke seconded

Carried

IN CONFIDENCE

16. DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304

The Presiding Member reported:

- (a) For sometime now Council has been dealing with Geoffrey Wilson, owner of 15 Comaum Avenue, Mount Gambier in regard to this property being used to store a number of vehicles (including 11 unregistered vehicles). There is also 1 medium sized bus and 4 registered vehicles in the driveway and 1 medium sized bus parked in front of the dwelling on Comaum Avenue;
- (b) Council has undertaken site inspections and has gathered evidence that vehicles have been stored for an extensive period;
- (c) Council has sent letters to the owner, (on dates: 19th April 2012, 4th September 2012, 4th August 2015, 25th September 2015 and 19th of December 2016) advising him that he is currently in breach of the Development Act;
- (d) A photograph of the site taken on 3rd February 2017 is shown below:



- (e) the owner does not wish to remove vehicles because they are his hobby and they are used as collectibles;
- (f) the property is within the Residential Zone and the property is used for residential purposes. A storage yard within this zone would be non-complying;
- (g) Council has since written to the owner informing him that Council is now reviewing options to take legal action, Council has given the owner time to evaluate options and to respond to Council;
- (h) Council should now consider its response to the unapproved Storage Yard, as it is a clear breach of the *Development Act 1993* and appropriate legal action should be undertaken to enforce requirements of the Act and to eliminate the suspected breach;

- (i) Council has the following options:
- issue an enforcement notice and prosecute the owner for the breach of the *Development Act 1993*; or
 - take no further action.
- (j) in determining its direction, Council should be aware of any precedence being established.

Cr Greco moved it be recommended:

- (a) The report be received;
- (b) Council seek advice from Mellor Olsson Lawyers of Adelaide in regard to the likelihood of successful prosecution and the likely outcome of any prosecution proceedings (including approximate costs to Council) regarding the illegal development at 15 Comaum Avenue, Mount Gambier, and this information, when available, be provided in a further report to Council.

Cr Morello seconded

Carried

17. CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL

Cr Greco moved that an order be made pursuant to Section 91 (7) and recorded in the publicly released version of the minutes in accordance with S91(9) of the Local Government Act, 1999 that the document in relation to item 16 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Date</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
16.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)	All details	Until the matter is resolved or abandoned, to be reviewed at least once in every year

Cr Von Stanke seconded

Carried

CITY OF MOUNT GAMBIER

Meeting to be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier
on Tuesday, 21st February, 2017 at 6.00 p.m.

AGENDA

COUNCIL

PRESENT:

Mayor Andrew Lee

Cr Christian Greco

Cr Mark Lovett

Cr Josh Lynagh

Cr Sonya Meziniec

Cr Frank Morello

Cr Des Mutton

Cr Steven Perryman

Cr Hanna Persello

Cr Penny Richardson

Cr Ian Von Stanke

APOLOGY/IES:

received. moved that the apology from be

seconded

COUNCIL OFFICERS:

Chief Executive Officer

- Mr M McShane

Director – Operational Services

- Mr D Sexton

Manager Governance and Property

- Mr M McCarthy

Manager Community Services and
Development

- Ms B Cernovskis

Manager Business and Strategic Planning

- Mrs T Tzioutziouklaris

Finance Manager

- Mr G Button

Administrative Officer Executive Support

- Mrs M Telford

Administrative Officer Executive Support

- Miss A Lavia

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.

CONSIDERATION FOR EXCLUSION OF PUBLIC

moved that 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 Council Members: Mayor Andrew Lee, Cr Christian Greco, Cr Mark Lovett, Cr Josh Lynagh, Cr Sonya Meziniec, Cr Frank Morello, Cr Des Mutton, Cr Steven Perryman, Cr Hanna Persello, Cr Penny Richardson and Cr Ian Von Stanke and Council Officers: Mark McShane, Daryl Sexton, Gary Button, Barbara Cernovskis, Michael McCarthy, Tracy Tzioutziouklaris, Melissa Telford and Ashlee Lavia now present) be excluded from the meeting in order for the agenda item (Development Control - Illegal Development - Operation of a Storage Yard - Ref. AF11/304) to be considered in confidence.

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:

- S.90(3)(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and
- S.90(3)(i) - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.

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 a person. The information that is to be received, discussed or considered in relation to this item relates to the commencement of prosecution proceedings pursuant to the Development Act 1993.

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 of a personal nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
<u>OPERATIONAL SERVICES COMMITTEE - 14TH FEBRUARY, 2017</u>		
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)

seconded

IN CONFIDENCE

13. DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304

The Presiding Member reported:

- (a) For sometime now Council has been dealing with Jeremy Jones, owner of 13 Powell Street, Mount Gambier in regard to this property being used to store a number of vehicles (including 11 unregistered cars, 1 boat parked on the property and 4 cars parked in front of the property on Carthew Street);
- (b) the property fronts two streets which are Powell Street and Carthew Street;
- (c) Council has undertaken site inspections and has gathered evidence that vehicles have been stored on the subject property at 13 Powell Street for an extensive period;
- (d) A photograph of the site taken on 26th August 2016 is shown below:



- (e) Council has sent letters on the 5th July 2016, 8th September 2016 and 19th December 2016 to the owner, advising him that he is currently in breach of the Development Act;
- (f) the property is within the Residential Zone and the property is used for residential purposes. A storage yard within this zone would be non-complying;
- (g) the owner advised Council that he would have the cars removed by December 2016, which gave the owner sufficient time to remove the vehicles, however the vehicles have not been removed;
- (h) Council has since written (dated 19th of December 2016) to the owner informing him that Council is now reviewing options to take legal action in regard to the matter. Council has given the owner time to evaluate options and to respond to Council;

- (i) Council should now consider its response to the unapproved Storage Yard, as it is a breach of the *Development Act 1993* and appropriate legal action should be undertaken to enforce requirements of the Act and to eliminate the suspected breach;
- (j) Council has the following options:
 - issue an enforcement notice and prosecute the owner for the breach of the *Development Act 1993*; or
 - take no further action.
- (k) in determining its direction, Council should be aware of any precedence being established.

Cr Greco moved it be recommended:

- (a) The report be received;
- (b) Council seek advice from Mellor Olsson Lawyers of Adelaide in regard to the likelihood of successful prosecution and the likely outcome of any prosecution proceedings (including approximate costs to Council) regarding the illegal development at 13 Powell Street, Mount Gambier, and this information, when available, be provided in a further report to Council.

Cr Von Stanke seconded

Carried

CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL

moved that an order be made pursuant to Section 91 (7) and recorded in the publicly released version of the minutes in accordance with S91(9) of the Local Government Act, 1999 that the document in relation to item 13 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Item No.</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
<u>OPERATIONAL SERVICES COMMITTEE - 14TH FEBRUARY, 2017</u>				
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)	All details	Until the matter is resolved or abandoned, to be reviewed at least once in every year

seconded

CONSIDERATION FOR EXCLUSION OF PUBLIC

moved that 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 - : Mayor Andrew Lee, Cr Christian Greco, Cr Mark Lovett, Cr Josh Lynagh, Cr Sonya Meziniec, Cr Frank Morello, Cr Des Mutton, Cr Steven Perryman, Cr Hanna Persello, Cr Penny Richardson and Cr Ian Von Stanke and Council Officers: Mark McShane, Daryl Sexton, Gary Button, Barbara Cernovskis, Michael McCarthy, Tracy Tzioutziouklaris, Melissa Telford and Ashlee Lavia now present) be excluded from the meeting in order for the agenda item (Development Control - Illegal Development - Operation of a Storage Yard - Ref. AF11/304) to be considered in confidence.

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:

- S.90(3)(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and
- S.90(3)(i) - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.

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 a person. The information that is to be received, discussed or considered in relation to this item relates to the commencement of prosecution proceedings pursuant to the Development Act 1993.

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 of a personal nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
<u>OPERATIONAL SERVICES COMMITTEE - 14TH FEBRUARY, 2017</u>		
16.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)

seconded

IN CONFIDENCE

16. DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304

The Presiding Member reported:

- (a) For sometime now Council has been dealing with Geoffrey Wilson, owner of 15 Comaum Avenue, Mount Gambier in regard to this property being used to store a number of vehicles (including 11 unregistered vehicles). There is also 1 medium sized bus and 4 registered vehicles in the driveway and 1 medium sized bus parked in front of the dwelling on Comaum Avenue;
- (b) Council has undertaken site inspections and has gathered evidence that vehicles have been stored for an extensive period;
- (c) Council has sent letters to the owner, (on dates: 19th April 2012, 4th September 2012, 4th August 2015, 25th September 2015 and 19th of December 2016) advising him that he is currently in breach of the Development Act;
- (d) A photograph of the site taken on 3rd February 2017 is shown below:



- (e) the owner does not wish to remove vehicles because they are his hobby and they are used as collectibles;
- (f) the property is within the Residential Zone and the property is used for residential purposes. A storage yard within this zone would be non-complying;
- (g) Council has since written to the owner informing him that Council is now reviewing options to take legal action, Council has given the owner time to evaluate options and to respond to Council;
- (h) Council should now consider its response to the unapproved Storage Yard, as it is a clear breach of the *Development Act 1993* and appropriate legal action should be undertaken to enforce requirements of the Act and to eliminate the suspected breach;

- (i) Council has the following options:
- issue an enforcement notice and prosecute the owner for the breach of the *Development Act 1993*; or
 - take no further action.
- (j) in determining its direction, Council should be aware of any precedence being established.

Cr Greco moved it be recommended:

- (a) The report be received;
- (b) Council seek advice from Mellor Olsson Lawyers of Adelaide in regard to the likelihood of successful prosecution and the likely outcome of any prosecution proceedings (including approximate costs to Council) regarding the illegal development at 15 Comaum Avenue, Mount Gambier, and this information, when available, be provided in a further report to Council.

Cr Morello seconded

Carried

CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL

moved that an order be made pursuant to Section 91 (7) and recorded in the publicly released version of the minutes in accordance with S91(9) of the Local Government Act, 1999 that the document in relation to item 16 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Item No.</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
<u>OPERATIONAL SERVICES COMMITTEE - 14TH FEBRUARY, 2017</u>				
16.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)	All details	Until the matter is resolved or abandoned, to be reviewed at least once in every year

seconded

MINUTES OF MEETING OF THE CITY OF MOUNT GAMBIER HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT GAMBIER ON TUESDAY 21ST FEBRUARY, 2017 AT 6.00 P.M.

COUNCIL

PRESENT:

Mayor Andrew Lee

Cr Christian Greco

Cr Mark Lovett

Cr Josh Lynagh

Cr Sonya Meziniec

Cr Frank Morello

Cr Des Mutton

Cr Steven Perryman

Cr Hanna Persello

Cr Ian Von Stanke

APOLOGY/IES:

Cr Lovett moved that the apology from Cr Penny Richardson be received.

Cr Greco seconded

Carried

COUNCIL OFFICERS:

Chief Executive Officer

- Mr M McShane

Director – Operational Services

- Mr D Sexton

Manager Governance and Property

- Mr M McCarthy

Manager Community Services and
Development

- Ms B Cernovskis

Manager Business and Strategic Planning

- Mrs T Tzioutziouklaris

Administrative Officer Executive Support

- Mrs M Telford

Administrative Officer Executive Support

- Miss A Lavia

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.

CONSIDERATION FOR EXCLUSION OF PUBLIC

Cr Greco moved that 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 Council Members: Mayor Andrew Lee, Cr Christian Greco, Cr Mark Lovett, Cr Josh Lynagh, Cr Sonya Meziniec, Cr Frank Morello, Cr Des Mutton, Cr Steven Perryman, Cr Hanna Persello and Cr Ian Von Stanke and Council Officers: Mark McShane, Daryl Sexton, Barbara Cernovskis, Michael McCarthy, Tracy Tzioutziouklaris, Melissa Telford and Ashlee Lavia now present) be excluded from the meeting in order for the agenda item (Development Control - Illegal Development - Operation of a Storage Yard - Ref. AF11/304) to be considered in confidence.

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:

- S.90(3)(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and
- S.90(3)(i) - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.

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 a person. The information that is to be received, discussed or considered in relation to this item relates to the commencement of prosecution proceedings pursuant to the Development Act 1993.

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 of a personal nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
<u>OPERATIONAL SERVICES COMMITTEE - 14TH FEBRUARY, 2017</u>		
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)

Cr Meziniec seconded

Carried

IN CONFIDENCE

13. DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304

The Presiding Member reported:

- (a) For sometime now Council has been dealing with Jeremy Jones, owner of 13 Powell Street, Mount Gambier in regard to this property being used to store a number of vehicles (including 11 unregistered cars, 1 boat parked on the property and 4 cars parked in front of the property on Carthew Street);
- (b) the property fronts two streets which are Powell Street and Carthew Street;
- (c) Council has undertaken site inspections and has gathered evidence that vehicles have been stored on the subject property at 13 Powell Street for an extensive period;
- (d) A photograph of the site taken on 26th August 2016 is shown below:



- (e) Council has sent letters on the 5th July 2016, 8th September 2016 and 19th December 2016 to the owner, advising him that he is currently in breach of the Development Act;
- (f) the property is within the Residential Zone and the property is used for residential purposes. A storage yard within this zone would be non-complying;
- (g) the owner advised Council that he would have the cars removed by December 2016, which gave the owner sufficient time to remove the vehicles, however the vehicles have not been removed;

- (h) Council has since written (dated 19th of December 2016) to the owner informing him that Council is now reviewing options to take legal action in regard to the matter. Council has given the owner time to evaluate options and to respond to Council;
- (i) Council should now consider its response to the unapproved Storage Yard, as it is a breach of the *Development Act 1993* and appropriate legal action should be undertaken to enforce requirements of the Act and to eliminate the suspected breach;
- (j) Council has the following options:
 - issue an enforcement notice and prosecute the owner for the breach of the *Development Act 1993*; or
 - take no further action.
- (k) in determining its direction, Council should be aware of any precedence being established.

Cr Greco moved it be recommended:

- (a) The report be received;
- (b) Council seek advice from Mellor Olsson Lawyers of Adelaide in regard to the likelihood of successful prosecution and the likely outcome of any prosecution proceedings (including approximate costs to Council) regarding the illegal development at 13 Powell Street, Mount Gambier, and this information, when available, be provided in a further report to Council.

Cr Von Stanke seconded

Carried

Cr Greco moved the recommendation of the Operational Services Committee as contained in item 13 be adopted.

Cr Von Stanke seconded

Carried

CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL

Cr Greco moved that an order be made pursuant to Section 91 (7) and recorded in the publicly released version of the minutes in accordance with S91(9) of the Local Government Act, 1999 that the document in relation to item 13 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Item No.</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
<u>OPERATIONAL SERVICES COMMITTEE - 14TH FEBRUARY, 2017</u>				
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)	All details	Until the matter is resolved or abandoned, to be reviewed at least once in every year

Cr Mezinec seconded

Carried

CONSIDERATION FOR EXCLUSION OF PUBLIC

Cr Greco moved that 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 - : Mayor Andrew Lee, Cr Christian Greco, Cr Mark Lovett, Cr Josh Lynagh, Cr Sonya Meziniec, Cr Frank Morello, Cr Des Mutton, Cr Steven Perryman, Cr Hanna Persello and Cr Ian Von Stanke and Council Officers: Mark McShane, Daryl Sexton, Barbara Cernovskis, Michael McCarthy, Tracy Tzioutziouklaris, Melissa Telford and Ashlee Lavia now present) be excluded from the meeting in order for the agenda item (Development Control - Illegal Development - Operation of a Storage Yard - Ref. AF11/304) to be considered in confidence.

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:

- S.90(3)(a) - information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead); and
- S.90(3)(i) - information relating to actual litigation, or litigation that the council or council committee believes on reasonable grounds will take place, involving the council or an employee of the council.

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 a person. The information that is to be received, discussed or considered in relation to this item relates to the commencement of prosecution proceedings pursuant to the Development Act 1993.

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 of a personal nature.

<u>Item No.</u>	<u>Subject Matter</u>	<u>S90 (3) Grounds</u>
<u>OPERATIONAL SERVICES COMMITTEE - 14TH FEBRUARY, 2017</u>		
16.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)

Cr Lovett seconded

Carried

IN CONFIDENCE

16. DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304

The Presiding Member reported:

- (a) For sometime now Council has been dealing with Geoffrey Wilson, owner of 15 Comaum Avenue, Mount Gambier in regard to this property being used to store a number of vehicles (including 11 unregistered vehicles). There is also 1 medium sized bus and 4 registered vehicles in the driveway and 1 medium sized bus parked in front of the dwelling on Comaum Avenue;
- (b) Council has undertaken site inspections and has gathered evidence that vehicles have been stored for an extensive period;
- (c) Council has sent letters to the owner, (on dates: 19th April 2012, 4th September 2012, 4th August 2015, 25th September 2015 and 19th of December 2016) advising him that he is currently in breach of the Development Act;
- (d) A photograph of the site taken on 3rd February 2017 is shown below:



- (e) the owner does not wish to remove vehicles because they are his hobby and they are used as collectibles;
- (f) the property is within the Residential Zone and the property is used for residential purposes. A storage yard within this zone would be non-complying;
- (g) Council has since written to the owner informing him that Council is now reviewing options to take legal action, Council has given the owner time to evaluate options and to respond to Council;

- (h) Council should now consider its response to the unapproved Storage Yard, as it is a clear breach of the *Development Act 1993* and appropriate legal action should be undertaken to enforce requirements of the Act and to eliminate the suspected breach;
- (i) Council has the following options:
 - issue an enforcement notice and prosecute the owner for the breach of the *Development Act 1993*; or
 - take no further action.
- (j) in determining its direction, Council should be aware of any precedence being established.

Cr Greco moved it be recommended:

- (a) The report be received;
- (b) Council seek advice from Mellor Olsson Lawyers of Adelaide in regard to the likelihood of successful prosecution and the likely outcome of any prosecution proceedings (including approximate costs to Council) regarding the illegal development at 15 Comaum Avenue, Mount Gambier, and this information, when available, be provided in a further report to Council.

Cr Morello seconded

Carried

Cr Greco moved the recommendation of the Operational Services Committee as contained in item 16 be adopted.

Cr Lovett seconded

Carried

CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL

Cr Greco moved that an order be made pursuant to Section 91 (7) and recorded in the publicly released version of the minutes in accordance with S91(9) of the Local Government Act, 1999 that the document in relation to item 16 which has been considered by the Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Item No.</u>	<u>Subject Matter</u>	<u>S.90(3) Grounds</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
<u>OPERATIONAL SERVICES COMMITTEE - 14TH FEBRUARY, 2017</u>				
16.	DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304	(a) (i)	All details	Until the matter is resolved or abandoned, to be reviewed at least once in every year

Cr Von Stanke seconded

Carried