

CITY OF MOUNT GAMBIER

Meeting to be held at the Council Chamber, Civic Centre, 10 Watson Terrace, Mount Gambier  
on Tuesday 27<sup>th</sup> January, 2015 at 6.00 p.m.

AGENDA

## CONSIDERATION FOR EXCLUSION OF PUBLIC

moved that the following 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 other Council Members and Council Officers now present) be excluded from the meeting in order for the item to be considered in confidence as the Council is satisfied that the item is a matter that can be considered in confidence pursuant to the grounds referenced in Section 90 (3) of the said Act as follows:

- 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 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 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>
Operational Services		
13.	<u>DEVELOPMENT CONTROL</u> - Illegal Development - Demolition of a Contributory Place - Ref. AF11/304	(a) (i)
	CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL	

seconded

**IN CONFIDENCE**

**13. DEVELOPMENT CONTROL - Illegal Development - Demolition of a Contributory Place - Ref. AF11/304**

*Goal:* Governance  
*Strategic Objective:* (i) Demonstrate innovative and responsive organisational governance

The Presiding Member reported:

- (a) For sometime now Council has been dealing with Abbey Gabrielli, who is acting on behalf of Giacomo Gabrielli owner of 41 Jubilee Highway West, Mount Gambier in regard to the possible demolition of a Contributory Place and possible future development of the property (i.e. 41 Jubilee Highway West, Mount Gambier);
- (b) the Contributory Place was demolished on Wednesday 10<sup>th</sup> December 2014, without first obtaining the necessary development approval pursuant to the *Development Act 1993*;
- (c) Council officers issued a Section 84 Notice pursuant to the *Development Act 1993*, advising the property owner (i.e. Giacomo Gabrielli) that no further works are to occur on the site until further notice from Council;
- (d) Abbey Gabrielli has advised that the Contributory Place was demolished under an "Emergency Order" issued by SAPOL and/or the SES. Council has received advice from SAPOL advising that Officers had been called out to the property on Saturday 6<sup>th</sup> December 2014, however did not issue any demolition orders. It is questionable whether either of these agencies are empowered to issue such an order;
- (e) in discussion with the SAPOL Officer who attended the scene on Saturday 6<sup>th</sup> December 2014, he advised the issue was minor and was resolved by requesting the SES to secure the roof sheeting. Correspondence from SAPOL has been attached for Members perusal;
- (f) Council must now consider its response to the unapproved demolition of the Contributory Place, as it is a clear breach of the *Development Act 1993* and appropriate action should be undertaken;
- (g) Council has the following options:
  - Prosecute the owner for the breach of the *Development Act 1993*; or
  - Take no further action.
- (h) In determining its direction, Council should be aware of any precedence being established.

**Cr Mutton 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); and this information, when available, be provided in a further report to Council.

Cr Richardson seconded

Carried

**CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL**

moved that an order be made pursuant to Section 91 (7) of the Local Government Act 1999 that the documents in relation to the following items, which have been considered by Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Item No.</u>	<u>Subject Matter</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
<b>Operational Services</b>			
13.	<b>DEVELOPMENT CONTROL - Illegal Development - Demolition of a Contributory Place - Ref. AF11/304</b>	All details	12 months or until matter has been finalised

seconded

Meeting closed at .....  
TLG

CONFIRMED THIS                      DAY OF    2015.

.....  
MAYOR

MINUTES OF THE MEETING OF THE CITY OF MOUNT GAMBIER HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT GAMBIER ON TUESDAY, 27<sup>TH</sup> JANUARY, 2015 AT 6.03 P.M.

---

## **CONSIDERATION FOR EXCLUSION OF PUBLIC**

Cr Perryman moved that the following 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 other Council Members and Council Officers now present) be excluded from the meeting in order for the item to be considered in confidence as the Council is satisfied that the item is a matter that can be considered in confidence pursuant to the grounds referenced in Section 90 (3) of the said Act as follows:

- **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 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 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.

<b>Item No.</b>	<b>Subject Matter</b>	<b>S90 (3) Grounds</b>
1.	<b>DEVELOPMENT CONTROL - Illegal Development - Demolition of a Contributory Place - Ref. AF11/304</b>	(a) (i)
	<b>CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL</b>	

Cr Von Stanke seconded

**Carried**

**IN CONFIDENCE**

**1. DEVELOPMENT CONTROL - Illegal Development - Demolition of a Contributory Place - Ref. AF11/304**

*Goal:* Governance  
*Strategic Objective:* (i) Demonstrate innovative and responsive organisational governance

The Presiding Member reported:

- (a) For sometime now Council has been dealing with Abbey Gabrielli, who is acting on behalf of Giacomo Gabrielli owner of 41 Jubilee Highway West, Mount Gambier in regard to the possible demolition of a Contributory Place and possible future development of the property (i.e. 41 Jubilee Highway West, Mount Gambier);
- (b) the Contributory Place was demolished on Wednesday 10<sup>th</sup> December 2014, without first obtaining the necessary development approval pursuant to the *Development Act 1993*;
- (c) Council officers issued a Section 84 Notice pursuant to the *Development Act 1993*, advising the property owner (i.e. Giacomo Gabrielli) that no further works are to occur on the site until further notice from Council;
- (d) Abbey Gabrielli has advised that the Contributory Place was demolished under an "Emergency Order" issued by SAPOL and/or the SES. Council has received advice from SAPOL advising that Officers had been called out to the property on Saturday 6<sup>th</sup> December 2014, however did not issue any demolition orders. It is questionable whether either of these agencies are empowered to issue such an order;
- (e) in discussion with the SAPOL Officer who attended the scene on Saturday 6<sup>th</sup> December 2014, he advised the issue was minor and was resolved by requesting the SES to secure the roof sheeting. Correspondence from SAPOL has been attached for Members perusal;
- (f) Council must now consider its response to the unapproved demolition of the Contributory Place, as it is a clear breach of the *Development Act 1993* and appropriate action should be undertaken;
- (g) Council has the following options:
  - Prosecute the owner for the breach of the *Development Act 1993*; or
  - Take no further action.
- (h) In determining its direction, Council should be aware of any precedence being established.

Cr Mutton 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); and this information, when available, be provided in a further report to Council.

Cr Richardson seconded

Carried

**Cr Von Stanke moved the recommendation of the Demolition of a Contributory Place Report as contained in item 1 be adopted.**

**Cr Richardson seconded**

**Carried**



**CONSIDERATION FOR KEEPING MATTERS CONFIDENTIAL**

Cr Greco moved that an order be made pursuant to Section 91 (7) of the Local Government Act 1999 that the documents in relation to the following items, which have been considered by Council on a confidential basis pursuant to Section 90 (3) be kept confidential as follows:

<u>Item No.</u>	<u>Subject Matter</u>	<u>Element To Be Kept Confidential</u>	<u>Duration</u>
1.	<b><u>DEVELOPMENT CONTROL – Illegal Development - Demolition of a Contributory Place - Ref. AF11/304</u></b>	All details	12 months or until matter has been finalised

Cr Lovett seconded

**Carried**

Meeting closed at 8.15 pm  
TLG

CONFIRMED THIS                      DAY OF    2015.

.....  
MAYOR