

7 February, 2019

**MAYOR
COUNCILLORS
CITY OF MOUNT GAMBIER**

NOTICE is given that the Strategic Standing Committee will meet in the following Meeting Room on the day, date and time as follows:

Strategic Standing Committee
(Committee Room - Level 4):

Monday, 11 February 2019 at 5:30 p.m.

An agenda for the meeting is enclosed.



Mark McSHANE
CHIEF EXECUTIVE OFFICER

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AGENDA OF ORDINARY STRATEGIC STANDING COMMITTEE MEETING

Meeting to be held in the Committee Room, Civic Centre, 10 Watson Terrace, Mount Gambier
on Monday, 11 February 2019 at 5:30 p.m.

PRESENT Mayor Lynette Martin OAM

Cr Max Bruins
Cr Ben Hood
Cr Sonya Mezinac

COUNCIL OFFICERS	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 Executive Administration	- Mr M McCarthy
	Executive Administration Officer	- Ms A Lavia

APPOINTMENT OF ACTING PRESIDING MEMBER:

be appointed as Acting Presiding Member for the meeting in the absence
of Cr Frank Morello.

Moved:

Seconded:

took the Chair for the remaining items of business.

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 received from Cr Frank Morello.

That the apology from Cr Frank Morello be received.

Moved:

Seconded:

2. CONFIRMATION OF STRATEGIC STANDING COMMITTEE MINUTES

Meeting held on 10 December 2018

That the minutes of the Strategic Standing Committee meeting held on 10 December 2019 as attached be confirmed.

Moved:

Seconded:



3. QUESTIONS

3.1. With Notice

Nil submitted.

3.2. Without Notice

4. DEPUTATIONS

Nil

5. STRATEGIC STANDING COMMITTEE REPORTS

Strategic Standing Committee Reports commence on the following page.



5.1. ARC Project: Local Government and Housing in the 21st Century - Report No. AR19/4141

COMMITTEE	Strategic Standing Committee
MEETING DATE:	11 February 2019
REPORT NO.	AR19/4141
RM8 REFERENCE	AF16/78
AUTHOR	Tracy Tzioutziouklaris
SUMMARY	Council is participating in a nation wide research project on the role of Local Government and the provision of housing in the 21 st Century. This project is due to be completed towards the end of 2019.
COMMUNITY PLAN REFERENCE	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage

REPORT RECOMMENDATION

- (a) That Strategic Standing Committee Report No. AR19/4141 titled '*ARC Project: Local Government and Housing in the 21st Century*' as attached be noted.

Moved:

Seconded:



Background

In early 2015 Council resolved to participate in a nation wide research project looking into the role of Local Government on the provision of housing which is being overseen by Professor Andrew Beer from the University of South Australia.

Council is an identified project partner together with twenty Council's throughout Queensland, New South Wales, Victoria and South Australia. The Local Government Association of South Australia is also involved in this project.

The aims of the project are to:

- Develop a detailed understanding of the interplay between housing and local government in Australia in the 21st Century;
- Map the governmental, demographic and economic processes, currently reshaping that relationship;
- Identify new ways in which local government and the communities they represent can meet their housing aspirations, and
- Identify and develop a suite of policies and actions for use by local governments across Australia in metropolitan, rural and regional settings.

The study is intended to address the changing environment in which local governments operate through:

- A focus on the relationship between local government and other actors in the housing sphere, including state and federal government agencies;
- Emphasising the process of change and how the solutions available to local government evolve over time;
- Acknowledgement of the role of both formal and informal processes in the search for policy solutions;
- Attention to the processes through which particular options 'harden' into outcomes; and
- The impact of history, or path dependency, on the emergence of new policy regimes.

Council's support of this project included:

- \$10,000 cash per annum for the three year life of the project (\$30,000 in total).
- In kind support valued at \$11,600 per annum in the form of staff time to assist with case studies plus attendance at three reference group meetings per year.

As part of this project, two PhD positions and scholarships were offered, one through the University of South Australia and one through the University of Technology Sydney. In late 2016, after a rigorous application process, Council's Planning Officer, Jessica Porter was successful in securing one of the PhD positions and a three year scholarship through the University of South Australia. In addition to the scholarship through the University of South Australia, Jessica was also successful in securing a top-up scholarship through the Australian Housing and Urban Research Institute (AHURI).

Jessica's PhD research focus is on local government and affordable housing supply in Australian regional cities. Specifically, she is investigating how land use planning systems are used to control the supply of affordable housing, with a particular focus on the current practices of regional local government. As part of this research, Jess is undertaking a comparative study between the City of Mount Gambier and Warrnambool City Council; two comparable local government areas, with different approaches to addressing affordable housing supply.



Discussion

2019 will be the final year of the Local Government and Housing project.

Some highlights of the project during 2018 included:

The conclusion of the national survey of local government Chief Executive Officer's with the subsequent data analysis and publication of the substantial report can be accessed on the internet at <http://apo.org.au/node/189986>. The report presents the outcomes of an online survey of local government across Australia into their attitudes, programs, policies and actions with respect to housing. The outcomes of the survey challenged many preconceptions around the role of local government and housing in the 21st Century. It has found many local governments take an active interest in housing questions, including a keen focus on affordability. Other areas of concern include the regulation of informal housing tenancies such as Air BnB and Stayz, as well as the effective functioning of the planning system, homelessness, urban regeneration and environmental sustainability.

It was found that the majority of Councils agreed that local government has a role in responding to housing concerns but often struggled to make an impact because of the lack of leadership from the state and federal governments. The report is quite lengthy but all Members are encouraged to access the report as it provides an important contribution to understanding the role of Local Government and Housing.

2019 is the project's final year with a major end of project symposium tentatively scheduled to be held in August in Canberra. A case studies document emerging from the in depth interviews is planned as well as journal articles. It is highlighted that the Mayor and a number of key Council employees and select people from the community of the City of Mount Gambier participated as a case study involving the in depth interviews.

Further updates about this project will be provided in due course.

Members are encouraged to access the project website which contains project updates, further information, research studies and relevant new articles at the following web address:

<https://localgovernmentandhousing.com>

Conclusion

The issue of housing is now back on the federal political agenda, hence this research project is proving to be timely.

There continues to be discussion and research providing rich evidence to inform decisions about affordable housing policies within Australia.

More importantly, one exciting outcome anticipated from this project will be the identification of what role Local Government can undertake to influence the provision of housing within the community.

Attachments

Nil





Tracy TZIOUTZIOUKLARIS
MANAGER DEVELOPMENT SERVICES



Judy NAGY
GENERAL MANAGER CITY GROWTH

29 January 2019
MTT



5.2. Policy Review - D140 - Development Act - Delegations - Report No. AR19/4146

COMMITTEE	Strategic Standing Committee
MEETING DATE:	12 February 2019
REPORT NO.	AR19/4146
RM8 REFERENCE	AF18/49
AUTHOR	Tracy Tzioutziouklaris
SUMMARY	This report provides a review and update of Council Policy D140 – Development Act – Delegations.
COMMUNITY PLAN REFERENCE	Goal 1: Our People
	Goal 2: Our Location
	Goal 3: Our Diverse Economy
	Goal 4: Our Climate, Natural Resources, Arts, Culture and Heritage

REPORT RECOMMENDATION
<p>(a) That Strategic Standing Committee Report No. AR19/4146 titled '<i>Policy Review – D140 – Development Act - Delegations</i>' as attached be noted.</p> <p>(b) That <i>Council Policy D140 – Development Act – Delegations</i> be reviewed upon the implementation and activation of the relevant parts of the Planning, Development and Infrastructure Act 2016.</p>

Moved:

Seconded:



Background

Council periodically reviews its policies to ensure that remain up to date with legislative requirements, Council and community expectations and emerging practices in local government.

This Policy was last reviewed by Council in September 2017.

Discussion

The Development Act 1993 requires that Council must establish a policy that identifies its delegations made pursuant to the Act. Council currently makes delegations for certain powers, functions and/or duties of this Act to the Council Assessment Panel and the Chief Executive Officer. Certain Council Officers have further sub delegations to undertake certain functions, actions and/or duties pursuant to the Act.

The relevant provisions of the Act are as follows.

Section 34 (27) of the Development Act 1993 specifies that a council must -

- (a) establish a policy relating to the basis upon which it will make the various delegations required by subsection (23); and*
- (b) ensure that a copy of that policy is available -*
 - (i) for inspection at the principal office of the council during ordinary office hours; and*
 - (ii) for inspection on the Internet.*

The relevant legislation to which this policy relates has not changed. On this basis the Policy is still considered to be relevant. A reference to a previous Council Strategic plan should be updated to reflect the current strategic plan of Council.

It is anticipated that this Policy will need to be amended as part of the transition process associated with the implementation and activation of the relevant parts of the Planning, Development and Infrastructure Act. This is likely to occur around the middle of this year.

It is recommended that this Policy be reviewed at this time to ensure it remains relevant and current.

Conclusion

No changes have been made to the legislation to which this policy is based upon and refers to.

With the implementation and activation of the relevant parts of the Planning, Development and Infrastructure Act 2016 proposed for the middle of this year, this policy will need to be reconsidered and updated accordingly.

Attachments

[Attachment 1 \(AR11/4459\(v5\)\): Council Policy D140 - Development Act - Delegations](#)





Tracy TZIOUTZIOUKLARIS
MANAGER DEVELOPMENT SERVICES



Judy NAGY
GENERAL MANAGER CITY GROWTH

29 January 2019
MTT



5.3. Policy Review - D160 - Development Act - Inspection and Copying of Documents - Report No. AR19/4152

COMMITTEE	Strategic Standing Committee
MEETING DATE:	12 February 2019
REPORT NO.	AR19/4152
RM8 REFERENCE	AF18/49
AUTHOR	Tracy Tzioutziouklaris
SUMMARY	This report provides a review and update of Council Policy D160 – Development Act - Inspection and Copying of Documents.
COMMUNITY PLAN REFERENCE	Goal 1: Our People

REPORT RECOMMENDATION
<p>(a) That Strategic Standing Committee Report No. AR19/4152 titled '<i>Policy Review D160 – Development Act - Inspection and Copying of Documents</i>' as attached be noted.</p> <p>(b) That Council Policy <i>D160 – Planning – Development Act - Inspection and Copying of Documents</i> be reviewed upon the implementation and activation of the relevant parts of the Planning, Development and Infrastructure Act 2016.</p>

Moved:

Seconded:



Background

Council periodically reviews its policies to ensure they remain up to date with legislative requirements, Council and community expectations and emerging practices in local government.

This Policy was last reviewed by Council on 20 February 2018.

Discussion

Council Policy D160 – Development Act - Inspection and Copying of Documents sets out the policy for the public inspection and copying of documents received and stored by Council in relation to development applications.

The Development Act 1993 enables the public to have various entitlements to inspect and view information relating to Development Applications and approved building work.

In particular this policy affirms Council's commitment to accountability and transparency in the provision of information to the public.

It is also important to have regard to the Copyright Act and the Freedom of Information Act in respect to this policy and public access to documentation held by Council.

At this time there have been no changes to the Development Act and Regulations that will require amendments being made to this policy. It is highlighted that this policy may need to be reviewed upon the implementation and activation of the relevant provisions of the new Planning, Development and Infrastructure Act 2016 (PDI Act). It is anticipated that the implementation and activation of the section of the PDI Act that will impact upon this Policy will occur in the middle of this year. It is recommended that this Policy be reviewed at this time to ensure it remains relevant and current.

Conclusion

No changes have been made to the legislation to which this policy is based upon and refers to.

With the implementation and activation of the relevant parts of the Planning, Development and Infrastructure Act 2016 proposed for the middle of this year, this policy will need to be reconsidered and updated accordingly.

Attachments

[Attachment 1 \(AR11/4463 \(v6\)\): Council Policy D160 - Development Act - Inspection and Copying of Documents](#)



Tracy TZIOUTZIOUKLARIS
MANAGER DEVELOPMENT SERVICES



Judy NAGY
GENERAL MANAGER CITY GROWTH



6. MOTION(S) - With Notice

Nil Submitted

7. MOTION(S) - Without Notice

Meeting closed at p.m.

AR19/4346



8. REPORT ATTACHMENTS



 City of Mount Gambier	D140 - DEVELOPMENT ACT DELEGATIONS	Version No:	4
		Issued:	19 th September, 2017
		Next Review:	February 2019

1. INTRODUCTION

This policy is established pursuant to Section 34(27) of the Development Act 1993 (“the Act”).

Under the Act and the Development Regulations 2008 (“the Regulations”), the City of Mount Gambier (“the Council”) is responsible for the management of most development within its area.

Under Section 34(23) of the Act the Council is *required* to delegate all of its powers and functions as a relevant authority, with respect to determining whether or not to grant development plan consent under the Act. This means, that Council’s *development assessment* functions must be exercised by a person (e.g. an officer of Council) or body (e.g. the Council Assessment Panel) that has been given delegated authority by the Council.

The Council therefore delegates its development assessment powers and functions, under the Act and the Regulations, to other persons or bodies.

2. DELEGATIONS

- (a) Council will make the various delegations required by Section 34(23) of the Act.
- (b) Section 20 of the Act determines Council’s power to delegate its development assessment powers and functions under the Act and states:

“(1) ... a council, may delegate a power or function vested or conferred under this Act.

(2) A delegation -

(a) may be made—

(i) to a particular person or body; or

(ii) to the person for the time being occupying a particular office or position; or

(iii) to a subsidiary established under the Local Government Act 1999; and...

(c) may be made subject to conditions and limitations specified in the instrument of appointment; and

(d) subject to any other provision of this Act or the regulations, is revocable at will and does not derogate from the power of the delegator to act in a matter; and

(3) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.”

- (c) Section 34(23) of the Act states:

“A council must delegate its powers and functions as a relevant authority with respect to determining whether or not to grant development plan consent under this Act to -

(a) its council development assessment panel; or

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(b) *a person for the time being occupying a particular office or position (but not including a person who is a member of the council); or*

(c) *a regional development assessment panel (if such a delegation is consistent with the extent to which the panel may act under the provisions of the regulations constituting the panel and in addition to the operation of subsection (1)(ab)).*

(c) Council delegates all of its powers and functions under the Act and Regulations to the Chief Executive Officer of the Council (“the CEO”). The Council also empowers the CEO to sub delegate those powers and functions to other Council officers.

(d) Council also delegates its powers and functions as a relevant authority with respect to determining whether or not to grant development plan consent (“the development assessment powers and functions”) to the City of Mount Gambier Council Assessment Panel (“the CAP”) established under Section 83 of the Planning, Development & Infrastructure Act 2016.

The CAP delegations are set out in Schedule I of Appendix 21 (Delegations made under the Development Act 1993) of Council’s Delegation Register.

(e) Where the CAP, the Chief Executive Officer and sub-delegates share the same delegated powers and functions, a determination on a development application may only be made by one delegate. Accordingly, it is the policy of this Council that:

i. Where the CAP, the Chief Executive Officer and sub-delegates share the same delegated powers and functions, the sub-delegate or Chief Executive Officer will, subject to (ii), exercise the delegated power or function.

ii. The Chief Executive Officer or General Manager City Growth will refer any development application to the CAP for determination in the following circumstances:

a) where an application has been publicly notified and representations received; or

b) where the Chief Executive Officer or General Manager City Growth consider in the circumstances that determination by the CAP is warranted.

3. REVIEW AND EVALUATION

This Policy is scheduled for review by Council in February 2019; however, will be reviewed as required by any legislative changes which may occur.

4. AVAILABILITY OF POLICY

This Policy will be available for inspection at Council’s principal office during ordinary business hours and on the Council’s website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council’s Schedule of Fees and Charges.

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File Reference:	AF11/1746, AF11/1020, AF14/108
Applicable Legislation:	Local Government Act 1999 Development Act 1993 Planning, Development & Infrastructure Act 2016
Reference: Strategic Plan – Beyond 2015	
Related Policies:	
Related Procedures:	Council Assessment Panel Terms of Reference Council Assessment Panel Procedures
Related Documents:	City of Mount Gambier Delegations Register Sub-Delegation Register Instrument of sub-delegation, Appendices & Schedule

DOCUMENT DETAILS

Responsibility:	Manager Governance and Property
Version:	4.0
Last revised date:	19 th September, 2017
Effective date:	19 th September, 2017
Minute reference:	Council Meeting 19 th September, 2017 – Strategic Standing Committee Item 13.14
Next review date:	February 2019
<u>Document History</u>	
First Adopted By Council:	27 th March 2007
Reviewed/Amended:	21 st April, 2015, 16 th May, 2017, 19 th September 2017

 City of Mount Gambier	D160 – DEVELOPMENT ACT INSPECTION AND COPYING OF DOCUMENTS	Version No:	6
		Issued:	20 February, 2018
		Next Review:	February 2019

1. INTRODUCTION

This document sets out the policy of the City of Mount Gambier ("Council") for the public inspection and copying of documents received and stored by Council in relation to development applications.

Under the *Development Act 1993 (SA)* and *Development Regulations 2008 (SA)* members of the public have various entitlements to information held by the Council that are relevant to development applications and approved building work.

This Policy affirms Council's commitment to openness and transparency in the provision of information to the public in accordance with its legislative obligations and its commitment to high standards of records management whilst avoiding infringing copyright in that information.

2. APPLICATION OF POLICY

This Policy applies to the reproduction of documents under the *Copyright Act*, *Development Act* and *Development Regulations* and the provision of copies of documents to members of the public.

In this Policy:

- the "Council" means City of Mount Gambier
- the "*Development Act*" means the South Australian *Development Act 1993*;
- the "Development Regulations" means the South Australian Development Regulations 2008;
- the "*Freedom of Information Act*" means the South Australian *Freedom of Information Act 1991*;
- the "*State Records Act*" means the *State Records Act 1997*;
- the "Copyright Act" means the Commonwealth *Copyright Act 1968*;
- "work" has the same meaning as this term in the *Copyright Act*, i.e. a literary, dramatic, musical or artistic work;
- "record" has the same meaning as the *State Records Act*, being:
 - written, graphic or pictorial matter; or
 - a disk, tape, film or other object that contains information or from which information may be reproduced (with or without the aid of another object or device);
- "Official record" has the same meaning as the *State Records Act*, being a record made or received by the Council in the conduct of its business, but does not include:
 - a record made or received by an agency for delivery or transmission to another person or body (other than an agency) and so delivered or transmitted; or
 - a record made by an agency as a draft only and not for further use or reference; or
 - a record received into or made for the collection of a library, museum or art gallery and not otherwise associated with the business of the agency; or
 - a Commonwealth record as defined by the *Archives Act 1983* of the Commonwealth or an Act of the Commonwealth enacted in substitution for that Act; or
 - a record that has been transferred to the Commonwealth.

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3. INTRODUCTION TO THE COPYRIGHT ACT 1968

3.1 What is Copyright?

- a) Copyright is a form of property which exists in written, artistic and other "works". Copyright only exists through the operation of the *Copyright Act*. As with other forms of property, copyright may be sold or transferred, and allows persons who create works to derive an income from them.
- b) The *Copyright Act* creates legally enforceable intellectual property rights in works by ensuring that works cannot be reproduced without the prior permission of the copyright owner.
- c) Where a work is reproduced without permission, a copyright infringement may occur which, in turn, may give rise to a right for the copyright owner to take action against the infringer.
- d) Copyright does not protect mere ideas, rather, it protects the way that ideas and information are described, illustrated or documented.

3.2 What is "work"?

- a) The types of work that Council may deal with that may be protected by copyright can include:
 - written reports produced by engineers, accountants, planners and other professionals;
 - building plans and specifications;
 - infrastructure plans;
 - tender documents;
 - photographs;
 - diagrams;
 - graphs; and
 - charts.
- b) The term "literary works" in the *Copyright Act* is not exhaustively defined and, according to case law, authorities can in some circumstances, include documents such as letters where they contain original creative written "works".

3.3 When does copyright protection arise?

- a) Copyright protection automatically arises as soon as a work exists in a form which can be reproduced.
- b) Copyright can exist in work regardless of whether or not a work is endorsed with a "©" symbol and whether or not it contains a copyright warning.

3.4 Who owns copyright?

- a) Generally, copyright is owned by the creator or author of the work and where created during the course of employment, the employer will own copyright.

3.5 What is copyright infringement?

- a) Copyright infringement is unauthorised reproduction of work that can include where it is (amongst other things):
 - photocopied;
 - scanned;

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- published on a website;
- displayed on an overhead screen; and
- e-mailed.

3.6 When can works lawfully be reproduced?

- a) Works can be reproduced without committing a copyright infringement where the permission, called a "licence" allows it to be lawfully reproduced.
- b) The Council relies upon implied licences to allow it to reproduce works, where:
 - reproduction is necessary by way of legal obligation; or
 - reproduction is out of practical necessity and in the circumstances, it is reasonable to expect that the owner of copyright would know that their work is required to be reproduced.
- c) In addition to licences, there are legislative exemptions which allow the reproduction of documents for certain purposes, including:
 - where required for the purpose of giving professional advice by a legal practitioner or for the purposes of litigation; and
 - where reproduction of a work constitutes a "fair dealing" for the purpose of research or study.

4. DEVELOPMENT ACT 1993 AND DEVELOPMENT REGULATIONS 2008

The following Policy provisions apply to the reproduction of works under the *Development Act* by Council.

4.1 Specific legislative exemptions to copyright infringements

- a) During the assessment of a development application, Council staff need to make reproductions of plans and other works so that they may be marked, or drawn upon, and so that original copies may be preserved. Further, such documents often need to be scanned so that they can be logged and viewed electronically, and stored and saved into Council's records management system.
- b) As the reproduction of works is necessary for development assessment purposes, such works can lawfully be reproduced for internal purposes.
- c) For example, Council may reproduce copyright-protected application documents during the development assessment process to:
 - display plans and other documents on an overhead screen and/or monitors during a Council Assessment Panel (CAP) meeting;
 - make copies of documents for internal discussions and other internal assessment processes;
 - scan and otherwise create electronic copies of documents for internal records management purposes; and
 - reproduce documents to attach to CAP agenda reports for provision to CAP members.

4.2 Public notification of category 2 and 3 development applications

- a) Regulation 34(1) provides that Council must ensure that the following documents, lodged with category 2 and 3 development applications, are made available for inspection by the public:
 - the application;

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- any supporting plans, drawings, specifications or other documents or information provided to the Council; and
 - any statement of effect (where applicable).
- b) Regulation 34(2) and Regulation 34(3) state that the Council must provide to a member of the public, a copy of any information available for inspection where:
- a request is made within the inspection period (i.e. for 10 business days after notice is given by Council – see Regulation 35, Development Regulations 2008); and
 - a fee fixed by Council is paid. A full list of applicable fees can be found in Council's Fees and Charges Schedule; and
 - the person who requests the copy provides their name, address and contact details to Council.
- c) Accordingly, the Council will reproduce works submitted as part of a development application for the purposes of Regulation 34 as this is a necessary requirement of the Development Regulations 2008.
- d) If a member of the public requests a copy of a plan, etc outside of the notification period, but before a development is approved, the Council will not provide copies of these documents to them.
- e) Persons making such a request should apply for disclosure of the document under the *Freedom of Information Act*. However, according to Section 22(2)(c) of that Act, access to a document must not be given by providing a copy of that document if to do so would constitute a copyright infringement. Accordingly, access to a plan or drawing under the *Freedom of Information Act* would likely be given by inspection only, unless the applicant obtains the permission of the copyright owner for a copy of the relevant document to be made.
- f) Where a person cannot attend the Council office on person, due to extenuating circumstances, Council may, in its absolute discretion and on a case-by-case basis, provide a copy of a development application documents to a member of the public, by post, email or facsimile, provided that it is satisfied that the person making the request is entitled to make a representation.
- g) The Council will not publish Regulation 34(1) documents on its website. If a member of the public wishes to inspect and/or obtain a copy of a development application document during its public notification period, that person must attend Council's offices in person.

4.3 Copies of application documents for Council Assessment Panel ("CAP") agendas

- a) Council Assessment Panel agendas necessarily contain reference to officer reports and documents relevant to development applications to be determined by the CAP, including copyright-protected works.
- b) Section 56A(15) of the *Development Act 1993* provides that members of the public are entitled to reasonable access to the CAP agendas. The agenda is the list of matters to be deliberated upon by the CAP at its meeting and does not include the reports and other attachments to the agenda.
- c) Council publishes its CAP agendas on its website in accordance with section 56A of the *Development Act*. Officer reports and other attachments are not published on Council's website, as to do so could amount to an infringement of copyright.

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- d) Council does not provide physical copies of copyright-protected works, such as plans and other supporting documents associated with a development application included on the CAP agenda, to members of the public as this would constitute a copyright infringement.
- e) Council will provide a copy of an applicants plan, report or other development application document attached to a CAP agenda, where a member of the public obtains the permission of a copyright owner to obtain such a copy.

4.4 Inspection and copies of the register of applications

- a) Council is required to keep a register of development applications, pursuant to Regulation 98(1). From 1 January 2014, this register is also available on Council's website.
- b) The register is required to contain information about development applications, not the application documents themselves. The register should contain:
- the name and address of the applicant (or of each applicant);
 - the date of the application;
 - the date on which the application was received by the Council or other relevant authority;
 - a description of the land which is the subject of the application;
 - a brief summary of the matters, acts or things in respect of which any consent or approval is sought;
 - details of any referral or concurrence on the application;
 - whether any decision is made on the application by the Council, a regional development assessment panel, the Development Assessment Commission or the Governor (where appropriate);
 - any decision on the application;
 - in the case of an application for building rules consent – the fee or fees payable;
 - the date of the commencement of any building work and the date of the completion of any building work; and
 - if any decision on the application is the subject of an appeal, the result of the appeal.
- c) Council must make the register available for inspection by the general public (no fee).
- d) Regulation 98(3) provides that Council **may** provide to a member of the public a copy of any part of the register, or document kept for the purposes of Regulation 98(1), on payment of a fee fixed by Council.
- e) Council will provide copies of documents kept for the purposes of its register where to do so would not constitute a copyright infringement.
- f) Where a copyright infringement could arise, Council will not provide copies of these documents, unless the person requesting such has obtained permission from the copyright owner, or otherwise has submitted a signed a statutory declaration to the effect that reasonable enquiries have been made and the owner of copyright cannot be located.

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4.5 Inspection and copies of documents relating to approved developments

- a) In the case of applications that have been assessed and a decision made, Regulation 101(1) obliges Council to retain certain development application documents relating to building work only (i.e. not regulated/significant trees, land divisions or land uses). These documents include “*all technical details, particulars, plans, drawings, specifications and other documents or information relating to building work*”.
- b) Further, Regulation 101(a1) requires Council to retain a copy of each document provided to it by a private certifier in relation to any application for development plan consent assessed by the private certifier.
- c) Regulation 101(4)(a) provides that a person may inspect at the offices of Council, during its normal office hours, any document retained by the Council under Regulation 101(a1) or 101(1), without charge.
- d) Regulation 101(4)(b) states that a person may, on payment of a reasonable fee fixed by Council, obtain a copy of any document retained by Council under Regulation 101(a1) or 101(1).
- e) This obligation however is subject to a number of exceptions in Regulation 101 (5), including where copying a document would:
 - in the opinion of the Council, unreasonably jeopardise the present or future security of a building; or
 - involve an infringement of copyright in matter contained in a document; or
 - constitute a breach of any other law.
- f) Accordingly, where a person does not have permission from the owner of copyright in plans and other documents held by Council under Regulation 101(a1) or 101(1), Council is not obliged to provide a copy of that document to that person.
- g) However, in recognition of the practical need for copies of such documents to be provided in certain situations, and taking into account copyright considerations, Council will provide copies where the person requesting the copies:
 - is the current owner of the building;
 - is the applicant who obtained development authorisation of the building;
 - has signed a statutory declaration to the effect that they have made reasonable enquiries to locate the owner of copyright in the documents and has not been able to find them.
 - has an order of a court requiring a copy of the documents to be provided.

5. FREEDOM OF INFORMATION ACT 1991

Applications for access to Council records (including development application documents) may be made pursuant to the *Freedom of Information Act 1991*.

According to Section 13(f) of the *Freedom of Information Act*, applicants may request that access to Council documents be given to them in a particular way, including copies.

In accordance with Section 20(1)(b) of the *Freedom of Information Act*, the Council may refuse to grant access to documents if the documents are available for inspection under another Act.

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For instance, where development application documents are made available for inspection during the public notification period under Regulation 34 of the Development Regulations, the Council may refuse access to those documents under the *Freedom of Information Act*.

Similarly, where documents relating to approved developments are available for inspection under Regulation 101(4) of the Development Regulations, the Council may refuse access to those documents under the *Freedom of Information Act*.

Section 22(1) of the *Freedom of Information Act* provides that access to Council documents may be given via various means, including by giving the applicant a copy of the document.

However, Section 22(2)(c) of the *Freedom of Information Act* provides that where an applicant has requested that a copy of a document be provided to them, an alternative form of access may be given where providing a copy would involve an infringement of copyright in matter contained in the document.

This means that the Council cannot lawfully reproduce works subject to copyright for the purpose of providing access under the *Freedom of Information Act* without the prior permission of the copyright owner.

In order to avoid infringing copyright, the Council should consider providing access to copyright-protected documents under the *Freedom of Information Act* by way of inspection, unless:

- the applicant is the owner of copyright in those documents; or
- the applicant has obtained the permission of the owner of copyright in those documents to have them copied; or
- where the applicant has attempted to locate the owner of copyright, but has not been successful, the applicant signs a statutory declaration to this effect.

What if a document is over 20 years old and therefore must be disclosed under 20(2)(c) of the *Freedom of Information Act*?

In this situation, the Council is obliged to provide access to that document, but must still adhere to Section 22(2)(c) of the *Freedom of Information Act* and only allow inspection as the method of access if providing a copy would constitute a copyright infringement.

6. STATE RECORDS ACT 1997

Under this Act, the Council has an obligation to maintain official records in its custody in good order and condition. This obligation applies not only to the capture, storage, maintenance and disposal of physical records, but also to records in electronic format.

An official record is defined in Section 3 of the Act to mean a record made or received by the Council *in the conduct of its business*. This means that, because Council Members and staff of the Council variously act as representatives of the Council, any record created, sent, received, forwarded or transmitted by Council staff and/or Council Members in the performance and discharge of their functions and duties may be classified as an official record.

In order to ensure that official records are kept in safe custody in accordance with the requirements of the *State Records Act*, the Council may cause reproductions of works to be made, including electronic copies ("scans") of documents to be saved in its internal records management

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systems, and may create additional hard copies of documents, where appropriate. Where an official record is reproduced into an Electronic Document Records System, the original may be destroyed in accordance with General Disposal Schedule 21.

The reproductions of works for records management purposes should only be made available to the general public where the original no longer exists. In certain circumstances original works which are digitised (scanned) may be destroyed.

General Disposal Schedule 21: For management and disposal of source documents and digitised versions after digitisation and the accompanying Digitisation of Official Records and Management of Source Documents Guideline establish the criteria for enabling the destruction of source documents. Both GDS21 and the Guideline are available from www.archives.sa.gov.au.

7. AVAILABILITY OF POLICY

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.mountgambier.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

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File Reference:	AF11/1746; AF11/1182
Applicable Legislation:	Development Act 1993; Freedom of Information Act 1991; State Records Act 1997; Copyright Act 1968
Reference: Community Plan – The Futures Paper 2016-2020	Goal – Our People
Related Policies:	P155 Administration - Privacy R180 Administration - Records Management
Related Procedures:	Development Assessment Procedures Development Control Administrative Standard Operating Procedure
Related Documents:	Freedom of Information – City of Mount Gambier Information Statement

DOCUMENT DETAILS

Responsibility:	GENERAL MANAGER CITY GROWTH
Version:	6.0
Last revised date:	20 th February 2018
Effective date:	20 th February 2018
Minute reference:	20 th February, 2018 - Strategic Standing Committee Item No. 13.10
Next review date:	February 2019
<u>Document History</u> First Adopted By Council: Reviewed/Amended:	18 th February 1999 15 th April 2003; 19 th September 2006; 17 th February 2009; 19 th August 2014

MINUTES OF ORDINARY STRATEGIC STANDING COMMITTEE MEETING

Meeting held in the Committee Room, Civic Centre, 10 Watson Terrace, Mount Gambier
on Monday, 10 December 2018 at 5:30 p.m.

PRESENT Mayor Lynette Martin OAM

Cr Frank Morello
Cr Max Bruins
Cr Ben Hood
Cr Sonya Meziniec

**COUNCIL MEMBERS
AS OBSERVERS** Cr Steve Perryman (arrived at 5:36 pm)

COUNCIL OFFICERS

Chief Executive Officer	- Mr M McShane
General Manager Community Wellbeing	- Ms B Cernovskis
General Manager Council Business Services	- Mrs P Lee
General Manager City Infrastructure	- Mr N Serle
Manager Executive Administration	- Mr M McCarthy
Administration Officer	- Mrs M Telford

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.

APPOINTMENT OF ACTING PRESIDING MEMBER:

Mayor Martin be appointed as Acting Presiding Member of the Strategic Standing Committee for the commencement of the meeting.

Moved: Cr Bruins

Seconded: Cr Meziniec

Carried

1. APOLOGY(IES)

Nil

2. CONFIRMATION OF STRATEGIC STANDING COMMITTEE MINUTES

Meeting held on 10 September 2018.

That the minutes of the Strategic Standing Committee meeting held on 10 September 2018 as attached be confirmed.

Moved: Cr Meziniec

Seconded: Cr Morello

Carried

3. QUESTIONS

3.1. With Notice

Nil submitted.

3.2. Without Notice

Nil submitted.

4. DEPUTATIONS

Nil

5. STRATEGIC STANDING COMMITTEE REPORTS

5.1. Strategic Standing Committee Presiding Member - Report No. AR18/49385

COMMITTEE RECOMMENDATION

- (a) That Strategic Standing Committee Report No. AR18/49385 titled '*Strategic Standing Committee Presiding Member*' as presented to the Strategic Standing Committee on 10 December 2018 be noted.
- (b) The term of office for the position of Strategic Standing Committee Presiding Member be one (1) year.
- (c) That Cr Morello be Presiding Member of the Strategic Standing Committee on and from 10 December 2018 subject to endorsement by Council.

Moved: Cr Mezinec

Seconded: Cr Hood

Carried

5.2. Strategic Standing Committee - Ordinary Meeting Day and Time - Report No. AR18/49387

COMMITTEE RECOMMENDATION

- (a) That Strategic Standing Committee Report No. AR18/49387 titled '*Strategic Standing Committee - Ordinary Meeting Day and Time*' as presented to the Strategic Standing Committee on 10 December 2018 be noted.
- (b) That the Strategic Standing Committee hold ordinary meetings on the Monday in the week preceding each monthly Council meeting commencing at 5:30pm in the Civic Centre, 10 Watson Terrace, Mount Gambier.
- (c) That ordinary meetings in accordance with resolution (b) commence in February 2019.

Moved: Cr Morello

Seconded: Cr Bruins

Carried



5.3. Strategic Standing Committee Terms of Reference - AR18/49386

COMMITTEE RECOMMENDATION

- (a) That Strategic Standing Committee Report No. AR18/49386 titled '*Strategic Standing Committee – Review of Terms of Reference*' as presented to the Strategic Standing Committee on 10 December 2018 be noted.
- (b) That the Strategic Standing Committee Terms of Reference be adopted as attached to Strategic Standing Committee Report No. AR18/49386.

Moved: Cr Hood

Seconded: Mayor Martin

Carried

5.4. Review of Confidentiality Order - Report No. AR18/49523

COMMITTEE RECOMMENDATION

- (a) That Strategic Standing Committee Report No. AR18/49523 titled '*Review of Confidentiality Orders*' as presented to the Strategic Standing Committee on 10 December 2018 be noted.
- (b) That the following Confidential Orders as specified in Attachment 1 to Report AR18/49523, having been reviewed by Council, remain in operation on the grounds provided:
 - i. Council 18/06/2013 - Corporate and Community Services Committee 11/06/2013 - Item 6 SOCIAL, CULTURAL AND COMMUNITY SERVICES - Committees - City of Mount Gambier Junior Sports Assistance Fund (Section 41) Committee - Minutes of Meeting held 22nd May, 2013 - Ref. AF11/725.
 - ii. Council 17/12/2013 - Corporate and Community Service Committee - 10/12/2013 - Junior Sports Assistance Fund Committee - 20/11/2013 - Item 15 - ROTARY CLUB OF MOUNT GAMBIER LAKES - Donations to Financially Disadvantaged Junior Sportspersons.
 - iii. Council 17/12/2013 - Corporate and Community Service Committee - 10/12/2013 - Junior Sports Assistance Fund Committee - 20/11/2013 - Item 15 - COMMERCIAL CLUB INC. - Donation to exceptional junior sportsperson.
 - iv. Council 15/04/2014 - Corporate and Community Services Committee - 08/04/2014 - GOVERNANCE - Committees - City of Mount Gambier Junior Sports Assistance Fund (Section 41) - Minutes of Meeting held 2nd April, 2014 - Ref. AF11/725.
 - v. Council 18/08/2015 - Railway Lands Development and Management Committee - 11/08/2015 - Item 8 - PROPERTY MANAGEMENT - Railway Lands - Expression of Interest - Occupation and Use Of Old Railway Station Building - Ref. AF15/262.



- vi. Council 18/08/2015 - Railway Lands Development and Management Committee - 11/08/2015 - Item 7 - PROPERTY MANAGEMENT - Railway Lands - Expression of Interest - Management of Community Markets - Ref. AF15/261.
 - vii. Council 16/02/2016 - Corporate and Community Services Committee - 08/02/2016 - Item 11 - CORPORATE AND COMMUNITY SERVICES REPORT NO. 14/2016 - Frew Park (Ambulance Station) Development - Ref. AF16/11, AF13/65.
 - viii. Council 21/02/2017 - Operational Services Committee - 14/02/2017 - Item 13 - DEVELOPMENT CONTROL - Illegal Development - Operation of a Storage Yard - Ref. AF11/304.
 - ix. Council 18/04/2017 - Item 1 - CEO REPORT ON CONFIDENTIAL MATTERS - Ref. AF11/1894.
- (c) That the following Confidential Orders as specified in Attachment 1 to Report AR18/49523, having been reviewed by Council, be amended to alter the duration and release conditions:
- Nil
- (d) That the following Confidential Orders as specified in Attachment 1 to Report AR18/49523, having been reviewed by Council, be released immediately following the Council meeting on 18 December 2018:
- Nil
- (e) That a more detailed report be presented to Council in confidence at the next periodic review.
- (f) That future reviews be presented directly to Council.

Moved: Cr Morello

Seconded: Cr Meziniec

Carried

6. MOTION(S) - With Notice

Nil submitted.

7. MOTION(S) - Without Notice

Nil submitted.

Meeting closed at 5:44 pm

AR18/51612

CONFIRMED THIS

DAY OF

2018.

.....
PRESIDING MEMBER

