



City of
Mount Gambier

Civic Centre, 10 Watson Terrace
Mount Gambier SA 5290

PO Box 56
Mount Gambier SA 5290

Telephone 08 87212555
Facsimile 08 87249791
city@mountgambier.sa.gov.au

mountgambier.sa.gov.au

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

Date: Tuesday, 15 June 2021

Time: 6.00 p.m.

**Location: Council Chamber
Civic Centre
10 Watson Terrace
Mount Gambier**

CONFIDENTIAL AGENDA

**Council Meeting
15 June 2021**

**Barbara Cernovskis
Acting Chief Executive Officer
11 June 2021**

28 NEW CONFIDENTIAL ITEMS

28.1 NOTICE OF MOTION - SURPLUS LAND DECLARATION – REPORT NO. AR21/34745

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 B Cernovskis, D Barber, T Coote, M McCarthy, S McLean, E Solly and S Wilson be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 28.1 AR21/34745 Notice of Motion - Surplus Land Declaration.

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 the Agenda Item is:

- information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is
 - conducting business; or
 - proposing to conduct business; or
 - to prejudice the commercial position of the Council

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 the information to be considered includes property valuations the disclosure of which could prejudice the Council's commercial position and provide a benefit to any 3rd party with whom Council are negotiating if the properties proceed to sale.



28.1 NOTICE OF MOTION - SURPLUS LAND DECLARATION

Meeting: Council
CM9 Reference: AF13/64
Member: Max Bruins, Councillor

The Council 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:

- (b) information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is conducting business; or proposing to conduct business; or to prejudice the commercial position of the Council.

I, Councillor Max Bruins, give notice that at the next Ordinary Meeting of Council to be held on 15 June 2021, I intend to move the following motion:

MOTION

1. That Council Report No. AR21/34745 titled 'Notice of Motion - Surplus Land Declaration' as presented on 15 June 2021 be noted.
2. Council owned property located at 1 Lawrence Street, Mount Gambier (Lot 399, FP 194201) be declared surplus to requirements and a process to be commenced for its disposal.
3. Council owned property located at 3 Lawrence Street, Mount Gambier (Lot 331, FP 194133) be declared surplus to requirements and a process to be commenced for its disposal.
4. That investigations be conducted and a further report presented to consider any community land implications associated with converting Lot 397 in Filed Plan 194199 (Lawrence Street) to public road to provide legal road access to the property located at 1 Lawrence Street.
5. In the event that there are no community land implications giving rise to a report in accordance with resolution (4), then the Chief Executive Officer be authorised to commence a statutory process under s210 of the Local Government Act 1999 for the proposed conversion of Lot 397 in Filed Plan 194199 (Lawrence Street) to public road.
A further report be presented to Council to consider the making of a public road declaration, being not less than three months after the giving of public notice on the proposed declaration.
6. In accordance with clause 8 of Council's Procurement and Disposal of Land and Assets Policy P420, an independent valuation be obtained to establish a reserve price (auction) or appropriate market value (open market sale) for the properties detailed in (2) and (3) above given that previous valuations for these properties were obtained in August 2019 and the policy requires valuations to be not more than 6 months prior to the proposed disposal.
The valuation for 1 Lawrence Street not be obtained until the matters in resolution (4) and (5) have been resolved to provide legal road access to the property.
7. A real estate sales agency agreement be entered into for the marketing and sale of the properties at 1 Lawrence Street and 3 Lawrence Street as separate parcels of land and legal and conveyancing services be engaged for the preparation of necessary documentation and transaction settlement.
8. The Chief Executive Officer be authorised to execute and settle a sales contract that exceeds or no more than 5% below the value for 1 Lawrence Street obtained in accordance with resolution (3) providing the independent valuation of this property if sold as a vacant parcel of land in its own right exceeds \$240,000, being the independent value obtained in August 2019. Lower offers to be subject of a further report to Council.



9. The Chief Executive Officer be authorised to execute and settle a sales contract that exceeds or no more than 5% below the value for 3 Lawrence Street obtained in accordance with resolution (3) providing the independent valuation of this property if sold as a vacant parcel of land in its own right exceeds \$260,000, being the independent value obtained in August 2019. Lower offers to be subject of a further report to Council.
10. That the application of resolutions (7) and (8) in relation to 1 Lawrence Street not be actioned until the matters in resolution (4) and (5) have been resolved to provide legal road access to the property and a current valuation obtained in accordance with resolution (6).
11. That the Mayor and Chief Executive Officer be authorised to affix the Common Seal of the Council to any documentation necessary to give effect to resolutions (7), (8) and (9).

RATIONALE

I believe it to be in the best interests of the City of Mount Gambier to free up some additional capital from unutilised assets that can be made available for capital expenditure purposes as needs arise.

Given the current strength of the Mt Gambier real estate market, now is an opportune time to dispose of these assets and utilise the proceeds for capital projects as deemed appropriate by Elected Members.

I commend this Notice of Motion to Council.

ADMINISTRATIVE COMMENT

Members attention is brought to the landlocked nature of Lot 331 (1 Lawrence Street) by a separate Council owned allotment which, whilst physically forming part of Lawrence Street adjacent the property at 9 Penola Road (shown highlighted in red in Attachment 1), does not appear to have been ever formally been designated as road or public road, such that Lot 331 does not have legal access to the public road network.

Whilst this may be rectified by a conversion to public road under s210 of the Local Government Act 1999, this is a statutory process which requires public notice of a proposed declaration to be given at least three months prior to the making of such a declaration.

Further, the community land classification of the subject land (if so classified – to be determined) must first be revoked, requiring a report under s194, public consultation, and Ministers approval, before Council may resolve to revoke the classification and commence the road conversion process.

With regard to the proposed land sale, Council's [Procurement & Disposal of Land and Assets Policy P420](#) provides that any decision to dispose of Land and Assets will be made after considering (where applicable):

- the usefulness of the Land or Asset;
- the current market value of the Land or Asset;
- the annual cost of maintenance;
- any alternative future use of the Land or Asset;
- any duplication of the Land or Asset or the service provided by the Land or Asset;
- any impact the disposal of the Land or Asset may have on the community;
- any cultural or historical significance of the Land or Asset;
- the positive and negative impacts the disposal of the Land or Asset may have on the operations of the Council;
- the long term plans and strategic direction of the Council;
- the remaining useful life, particularly of an Asset;



- a benefit and risk analysis of the proposed disposal;
- the results of any community consultation process;
- any restrictions on the proposed disposal;
- the content of any community land management plan; and
- any other relevant policies of the Council.

It is recommended that Council apply attention to these considerations in its deliberations on this matter, noting the following:

- Council acquired 3 Lawrence Street in the mid-1990's
- Council acquired 1 Lawrence Street in February 2017 for \$240,000+gst in exercise of a First Right of Refusal to purchase the land.
- Council demolished a building at 1 Lawrence Street in mid-2017 at a cost of approx. \$50,000.
- The understood purpose for the acquisition of these properties was to consolidate land holdings in the Commerce Place car park precinct, for car parking purposes.
- The properties at 1 & 3 Lawrence Street are excluded from classification as community land.

Policies that are considered to have some relevance to the proposed disposal of 1 & 3 Lawrence Street include:

- [A900 – Asset Management Policy](#)
- [P415 Prudential Management Policy](#)
- [P420 - Procurement & Disposal of Land and Assets Policy](#)
- [Risk Management](#)

Attachment 1 shows Lots 331 and 339 (1 & 3 Lawrence Street) in proximity to surrounding allotments including 9 Penola Road and the Commerce Place car park. The allotments shown in pale blue are owned by Council.

ATTACHMENTS

1. Lawrence Street Allotment Plan  





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 28.1 AR21/34745 Notice of Motion - Surplus Land Declaration 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) (b) be kept confidential and not available for public inspection until settlement of a sales contract for both the subject properties, to be reviewed annually.
2. Further that Council delegates the power to review, revoke, but not extend 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 CITY OF MOUNT GAMBIER COUNCIL MEETING
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT
GAMBIER
ON TUESDAY, 15 JUNE 2021 AT 6.00 P.M.**

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

OFFICERS IN	Chief Executive Officer	- Mrs S Philpott
ATTENDANCE:	Acting General Manager City Infrastructure	- Ms B Cernovskis
	General Manager Shared Services	- Mr D Barber
	General Manager City Growth	- Mr T Coote
	Acting General Manager Community Wellbeing	- Mrs G Davison
	Manager Governance and Property	- Mr M McCarthy
	Media and Communications Coordinator	- Ms S McLean
	Property Support Officer	- Mrs E Solly
	Executive Administrator Community Wellbeing	- Ms A Lavia
	Executive Administrator City Infrastructure	- Ms S Wilson

28 NEW CONFIDENTIAL ITEMS

28.1 NOTICE OF MOTION - SURPLUS LAND DECLARATION – REPORT NO. AR21/34745

RESOLUTION 2021/155

Moved: Cr Max Bruins
Seconded: Cr Sonya Meziniec

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 S Philpott, B Cernovskis, D Barber, T Coote, G Davison, M McCarthy, S McLean, E Solly, A Lavia and S Wilson be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 28.1 AR21/34745 Notice of Motion - Surplus Land Declaration.

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 the Agenda Item is:

- information the disclosure of which could reasonably be expected to confer a commercial advantage on a person with whom the Council is
 - conducting business; or
 - proposing to conduct business; or
 - to prejudice the commercial position of the Council

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 the information to be considered includes property valuations the disclosure of which could prejudice the Council's commercial position and provide a benefit to any 3rd party with whom Council are negotiating if the properties proceed to sale.

CARRIED

MOTION

Moved: Cr Max Bruins

Seconded: Cr Christian Greco

1. That Council Report No. AR21/34745 titled 'Notice of Motion - Surplus Land Declaration' as presented on 15 June 2021 be noted.
2. Council owned property located at 1 Lawrence Street, Mount Gambier (Lot 399, FP 194201) be declared surplus to requirements and a process to be commenced for its disposal.
3. Council owned property located at 3 Lawrence Street, Mount Gambier (Lot 331, FP 194133) be declared surplus to requirements and a process to be commenced for its disposal.
4. That investigations be conducted and a further report presented to consider any community land implications associated with converting Lot 397 in Filed Plan 194199 (Lawrence Street) to public road to provide legal road access to the property located at 1 Lawrence Street.
5. In the event that there are no community land implications giving rise to a report in accordance with resolution (4), then the Chief Executive Officer be authorised to commence a statutory process under s210 of the Local Government Act 1999 for the proposed conversion of Lot 397 in Filed Plan 194199 (Lawrence Street) to public road.

A further report be presented to Council to consider the making of a public road declaration, being not less than three months after the giving of public notice on the proposed declaration.

6. In accordance with clause 8 of Council's Procurement and Disposal of Land and Assets Policy P420, an independent valuation be obtained to establish a reserve price (auction) or appropriate market value (open market sale) for the properties detailed in (2) and (3) above given that previous valuations for these properties were obtained in August 2019 and the policy requires valuations to be not more than 6 months prior to the proposed disposal.



The valuation for 1 Lawrence Street not be obtained until the matters in resolution (4) and (5) have been resolved to provide legal road access to the property.

7. A real estate sales agency agreement be entered into for the marketing and sale of the properties at 1 Lawrence Street and 3 Lawrence Street as separate parcels of land and legal and conveyancing services be engaged for the preparation of necessary documentation and transaction settlement.
8. The Chief Executive Officer be authorised to execute and settle a sales contract that exceeds or no more than 5% below the value for 1 Lawrence Street obtained in accordance with resolution (3) providing the independent valuation of this property if sold as a vacant parcel of land in its own right exceeds \$240,000, being the independent value obtained in August 2019. Lower offers to be subject of a further report to Council.
9. The Chief Executive Officer be authorised to execute and settle a sales contract that exceeds or no more than 5% below the value for 3 Lawrence Street obtained in accordance with resolution (3) providing the independent valuation of this property if sold as a vacant parcel of land in its own right exceeds \$260,000, being the independent value obtained in August 2019. Lower offers to be subject of a further report to Council.
10. That the application of resolutions (7) and (8) in relation to 1 Lawrence Street not be actioned until the matters in resolution (4) and (5) have been resolved to provide legal road access to the property and a current valuation obtained in accordance with resolution (6).
11. That the Mayor and Chief Executive Officer be authorised to affix the Common Seal of the Council to any documentation necessary to give effect to resolutions (7), (8) and (9).

The Mayor sought the approval of at least two-thirds of the members present at the meeting to suspend meeting procedures:

Purpose of the Suspension: To discuss Item 28.1

Carried by more than two-thirds of the members present at the meeting.

Meeting Procedures were suspended at 7:43 pm

The Mayor determined that the period of suspension should be brought to an end;

Carried by more than two-thirds of the members present at the meeting.

The Period of Suspension came to an end and Meeting Procedures resumed at 7:54 pm

The Mover, with consent of the Seconder, sought leave of the meeting to vary the motion.

LEAVE GRANTED

RESOLUTION 2021/156

Moved: Cr Max Bruins

Seconded: Cr Christian Greco

1. That Council Report No. AR21/34745 titled 'Notice of Motion - Surplus Land Declaration' as presented on 15 June 2021 be noted.
2. That investigations be conducted and a further report presented to consider any community land implications associated with converting Lot 397 in Filed Plan 194199 (Lawrence Street) to public road to provide legal road access to the property located at 1 Lawrence Street.



3. In the event that there are no community land implications giving rise to a report in accordance with resolution (4), then the Chief Executive Officer be authorised to commence a statutory process under s210 of the Local Government Act 1999 for the proposed conversion of Lot 397 in Filed Plan 194199 (Lawrence Street) to public road.

A further report be presented to Council to consider the making of a public road declaration, being not less than three months after the giving of public notice on the proposed declaration.

4. In accordance with clause 8 of Council's Procurement and Disposal of Land and Assets Policy P420, an independent valuation be obtained to establish a reserve price (auction) or appropriate market value (open market sale) for the following properties:

- 1 Lawrence Street, Mount Gambier
- 3 Lawrence Street, Mount Gambier
- 9 Penola Road, Mount Gambier

5. A further report be presented to Council for consideration of the above.

CARRIED

RESOLUTION 2021/157

Moved: Cr Max Bruins

Seconded: Cr Sonya Mezinac

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 28.1 AR21/34745 Notice of Motion - Surplus Land Declaration 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) (b) be kept confidential and not available for public inspection until settlement of a sales contract for both the subject properties, to be reviewed annually.
2. Further that Council delegates the power to review, revoke, but not extend 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

