

## **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

<b>COUNCIL OFFICERS</b>	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. CONFIDENTIAL ITEMS

### 8.1 Consideration for Exclusion of the Public

#### Item 8.2

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 – Operation of A Builder’s Yard within the Residential Zone) 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
8.2	Illegal Development – Operation of a Builder’s Yard within the Residential Zone - Report No. AR18/21607	(a), (f) and (h)

Moved:

Seconded:



**8.2 Illegal Development – Operation of A Builder’s Yard within the Residential Zone No. AR18/21607**

<b>COMMITTEE</b>	Operational Standing Committee
<b>MEETING DATE:</b>	12 June 2018
<b>REPORT NO.</b>	AR18/21607
<b>RM8 REFERENCE</b>	AF17/290
<b>AUTHOR</b>	Tracy Tzioutziouklaris
<b>SUMMARY</b>	This matter involves legal action to require the cessation of the use of the subject property as a builder’s yard within the Residential Zone.
<b>COMMUNITY PLAN REFERENCE</b>	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage

<b>REPORT RECOMMENDATION</b>
(a) That Operational Standing Committee Report No. AR18/21607 titled ‘ <i>Illegal Development – Operation of a Builder’s Yard within the Residential Zone</i> ’ as presented to the Operational Standing Committee on 12 June 2018 be noted.

Moved:

Seconded:



## Background

Council at its meeting in November 2017 determined to “*undertake the most appropriate action before the Environment, Resources and Development Court to correct the breach of the Development Act 1993 in accordance with advice from Council’s legal representation in relation to this matter.*”

A breach of the Development Act has occurred and been ongoing at 1/29 Willow Avenue, Mount Gambier, namely a change in use of the property from residential to a storage and/or building yard use without development approval. In addition, structures have been located on the land which constitute buildings/building work that also require development approval to be obtained prior to their placement on the subject site.

The person responsible for the activities undertaken on this land has displayed a general unwillingness to accept responsibility to correct the breach of the Development Act over an extensive period of time.

## Discussion

The subject land at 1/29 Willow Avenue, Mount Gambier is owned by the company EMT Holdings Pty Ltd.

On 1<sup>st</sup> March, 2018 the Director of the company passed away.

Council was granted leave by the Environment, Resources and Development Court to proceed with prosecution action in relation to this matter on Tuesday 13<sup>th</sup> March, 2018. This action is being undertaken against the company.

Council has been in discussions and negotiations with the executors of the Estate of the Company Director. During this time there has been significant improvement in the appearance of the subject land.

Given the circumstances in relation to this matter, Council has agreed to adjourn the Court proceedings for a period of 6 months subject to the following:

- the ATCO hut, shipping containers, trailer and any other miscellaneous items on the subject land (“**the items**”) will be removed by 31 October 2018;
- until such time as the items are removed the subject land is maintained in a clean and tidy manner;
- the subject land is not be used as a store and/or building yard;
- the existing garage is not used as a storage building.

The conference before the Environment, Resources and Development Court has been adjourned to Thursday 8<sup>th</sup> November, 2018.

## Conclusion

Work has been undertaken by the Executors of the Estate to correct the breach of the Development Act, 1993.



When considering the circumstances of this matter, it is appropriate to adjourn legal proceedings to enable adequate time for the matter to be addressed and resolved by the Estate and the family.

**Attachments**

Nil



**Tracy TZIOUTZIOUKLARIS**  
MANAGER DEVELOPMENT SERVICES



**Judy NAGY**  
GENERAL MANAGER CITY GROWTH

26 April 2018  
MTT



### 8.3 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
8.2	<b>Illegal Development</b> - Report No. AR18/21607	(a) & (f)	All details	Until the matter has been resolved.  Where duration exceeds 12 months To be reviewed at least once

Moved:

Seconded:



## **MINUTES OF ORDINARY OPERATIONAL STANDING COMMITTEE MEETING**

Meeting held in the Conference Room, Civic Centre, 10 Watson Terrace, Mount Gambier  
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

<b>COUNCIL OFFICERS</b>	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



## 9. CONFIDENTIAL ITEMS

### 8.1 Consideration for Exclusion of the Public

#### Item 8.2

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 – Operation of A Builder’s Yard within the Residential Zone) 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

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
8.2	Illegal Development – Operation of a Builder’s Yard within the Residential Zone - Report No. AR18/21607	(a), (f) and (h)

Moved: Cr Greco

Seconded: Cr Von Stanke

Carried





**8.2 Illegal Development – Operation of A Builder’s Yard within the Residential Zone No. AR18/21607**

**COMMITTEE RECOMMENDATION**

- (a) That Operational Standing Committee Report No. AR18/21607 titled ‘*Illegal Development – Operation of a Builder’s Yard within the Residential Zone*’ as presented to the Operational Standing Committee on 12 June 2018 be noted.

Moved: Cr Greco

Seconded: Cr Von Stanke

Carried



### 8.3 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
8.2	<b>Illegal Development</b> - Report No. AR18/21607	(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



## **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

<b>COUNCIL OFFICERS</b>	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. CONFIDENTIAL ITEMS**

**17.1. Consideration for Exclusion of the Public**

Item 17.2

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 – Operation of A Builder’s Yard within the Residential Zone) to be considered in confidence.

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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
17.2	Illegal Development – Operation of a Builder’s Yard within the Residential Zone - Report No. AR18/21607	(a), (f) and (h)

Moved:

Seconded:



**IN-CONFIDENCE**

**17.2. Illegal Development – Operation of A Builder’s Yard within the Residential Zone No. AR18/21607**

**COMMITTEE RECOMMENDATION**

- (a) That Operational Standing Committee Report No. AR18/21607 titled ‘*Illegal Development – Operation of a Builder’s Yard within the Residential Zone*’ as presented to the Operational Standing Committee on 12 June 2018 be noted.

Moved:

Seconded:



**17.3. 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 17.2 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
17.2	<b>Illegal Development</b> - Report No. AR18/21607	(a) & (f)	All details	Until the matter has been resolved.  Where duration exceeds 12 months To be reviewed at least once



## **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
Manager Development Services	-	Mrs T Tzioutziouklaris
Media and Communications Coordinator	-	Ms S McLean
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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. CONFIDENTIAL ITEMS

### 17.1. Consideration for Exclusion of the Public

#### Item 17.2

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 – Operation of A Builder’s Yard within the Residential Zone) to be considered in confidence.

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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
17.2	Illegal Development – Operation of a Builder’s Yard within the Residential Zone - Report No. AR18/21607	(a), (f) and (h)

Moved: Cr Greco

Seconded: Cr Lovett

Carried





**IN-CONFIDENCE**

**17.2. Illegal Development – Operation of A Builder’s Yard within the Residential Zone No. AR18/21607**

- (a) That Operational Standing Committee Report No. AR18/21607 titled *‘Illegal Development – Operation of a Builder’s Yard within the Residential Zone’* as presented to the Operational Standing Committee on 12 June 2018 be noted.

Moved: Cr Lovett

Seconded: Cr Greco

Carried



**17.3. 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 17.2 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
17.2	Illegal Development - Report No. AR18/21607	(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 Lynagh

Carried

