



City of
Mount Gambier

Civic Centre, 10 Watson Terrace
Mount Gambier SA 5290

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**I hereby give notice that a Confidential People and Place Committee
Meeting will be held on:**

Date: Monday, 2 December 2019
Time: 5.30 p.m.
Location: Council Chamber
Civic Centre
10 Watson Terrace
Mount Gambier

AGENDA

Confidential People and Place Committee Meeting 2 December 2019

Andrew Meddle
Chief Executive Officer
28 November 2019

7 CONFIDENTIAL ITEMS

7.1 CONDITION OF THE PROPERTY – REPORT NO. AR19/62472

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the People and Place Committee orders that all members of the public, except Mayor L Martin, Councillors F Morello, K Amoroso, M Bruins, C Greco, B Hood, P Jenner, S Mezinac and S Perryman and Council Officers A Meddle, B Cernovskis, J Nagy, N Serle, J Zwijnenbug, M McCarthy, F McGregor and E Solly be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 7.1 AR19/62472 Condition of the property.

The People and Place Committee is satisfied that, pursuant to section 90(3) (g), (h) and (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information concerning matters that must be considered in confidence in order to ensure that the Council does not:
 - breach any law, order or direction of a court or tribunal constituted by law,
 - breach any duty of confidence, or
 - breach any other legal obligation or duty
- legal advice
- 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 People and Place Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because This reports is the commencement of legal action pursuant to the Local Nuisance and Litter Control Act 2016.



7.1 CONDITION OF THE PROPERTY – REPORT NO. AR19/62472

Committee:	People and Place Committee
Meeting Date:	2 December 2019
Report No.:	AR19/62472
CM9 Reference:	AF19/326
Author:	Tracy Tzioutziouklaris, Manager Development Services
Authoriser:	Judy Nagy, General Manager City Growth
Summary:	This property is considered to be derelict, dilapidated and impacts upon the enjoyment of the area by persons occupying a place within the area pursuant to the Local Nuisance and Litter Control Act 2016.
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

The Committee 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:

- (g) information concerning matters that must be considered in confidence in order to ensure that the Council does not: breach any law, order or direction of a court or tribunal constituted by law, breach any duty of confidence, or breach any other legal obligation or duty
- (h) legal advice
- (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.

REPORT RECOMMENDATION

1. That People and Place Committee Report No. AR19/62472 titled 'Condition of the property' as presented on 02 December 2019 be noted.
2. That Council note that Officer's will continue to work with the property owner and occupier to address the matters as raised, but will proceed with enforcement action to address the condition of the subject property should the property owner and occupier not undertake appropriate action to improve the condition of the subject property in a timely manner.



BACKGROUND

The subject property is owned by Mr Kingsley Wallace of PMB 44, Mount Gambier. A residential flat building comprised of four dwellings is located on the property, with the property address being 142 Commercial Street East, Mount Gambier.

The building is currently vacant.

Council has received numerous complaints from the adjoining property owners for a lengthy period of time raising the following issues:

- The dilapidated and derelict appearance of the property;
- Anti social behaviour from people at the subject property; and
- Hazardous and insanitary items found around the property and on the adjoining properties.

In 2010 Council sought external advice regarding what action could be taken to address the condition of the property pursuant to Section 254 of the Local Government Act 1999. It was advised that while the building itself was derelict and dilapidated, the property did not detract from the amenity and character as required to meet the criteria of Section 254 of the Local Government Act to successfully take any action to address the condition of the property.

Section 254 of the Local Government Act 1994 has now been repealed and replaced by the Local Nuisance and Litter Control Act 2016.

DISCUSSION

Council Officers recently inspected the property at 142 Commercial Street East, Mount Gambier on Tuesday 5th November 2019. At the time of the inspection it is clearly evident that the building is in a significant state of disrepair and dilapidation that contributes to it's unsightliness. The building could also be considered to be unsanitary given the state it is in, and has class b hazardous waste (pursuant to the Local Nuisance and Litter Control Act 2016) being broken glass and from time to time syringes located around and outside the building. It is highlighted that no syringes were observed at the time of the inspection but Council has received complaints about syringes being located within the area of the property from the adjoining property occupiers. The property may also provide a habitat for vermin. Concerns also exist regarding the building being a potential fire hazard.

At the time of the inspection it was noted that the building itself is structurally sound. The question that remains is whether the property detracts from the amenity of the locality within which it is sited.

Council has sought external advice in relation to this question, to which it has been advised that should this matter proceed to argument before the Environment, Resources and Development Court it will be a borderline argument that may go either way.

It may be considered that the condition of the property has an adverse effect on the amenity value of the area and causes the premises to be significantly out of conformity with the general appearance of the neighbouring premises. The poor appearance of the subject property could be considered to be unsightly pursuant to the Local Nuisance and Litter Control Act 2016.

In the past Council Officers have had limited success in communication and achieving any outcomes with the owner of the property. It is proposed to write a warning letter advising of Council's intent to issue an Order under the Local Nuisance and Litter Act, 2016.

Should the property owner not respond to the letter, Council proceed to issue an Order pursuant to the Local Nuisance and Litter Act, 2016 and engage legal assistance to undertake action to enforce the Order should the property owner remain unresponsive.

CONCLUSION

The condition of the subject property is able to be addressed using enforcement action pursuant to the Local Nuisance and Litter Act 2016.



Council Officers continue to work with the property owner to address the condition of the property.

Council will proceed to engage legal assistance and proceed with enforcement action to address the condition of the subject property should the property owner not take appropriate action to improve the condition of the subject property in a timely manner.

ATTACHMENTS

1. Unsightly Property - Site Inspection - 142 Commercial Street East, Mount Gambier - Confidential [↓](#)

CONFIDENTIAL

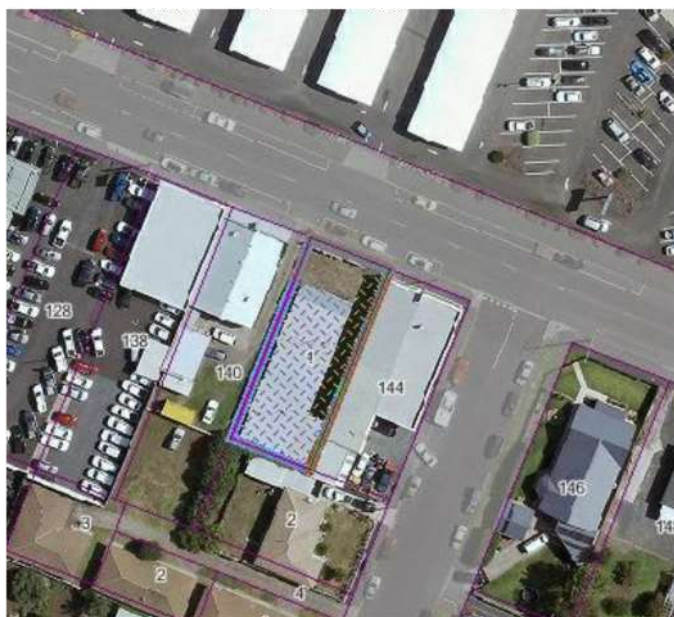


Site Inspection

141 Commercial Street East, Mount Gambier

By Tracy Tzioutziouklaris, Manager Development Services and
Paul Gibbs, Senior Building Officer

Tuesday 5th November, 2019 at 10.20a.m.



The subject property at 142 Commercial Street East, Mount Gambier is located within the Commercial Zone. A residential flat building comprised of four dwellings is located on the subject site which are in a derelict condition, however at the time of the inspection it was observed that the building appeared to be structurally sound.

To the west of the subject site is a building comprised of two shops, one being a hairdresser and a retail paint outlet. To the east is a retail premises being an auto car parts retailer and to the south is a residential property. Across the road is a Woolworths Shopping complex which is sited within the Neighbourhood Centre Zone.

As illustrated by the photographs the building is not readily visible within the subject locality as it is setback further from the road than the buildings immediately to the east and west, and a colorbond fence, approximately 1.8 metres in height has been constructed at the front of the property.

Along the eastern property boundary is a solid stone wall, which is the side wall of the adjacent building. This wall runs virtually the entire length of the subject property. At the rear of the property is a galvsnised iron fence and plant/s which effectively screens the flat building from being visible from the adjoining residential properties.

The residential flat building is clearly visible from the rear yard area of the shop building immediately to the west of the subject site, with a low stone/brick wall which is

also in a state of disrepair and is falling over in places. This wall is less than 1.0 metres in height.

CONFIDENTIAL









CONFIDENTIAL



























CONFIDENTIAL







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 7.1 AR19/62472 Condition of the property 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) (g), (h) and (i) be kept confidential and not available for public inspection until This should be reviewed at the completion of action before the Environment, Resources and Development Court.
2. Further that Council delegates the power to review, revoke, but not extension of 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 CONFIDENTIAL PEOPLE AND PLACE COMMITTEE MEETING
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE, MOUNT
GAMBIER
ON MONDAY, 2 DECEMBER 2019 AT 5.30 P.M.**

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

OFFICERS IN ATTENDANCE:	Chief Executive Officer	- Mr A Meddle
	General Manager Community Wellbeing	- Ms B Cernovskis
	General Manager City Infrastructure	- Mr N Serle
	General Manager City Growth	- Dr J Nagy
	Acting General Manager Council Business Services	- Mr J Zwijnenburg
	Executive Administration Officer	- Ms F McGregor
	Executive Administration Officer	- Ms E Solly

8 CONFIDENTIAL ITEMS

8.1 CONDITION OF THE PROPERTY – REPORT NO. AR19/62472

COMMITTEE RESOLUTION

Moved: Cr Frank Morello
Seconded: Cr Christian Greco

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the People and Place Committee orders that all members of the public, except Mayor L Martin, Councillors F Morello, K Amoroso, M Bruins, C Greco, B Hood, P Jenner, S Meziniec and S Perryman and Council Officers A Meddle, B Cernovskis, N Serle, J Nagy, J Zwijnenburg, F McGregor and E Solly be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 8.1 AR19/62472 Condition of the property.

The People and Place Committee is satisfied that, pursuant to section 90(3) (g), (h) and (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information concerning matters that must be considered in confidence in order to ensure that the Council does not:
 - breach any law, order or direction of a court or tribunal constituted by law,
 - breach any duty of confidence, or
 - breach any other legal obligation or duty
- legal advice
- 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 People and Place Committee is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because This reports is the commencement of legal action pursuant to the Local Nuisance and Litter Control Act 2016.

CARRIED

COMMITTEE RESOLUTION

Moved: Cr Paul Jenner

Seconded: Cr Max Bruins

1. That People and Place Committee Report No. AR19/62472 titled 'Condition of the property' as presented on 02 December 2019 be noted.
2. That Council note that Officer's will continue to work with the property owner and occupier to address the matters as raised, but will proceed with enforcement action to address the condition of the subject property should the property owner and occupier not undertake appropriate action to improve the condition of the subject property in a timely manner.

CARRIED

COMMITTEE RESOLUTION

Moved: Cr Christian Greco

Seconded: Cr Max Bruins

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 8.1 AR19/62472 Condition of the property 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) (g), (h) and (i) be kept confidential and not available for public inspection until This should be reviewed at the completion of action before the Environment, Resources and Development Court.
2. Further that Council delegates the power to review, revoke, but not extension of 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





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

Date: Tuesday, 17 December 2019

Time: 6.00 p.m.

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

AGENDA

Confidential Council Meeting 17 December 2019

**Andrew Meddle
Chief Executive Officer**

13 December 2019

25 CONFIDENTIAL ITEMS OF COMMITTEES

25.1 CONFIDENTIAL ITEMS OF THE PEOPLE AND PLACE COMMITTEE HELD ON 2 DECEMBER 2019

25.2 CONDITION OF THE PROPERTY – REPORT NO. AR19/62472

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 A Meddle, B Cernovskis, J Nagy, N Serle, J Zwijnenburg, M McCarthy, A Watson, M Telford and E Solly be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 25.2 AR19/62472 Condition of the property.

The Council is satisfied that, pursuant to section 90(3) (g), (h) and (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

- information concerning matters that must be considered in confidence in order to ensure that the Council does not:
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 - breach any duty of confidence, or
 - breach any other legal obligation or duty
- legal advice
- 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 principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because This reports is the commencement of legal action pursuant to the Local Nuisance and Litter Control Act 2016.



25.2 CONDITION OF THE PROPERTY – REPORT NO. AR19/62472

Committee:	People and Place Committee
Meeting Date:	2 December 2019
Report No.:	AR19/62472
CM9 Reference:	AF19/326
Author:	Tracy Tzioutziouklaris, Manager Development Services
Authoriser:	Judy Nagy, General Manager City Growth
Summary:	This property is considered to be derelict, dilapidated and impacts upon the enjoyment of the area by persons occupying a place within the area pursuant to the Local Nuisance and Litter Control Act 2016.
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

The Committee 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:

- (g) information concerning matters that must be considered in confidence in order to ensure that the Council does not: breach any law, order or direction of a court or tribunal constituted by law, breach any duty of confidence, or breach any other legal obligation or duty
- (h) legal advice
- (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.

REPORT RECOMMENDATION

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2. That Council note that Officer's will continue to work with the property owner and occupier to address the matters as raised, but will proceed with enforcement action to address the condition of the subject property should the property owner and occupier not undertake appropriate action to improve the condition of the subject property in a timely manner.



BACKGROUND

The subject property is owned by Mr Kingsley Wallace of PMB 44, Mount Gambier. A residential flat building comprised of four dwellings is located on the property, with the property address being 142 Commercial Street East, Mount Gambier.

The building is currently vacant.

Council has received numerous complaints from the adjoining property owners for a lengthy period of time raising the following issues:

- The dilapidated and derelict appearance of the property;
- Anti social behaviour from people at the subject property; and
- Hazardous and insanitary items found around the property and on the adjoining properties.

In 2010 Council sought external advice regarding what action could be taken to address the condition of the property pursuant to Section 254 of the Local Government Act 1999. It was advised that while the building itself was derelict and dilapidated, the property did not detract from the amenity and character as required to meet the criteria of Section 254 of the Local Government Act to successfully take any action to address the condition of the property.

Section 254 of the Local Government Act 1994 has now been repealed and replaced by the Local Nuisance and Litter Control Act 2016.

DISCUSSION

Council Officers recently inspected the property at 142 Commercial Street East, Mount Gambier on Tuesday 5th November 2019. At the time of the inspection it is clearly evident that the building is in a significant state of disrepair and dilapidation that contributes to it's unsightliness. The building could also be considered to be unsanitary given the state it is in, and has class b hazardous waste (pursuant to the Local Nuisance and Litter Control Act 2016) being broken glass and from time to time syringes located around and outside the building. It is highlighted that no syringes were observed at the time of the inspection but Council has received complaints about syringes being located within the area of the property from the adjoining property occupiers. The property may also provide a habitat for vermin. Concerns also exist regarding the building being a potential fire hazard.

At the time of the inspection it was noted that the building itself is structurally sound. The question that remains is whether the property detracts from the amenity of the locality within which it is sited.

Council has sought external advice in relation to this question, to which it has been advised that should this matter proceed to argument before the Environment, Resources and Development Court it will be a borderline argument that may go either way.

It may be considered that the condition of the property has an adverse effect on the amenity value of the area and causes the premises to be significantly out of conformity with the general appearance of the neighbouring premises. The poor appearance of the subject property could be considered to be unsightly pursuant to the Local Nuisance and Litter Control Act 2016.

In the past Council Officers have had limited success in communication and achieving any outcomes with the owner of the property. It is proposed to write a warning letter advising of Council's intent to issue an Order under the Local Nuisance and Litter Act, 2016.

Should the property owner not respond to the letter, Council proceed to issue an Order pursuant to the Local Nuisance and Litter Act, 2016 and engage legal assistance to undertake action to enforce the Order should the property owner remain unresponsive.

CONCLUSION

The condition of the subject property is able to be addressed using enforcement action pursuant to the Local Nuisance and Litter Act 2016.



Council Officers continue to work with the property owner to address the condition of the property.
Council will proceed to engage legal assistance and proceed with enforcement action to address the condition of the subject property should the property owner not take appropriate action to improve the condition of the subject property in a timely manner.

ATTACHMENTS

1. Unsightly Property - Site Inspection - 142 Commercial Street East, Mount Gambier - Confidential [↓](#)

CONFIDENTIAL

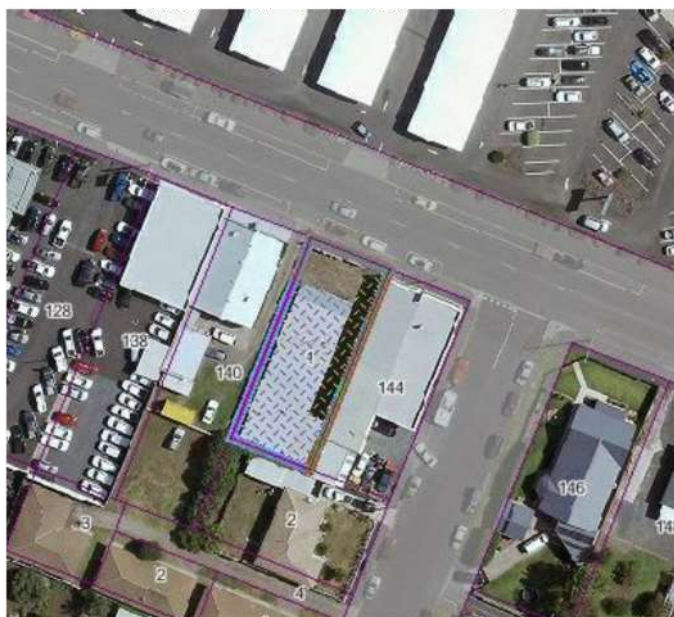


Site Inspection

141 Commercial Street East, Mount Gambier

By Tracy Tzioutziouklaris, Manager Development Services and
Paul Gibbs, Senior Building Officer

Tuesday 5th November, 2019 at 10.20a.m.



The subject property at 142 Commercial Street East, Mount Gambier is located within the Commercial Zone. A residential flat building comprised of four dwellings is located on the subject site which are in a derelict condition, however at the time of the inspection it was observed that the building appeared to be structurally sound.

To the west of the subject site is a building comprised of two shops, one being a hairdresser and a retail paint outlet. To the east is a retail premises being an auto car parts retailer and to the south is a residential property. Across the road is a Woolworths Shopping complex which is sited within the Neighbourhood Centre Zone.

As illustrated by the photographs the building is not readily visible within the subject locality as it is setback further from the road than the buildings immediately to the east and west, and a colorbond fence, approximately 1.8 metres in height has been constructed at the front of the property.

Along the eastern property boundary is a solid stone wall, which is the side wall of the adjacent building. This wall runs virtually the entire length of the subject property. At the rear of the property is a galvanised iron fence and plant/s which effectively screens the flat building from being visible from the adjoining residential properties.

The residential flat building is clearly visible from the rear yard area of the shop building immediately to the west of the subject site, with a low stone/brick wall which is

also in a state of disrepair and is falling over in places. This wall is less than 1.0 metres in height.

CONFIDENTIAL









CONFIDENTIAL



























CONFIDENTIAL







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 8.1 AR19/62472 Condition of the property 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) (g), (h) and (i) be kept confidential and not available for public inspection until This should be reviewed at the completion of action before the Environment, Resources and Development Court.
2. Further that Council delegates the power to review, revoke, but not extension of 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 CONFIDENTIAL COUNCIL MEETING
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE,
MOUNT GAMBIER ON TUESDAY, 17 DECEMBER 2019 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

OFFICERS IN ATTENDANCE:	Chief Executive Officer	- Mr A Meddle
	General Manager Community Wellbeing	- Ms B Cernovskis
	General Manager City Infrastructure	- Mr N Serle
	Manager Development Services	- Mrs T Tzioutziouklaris
	Communications Officer	- Mrs A Watson
	Manager Executive Administration	- Mr M McCarthy
	Executive Administration Officer	- Mrs M Telford
	Executive Administration Officer	- Mrs E Solly

25 CONFIDENTIAL ITEMS OF COMMITTEES

25.1 CONFIDENTIAL ITEMS OF THE PEOPLE AND PLACE COMMITTEE HELD ON 2 DECEMBER 2019

25.2 CONDITION OF THE PROPERTY – REPORT NO. AR19/62472

RESOLUTION 2019/399

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 and F Morello and Council Officers A Meddle, B Cernovskis, N Serle, T Tzioutziouklaris, A Watson, M McCarthy, M Telford and E Solly be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 25.2 AR19/62472 Condition of the property.

The Council is satisfied that, pursuant to section 90(3) (g), (h) and (i) of the Act, the information to be received, discussed or considered in relation to the Agenda Item is:

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- involving the Council or an employee 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 This reports is the commencement of legal action pursuant to the Local Nuisance and Litter Control Act 2016.

CARRIED

RESOLUTION 2019/400

Moved: Cr Frank Morello

Seconded: Cr Christian Greco

1. That People and Place Committee Report No. AR19/62472 titled 'Condition of the property' as presented on 02 December 2019 be noted.
2. That Council note that Officer's will continue to work with the property owner and occupier to address the matters as raised, but will proceed with enforcement action to address the condition of the subject property should the property owner and occupier not undertake appropriate action to improve the condition of the subject property in a timely manner.

CARRIED

RESOLUTION 2019/401

Moved: Cr Christian Greco

Seconded: Cr Sonya Mezinec

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 8.1 AR19/62472 Condition of the property 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) (g), (h) and (i) be kept confidential and not available for public inspection until This should be reviewed at the completion of action before the Environment, Resources and Development Court.
2. Further that Council delegates the power to review, revoke, but not extension of 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

