



City of  
Mount Gambier

Civic Centre, 10 Watson Terrace  
Mount Gambier SA 5290

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**I hereby give notice that a Confidential Economic and Environment  
Committee Meeting will be held on:**

**Date: Monday, 4 November 2019**  
**Time: 6.30 p.m.**  
**Location: Council Chamber**  
**Civic Centre**  
**10 Watson Terrace**  
**Mount Gambier**

# **AGENDA**

## **Confidential Economic and Environment Committee Meeting 4 November 2019**

**Andrew Meddle**  
**Chief Executive Officer**  
**31 October 2019**

**7.3 APPEAL TO THE ENVIRONMENT RESOURCES AND DEVELOPMENT COURT -  
DEVELOPMENT APPLICATION 381/053/2019 116 JUBILEE HIGHWAY WEST, MOUNT  
GAMBIER – REPORT NO. AR19/56264**

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Economic and Environment Committee orders that all members of the public, except Mayor L Martin OAM, Councillors C Greco, K Amoroso, M Bruins, B Hood, P Jenner, S Meziniec, F Morello, S Perryman and Council Officers A Meddle, N Serle, B Cernovskis, J Nagy, J Zwijnenburg, M McCarthy, M Telford and E Solly be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 7.3 AR19/56264 Appeal to the Environment Resources and Development Court - Development Application 381/053/2019 116 Jubilee Highway West, Mount Gambier.

The Economic and Environment Committee is satisfied that, pursuant to section 90(3) (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- 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 Economic and Environment Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because impending legal action.

**7.3 APPEAL TO THE ENVIRONMENT RESOURCES AND DEVELOPMENT COURT - DEVELOPMENT APPLICATION 381/053/2019 116 JUBILEE HIGHWAY WEST, MOUNT GAMBIER - REPORT NO. AR19/56264**

<b>Meeting:</b>	<b>Economic and Environment Committee</b>
<b>Meeting Date:</b>	<b>4 November 2019</b>
<b>Report No:</b>	<b>AR19/56264</b>
<b>CM9 Reference:</b>	<b>AF19/331</b>
<b>Author:</b>	<b>Simon Wiseman, Senior Planning Officer</b>
<b>Authoriser:</b>	<b>Andrew Meddle, Chief Executive Officer</b>
<b>Summary:</b>	<b>Council has received a Notice of Appeal from the Environment, Resources and Development Court against a decision of the Council Assessment Panel, which was made on 19th September 2019 to refuse Development Plan Consent for the construction of a new garage in association with the existing dwelling (Development Application 381/053/2019).</b>
<b>Community Plan Reference:</b>	<b>Goal 2: Our Location Goal 3: Our Diverse Economy</b>

The Committee is satisfied that, pursuant to Section 90(2) & (3) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this agenda item is:

- (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.

**REPORT RECOMMENDATION**

1. That 7.3 Report No. AR19/56264 titled 'Engagement of legal representation for appeal to the Environment Resources and Development Court –Development Application 381/053/2019 – 116 Jubilee Highway West, Mount Gambier as presented be noted.



## **BACKGROUND**

On 21<sup>st</sup> February 2019, Council received a development application, seeking to construct a garage in association with an existing dwelling at 116 Jubilee Highway West, Mount Gambier.

The development application was assessed and processed in accordance the Development Act 1993, Development Regulations 2008 and the Mount Gambier (City) Development Plan (consolidated 21 April 2016).

At its meeting held on Thursday 19<sup>th</sup> September 2019, the Council Assessment Panel resolved the following:

- "1. That Council Assessment Panel report No. AR19/46729 titled '116 Jubilee Highway West, Mount Gambier' as presented on 19<sup>th</sup> September 2019 be noted.*
- 2. The applicant and owner be advised that having regard to the Development Plan and all supporting documentation, the proposed development is considered to be at serious variance with the Council's Development Plan and Development Plan Consent be refused.*
- 3. The Applicant and Owner be advised that the reasons for refusal are;*
  - (a) The wall height and the total height of the garage is excessive and at variance with Council's Development Plan in relation to wall heights of garages;*
  - (b) The garage will dominate the streetscape due to its height and size; and*
  - (c) The proposed garage won't be sympathetic to the scale of development in the locality."*

The Applicant and Owner were advised of this decision via Council correspondence dated 23<sup>rd</sup> September 2019 respectively.

## **DISCUSSION**

On 10<sup>th</sup> October 2019, Council received a Notice of Appeal from Frank Brennan (Consulting Services) advising that he is representing the applicant and that an appeal against Council's decision had been lodged with the Environment, Resources and Development Court (the Court) on 10<sup>th</sup> October 2019.

Council has yet to receive the formal notification from the Court in respect of this matter and the scheduling of the preliminary conference.

As the appeal is against a decision made by the Council Assessment Panel, the Council is required to appear before the Environment, Resources and Development Court as part of any conference or hearing.

Elected Members should also note that Council Officers have received threatening and abusive telephone calls from the applicant on this matter.

## **CONCLUSION**

Council are advised that an Appeal has been lodged with the Environment, Resources and Development Court against a decision made by the Council Assessment Panel. The Council will be defending this appeal, including the engagement of specialist services as required.

## **ATTACHMENTS**

Nil



**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 7.3 AR19/56264 Appeal to the Environment Resources and Development Court - Development Application 381/053/2019 116 Jubilee Highway West, Mount Gambier and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (i) be kept confidential and not available for public inspection until 20 October 2020.
2. Further that Council delegates the power to review, revoke, but not extension of the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

CONFIDENTIAL

**MINUTES OF CONFIDENTIAL ECONOMIC AND ENVIRONMENT COMMITTEE MEETING  
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE,  
MOUNT GAMBIER ON MONDAY, 4 NOVEMBER 2019 AT 7.40 P.M.**

**PRESENT:** Mayor Lynette Martin (OAM), Cr Christian Greco, Cr Kate Amoroso, Cr Max Bruins, Cr Ben Hood, Cr Paul Jenner, Cr Sonya Meziniec and Cr Frank Morello

<b>OFFICERS IN</b>	Chief Executive Officer	- Mr A Meddle
<b>ATTENDANCE:</b>	General Manager Community Wellbeing	- Ms B Cernovskis
	General Manager City Infrastructure	- Mr N Serle
	Manager Development Services	- Mrs T Tzioutziouklaris
	Executive Administration Officer	- Mrs M Telford
		- Mrs E Solly

**7.3 APPEAL TO THE ENVIRONMENT RESOURCES AND DEVELOPMENT COURT -  
DEVELOPMENT APPLICATION 381/053/2019 116 JUBILEE HIGHWAY WEST,  
MOUNT GAMBIER – REPORT NO. AR19/56264**

**COMMITTEE RESOLUTION**

Moved: Cr Christian Greco

Seconded: Cr Sonya Mezinec

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Economic and Environment Committee orders that all members of the public, except Mayor L Martin, Councillors C Greco, K Amoroso, M Bruins, B Hood, P Jenner, S Mezinec, F Morello and S Perryman and Council Officers A Meddle, B Cernovskis, N Serle, T Tzioutziouklaris, M Telford and E Solly be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 7.3 AR19/56264 Appeal to the Environment Resources and Development Court - Development Application 381/053/2019 116 Jubilee Highway West, Mount Gambier.

The Economic and Environment Committee is satisfied that, pursuant to section 90(3) (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information relating to:
  - actual litigation, or
  - litigation that the Council or Council committee believes on reasonable grounds will take place,
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The Economic and Environment Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because impending legal action.

**CARRIED**

Pursuant to Section 74 of the Local Government Act 1999, Cr Paul Jenner disclosed a material conflict of interest in Item 7.3 Appeal to Environment Resources and Development Court:

*"I am a Member of Council Assessment Panel".*

In accordance with Section 74 of the Local Government Act 1999 Cr Paul Jenner did not participate in the meeting for Item 7.3.

Cr Jenner vacated the meeting at 8.26 p.m.

**COMMITTEE RESOLUTION**

Moved: Cr Christian Greco

Seconded: Cr Max Bruins

1. That 7.3 Report No. AR19/56264 titled 'Engagement of legal representation for appeal to the Environment Resources and Development Court – Development Application 381/053/2019 – 116 Jubilee Highway West, Mount Gambier as presented be noted.

**CARRIED**



Cr Jenner resumed meeting at 8.29 p.m.

**COMMITTEE RESOLUTION**

Moved: Cr Christian Greco

Seconded: Cr Frank Morello

**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 7.3 AR19/56264 Appeal to the Environment Resources and Development Court - Development Application 381/053/2019 116 Jubilee Highway West, Mount Gambier and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (i) be kept confidential and not available for public inspection until 20 October 2020.
2. Further that Council delegates the power to review, revoke, but not extension of the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**







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**I hereby give notice that a Confidential Council Meeting will be held on:**

**Date:** Tuesday, 19 November 2019  
**Time:** 6.00 p.m.  
**Location:** Council Chamber  
Civic Centre  
10 Watson Terrace  
Mount Gambier

# **AGENDA**

## **Confidential Council Meeting 19 November 2019**

**Andrew Meddle**  
**Chief Executive Officer**

**15 November 2019**

**25.4 APPEAL TO THE ENVIRONMENT RESOURCES AND DEVELOPMENT COURT -  
DEVELOPMENT APPLICATION 381/053/2019 116 JUBILEE HIGHWAY WEST, MOUNT  
GAMBIER – REPORT NO. AR19/56264**

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Meziniec, K Amoroso, M Bruins, C Greco, B Hood, P Jenner, F Morello and S Perryman and Council Officers A Meddle, B Cernovskis, J Zwijnenburg, N Serle, A Watson, and F McGregor be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 25.4 AR19/56264 Appeal to the Environment Resources and Development Court - Development Application 381/053/2019 116 Jubilee Highway West, Mount Gambier.

The Council is satisfied that, pursuant to section 90(3) (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

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**25.4 APPEAL TO THE ENVIRONMENT RESOURCES AND DEVELOPMENT COURT -  
DEVELOPMENT APPLICATION 381/053/2019 116 JUBILEE HIGHWAY WEST, MOUNT  
GAMBIER - REPORT NO. AR19/56264**

<b>Meeting:</b>	<b>Economic and Environment Committee</b>
<b>Meeting Date:</b>	<b>4 November 2019</b>
<b>Report No:</b>	<b>AR19/56264</b>
<b>CM9 Reference:</b>	<b>AF19/331</b>
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<b>Community Plan Reference:</b>	<b>Goal 2: Our Location Goal 3: Our Diverse Economy</b>

The Committee is satisfied that, pursuant to Section 90(2) & (3) of the *Local Government Act 1999*, the information to be received, discussed or considered in relation to this agenda item is:

- (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.

**REPORT RECOMMENDATION**

1. That 7.3 Report No. AR19/56264 titled 'Engagement of legal representation for appeal to the Environment Resources and Development Court –Development Application 381/053/2019 – 116 Jubilee Highway West, Mount Gambier as presented be noted.



## BACKGROUND

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  - (c) The proposed garage won't be sympathetic to the scale of development in the locality."*

The Applicant and Owner were advised of this decision via Council correspondence dated 23<sup>rd</sup> September 2019 respectively.

## DISCUSSION

On 10<sup>th</sup> October 2019, Council received a Notice of Appeal from Frank Brennan (Consulting Services) advising that he is representing the applicant and that an appeal against Council's decision had been lodged with the Environment, Resources and Development Court (the Court) on 10<sup>th</sup> October 2019.

Council has yet to receive the formal notification from the Court in respect of this matter and the scheduling of the preliminary conference.

As the appeal is against a decision made by the Council Assessment Panel, the Council is required to appear before the Environment, Resources and Development Court as part of any conference or hearing.

Elected Members should also note that Council Officers have received threatening and abusive telephone calls from the applicant on this matter.

## CONCLUSION

Council are advised that an Appeal has been lodged with the Environment, Resources and Development Court against a decision made by the Council Assessment Panel. The Council will be defending this appeal, including the engagement of specialist services as required.

## ATTACHMENTS

Nil



**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 7.3 AR19/56264 Appeal to the Environment Resources and Development Court - Development Application 381/053/2019 116 Jubilee Highway West, Mount Gambier and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (i) be kept confidential and not available for public inspection until 20 October 2020.
2. Further that Council delegates the power to review, revoke, but not extension of the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

CONFIDENTIAL



**MINUTES OF CONFIDENTIAL COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT  
GAMBIER  
ON TUESDAY, 19 NOVEMBER 2019 AT 6.00 P.M.**

**PRESENT:** Mayor Lynette Martin (OAM), Cr Kate Amoroso, Cr Max Bruins, Cr Christian Greco, Cr Paul Jenner, Cr Ben Hood, Cr Frank Morello, Cr Steven Perryman

<b>OFFICERS IN ATTENDANCE:</b>	Chief Executive Officer	- Mr A Meddle
	General Manager Community Wellbeing	- Ms B Cernovskis
	General Manager City Infrastructure	- Mr N Serle
	General Manager City Growth	- Dr J Nagy
	Acting General Manager Council Business Services	- Mr J Zwijnenburg
	Manager Development Services	- Mrs T Tzioutziouklaris
	Media and Communications	- Mrs A Watson
	Executive Administration Officer	- Mrs F McGregor

**25.4 APPEAL TO THE ENVIRONMENT RESOURCES AND DEVELOPMENT COURT -  
DEVELOPMENT APPLICATION 381/053/2019 116 JUBILEE HIGHWAY WEST,  
MOUNT GAMBIER – REPORT NO. AR19/56264**

**RESOLUTION 2019/353**

Moved: Cr Christian Greco

Seconded: Cr Max Bruins

**CONSIDERATION FOR EXCLUSION OF THE PUBLIC**

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Mayor L Martin, Councillors S Meziniec, K Amoroso, M Bruins, C Greco, B Hood, P Jenner, F Morello and S Perryman and Council Officers A Meddle, B Cernovskis, J Nagy, N Serle, J Zwijnenburg, A Watson, T Tzioutziouklaris and F McGregor be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 25.4 AR19/56264 Appeal to the Environment Resources and Development Court - Development Application 381/053/2019 116 Jubilee Highway West, Mount Gambier.

The Council is satisfied that, pursuant to section 90(3) (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

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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 because impending legal action.

**CARRIED**



**RESOLUTION 2019/354**

Moved: Cr Christian Greco

Seconded: Cr Max Bruins

1. That 7.3 Report No. AR19/56264 titled 'Engagement of legal representation for appeal to the Environment Resources and Development Court – Development Application 381/053/2019 – 116 Jubilee Highway West, Mount Gambier as presented be noted.

**CARRIED**

**RESOLUTION 2019/355**

Moved: Cr Christian Greco

Seconded: Cr Kate Amoroso

**CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL**

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 7.3 AR19/56264 Appeal to the Environment Resources and Development Court - Development Application 381/053/2019 116 Jubilee Highway West, Mount Gambier and its attachments, the discussion and the resolution/s and minutes arising from the report, having been considered by the Council in confidence under Section 90(2) & (3) (i) be kept confidential and not available for public inspection until 20 October 2020.
2. Further that Council delegates the power to review, revoke, but not extension of the confidential order to the Chief Executive Officer in accordance with the provisions of Section 91(9)(c) of the *Local Government Act 1999*.

**CARRIED**

