



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

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

Date: Monday, 4 November 2019
Time: 6.30 p.m.
Location: Council Chamber
Civic Centre
10 Watson Terrace
Mount Gambier

AGENDA

Confidential Economic and Environment Committee Meeting 4 November 2019

Andrew Meddle
Chief Executive Officer

31 October 2019

7.2 CONDITION AND USE OF THE PROPERTY – REPORT NO. AR19/56339

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Economic and Environment Committee orders that all members of the public, except Mayor L Martin OAM, Councillors C Greco, K Amoroso, M Bruins, B Hood, P Jenner, S Mezinec, F Morello, S Perryman and Council Officers A Meddle, N Serle, B Cernovskis, J Nagy, J Zwijnenburg, 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 7.2 AR19/56339 Condition and use of the Property.

The Economic and Environment 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 Economic and Environment 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 matter may result in legal action before the Environment, Resources and Development Court.

7.2 CONDITION AND USE OF THE PROPERTY – REPORT NO. AR19/56339

Committee: Economic and Environment Committee

Meeting Date: 4 November 2019

Report No.: AR19/56339

CM9 Reference: AF19/331

Author: Tracy Tzioutziouklaris, Manager Development Services

Authoriser: Andrew Meddle, Chief Executive Officer

Summary: This property is being used for purposes not envisaged within the Residential Zone. When considering the appearance and amenity of the subject area, this property is considered to be out of conformity with the general appearance of the neighbouring premises. Concerns have been raised under the Development Act 1993, the Local Nuisance and Litter Control Act, 2016 and South Australian Public Health Act 2011.

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 Economic and Environment Committee Report No. AR19/56339 titled 'Condition and use of the Property' as presented on 04 November 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. Two semi - detached units are located on the property, with the property address being 1 and 2/47 Kurrajong Street.

This property was first drawn to the attention of Council in early September 2019 with a number of complaints including:

- Unsafe building
- Nuisance - derelict or unsightly property with rubbish and rats
- Noise - repeated banging from unsecured corrugated iron

DISCUSSION

Council Officers have undertaken a number of inspections of the subject property. As the result of these inspections a Notice has been issued pursuant to Section 92 of the South Australian Public Health Act, 2011 as the condition of the property was considered to constitute a risk to public health.

Neither the owner nor the other person live at this property, however both parties use this property for the storage of numerous items.

A further inspection was undertaken on this property on 9 October, 2019 with the Council's Environmental Health Officer and Manager - Development Services. The person enabled to store items at this property was also in attendance at this inspection. A file note identifying what was observed on the property and photographs is attached to this report for Elected Member information and perusal.

The rear of the building was in a poor condition with corrugated iron placed over the roof and the rear wall to create some sort of weather proofing/seal. The condition of the structure is questionable. However, it was unable to be inspected so as to determine its structural soundness, given the placement of the corrugated iron.

The subject property is no longer used for residential purposes with no one living on the subject site. Both dwellings and the rear yard area are clearly being used for storage. This could be considered to be a change in land use which requires Development Approval to be obtained prior to the building and property being used for storage purposes. The use of the property for storage purposes without first obtaining Development Approval is a breach of the Development Act.

The appearance of the subject property is poor, in particular as there are a number of vehicles being stored within the yard area which are in poor condition and the storage of various items in the rear yard area, and immediately next to the building. The building itself is also in a poor condition, in particular when considering the placement of corrugated iron on the rear of the dwelling. Two tyres have also been placed on the roof of the building which is understood to be for the purpose to stop the iron banging when it is windy.

It could 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.



The Local Nuisance and Litter Control Act 2016 also defines local nuisance as:

“17(1)(b) Insanitary conditions on premises that unreasonably interfere with or are likely to interfere unreasonably with the enjoyment of premises occupied by persons in the vicinity.

For the purpose of subsection (1)(b), conditions on premises will be taken to be insanitary if an authorised officer reasonably believes that there is a risk of infestation by rodents or other pests.”

The storage of plastic bags, papers/books and carpet rolls within the vehicles and in the building of the subject property provide the perfect habitat and environment for the breeding of rats and mice. This is clearly evident by the abundance of rat/mice faeces observed within the vehicles and the dwelling.

Council Officers are currently working with the owner and the occupier of the subject property to address the condition of the subject property. This process has been difficult and untimely as the property owner does not respond to the Council’s enquiries and correspondence. Council Officers have had limited success in communications with the person using the property for storage purposes.

CONCLUSION

The use and the condition of the subject property is able to be addressed using enforcement action pursuant to both the Development Act 1993 and the Local Nuisance and Litter Control Act, 2016 in addition to the Notice recently issued pursuant to the South Australian Public Health Act 2011.

Council Officers continue to work with the property owner and occupier to address the matters as raised.

Council will proceed to engage legal assistance and 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.

ATTACHMENTS

1. Illegal Development - Unsightly premises - 47 Kurrajong Street - File note of inspection on 9 10 2019, by Tracy Tzioutziouklaris [↓](#) 



On Site Inspection

11.30a.m. Wednesday 9th October, 2019

1 & 2/47 Kurrajong Street, Mount Gambier

With Ian Matters, the occupier, Heather Reilly, Environmental Health Officer, and Tracy Tzioutziouklaris, Manager Development Services

Heather and myself met with Ian Matters on site at 1 & 2/ 47 Kurrajong Street. The purpose of this meeting was to get an update as to how Ian was going with a clean up of the property in response to the Notice issued pursuant to the South Australian Public Health Act.

Heather mainly talked to Ian, whilst I looked around.

When asked Ian confirmed that he had removed a couple of cars from the property as well as had removed items from within the building. Access could be obtained to the inside of unit 1, but access had been blocked to unit 2 to prevent access to this part of the building.

Ian also confirmed that he was working to remove additional cars from the property. He also confirmed that the owner of the property also stores items on site, such as the rolls of carpet within the building which he is intending to use elsewhere

When asked Mr Matters confirmed that no one lives on the subject property. I raised that to store items on a residential property where no one was living would be a change in land use that required approval from Council. Mr Matters was unaware of this. I confirmed that I would confirm this in writing,

At the time of the inspection I observed the following:

- A car parked at the front of the property which was full of shopping bags and papers. (This was the car currently being driven)
- A car parked in the driveway area, adjacent to the southern property boundary, which was full of shopping bags, paper and books.
- Another four cars parked in the rear yard area, again the cars were full of shopping bags, paper, books and numerous items.

Located immediately adjacent to the southern wall of the building was various items including an old car seat, juice bottle, shopping bags, plastic bags and an assortment of other small items.

In the rear yard area there were:

- Car tyres
- Various car parts
- Juice containers
- Drums
- Car battery
- Dink crates
- Boxes
- Pieces of timber



- 2 x Grass catcher from a lawn mower
- 44L drum
- Car tyre rim
- Adjacent to the norther property boundary there were:
- Car parts
- Chairs
- Boxes full of various items
- A 44 L drum
- A car seat
- Smaller drums
- Paper is various condition, including rotting

Inside unit 1 the following was observed:

- Furniture in poor condition
- Rolls of carpet. Some with visible mould
- Plastic shopping bags
- Shopping bags
- A stove
- A car door
- General rubbish
- Numerous examples of rat faeces

Access was unable to obtained to the second unit, but the following was clearly visible through the window:

- Numerous banana/fruit & vegetable boxes piled high

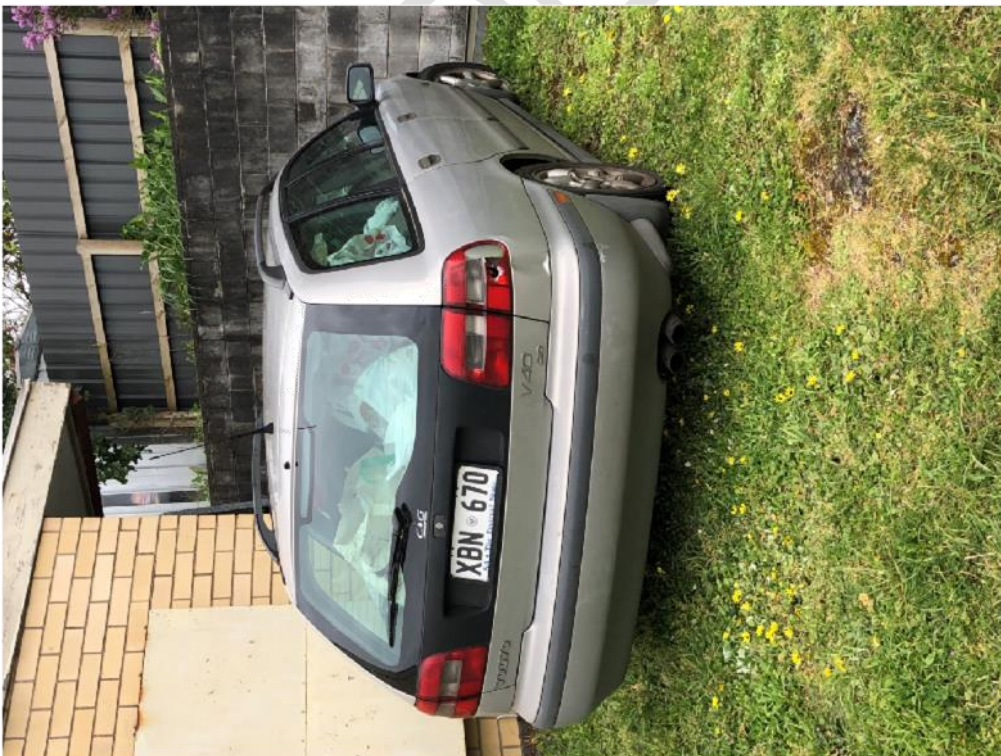
Two car tyres were observed located on the south eastern and south western corners of the roof. It is assumed that these car tyres are there to stop the corrugated iron banging in the wind, as the banging of iron has been the subject of earlier complaints.

The following photos were taken at the on site inspection.



Tracy TZIOUTZIOUKLARIS
MANAGER DEVELOPMENT SERVICES







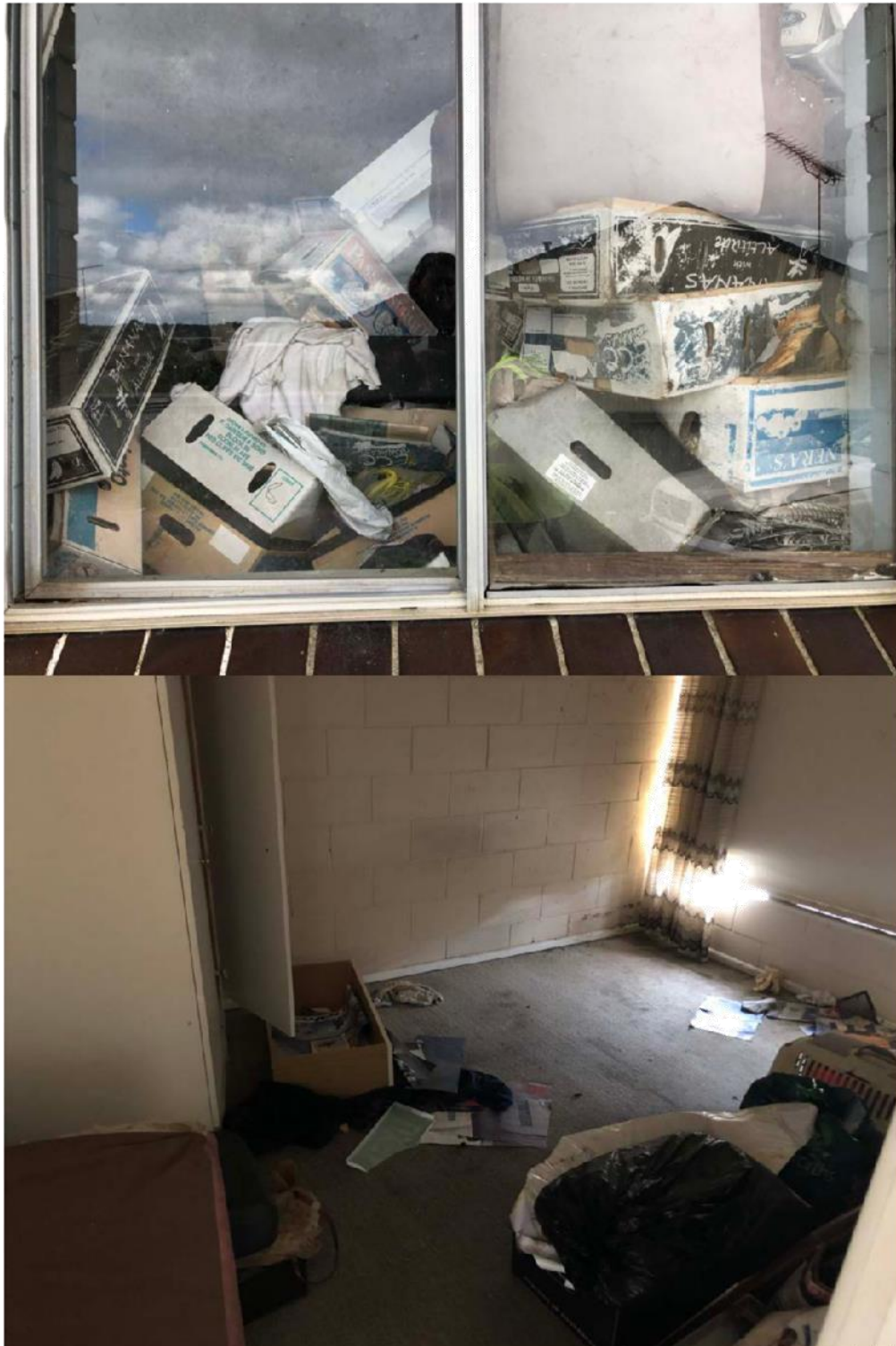






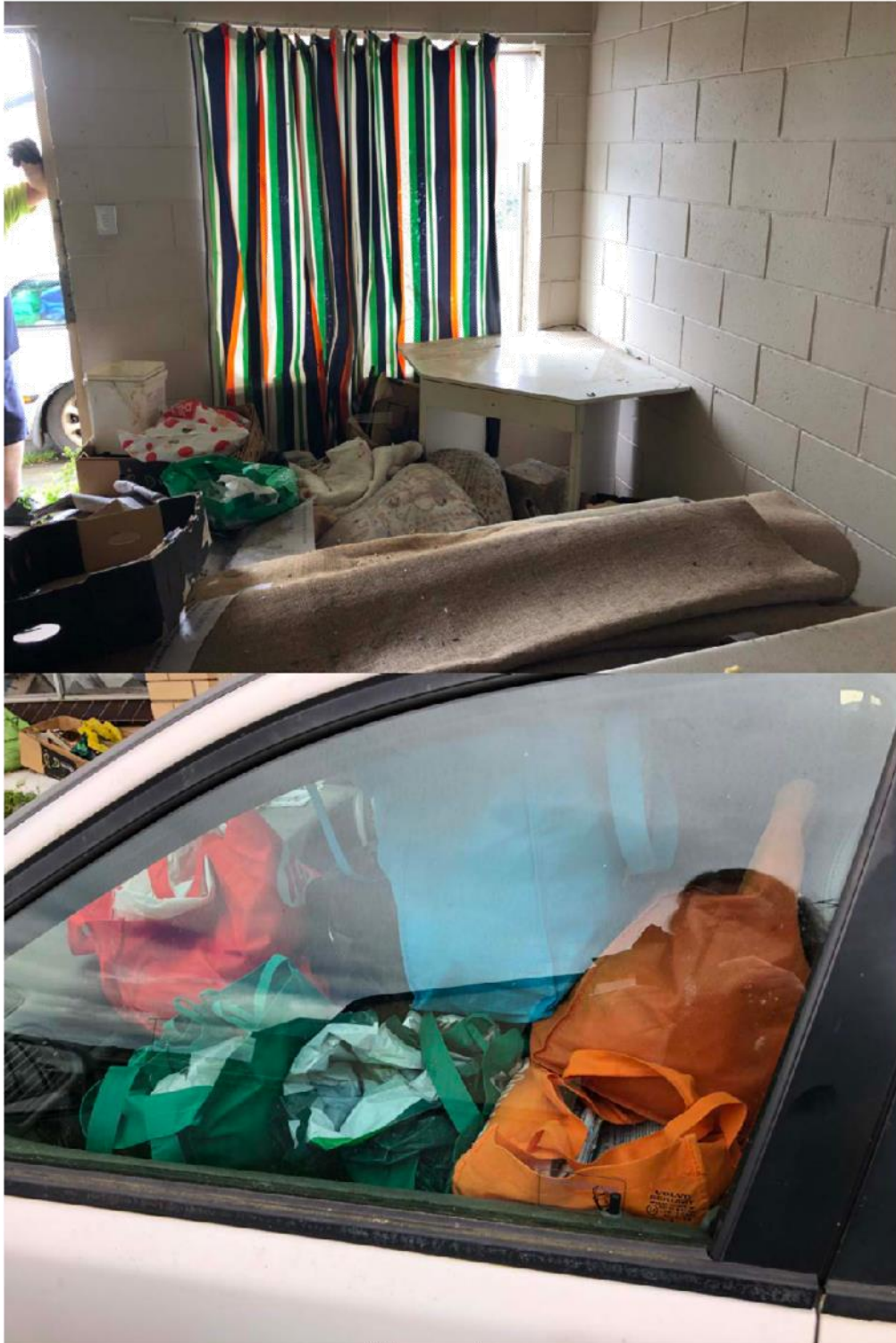












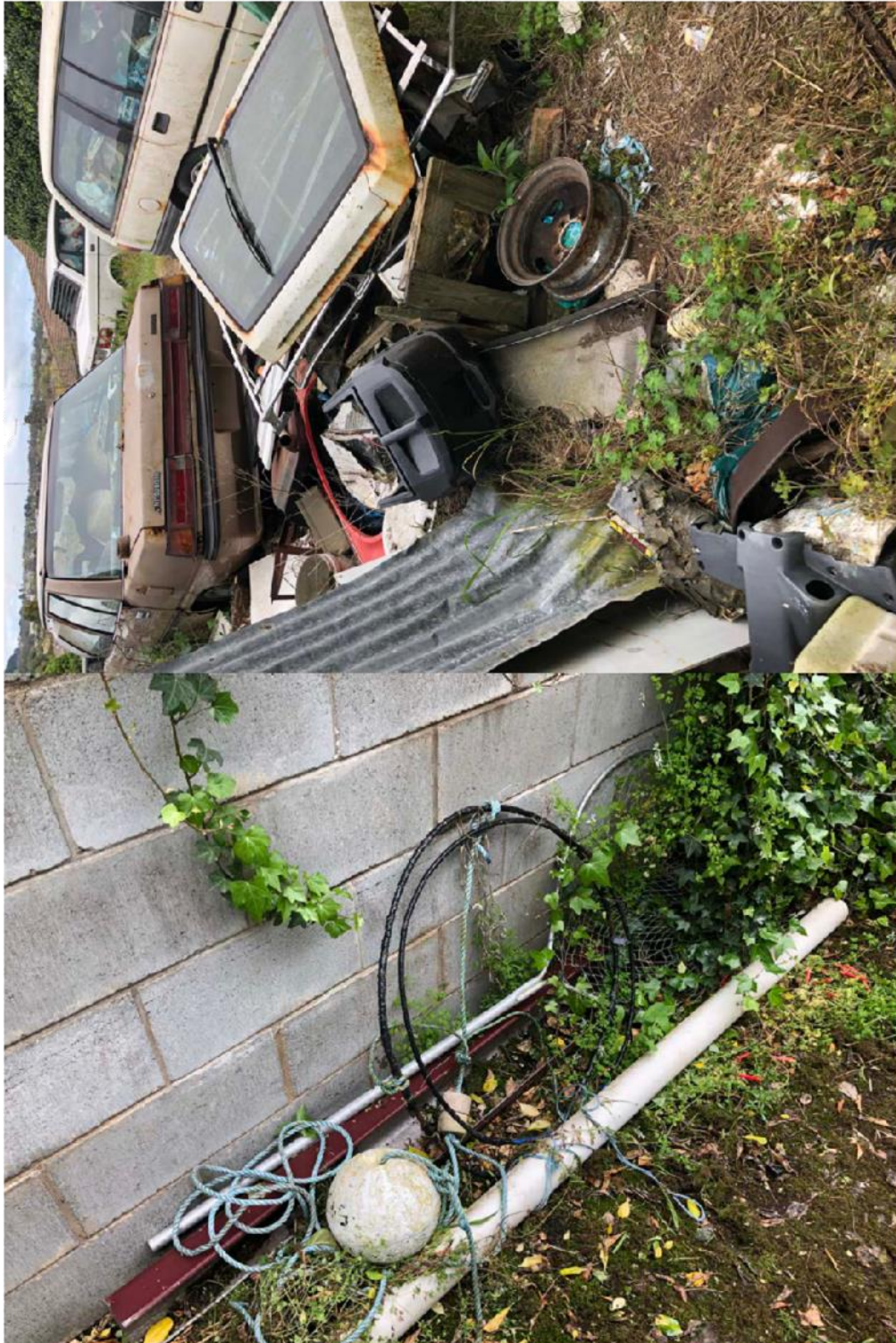
















CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 7.2 AR19/56339 Condition and use 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 At the satisfactory resolution of the matter.
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 ECONOMIC AND ENVIRONMENT COMMITTEE MEETING
HELD AT THE COUNCIL CHAMBER, CIVIC CENTRE, 10 WATSON TERRACE,
MOUNT GAMBIER ON MONDAY, 4 NOVEMBER 2019 AT 7.40 P.M.**

PRESENT: Mayor Lynette Martin (OAM), Cr Christian Greco, Cr Kate Amoroso, Cr Max Bruins, Cr Ben Hood, Cr Paul Jenner, Cr Sonya Meziniec and 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
Executive Administration Officer	- Mrs M Telford
	- Mrs E Solly

COMMITTEE RESOLUTION

Moved: Cr Max Bruins

Seconded: Cr Frank Morello

CONSIDERATION FOR EXCLUSION OF THE PUBLIC

Pursuant to section 90(2) of the *Local Government Act 1999* the Economic and Environment Committee orders that all members of the public, except Mayor L Martin, Councillors C Greco, K Amoroso, M Bruins, B Hood, P Jenner, S Meziniec, F Morello and S Perryman and Council Officers A Meddle, B Cernovskis, N Serle, T Tzioutziouklaris, M Telford and E Solly be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 7.2 AR19/56339 Condition and use of the Property.

The Economic and Environment 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 Economic and Environment 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 matter may result in legal action before the Environment, Resources and Development Court.

CARRIED



COMMITTEE RESOLUTION

Moved: Cr Max Bruins
Seconded: Cr Christian Greco

1. That Economic and Environment Committee Report No. AR19/56339 titled 'Condition and use of the Property' as presented on 04 November 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 7.2 AR19/56339 Condition and use 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 At the satisfactory resolution of the matter.
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, 19 November 2019
Time: 6.00 p.m.
Location: Council Chamber
Civic Centre
10 Watson Terrace
Mount Gambier

AGENDA

Confidential Council Meeting 19 November 2019

**Andrew Meddle
Chief Executive Officer**

15 November 2019

25.3 CONDITION AND USE OF THE PROPERTY – REPORT NO. AR19/56339

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 Mezinac, K Amoroso, M Bruins, C Greco, B Hood, P Jenner, F Morello and S Perryman and Council Officers A Meddle, B Cernovskis, J Zwijnenburg, N Serle, A Watson, and F McGregor be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 25.3 AR19/56339 Condition and use 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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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 matter may result in legal action before the Environment, Resources and Development Court.



25.3 CONDITION AND USE OF THE PROPERTY – REPORT NO. AR19/56339

Committee: Economic and Environment Committee

Meeting Date: 4 November 2019

Report No.: AR19/56339

CM9 Reference: AF19/331

Author: Tracy Tzioutziouklaris, Manager Development Services

Authoriser: Andrew Meddle, Chief Executive Officer

Summary: This property is being used for purposes not envisaged within the Residential Zone. When considering the appearance and amenity of the subject area, this property is considered to be out of conformity with the general appearance of the neighbouring premises. Concerns have been raised under the Development Act 1993, the Local Nuisance and Litter Control Act, 2016 and South Australian Public Health Act 2011.

Community Plan Reference:

Goal 1: Our People

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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:

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- (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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BACKGROUND

The subject property is owned by Mr Kingsley Wallace of PMB 44, Mount Gambier. Two semi - detached units are located on the property, with the property address being 1 and 2/47 Kurrajong Street.

This property was first drawn to the attention of Council in early September 2019 with a number of complaints including:

- Unsafe building
- Nuisance - derelict or unsightly property with rubbish and rats
- Noise - repeated banging from unsecured corrugated iron

DISCUSSION

Council Officers have undertaken a number of inspections of the subject property. As the result of these inspections a Notice has been issued pursuant to Section 92 of the South Australian Public Health Act, 2011 as the condition of the property was considered to constitute a risk to public health.

Neither the owner nor the other person live at this property, however both parties use this property for the storage of numerous items.

A further inspection was undertaken on this property on 9 October, 2019 with the Council's Environmental Health Officer and Manager - Development Services. The person enabled to store items at this property was also in attendance at this inspection. A file note identifying what was observed on the property and photographs is attached to this report for Elected Member information and perusal.

The rear of the building was in a poor condition with corrugated iron placed over the roof and the rear wall to create some sort of weather proofing/seal. The condition of the structure is questionable. However, it was unable to be inspected so as to determine its structural soundness, given the placement of the corrugated iron.

The subject property is no longer used for residential purposes with no one living on the subject site. Both dwellings and the rear yard area are clearly being used for storage. This could be considered to be a change in land use which requires Development Approval to be obtained prior to the building and property being used for storage purposes. The use of the property for storage purposes without first obtaining Development Approval is a breach of the Development Act.

The appearance of the subject property is poor, in particular as there are a number of vehicles being stored within the yard area which are in poor condition and the storage of various items in the rear yard area, and immediately next to the building. The building itself is also in a poor condition, in particular when considering the placement of corrugated iron on the rear of the dwelling. Two tyres have also been placed on the roof of the building which is understood to be for the purpose to stop the iron banging when it is windy.

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Council Officers are currently working with the owner and the occupier of the subject property to address the condition of the subject property. This process has been difficult and untimely as the property owner does not respond to the Council’s enquiries and correspondence. Council Officers have had limited success in communications with the person using the property for storage purposes.

CONCLUSION

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Ian also confirmed that he was working to remove additional cars from the property. He also confirmed that the owner of the property also stores items on site, such as the rolls of carpet within the building which he is intending to use elsewhere

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In the rear yard area there were:

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- 2 x Grass catcher from a lawn mower
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- Rolls of carpet. Some with visible mould
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- Numerous examples of rat faeces

Access was unable to obtained to the second unit, but the following was clearly visible through the window:

- Numerous banana/fruit & vegetable boxes piled high

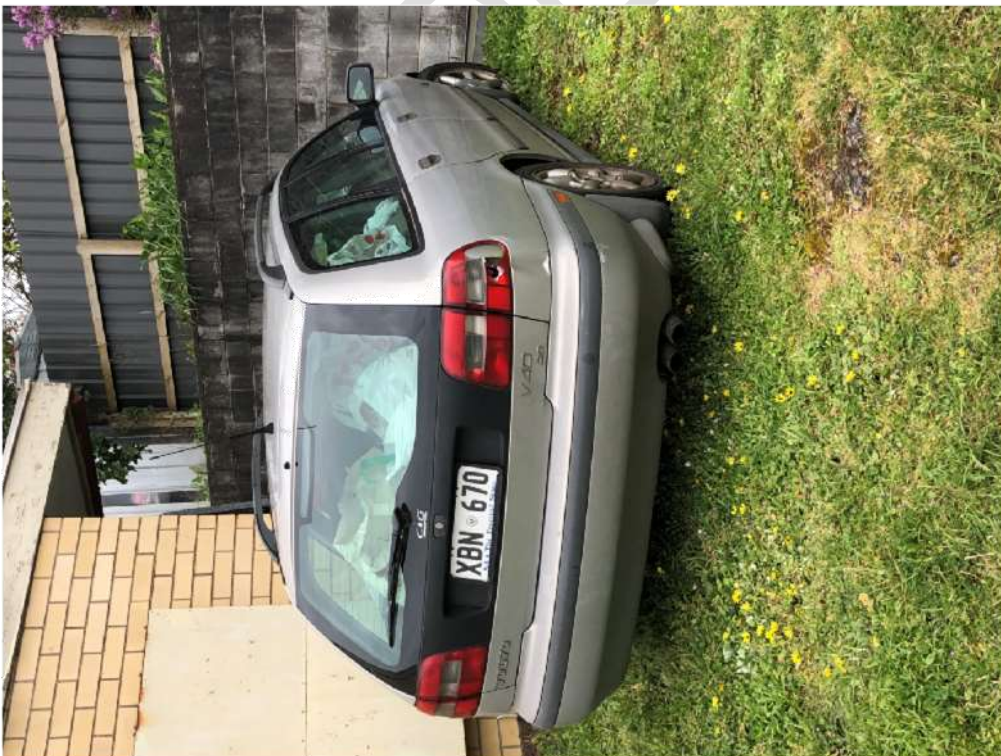
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The following photos were taken at the on site inspection.



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MANAGER DEVELOPMENT SERVICES







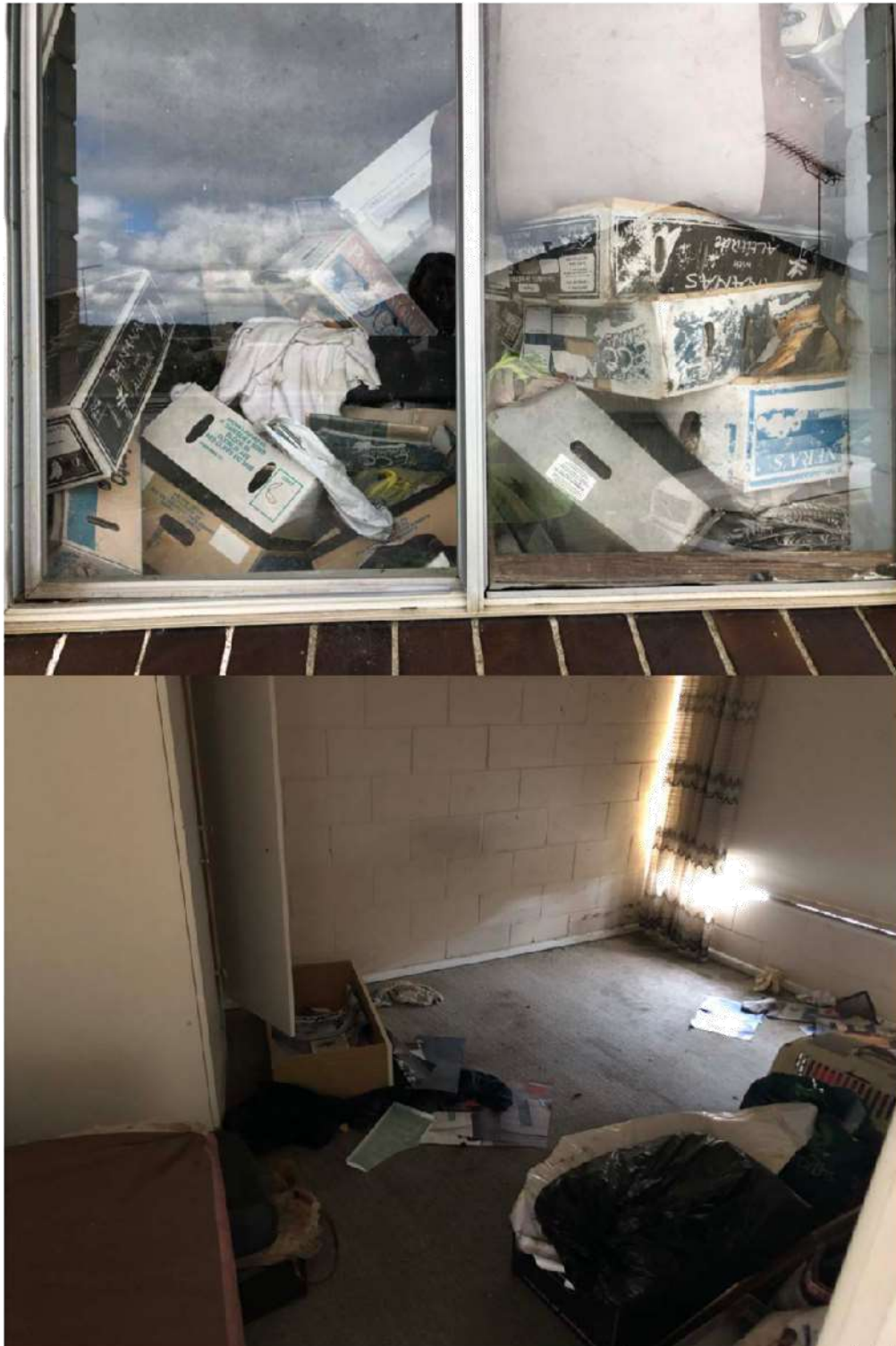
















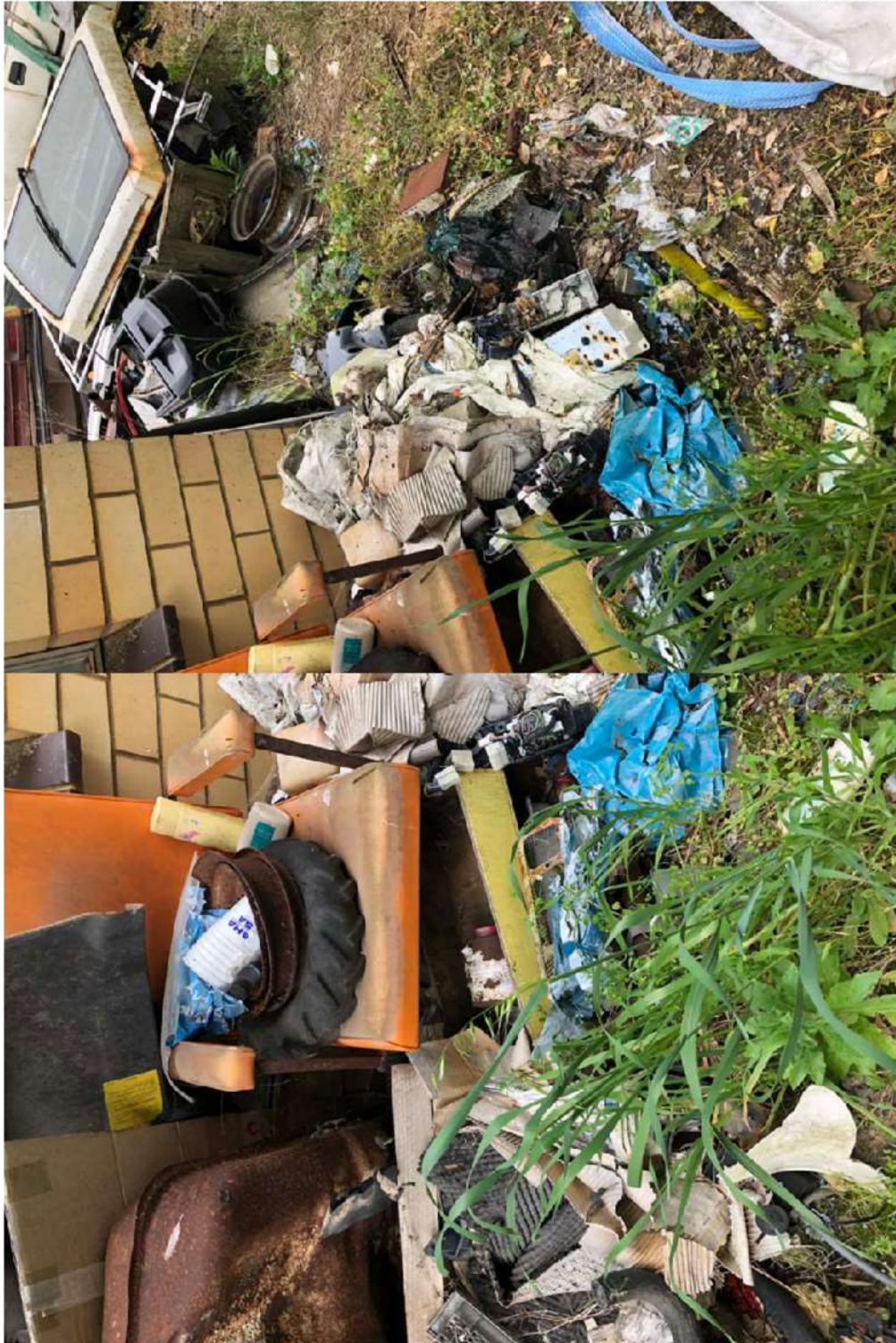


















CONSIDERATION FOR KEEPING ITEMS CONFIDENTIAL

1. In accordance with Sections 91(7) and 91(9) of the *Local Government Act 1999* the Council orders that the report 7.2 AR19/56339 Condition and use 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 At the satisfactory resolution of the matter.
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, 19 NOVEMBER 2019 AT 6.00 P.M.**

PRESENT: Mayor Lynette Martin (OAM), Cr Kate Amoroso, Cr Max Bruins, Cr Christian Greco, Cr Paul Jenner, Cr Ben Hood, Cr Frank Morello, 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
Manager Development Services	- Mrs T Tzioutziouklaris
Media and Communications	- Mrs A Watson
Executive Administration Officer	- Mrs F McGregor

25.3 CONDITION AND USE OF THE PROPERTY – REPORT NO. AR19/56339

RESOLUTION 2019/350

Moved: Cr Ben Hood
Seconded: Cr Max Bruins

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, A Watson, T Tzioutziouklaris and F McGregor be excluded from attendance at the meeting for the receipt, discussion and consideration in confidence of Agenda Item 25.3 AR19/56339 Condition and use of the Property.

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 - 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 matter may result in legal action before the Environment, Resources and Development Court.

CARRIED

RESOLUTION 2019/351

Moved: Cr Christian Greco
Seconded: Cr Ben Hood

1. That Economic and Environment Committee Report No. AR19/56339 titled 'Condition and use of the Property' as presented on 04 November 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 2019/352

Moved: Cr Christian Greco

Seconded: Cr Ben Hood

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 7.2 AR19/56339 Condition and use 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 At the satisfactory resolution of the matter.
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