

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

IN CONFIDENCE

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

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.

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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 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;
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- 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

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 Mezinac, 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:

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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 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;
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- (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;
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- (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

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<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.

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.

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<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;
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- 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:

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<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