

CITY OF UNLEY
COUNCIL ASSESSMENT PANEL

Dear Member

I write to advise of the Council Assessment Panel Meeting to be held on Tuesday 16 July 2019 at 7:00pm in the Unley Council Chambers, 181 Unley Road Unley.

Paul Weymouth
ASSESSMENT MANAGER

Dated 06/07/2019

ACKNOWLEDGEMENT

We would like to acknowledge this land that we meet on today is the traditional lands for the Kaurna people and that we respect their spiritual relationship with their country. We also acknowledge the Kaurna people as the custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kaurna people today.

MEMBERS: Ms Shanti Ditter (Presiding Member),
Mr Alexander (Sandy) Wilkinson
Mrs Jennie Boisvert
Mr Rufus Salaman

APOLOGIES: Mr Brenton Burman
Mr Roger Freeman

CONFLICT OF INTEREST:

CONFIRMATION OF MINUTES:

MOVED:

SECONDED:

That the Minutes of the City of Unley, Council Assessment Panel meeting held on Tuesday 18 June 2019, as printed and circulated, be taken as read and signed as a correct record.

CITY OF UNLEY
COUNCIL ASSESSMENT PANEL

16 July 2019

A G E N D A

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Confirmation

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Matters for Council's consideration

ITEM 1**DEVELOPMENT APPLICATION – 090/970/2018/C2 – 145 KING WILLIAM ROAD, UNLEY
5061 (UNLEY)**

DEVELOPMENT APPLICATION NUMBER:	090/970/2018/C2
ADDRESS:	145 King William Road, Unley 5061
DATE OF MEETING:	16 July 2019
AUTHOR:	Chelsea Spangler
DEVELOPMENT PROPOSAL:	Construct a new single storey building with verandah for consulting rooms
HERITAGE VALUE:	Nil
DEVELOPMENT PLAN:	19 December 2017
ZONE:	Specialty Goods Centre
APPLICANT:	AMREIN ENTERPRISES PTY LTD ACN 162133655
OWNER:	AMREIN ENTERPRISES PTY LTD ACN 162133655
APPLICATION TYPE:	Merit
PUBLIC NOTIFICATION:	Category 2
REPRESENTATIONS RECEIVED:	YES – (Two oppose)
CAP'S CONSIDERATION IS REQUIRED DUE TO:	Deferred Application Unresolved representations Recommendation for payment into Carparking Contribution Fund
RECOMMENDATION:	Approval
KEY PLANNING ISSUES:	Car parking and access

1. PLANNING BACKGROUND

090/104/2019/BA – Development Approval was granted 14 March 2019 for the demolition of the existing building.

The subject application was presented to the Council Assessment Panel meeting held 21 May 2019 where the item was DEFERRED to allow for the applicant to investigate:

- Contributing to the City of Unley Car Parking Contribution Fund to offset the onsite car parking shortfall, or alternatively formalise a right of way that will enable vehicle access to the rear of the site to enable the provision of on-site car parking spaces.

The application was also readvertised during this time due to the change in the proposal in regards to the on-site car parking.

2. DESCRIPTION OF PROPOSAL

The applicant seeks to construct a single storey building with a verandah to be utilised for consulting rooms.

In response to the Panel's decision to defer the application, the applicant has advised in writing that:

- They confirm their intent to proceed with making a contribution of \$30,000 to the Unley Car Parking Fund;
- They are separately pursuing an agreement with the owners of 141 and 143 King William Road however this is taking some time.

3. SITE DESCRIPTION

The subject site is located on the eastern side of King William Road, a major collector road that is unique for its use of pavers in place of bitumen for the road surface.

The rectangular allotment is described as Allotment 570 on Filed Plan 10805, Volume 5272, Folio 766. The allotment has free and unrestricted rights of way of land marked A on the Title. This easement is a 2.44 metre wide strip which runs along the rear boundary of the adjacent properties addressed as 141 and 143 King William Rd, Unley.

The subject site has a frontage of 7.77 metres to King William Road and an overall site area of 268.8m². There is an existing single storey building with a freestanding carport structure located to the rear of the site. This building has been utilised as consulting rooms since 1983, and prior to this it was a dwelling.

There are no regulated trees on or near the development site.

4. LOCALITY PLAN



 Subject Site  Locality  Representations

5. LOCALITY DESCRIPTION

Land Use

There is a variety of land uses within the immediate locality that is reflective of the zoning. The variety of uses include:

- Shops/ retail/ personal services establishments;
- Café/ restaurants; and
- Offices.

The site also adjoins the Residential Streetscape (Built Form) Zone and therefore adjoins residential dwellings along its eastern boundary.

Land Division/Settlement Pattern

The land division pattern is fairly regular with long rectangular allotments fronting onto King William Road. On a wider scale the allotment pattern is much more varied which is reflective of the nature of commercial properties and medium density living near retail corridors.

Building Type / Style and Number of Storeys

The buildings within the locality are a mix a traditional and replica shop fronts. Majority of the building are allocated along the front boundary and incorporate verandahs over the footpath.

Buildings do not exceed 2 storeys in height.

6. STATUTORY REFERRALS

No statutory referrals required.

7. NON-STATUTORY (INTERNAL) REFERRALS

The application was referred to Council's Property Department due to the proposed encroachment of a verandah over a Council footpath. The following comments were provided:

- *Having looked at the details of the plans etc in the ECM documents that you provided to me I do give in principle support for this encroachment.*
- *This support is only given provided an Encroachment Permit is issued to the development applicant (noting they are the owners of the property at 145 King William Road) in accordance with Councils Encroachment Policy and is part of the conditions of the Planning Approval.*
- *Please make sure that when advising the applicant about the Encroachment Permit they are also advised about the Terms and Conditions of the Encroachment Permit. In particular that they must at the time of putting in the application for the Encroachment Permit provide to Council with their application a copy of their Public Liability Insurance that shows Council as an "Interested Party" with a note on their insurance to say their insurance extends to cover the encroachment of the verandah over a Council public footpath via the Encroachment Permit with Council. The insurance that you already have sited and is in ECM#3892000 does not show any of these conditions and so is "not" acceptable to be used for the Encroachment Permit application.*
- *As well the applicant is responsible for building the structure that encroaches as approved under this Planning Application and subsequent Building Approvals.*
- *Finally, they are also responsible to maintain any encroachment over the footpath and are also "not" to construct the encroachment until such time as the Encroachment Permit has been issued to them by Council. These are all conditions of the Encroachment Permit and are outlined in the Policy*

It is noted that this application does not grant the Encroachment Permit, the encroachment permit must be obtained following Planning Consent but prior to Development Approval being issued.

8. PUBLIC NOTIFICATION

It is advised that the application was readvertised (Category 2) following the 21 May 2019 Panel Meeting. as it was advised that due to the carparking no longer being included as part of the development, the description of the development had been altered.

During the ten (10) business day notification period two (2) representations were received as detailed below.

1. 141 King William Rd, Unley (oppose – wish to be heard)	
ISSUES RAISED	APPLICANTS RESPONSE
The development is at odds with the numerous Development Plan provisions relating to the provision of on-site car parking	<p>The proposed development will result in an increase in floor area of 69 square metres, which in itself generates demand for an additional 2 car parking spaces based on the current Development Plan.</p> <p>\$30,000 is proposed to be contributed into Council's Car parking Development Fund.</p>
The proposed development is an overbuilding of the property and should not be approved as presently proposed.	No direct response has been provided.
2. 141 & 143 King William Rd, Unley (oppose – wish to be heard)	
ISSUES RAISED	APPLICANTS RESPONSE
Impact of the present right of way – if the right of way is enforced properties at 141 and 143 will lose access to 7 car parking spaces	<p>It is not the preference to enforce these rights of way over 141 and 143 King William Road.</p>
Car Parking demand – 6 on site car parks should be provided	<p>The proposed development will result in an increase in floor area of 69 square metres, which in itself generates demand for an additional 2 car parking spaces based on the current Development Plan.</p> <p>\$30,000 is proposed to be contributed into Council's Car parking Development Fund.</p>
The building should be designed to maximise the number of on-site parking spaces it provides	<p>It should not be forgotten that the application of current day Development Plan policy should have appropriate regard to and take account of the historical state of affairs in this locality, with many properties not providing off street parking and to the extent that they do, not to contemporary requirements.</p>
Council should take a more proactive role in achieving the outcomes sought in the 1989 consent.	<p>The previous decision of the Council in relation to DA 090/29/1989 by the previous owner for a change of use of these premises from consulting rooms to shops which was subject to a</p>

	condition requiring agreement between parties in relation to reciprocal rights of way, was never enacted and has therefore lapsed.
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(* denotes non-valid planning considerations)

9. ADMINISTRATION NEGOTIATIONS

Early on in the assessment process, the issue regarding the right of way easement was raised by Council Administration. In discussions with the applicant, Council Administration has then undertaken a thorough investigation of the historic development applications over land at 141, 143 and 145 King William Road, Unley. It is firstly highlighted that the following condition was included as part of the Planning Consent for DA 090/133/1989/DM a proposal to construct additions and convert to shop, with shared carpark over land at 143 King William Rd, Unley:

The owners of 145 King William Road agree to, and executes, in conjunction with the owners of 141 and 143 King William Road, the extinguishing of the existing 2.438 metres wide right of way to Thomas Street and the creation of the substitute reciprocal access (which cannot be altered or extinguished without all parties consent, including Council as a party) over the new 5.8 metre wide vehicle driveway off Thomas Street as delineated on the approved plan, prior to the 30th July 1989, or this planning consent will lapse at that time.

It appears that although a number of attempts were made to legally ratify this condition (including the drafting of the legal documents), the right of way arrangements on the title were never altered. In practice however, the carparking has been constructed with a crossover to Thomas Street and a 5.8m wide aisle running through the middle with carparking located on either side. This carparking runs through the rear of 141 and 143 King William Road. The aisle appears to continue through to the rear of 145 King William Road, however there is a carport located at the end of the aisle in place of carparking on either side of the aisle. There is no fencing or any other restrictions to prevent vehicles from accessing this carport.

The right of way as shown on the title, in reality has no crossover to Thomas Street and is impeded by landscaping (including several mature trees) and marked carparking spaces. It is clear that the right of way as per the Certificate of Title is no longer recognised however the upgraded carparking and access arrangement is in place but just not formalised on the Title.

If a new right of way is not registered for the current reciprocal access and parking arrangements, the land at both 143 and 145 King William Road, are both land locked. Regardless of the proposed development at 145 King William Rd, the issue of having no formal access to Thomas Street exists. With this in mind, an assessment against the onsite parking requirements in the Development Plan based on no vehicle access to the site is provided below.

10. DEVELOPMENT DATA

Site Characteristics	Consulting Rooms	Development Plan Provision
Total Site Area	268.8m ²	n/a
Frontage	7.77m	n/a
Depth	34.59m	20m
Building Characteristics		
Floor Area		
Ground Floor	176.7m ²	n/a
Site Coverage		
Roofed Buildings	65.7%	n/a
Total Building Height		
From ground level	6m (1 storey)	Max 2 storey
Setbacks		
Front boundary (west)	0m	0m – Table Un/2 of the Unley Development Plan
Side boundary (north)	0m	n/a
Side boundary (south)	0m	n/a
Rear boundary (east)	11.9m	n/a
Car parking and Access		
On-site Car Parking	0	Min 3 per 100m ² of gross leasable floor area

(items in **BOLD** do not satisfy the relevant Principle of Development Control)

11. ASSESSMENT

Zone Desired Character and Principles of Development Control

Specialty Goods Centre Zone
<u>Objective 1:</u> Accommodation of small-scale retail specialty goods outlets, local convenience shopping facilities and neighbourhood, community, entertainment, education, religious and recreational facilities of a low traffic generating nature.
<u>Objective 2:</u> Development adjacent to the Historic (Conservation) Zone - Centre to complement the historic character of the relevant policy area.
Desired Character
n/a
Assessment
The applicant seeks to construct a new building to accommodate consulting rooms. The proposed use is a continuation of an existing approved use for consulting rooms that were located in the current building. The height of the building and overall floor area is similar to other buildings within the locality and is considered to be of a small scale. Although the overall useable floor area for consulting rooms is to increase, the premises is relatively moderate and will not be out of character with the Specialty Goods Centre Zone.
The subject site is not located adjacent to the Historic (Conservation) Zone – Centres and therefore Objective 2 is not relevant to the assessment of this application.

Relevant Zone Principles of Development Control	Assessment
PDC 2 <i>Development should provide a continuous retail frontage.</i>	The previous building located on the subject site was setback from the boundary to the street, unlike all the other buildings within the locality which are built to the boundary and

Relevant Zone Principles of Development Control	Assessment
	<p>include verandah structures over the footpath. The proposed building will be built to the street and will include a front verandah located over the footpath. Although the building will contain consulting rooms as opposed to retail, the building will be indistinguishable from adjacent buildings that contain retail uses.</p> <p>Given this, it is considered that PDC 2 has been satisfied as the building will provide a continuous frontage to King William Road.</p>
<p>PDC 5</p> <p><i>Development should involve the preservation and enhancement of existing buildings of historic significance. Alterations, additions or new development should complement existing buildings, their character and the character of the streetscape and area, in particular where adjacent to the Historic (Conservation) Zone - Centre.</i></p>	<p>The existing building on site, whilst being a character building, is not listed as being a Heritage Place or a building of historic significance and therefore is not protected from demolition. It is also noted that Development Approval has already been granted for the demolition of this building.</p> <p>The site is not adjacent to the Historic (Conservation) Centres Zone, nor any buildings that are identified as being of historic significance. The proposed development is however considered to complement the character of the streetscape as:</p> <ul style="list-style-type: none"> - The new building will now be located along the front boundary and include a verandah over the footpath, resulting in a continuous frontage to the street; - The building will remain single storey in height like the buildings adjacent; - The front façade of the proposed building is of a simplistic style that will not detract from the historic detailing of those buildings of heritage value in the area.
<p>PDC 7 – Vehicle Parking</p> <p><i>Vehicle parking should be provided in accordance with the rates set out in Table Un/5 - Off Street Vehicle Parking Requirements or Table Un/5A - Off Street Vehicle Parking Requirements for Designated Areas (whichever applies).</i></p>	<p>No vehicle parking has been provided on site as the land is essentially land locked as the only formal access to the site is via a right of way from Thomas Street. This right of way is of width that is not in accordance with Australian Standards and is further impeded by mature landscaping and carparking.</p> <p>It is noted that until the current parking and access arrangements are formalised, any building or use developed on the subject land will have the same impediments. The only other option would be for vehicle access to be obtained directly from King William Road, an option that is not supported by Council Administration for the following reasons:</p>

Relevant Zone Principles of Development Control	Assessment
	<ul style="list-style-type: none"> - Width of any access would severely reduce the building envelope of any new building; - Would likely result in a design outcome that would be incompatible with the surrounding buildings; - Would result in an outcome that is not considered to be the best and most functional use of the land; - Loss of on street parking; - Possible traffic and pedestrian safety concerns. <p>Should the access arrangements be formalised, there is sufficient space to the rear of the subject site to accommodate 2 – 3 parking spaces. The applicant therefore proposes to contribute \$30,000 (\$15,000 per car park space) as the site will have a shortfall of 2 car parking spaces.</p> <p>If the formal access arrangements were put in place, carparking is to be provided in accordance with Table Un/5A and as such a minimum of 3 spaces are required to be supplied for the existing building. The new building would be required to provide a minimum of 5 spaces. There will be a need to use on-street parking spaces. There is plenty of on-street parking within the locality however, these parking spaces are already under strain especially during peak times. Given the ongoing parking issues within the area, it is considered that anyone that needs to access the site will quickly become aware of these issues and likely make arrangements to compensate for these issues. Such examples include:</p> <ul style="list-style-type: none"> - Using public transport; - Arriving early to allow time to find a parking space; - Arranging to be dropped off; - Parking further away and walking to the premises; - Combining trips so able to utilise a number of businesses in one go; - The operators of any business making their clients/ customers aware of the issues and creating their own alternative transportation methods; - The operators of the business strategically arranging appointments etc. outside of peak times or at suitable intervals. The proposed consulting rooms for example, are to schedule

Relevant Zone Principles of Development Control	Assessment
	<p>appointments with 15 minute intervals to have minimal crossover between patients;</p> <ul style="list-style-type: none"> - The operators of the business strategically rotating shifts of staff. <p>It is considered that it is feasible for businesses to try to solve any individual parking/ access issues to appease staff, retain clients/ customers etc.</p> <p>The only real impediment to the proposed building is the availability of car parking. The lack of car parking however is an issue that is existing for most properties in the locality. Regardless of whether the subject site is developed, the existing building will still have a need to access on-street car parking. The proposed development from a land use perspective however is well suited and complementary to the locality. Furthermore, the proposal is also not of a scale and intensity that will result in the existing car parking uptake becoming completely satiated and thereby unmanageable.</p>

Relevant Council Wide Objectives and Principles of Development Control

An assessment has been undertaken against the following Council Wide Provisions:

City-wide Objectives and Principles of Development Control		
Commercial and Industrial Development	<i>Objectives</i>	1
	<i>PDCs</i>	3, 4
Crime Prevention	<i>Objectives</i>	1
	<i>PDCs</i>	1, 2
Design and Appearance	<i>Objectives</i>	1
	<i>PDCs</i>	1, 2, 3, 8, 9, 10, 12, 13, 14, 15, 17, 18, 19, 20
Form of Development	<i>Objectives</i>	1, 4, 7
	<i>PDCs</i>	1, 2, 12, 13
Interface Between Land Uses	<i>Objectives</i>	1, 2, 3
	<i>PDCs</i>	1, 2, 3, 6
Landscaping	<i>Objectives</i>	1
	<i>PDCs</i>	1, 2
Transportation (Movement of People and Goods)	<i>Objectives</i>	1, 3, 6, 7, 11, 13
	<i>PDCs</i>	1, 2, 3, 12, 13, 14, 17, 18, 19, 20, 23

The following table includes the Council-wide provisions that warrant further discussion in regards to the proposed development:

Relevant Council Wide Provisions	Assessment
Design & Appearance	
PDC 2	<p>The proposed consulting room development is to be built side boundary to side boundary. It is noted that:</p> <ul style="list-style-type: none"> • The allotment has a width of only 7.77m; • Buildings built to boundary is common along King William Road and this intimate retail/ commercial streetscape is part of the character of the area; • Building to the side boundaries allows for a continual frontage of single storey buildings as desired by the Specialty Goods Centre Zone; • The boundary walls will largely abut boundary walls located along the adjacent properties; • The property located to the south has a boundary wall along their northern boundary that extends further than the proposed buildings boundary walls; • The single storey nature of the proposed development as well as the boundary wall of the southern adjacent property will not result in detrimental impacts in terms of overshadowing and access to sunlight; <p>The proposed building will be sufficiently setback from the rear boundary so as to not result in detrimental impacts to the amenity of the rear neighbours.</p>
PDC 17 – Relationship to Street and Public Realm	In accordance with PDC 17, a verandah is proposed over the public footpath as part of the development application.
Interface Between Land Uses	
PDC 3	<ul style="list-style-type: none"> • The proposed building is to be setback over 11.9 metres from the rear boundary i.e. the boundary adjacent to a residential zone; • The building is only single storey in height and is so setback from the rear boundary that impacts in terms of overshadowing and overlooking will be negligible.
Transportation (Movement of People and Goods)	
PDC 19, 20, 23 – Parking Area – Design, Location and Provision	<ul style="list-style-type: none"> • As discussed in the report above, due to the subject land being essentially land locked, no on-site car parking has been provided; • A paved area is located to the rear, in the hope that a formal access arrangement can be achieved in the future. Approximately 2-3 car parks could be accommodated on site if this was to occur; • It is noted that the applicant is to pay \$30,000 into the Council Car Parking Fund to compensate for the shortfall in two car parking spaces; • This design of the proposed development lends itself to have shared carparking arrangements with 141 & 143 King William Road, should right of way arrangements be formalised in the future;

Relevant Council Wide Provisions	Assessment
	<ul style="list-style-type: none"> • It is noted that King William Road is also serviced by a high frequency bus service, with bus stops located in very close proximity of the subject site; • The locality is also well serviced by a network of pedestrian pathways along King William Road and Thomas Street; • There will be a need to use on-street parking spaces. There is plenty of on-street parking within the locality however, these parking spaces are likely to be strained especially during peak times. It is considered that anyone that needs to access the business will quickly become aware of these issues and likely make arrangements to compensate for these issues.

12. DISCUSSION

Car Parking Contributions Policy

In accordance with Section 50A of the Development Act 1993, a council may establish a car parking fund for an area designated by the council. Unley Council established the Car Parking Contributions Fund and the Specialty Goods Centre Zone located along King William Road, Unley falls within the designated area.

Council administration considers that a financial contribution to the fund is an appropriate solution for this application as:

- In the absence of a shared access arrangement in place, the site is essentially land locked as Council does not support direct access from King William Road;
- There is limited space to provide additional car parking in the area and therefore a coordinated approach to identifying optimal car parking areas that can be accessed by patrons of numerous businesses is preferred.

In regard to the management of the funds it is noted that:

- A contribution to the fund must be applied to the designated area which provided the payment;
- Fund monies shall be primarily used for the purchase of land or interests in land and for the creation, development or improvement of parking facilities within the relevant Designated Area.

13. CONCLUSION

In summary, the application is not considered to be seriously at variance with the Development Plan and is considered to satisfy the provisions of the Development Plan for the following reasons:

- The proposed development is for a single storey building that is consistent with the Objectives of the Specialty Goods Centre Zone;
- The proposed use of the new building is a continuation of the existing use of the site, being 'consulting rooms';
- The proposed 'consulting room' use is a low intensity use and will not result in undue impacts to the largely retail nature of the locality;
- The proposed building will provide a continuous frontage of buildings to King William Road;

- The proposed consulting room use will have no impacts in terms of noise, odours and hours of operation;
- The applicant is to pay \$30,000 into the Council Car Parking Fund to compensate for the shortfall in two car parking spaces.

The application is therefore recommended for Development Plan CONSENT.

14. RECOMMENDATION

MOVED:

SECONDED:

That Development Application 090/970/2018/C2 at 145 King William Road, Unley 5061 to 'Construct a new single storey building with verandah for consulting rooms', is not seriously at variance with the provisions of the City of Unley Development Plan and should be GRANTED Planning Consent subject to the following conditions:

DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.
2. That appropriate measures shall be taken to control any likely adverse impact on the amenity of the locality due to any noise nuisance, traffic hazard or otherwise.
3. The hours of operation of the Consulting Rooms shall not exceed the following period:
 - 8:45am to 5:00pm Monday to Friday.
4. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.
5. In lieu of providing the required car spaces on the site of the proposed development the applicant shall, prior to the issue of development approval, and pursuant to section 50A of the Development Act, make a contribution of \$30,000 to the City of Unley car parking fund.
6. That details and location of on-site waste disposal facilities and methods, including times of waste collection, be submitted for the approval of Council prior to the issue of Development Approval. Further, that the approved facilities be installed and operative prior to the occupation of the building.
7. The development herein approved includes works, buildings, structures, areas, or landscaping, or portions thereof, which are located under, on, or over a road, reserve, or other land, owned by a public authority such as the council. Those works, buildings, structures, areas, landscaping, or portions thereof, which are so located must be maintained in a good, safe, and sound condition at all times to the reasonable satisfaction of the public authority which owns that land.

NOTES PERTAINING TO DEVELOPMENT PLAN CONSENT:

- That any necessary alterations to existing public infrastructure (stobie poles, lighting, traffic signs and the like) shall be carried out in accordance with any requirements and to the satisfaction of the relevant service providers.

- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the **applicant**.
- **NOTE:** The proposed development in whole or in part encroaches upon a public place. The development cannot be lawfully undertaken, unless all encroachment/s have been dealt with in a satisfactory manner. In the case of encroachments over a road, an authorisation under Section 221 of the Local Government Act 1999 will be required and ***an annual fee payable to Council*** in order to deal with the encroachment in a satisfactory manner. In the case of encroachments over other public places owned by the Council, contact the Council for further information.

List of Attachments		Supplied By:
A	<u>Application Documents</u>	Applicant
B	<u>Representations</u>	Administration
C	<u>Response to Representations</u>	Applicant

ITEM 2**DEVELOPMENT APPLICATION – 090/233/2019/C2 – 17 OXFORD STREET, HYDE PARK
5061 (UNLEY PARK)**

DEVELOPMENT APPLICATION NUMBER:	090/233/2019/C2
ADDRESS:	17 Oxford Street, Hyde Park
DATE OF MEETING:	16 July 2019
AUTHOR:	Harry Stryker
DEVELOPMENT PROPOSAL:	Carry out alterations and construct upper storey additions
HERITAGE VALUE:	Nil
DEVELOPMENT PLAN:	19 December 2017
ZONE:	(BUILT FORM) ZONE P 9.4
APPLICANT:	Evangelos Varvounis
OWNER:	Stamatia Varvounis and Evangelos Varvounis
APPLICATION TYPE:	Merit
PUBLIC NOTIFICATION:	Category 2
REPRESENTATIONS RECEIVED:	YES – (1 oppose)
CAP'S CONSIDERATION IS REQUIRED DUE TO:	Unresolved representation
RECOMMENDATION:	Approval
KEY PLANNING ISSUES:	Overshadowing, overlooking, Design and appearance.

1. PLANNING BACKGROUND

No relevant Planning Background.

2. DESCRIPTION OF PROPOSAL

The proposed development is to construct upper storey additions over the existing ground floor lean-to additions on the eastern (rear) end of the dwelling.

3. SITE DESCRIPTION

The site is a traditional residential rectangular allotment, oriented east-west with a western frontage adjoining Oxford Street of 15.24m, a depth of 32m, and resulting site area of 488sqm. The original main dwelling building is an asymmetrical double fronted villa, located towards the western (front) and southern side boundaries with setbacks of approximately 6.6m and 1m respectively. Otherwise the dwelling is setback approximately 4m from the northern side and 9.4m from the eastern (rear) boundary. There is an existing carport and veranda along the northern side of the dwelling. An existing car parking structure is located in the north eastern (rear) corner of the land.

4. LOCALITY PLAN



Subject Site

Locality

1

Representations

5. LOCALITY DESCRIPTION

Land Use

The predominant land use within the locality is residential.

Land Division/Settlement Pattern

The locality has a traditional land division pattern with rectangular allotments facing predominantly east-west fronting the north-south running streets.

Dwelling Type / Style and Number of Storeys

Architectural scale and form within the locality is varied, with many original character buildings including double fronted cottages and villas of various design. There are a small number of replacement dwellings, including in relation to the subject site the side adjoining dwelling to the south at number 19 Oxford Street, and diagonally opposite to the north at number 16 Oxford Street.

Dwellings within the locality are predominantly detached and single storey with rear (single storey) additions. There are a small number of dwellings with two storey elements, including in relation to the subject site both side adjoining dwellings to the north and south being numbers 15 and 19 Oxford Street respectively (see below).



Photo from street showing dwelling including roof form, and existing adjoining two storey development.

6. STATUTORY REFERRALS

No statutory referrals required.

7. NON-STATUTORY (INTERNAL) REFERRALS

No non-statutory (internal) referrals were undertaken.

8. PUBLIC NOTIFICATION

Category 2 notification was undertaken in accordance with Table Un/8 of the Unley Development Plan. During the ten (10) business day notification period 1 representation was received as detailed below.

19 Oxford Street (opposite)	
ISSUES RAISED	APPLICANT'S RESPONSE
Overshadowing	The proposed upper storey would be setback to meet Council requirements. Any overshadowing would be minimal.
Overlooking	All upper storey windows would have height restrictions and opaque glass to meet Council requirements. This alleviates any overlooking concerns.

Architectural form	The skillion roof form has been designed to minimise impacts to adjoining properties, and to minimise distraction from the front character single storey built form.
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(* denotes non-valid planning considerations)

9. ADMINISTRATION NEGOTIATIONS

Administration forwarded the applicants response to the representors for consideration. Administration then also discussed the concerns with the representors on 2 occasions by phone, and one occasion on-site. The representors were advised that Administration considers the proposed development to reasonably meet Council requirements. The representors have provided further correspondence confirming they remain opposed and clarifying their concerns (refer Attachment D).

10. DEVELOPMENT DATA

Site Characteristics	Description of Development	Development Plan Provision
Total Site Area	488m ² (ex.)	600m ²
Frontage	15.24m	15m
Depth	32m	20m
Building Characteristics		
Floor Area		
Ground Floor	129m ²	
Upper Floor	44.5m ² 35% of ground floor	≤50% of ground floor
Site Coverage		
Roofed Buildings	39.6% (no change)	≤50% of site area
Total Impervious Areas	60% (no change)	≤70% of site
Total Building Height		
From ground level	6.9m	7m max
From ground level of the adjoining affected land	Approximately 6.9m	
Setbacks		
Ground Floor		
Front boundary (west)	6.6m	n/a
Side boundary (north)	4m	1m
Side boundary (south)	1m	1m
Rear boundary (east)	9.4m	5m
Upper Floor		
Front boundary (west)	15.3m	n/a
Side boundary (north)	4m	3m
Side boundary (south)	3m	3m
Rear boundary (east)	9.4m	8m
Private Open Space		
Min Dimension	4m	≥4m minimum
Total Area	18.3% (ex.)	≥20%
Car parking and Access		

On-site Car Parking	6	2 per dwelling where less than 4 bedrooms or 250m ² floor area 3 per dwelling where 4 bedrooms or more or floor area 250m ² or more
Covered on-site parking	4	≥1 car parking space ≥2 car-parking spaces
On-street Parking	1	0.5 per dwelling
Colours and Materials		
Roof	TBA	Conditioned
Walls	TBA	Conditioned

(items in **BOLD** do not satisfy the relevant Principle of Development Control)

11. ASSESSMENT

Zone Desired Character and Principles of Development Control

RESIDENTIAL STREETSCAPE (BUILT FORM) ZONE	
<p><i>Objective 1: Enhancement of the desired character of areas of distinctive and primarily coherent streetscapes by retaining and complementing the siting, form and key elements as expressed in the respective policy areas and precincts.</i></p> <p><i>Objective 2: A residential zone for primarily street-fronting dwellings, together with the use of existing non-residential buildings and sites for small-scale local businesses and community facilities.</i></p> <p><i>Objective 3: Retention and refurbishment of buildings including the sensitive adaptation of large and non-residential buildings as appropriate for supported care or small households.</i></p> <p><i>Objective 4: Replacement of buildings and sites at variance with the desired character to contribute positively to the streetscape.</i></p>	
Desired Character	
<p><i>The Residential Streetscape (Built Form) Zone encompasses much of the living area in inner and western Unley, (excluding the business and commercial corridors and those areas of heritage value). The zone is distinguished by those collective features (termed "streetscape attributes") making up the variable, but coherent streetscape patterns characterising its various policy areas and precincts. These attributes include the:</i></p> <ul style="list-style-type: none"> <i>(a) rhythm of building sitings and setbacks (front and side) and gaps between buildings; and</i> <i>(b) allotment and road patterns; and</i> <i>(c) landscape features within the public road verge and also within dwelling sites forward of the building façade; and</i> <i>(d) scale, proportions and form of buildings and key elements.</i> <p>Streetscape Attributes</p> <p><i>It is important to create high quality, well designed buildings of individuality and design integrity that nonetheless respect their streetscape context and contribute positively to the desired character in terms of their:</i></p>	

- (a) *siting - open style front fences delineate private property but maintain the presence of the dwelling front and its garden setting. Large and grand residences are on large and wide sites with generous front and side setbacks, whilst compact, narrow-fronted cottages are more tightly set on smaller, narrower, sites. Infill dwellings ought to be of proportions appropriate to their sites and maintain the spatial patterns of traditional settlement; and*
- (b) *form - there is a consistent and recognisable pattern of traditional building proportions (wall heights and widths) and overall roof height, volume and forms associated with the various architectural styles. Infill and replacement buildings ought to respect those traditional proportions and building forms; and*
- (c) *key elements - verandahs and pitched roofs, the detailing of facades and the use of traditional materials are important key elements of the desired character. The use of complementary materials, careful composition of facades, avoidance of disruptive elements, and keeping outbuildings, carports and garages as minor elements assist in complementing the desired character.*

Sites greater than 5000 square metres will be developed in an efficient and co-ordinated manner to increase housing choice by providing dwellings, supported accommodation or institutional housing facilities at densities higher than, but compatible with, adjoining residential development.

Sites for existing or proposed aged care housing, supported accommodation or institutional housing may include minor ancillary non-residential services providing that the development interface is compatible with adjoining residential development.

Assessment

The proposed residential addition is considered to have been designed to provide for additional living space and amenities, without disrupting the siting, form and key elements of the original character dwelling to be retained.

The upper-storey addition would be constructed behind the roof form of the original dwelling building. The addition would retain generous setbacks between the adjoining built form and side boundaries. Due to the front setback, low and generally flat skillion roof form design, the addition would not be readily visible when viewed from the street. As such, it is considered the addition would not detrimentally impact on the built form of the original character dwelling, when viewed from the street.

Relevant Zone Principles of Development Control	Assessment
PDC1 <i>Development should support and enhance the desired character (as expressed for each of the three policy areas, and the respective precincts).</i>	(Discussed below) Satisfactorily meets requirements.
PDC3 <i>Development should retain and enhance the streetscape contribution of a building by:</i> (a) <i>retaining, refurbishing, and restoring the building; and</i> (b) <i>removing discordant building elements, detailing, materials and finishes,</i>	As discussed above, the development would retain the associated existing character dwelling (a). Additionally as discussed above, it is considered the addition would not detrimentally impact on the rhythm of buildings, open space, nor built form of the original character dwelling and the locality, as

Relevant Zone Principles of Development Control	Assessment
<p><i>outbuildings and site works; and</i></p> <p><i>(c) avoiding detrimental impact on the building's essential built form, characteristic elements, detailing and materials as viewed from the street or any public place (ie only the exposed external walls, roofing and chimneys, verandahs, balconies and associated elements, door and window detailing, and original finishes and materials of the street façade); and</i></p> <p><i>(d) altering or adding to the building and carrying out works to its site only in a manner which maintains its streetscape attributes and contribution to the desired character, and responds, positively to the streetscape context of its locality in terms of the:</i></p> <ul style="list-style-type: none"> <i>(i) rhythm of buildings and open spaces (front and side setbacks) of building sites; and</i> <i>(ii) building scale and forms (wall heights and proportions, and roof height, volumes and forms); and</i> <i>(iii) open fencing and garden character; and</i> <i>(iv) recessive or low key nature of vehicle garaging and the associated driveway.</i> 	<p>viewed from the street (c & d).</p> <p>Satisfactorily meets requirements.</p>
<p>PDC4 Alterations and additions to a building should be located primarily to the rear of the building and not be visible from the street or any public place unless involving the dismantling and replacement of discordant building elements so as to better complement the building's original siting, form and key features.</p>	<p>As discussed above, the addition would be located at the rear of the building and not prominently visible from the street nor any other public space.</p> <p>Satisfactorily meets requirements.</p>
<p>PDC9 Development should present a single storey built scale to the streetscape. Any second storey building elements should be integrated sympathetically into the dwelling design, and be either:</p> <p><i>(a) incorporated primarily into the roof or comprise an extension of the primary single storey roof element without imposing excessive roof volume or bulk, or massing intruding on neighbouring spacious conditions, nor increasing the evident wall</i></p>	<p>As discussed above, the addition would be located at the rear of the building and not prominently visible from the street nor any other public space.</p> <p>The roof mass would be low and flat, not adding unreasonable bulk or exceeding Council Wide recommended maximum required building heights of 7m.</p> <p>The upper storey addition would be setback from the southern adjoining land by 3m. Additionally a site visit found there to be a row</p>

Relevant Zone Principles of Development Control	Assessment
<p><i>heights as viewed from the street; or</i></p> <p><i>(b) set well behind the primary street façade of the dwelling so as to be inconspicuous in the streetscape, without being of a bulk or mass that intrudes on neighbouring properties.</i></p>	<p>of small trees growing on the northern side of the southern adjoining land (see below) that would visually screen the proposed addition.</p> <p>Satisfactorily meets requirements.</p>



Photo from southern adjoining land showing indicative proposed addition location and existing small trees.

Policy Area Desired Character

Policy Area 9 – Spacious Desired Character
<p><i>The streetscape attributes include the:</i></p> <ul style="list-style-type: none"> <li data-bbox="251 1792 711 1825"><i>(a) low scale building development;</i> <li data-bbox="251 1859 1268 1893"><i>(b) spacious road verges and front and side building setbacks from the street;</i> <li data-bbox="251 1927 1411 2023"><i>(c) forms and detailing of the predominant architectural styles (variously Victorian and Turn-of-the-Century double-fronted cottages and villas, and Inter-War era housing, primarily bungalow but also tudor and art deco and complementary styles); and</i>

(d) varied but coherent rhythm of buildings and spaces along its streets.

Development will:

(a) be of a street-front dwelling format, primarily detached dwellings; and

(b) maintain or enhance the streetscape attributes comprising:

(i) *siting - the regular predominant subdivision and allotment pattern, including the distinctive narrow-fronted sites associated with the various cottage forms (found only in the Unley (North) and Wayville Precincts). This produces a streetscape pattern of buildings and gardens spaces set behind generally open fenced front boundaries. Street setbacks are generally 6 to 8 metres and side setbacks consistently no less than 1 metre and most often greater, other than for narrow fronted cottages. Such patterns produce a regular spacing between neighbouring dwellings of generally between 5 metres and 7 metres (refer table below); and*

(ii) *form - the consistent and recognisable pattern of traditional building proportions, including the wall heights and widths of facades and roof heights, volumes and shapes associated with the architectural styles identified in the table below; and*

(iii) *key elements - the iconic and defining design features including, in particular the detailed composition and use of materials on facades and roofing of the predominant architectural styles identified in the table below.*

Precinct	Predominant Architectural Style	Predominant Allotment Size		Predominant Setbacks		
		Area	Width	Street setbacks	Minimum side setbacks	Collective side setbacks†
9.1 Clarence Park	Cottages, Villas, Bungalows, Tudor and Art Deco	700m ²	15m	7.0m	1.0m	6.0m
9.2 Everard Park and Forestville (East)	as per Precinct 9.1	800m ²	18m	7.0m	1.0m	5.0m
9.3 Kings Park	Cottages, Villas, and Bungalows	750m ²	18m	8.0m	1.5m	7.0m

Precinct	Predominant Architectural Style	Predominant Allotment Size		Predominant Setbacks		
		Area	Width	Street setbacks	Minimum side setbacks	Collective side setbacks†
9.4 Millswood, Hyde Park (West) and Goodwood (South)	as per Precinct 9.3	600m ²	15m	6.0m	1.0m	5.0m
9.5 Millswood (South)	Cottages, Villas, Bungalows, Tudor and Art Deco	1,000m ²	21m	8.0m	1.5m	9.0m
9.6 Unley (Allen Grove)	Art Deco	600m ²	18m	8.0m	1.0m	6.0m
9.7 Unley (North)	Cottages (inc narrow fronted styles), Villas and Bungalows	600m ²	15m	6.0m	1.0m	5.0m
9.8 Unley Park (East)	as per Precinct 9.1	1,000m ²	21m	8.0m	1.5m	8.0m
9.9 Wayville	as per Precinct 9.7	600m ²	15m	7.0m	1.0m	6.0m
9.10 Fullarton (West)	Bungalows and Art Deco	700m ²	16m	7.0m	1.0m	4.0m
9.11 Unley Park (West)	Interwar & Turn of Century	900m ²	20m	10m	1.5m	6.0m

Assessment						
It is considered that the development is of domestic scale and would be located to the rear of the dwelling and not prominently visible from the street or any public road. As discussed above, the addition would maintain the streetscape contribution of the character dwelling, and in relation to setbacks, would not unreasonably detract from the prominence of the scale and roof form of the original character building. The scale and form of the development is not incongruous with the setting and would not unreasonably impact upon the amenity of the surrounding area.						

Relevant Council Wide Objectives and Principles of Development Control

An assessment has been undertaken against the following Council Wide Provisions:

City-wide Objectives and Principles of Development Control		
Residential Development	Objectives	1, 2, 3, 4, 5
	PDCs	1, 13, 23, 24, 33, 34, 38, 39, & 41

The following table includes the Council-wide provisions that warrant further discussion in regards to the proposed development:

Relevant Council Wide Provisions	Assessment
Residential Development	
PDC 1 - Design and Appearance	<ul style="list-style-type: none"> The addition has been designed to be flat and low behind the original roof form of the character building so as not to detract from its prominence and streetscape character.
PDCs 33-34 - Roof Form and Pitch	<p>Satisfactorily meets requirements.</p>
PDCs 38-39 - Overlooking	<ul style="list-style-type: none"> The application documents indicate upper storey glazing would be obscure to a height of 1700mm above the floor level, but also include an openable full height (obscured) window located on the southern elevation. Direct overlooking would be suitably minimised by any Planning Consent being conditioned that the upper floor windows to a height of 1700mm above floor level be permanently fixed non-openable translucent glazed panels in accordance with Councils standard conditions. <p>Satisfactorily meets requirements.</p>
PDC 13 - Side and Rear Boundaries PDC 41 - Overshadowing and Natural Light	<ul style="list-style-type: none"> The proposed upper storey addition which would have an overall height varying from 6.4m to 6.9m, would be setback a minimum of 3m from side boundaries. A site inspection was conducted and considered the area of the land immediately adjoining the proposed development to the south. The area was found to be used as private open space between the boundary and a living room of the dwelling, which includes north facing windows. The staggered dwelling setback widths of this area was estimated at being approximately 2 and 3m respectively. A row of small deciduous trees were found to be located along the northern boundary of the southern adjoining land which would already overshadow the affected area to some degree (see figure above). There appears to be a small area of solar panels, possibly hot water system related, on the northern facing roof form also. The panels area located approximately 5m from the subject boundary and aligned approximately with the centroid in line with the eastern rear extent of the proposed addition. Given the above, it is considered any increase in shadow beyond the existing conditions would be reasonable, and that overshadowing has been appropriately minimised by the sitting, roof design and overall height. <p>Satisfactorily meets requirements.</p>

12. CONCLUSION

In summary, the application is not considered to be seriously at variance with the Development Plan and is considered to satisfy the provisions of the Development Plan for the following reasons:

- Overlooking has been appropriately minimised;
- The proposed development meets all recommended boundary setbacks;
- Overshadowing has been appropriately minimised through siting and design;
- The development would not be prominently visible from the street or any public road; and
- The scale and form of the development is not incongruous with the setting and would not unreasonably impact upon the streetscape character or the associated building nor of the surrounding area.

The application is therefore recommended for Development Plan CONSENT.

13. RECOMMENDATION

MOVED:

SECONDED:

That Development Application 090/233/2019/C2 at 17 Oxford Street, Hyde Park to 'Carry out alterations and construct upper storey additions', is not seriously at variance with the provisions of the City of Unley Development Plan and should be GRANTED Planning Consent subject to the following conditions:

DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.
2. That all external materials and finishes shall be the same as or complementary to the existing dwelling on the site. Cladding and associated external metal hardware shall be pre-colour treated and non-reflective.
3. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.
4. That all upper floor windows be treated to avoid overlooking prior to occupation by being fitted with permanently fixed non-openable translucent glazed panels (not film coated) to a minimum height of 1700mm above floor level with such translucent glazing to be kept in place at all times.

List of Attachments		Supplied By:
A	Application Documents	Applicant
B	Representation	Administration
C	Response to Representation	Applicant
D	Additional correspondence from representor	Representor

ITEM 3**DEVELOPMENT APPLICATION – 090/699/2016/C2 – 134 CROSS ROAD, HIGHGATE 5063 (FULLARTON)**

DEVELOPMENT APPLICATION NUMBER:	090/699/2016/C2
ADDRESS:	134 Cross Road, Highgate 5063
DATE OF MEETING:	21 June 2019
AUTHOR:	Brendan Fewster
DEVELOPMENT PROPOSAL:	Demolish existing outbuilding and carport, alterations to existing dwelling including in-ground car stacker and construction of new two-storey dwelling at rear including garage and verandah
HERITAGE VALUE:	Nil
DEVELOPMENT PLAN:	5 May 2016
ZONE:	Residential B300
APPLICANT:	Nicholas Duffield
APPLICATION TYPE:	Merit
PUBLIC NOTIFICATION:	Category 2
REPRESENTATIONS RECEIVED:	YES – (2: 1 oppose, 1 not considered to raise planning aspects of the development)
CAP'S CONSIDERATION IS REQUIRED DUE TO:	Unresolved representation Manager's discretion
RECOMMENDATION:	Approval
KEY PLANNING ISSUES:	Built form Building bulk / mass Access and car parking Impact on Significant tree

1. PLANNING BACKGROUND

Application 672/2010/C2 was lodged on 13 August 2010 for the removal of a Significant tree located at the rear of the subject site. This application was lodged by the western neighbour at 3/134A Cross Road and was refused on 12 November 2010 for the following reasons:

- The subject tree forms a notable visual element to the character and amenity of the local area.
- The subject tree is not diseased and life expectancy not considered short.
- The subject tree is not considered to present an unacceptable risk to public and or private safety.
- The subject tree is not shown to be causing or threatening to cause substantial damage to a substantial building or structure of value.

Application 449/2016/DIV was lodged on 22 June 2016, to create two allotments from one

through the creation of a hammerhead allotment at the rear of the existing allotment. This application prompted the lodgement of the subject built form application, which was lodged on 30 August 2016. Adjustments to the proposal have been made on several occasions to accommodate the function of both allotments including access requirements to ensure the allotments were accessible by vehicles and that vehicle manoeuvring was appropriate. Plan amendments were also made to the proposed dwelling to ensure privacy was maintained for surrounding properties.

2. DESCRIPTION OF PROPOSAL

This application is for the construction of a two storey dwelling to the rear of an existing single storey dwelling that is to be retained. The proposed dwelling will be located on a battle-axe shape site with common access from Cross Road.

The proposed dwelling is of a modern design comprising a series of flat roofs behind parapet walls, front fenestration, a projecting front entrance canopy and double garage. External materials and finishes include rendered light weight wall cladding, horizontal panels, aluminium frame windows and doors and kcliplock roof sheeting.

The proposal also includes alterations to the existing dwelling in order to provide access to the rear dwelling site. An existing carport attached to the side of the dwelling will be demolished and the side window openings upgraded to meet Building Code standards. An in-ground car-stacker is to be located in front of the existing dwelling with access to be gained from the new common driveway. The car-stacker will provide on-site car-parking for the existing dwelling.

3. SITE DESCRIPTION

The subject land is a single residential allotment located on the northern side of Cross Road in Highgate. The allotment is a rectangular shape with a frontage width of 18.11 metres, a depth of 64.01 metres and total area of 1098m². There are no easements, rights of way or encumbrances affecting the land.

The land is relatively flat with only a gentle fall of approximately 800mm from the front of the site to the rear boundary.

Currently occupying the land is a single storey detached dwelling located toward the front of the property, an in-ground swimming pool and shade structure and an outbuilding adjacent to the rear boundary.

There is a Significant tree (Rough Bark Mana Gum) within the rear yard that is readily visible from neighbouring properties.

4. LOCALITY PLAN



Subject Site Locality Representations

5. LOCALITY DESCRIPTION

Land Use

The locality comprises an established residential area that interfaces with a public recreation reserve on the southern side Cross Road. Existing development includes detached dwellings, group dwellings and residential flat buildings at low to medium densities.

Land Division/Settlement Pattern

The land division/settlement pattern in the area is mixed and fragmented as a result of considerable infill development. The locality is characterised by battle-axe allotments containing three or more group dwellings or unit dwellings intermixed with original detached dwellings. To the north there are also semi-detached dwellings and residential flat buildings. Front building setbacks are also mixed as is the land allocation provided for backyard spaces, with many properties having considerable site coverage and minimal boundary offsets.

Dwelling Type / Style and Number of Storeys

There is a mix of dwelling types and styles, with modern and traditional dwellings of up to two storeys prevalent along Cross Road.

Fencing Styles

Fencing styles and heights vary along Cross Road and typically comprise masonry/brick pillars and walling and brush.

6. STATUTORY REFERRALS

A referral process was undertaken to refer the proposed plan of division to the Department of Planning Transport and Infrastructure. There were no statutory referrals undertaken for the “built form” application regarding the dwelling alterations and the new dwelling on the proposed rear allotment. A summary of the response is detailed below:

- DPTI raises no in-principle objections to this plan of division given the recommended conditions be applied to any approval given:
 - All vehicles shall enter and exit Cross Road in a forward direction.
 - The shared access shall provide a full 6 metres width at the property boundary, be extended at this width for at least 6 metres within the site and be suitably flared to the kerbline.
 - The 6 metres x 6 metres shared driveway shall remain clear of any impediments (including utility meters, vegetation, fencing, letterboxes or parked vehicles).
 - Clear sightlines, as shown in Figure 3.3 ‘Minimum Sight Lines for Pedestrian Safety’ in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.
 - Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of Cross Road. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant’s expense.
- The following note provides important information for the benefit of the applicant and is required to be included in any approval:
 - The Metropolitan Adelaide Road Widening Plan shows a possible requirement for a strip of land up to 2.13 metres in width from the Cross Road frontage of this site for possible future road purposes. Although it is considered unlikely that land would be required from this property, the consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act 1972 is required to all new building works located on or within 6.0 metres of the possible requirement.

7. NON-STATUTORY (INTERNAL) REFERRALS

Traffic Referral

The advice from Council’s Transport and Traffic Department is summarised as follows:

- The stacker width at 2.2 metres would be difficult for motorists to enter;
- Sight distance to pedestrians is not provided to the east; and
- A 6mx6m area is not provided at the Cross Road access point.

The proposal has been amended to address the above concerns. In particular, the car stacker has been widened to 2.8 metres and the driveway inside the front boundary has been widened to provide a minimum 6 metre x 6 metre area for simultaneous two-way vehicle movements.

Arboricultural Referral

The advice from Council's independent Arboriculturalist is summarised as follows:

- I can confirm that the tree presents in fair to good health and structure and has a Useful Life Expectancy that easily exceeds ten years;
- The tree does not represent an unacceptable level of risk to public and private safety however pruning management is recommended to be explored by the applicant;
- The development proposal involves a significant encroachment to the trees root development area. The encroachment equates to 32.5% of the Tree Protection Zone as well as 17.4% of the Structural Root Zone. Considerations must be demonstrated showing how the tree will be protected during construction and remain sustainable.
- The information outlined within Section 10 of the Applicant's Arborist report (pp11-12) indicates that various systems have been considered to achieve development within the allotment without causing substantial tree-damaging activity. I agree with most of the information provided and also agree that the development is achievable. Additional criteria should be included in the recommendations as follows:
 1. The development proposal including subdivision and dwelling construction are to be completed in full by the current applicant and landowner or the ensuing tree protective recommendations are to be listed as an encumbrance to the allotment for sale
 2. Certificates of Compliance are to be provided to the City of Unley Planning Authority at prescribed times as specified within Australian Standard AS4970-2009 Protection of trees on development sites with detailed information outlining the processes and building techniques utilised to ensure appropriate tree protection has occurred for the duration of the development construction process;
 3. Pilot holes for the Trilink Screw pile system are to be excavated to a minimum depth of 600mm below the existing soil grade and are to be no narrower than the full diameter of the screw pile blade.
 4. The building is required to be engineered to ensure it will withstand potential impact of branch failure up to 300mm in diameter. This is especially important considering the building will be constructed within the trees Failure Target Zone and will be immovable. This will therefore alleviate the potential for an application for tree removal being approved in the future based solely on target frequency elevating the risks associated with the tree.

Items 1 and 2 are not considered to be material planning matters. Item 3 has been included as a condition of consent in addition to the recommendations of the Pre-Development Arboricultural Assessment and Report prepared by The Adelaide Tree Surgery. There is not considered to be a need to impose Item 4 as the Applicant's Arborist has provided a further report to indicate that pruning has occurred that will now avoid the need to impose Item 4 as a condition (refer Attachment A- report addendum dated 11 June 2019).

8. PUBLIC NOTIFICATION

Category 2 notification was undertaken in accordance with Table Un/8 of the Unley Development Plan. During the ten (10) business day notification period two (2) representations were received. One of these representations (Representation 2 from 2/134A Cross Road) raised concerns that are not considered to relate to planning aspects of the proposal however a copy is included in the attachments. Details of the one valid representation are detailed below:

1. 3/134A CROSS ROAD, HIGHGATE	
ISSUES RAISED	APPLICANT'S RESPONSE
Overshadowing in the morning due to two storey scale	The architects have demonstrated that the development would not have any overshadowing consequences. The existing significant tree would obscure any shadow cast by the proposed dwelling in addition to the existing shadow cast by the boundary fence.
Overlooking into lounge room and kitchen from south and west facing windows	The architects have demonstrated that the development would not have any overlooking consequences. The elevation plans show that upper storey windows on the south and west elevations would comprise obscure glass.
Existing Significant tree is dangerous and has a history of dropping branches. The tree should be removed	The applicant and Council have worked constructively in order to ensure the tree is preserved and protected. As agreed by arboricultural experts representing the Applicant and Council, the tree should be incorporated into the development.

(* denotes non-valid planning considerations)

9. DEVELOPMENT DATA

Site Characteristics	Description of Development		Development Plan Provision
Total Site Area	1098m ²		300m ²
Frontage	18.11m		9m
Depth	64.01m		>20m
Building Characteristics			
	Existing Dwelling	Proposed Dwelling	
Site Area			
	573.33m ²	342.82m ²	300m ² (excluding common driveway)
Floor Area			
Ground Floor	240m ²	165m ²	
Upper Floor	N/A	74.6m ² (45% of ground floor)	50% of ground floor
Site Coverage			
Roofed Buildings	42%	50%	≤50% of site area
Total Building Height			
From ground level	Single storey (existing)	Two storey	Two storey
Setbacks			
Ground Floor			
Front boundary (south)	9m (existing)	49.4m	Average of adjoining buildings

Side boundary (east)	3.5m (existing)	1m	1m
Side boundary (west)	1m (existing)	1m	1m
Rear boundary (north)	37m (existing)	3.4m	3m
Upper Floor			
Front boundary (south)	N/A	49.4m	Same as ground level
Side boundary (east)	N/A	2.8m	2m
Side boundary (west)	N/A	2.93m	2m
Rear boundary (north)	N/A	8m	6m
Private Open Space			
Min Dimension	10m	5m	≥2.5m minimum
Total Area	120m ² (21%)	80m ² (23%)	≥20%
Car parking and Access			
On-site Car Parking	3	2	2 per dwelling for a group dwelling
Covered on-site parking	2	1	1 car parking space
Driveway Width	6m shared	6m shared	3m for two dwellings
Garage/Carport Width	Car Stacker	4.8m (33%) Rear of dwelling	≤6.5m or ≤30% of site width, whichever is the lesser
Garage Internal Dimensions	Car Stacker	5.9m x 6.21m	5.8m x 6m for double
Colours and Materials			
Roof	Kliplock sheeting		
Walls	Render and horizontal panels		

(items in **BOLD** do not satisfy the relevant Principle of Development Control)

10. ASSESSMENT

Zone Desired Character and Principles of Development Control

Residential B300
Objective 1: Provision for a range of dwelling types of up to two storeys compatible in form, scale and design with the existing positive elements of the character of the area.
Desired Character
<i>This Zone is intended to continue as an established and attractive housing area offering a variety of dwelling types of not more than two storeys on a range of allotment sizes over much of the Unley area.</i>
<i>All types of single storey and two-storey housing development in this Zone should ensure that the character and levels of amenity of the locality enjoyed by existing residents is substantially maintained.</i>
Housing Types
<i>A wide variety of housing types is evident in the Residential RB300 Zone. Development should reflect the type and appearance of housing in its immediate environs having regard to wall heights, roof forms, use of and style of verandahs, external materials, proportions and areas of windows and front and side boundary set-backs.</i>
<i>It is intended to continue as an established residential area containing a variety of sound, existing dwellings on individual allotments with limited and appropriate infill, mainly in the form of semidetached dwellings and other forms of infill housing on larger sites or sites containing uses incompatible with living areas or unsound dwellings. Areas adjoining tram and train stations and Cross Road may be most suitable for development.</i>

Streetscape

The balance between trees and planting and built form as dominant elements in the Zone varies from locality to locality. Development should respond to both elements ensuring a high standard of compatible built form as well as tree planting and landscaping which maintains and improves the appearance of the locality.

Assessment

Objective 1 of the Residential B300 Zone envisages “*a range of dwelling types of up to two storeys compatible in form, scale and design with the existing positive elements of the character of the area.* The Desired Character also supports “*appropriate infill*”, with areas adjoining tram and train stations and Cross Road considered most suitable for new development.

The northern side of Cross Road comprises an established residential area with a diverse built form character that is a result of significant infill development. Existing development includes a mix of detached and semi-detached dwellings, group dwellings and residential flat buildings up to two storeys in height and at low to medium densities. There is a relatively high concentration of battle-axe developments within the locality.

The desired character recognises that some infill development will occur, particularly on larger sites adjoining Cross Road. The subject land is a large site of 1098m² that adjoins Cross Road and is immediately opposite a large reserve (Urrbrae Wetland). As the subject land is a large site with direct access to an arterial and open space, the proposal to construct a two storey dwelling on a medium-size battle-axe site is considered to be compatible with the existing and desired character of the locality.

From a built form perspective, the locality displays a variety of building sizes and styles, with modern and traditional dwellings of up to two storeys prevalent along both Cross Road and Church Street to the north. The contemporary style and two-storey scale of the proposed built form, with a relatively modest size upper storey, would be compatible and complementary to existing development in the locality.

When considered against the policy intent of the zone and the existing development context, the proposal would sufficiently meet the Objectives and Desired Character for the Residential B300 Zone.

Relevant Zone Principles of Development Control	Assessment
<p>PDC 1</p> <p><i>Development should be primarily for dwellings of up to two storeys compatible in form, scale and design with existing positive elements of the character of the area.</i></p>	<p>Principle of Development Control of Zone envisages dwellings of up to two storeys provided the built form and scale is such that it would maintain the existing amenity of the area. The modern building design would not detract from the prevailing streetscape character given the low roof profile and the spatial separation to the Cross Road frontage.</p> <p>In terms of building scale, the proposed dwelling has a relatively low roof height of 6.2 metres and the upper storey sits comfortably within the ground floor footprint. The siting of the dwelling at the rear of the allotment and away from side and rear boundaries would also minimise the building bulk and scale when viewed from Cross Road and adjoining properties.</p>

Relevant Zone Principles of Development Control	Assessment
	It is considered that the form, scale and appearance of the proposed dwelling would sufficiently maintain the existing character elements of the surrounding area.
<p>PDC 2</p> <p><i>Dwellings should have a site area of not less than 300 square metres (averaged for three or more dwellings sharing a common access). In the case of hammerhead allotments or allotments incorporating a right of way or shared access for one or two dwellings, the area of the "handle" or right of way is excluded from individual dwelling site areas.</i></p>	<p>The existing and proposed dwellings would have a site area of 573m² and 343m² respectively. The site areas for the dwellings, which exclude the common driveway, satisfy the minimum site area of 300m² that is prescribed by PDC 2.</p> <p>Furthermore, the overall density of the proposed development is compatible with the existing and desired built form characteristics of the locality.</p>
<p>PDC 3</p> <p><i>Development should be primarily accommodated by infill between existing sound and attractive dwellings or replacement of incompatible land uses and unsatisfactory dwellings.</i></p>	The proposal would satisfy PDC 3 as it would involve the construction of an "infill" dwelling to the rear of an existing dwelling that is to be retained. The existing dwelling is a traditional character dwelling that is in sound condition and contributes positively to the existing streetscape.
<p>PDC 5</p> <p><i>Development should provide for attractive front garden landscaping, including the planting of at least one tree per dwelling.</i></p>	<p>The width of the frontage would ensure there is adequate area in front of the existing dwelling and along the driveway for landscaping to soften the built form and driveway paving.</p> <p>A condition of consent has been recommended that will require a detailed landscape plan to be submitted for approval prior to the granting of Development Approval.</p>

Relevant Council Wide Objectives and Principles of Development Control

An assessment has been undertaken against the following Council Wide Provisions:

City-Wide Objectives and Principles of Development Control		
Design and Appearance	Objectives	27, 28
	PDCs	73, 74, 75, 77, 81, 82, 83, 84, 85, 86, 87, 92, 93, 94, 96
Energy Efficiency	Objectives	83
	PDCs	321, 322, 323
Form of Development	Objectives	2, 4, 8, 9
	PDCs	3, 4, 5, 6, 7, 9, 18, 20, 21, 22, 23, 24, 25
Interface Between Land Uses	Objectives	29, 30, 31
	PDCs	97, 98
Residential Development	Objectives	32, 33, 34, 35, 38,
	PDCs	109, 110, 112, 113, 115, 119, 123, 124, 125,

		126, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 146, 148, 149, 150, 152, 153, 154, 155, 156, 157, 158, 159, 161, 162, 163, 164, 176, 177, 178
Public Notification	PDCs	346
Regulated and Significant Trees	Objectives	60, 61
	PDCs	216, 222, 223, 224, 225, 226, 227, 229, 230
Transportation (Movement of People and Goods)	Objectives	14, 15, 16, 17, 18, 19, 20, 21
	PDCs	40, 42, 43, 46, 51, 52, 54, 55, 57, 58, 59, 60, 61

The following table includes the Council-wide provisions that warrant further discussion in regards to the proposed development:

Relevant Council Wide Provisions	Assessment
Residential Development	
PDC 126 - Side and Rear Setbacks	<p>Design Technique 126.1 recommends a minimum setback of one metre from side boundaries for single storey walls and 2 metres for two storey walls up to 6.5 metres in height. Rear setbacks of 3 metres and 6 metres respectively are also required.</p> <p>As identified in the above table (Development Data), the proposal satisfies the side and rear setback requirements to both the ground and upper storey of the proposed dwelling.</p> <p>The siting of the proposed dwelling in relation to the side and rear boundaries would sufficiently minimise any overshadowing or visual intrusion given the modest wall height and flat roof profile.</p>
PDC 125 - Site Coverage and Floor Space Ratio	<p>The overall size and massing of two storey development, PDC 125 and Design Technique 125.1 recommend a maximum site coverage of 50 percent and floor space ratio of 0.7:1. The proposed dwelling would have site coverage of approximately 50 percent and the existing would be retained on a site with coverage of only 42 percent.</p> <p>The proposed dwelling would have a floor space ratio of 0.45:1, which is well within the recommended standard.</p>
PDC 137, 138, 139 & 140 - Private Open Space	<p>The existing and proposed dwellings would be provided with 120m² (21%) and 80m² (23%) of private open space respectively. The layout, orientation and amount of private open space for both dwellings are considered to satisfy the performance criteria outline in the above principles. The proposed development would therefore provide occupants with adequate area for clothes drying, entertaining and other domestic activities.</p>
PDC 142 - Privacy	All upper storey window openings of the proposed dwelling, including the front facing windows are designed with fixed

Relevant Council Wide Provisions	Assessment
	<p>obscure glass to a height of at least 1.7 metres above the floor level. No balconies are proposed.</p> <p>The proposed window treatments are considered adequate in maintaining the privacy of neighbouring properties in accordance with PDC 142 and Design Technique 142.1.</p>
PDC 132 & 133 - Overshadowing	<p>The north to south orientation of the subject land and the modest height and size of the upper storey would ensure that any shadow cast by the proposed dwelling would not be significant.</p> <p>The applicant has provided a series of shadow diagrams for the winter solstice, which demonstrate that the main habitable room windows and yard areas to the rear of the adjoining properties would continue to have adequate access to natural light in accordance with PDC 132 and 133.</p>
Transportation (Movement of People and Goods)	
PDC 152 – Access	<p>The existing vehicle crossover at the eastern end of the frontage will be retained with the driveway widened to provide a 6 metre x 6.5 metre vehicle passing area. This area will allow simultaneous two-way vehicle movements and facilitate the egress of vehicles onto Cross Road in a forward direction.</p> <p>Furthermore, the proposed dwelling at the rear of the site will be provided with a vehicle turn-table to enable resident and visitor vehicles to rotate and egress in a forward direction given there is insufficient turning area in front of the garage. While the provision of a turn-table is not the most practicable turning solution, it would however provide vehicle access that is safe and reasonably convenient.</p> <p>It should be noted that the applicant has not been willing to reduce the rear yard of the existing dwelling to accommodate a larger turning area for the proposed dwelling.</p> <p>Council's Traffic Department is satisfied with the revised access design from a traffic and pedestrian safety perspective. The proposed vehicular and pedestrian access arrangements are therefore considered safe and convenient in accordance with PDC 152.</p>
PDC 148 & 149 – Car Parking	<p>For group dwellings, Design Technique 148.3 requires 1.5 on-site car parking spaces for residents (rounded up) with at least one space to be covered and at least 0.5 spaces for visitors (rounded up).</p> <p>The proposed dwelling at the rear of the site would have two covered spaces within the garage and one space in front of</p>

Relevant Council Wide Provisions	Assessment
	<p>the dwelling for visitors. The proposed car parking provision for this dwelling satisfies PDC 148.</p> <p>An existing carport attached to the side of the existing dwelling will be demolished with new car parking for the dwelling to be in the form of an in-ground car-stacker. The car-stacker will be located in front of the dwelling with access to be gained from the new common driveway. The car-stacker will provide on-site car-parking for two vehicles, and while not the most practicable or cost-effective car parking solution, Council's Traffic Department considers the car-stacking arrangement to be satisfactory.</p> <p>While there is no additional requirement for a visitor space for the existing dwelling, there would be adequate space maintained along the Cross Road frontage for one on-street parking space.</p>
Regulated and Significant Trees	
PDC 222 - 227 - Significant Trees	<p>PDC 223 and 224 seek to ensure that development is "<i>designed and undertaken to retain and protect significant trees</i>", particularly where such trees make an important contribution to the visual character and amenity of the local area or contributes to the habitat value of the area.</p> <p>There is a Significant tree within the rear yard of the subject that is readily visible from neighbouring properties. The proposed two storey dwelling would located in close proximity to the tree.</p> <p>The applicant has provided a Pre-Development Arboricultural Assessment and Report prepared by a qualified arborist, the Adelaide Tree Surgery. The subject tree is a mature Rough Bark Mana Gum that is approximately 16 metres in height and 3.64 metres in trunk circumference when measured at one metre above ground level. The tree is considered to be in good health and makes an important contribution to the visual amenity of the locality.</p> <p>The Adelaide Tree Surgery report has determined the Tree Protection Zone (TPZ) to be 12 metres and estimated the encroachment into the TPZ to be approximately 25 percent. As the encroachment would be greater than 10 percent, it must be demonstrated that the tree would remain viable.</p> <p>The Pre-Development Arboricultural Assessment and Report confirms that the proposed dwelling would be constructed using Tri-link Screw Piles and suspended flooring. Council's independent arborist generally concurs with the recommendations of the report however has requested that additional conditions be included.</p> <p>On the basis that the proposal would include sensitive</p>

Relevant Council Wide Provisions	Assessment
	construction techniques in the form of Tri-link Screw Piles and suspended flooring, and subject to tree protection conditions, the health and longevity of the tree would be adequately protected.

11. CONCLUSION

In summary, the application is not considered to be seriously at variance with the Development Plan and is considered to satisfy the provisions of the Development Plan for the following reasons:

- The proposal would provide infill development at an appropriate density and with sufficient regard for the established pattern and character of development in the locality;
- The design and siting of the proposed dwellings would not adversely impact upon the amenity of neighbouring properties, in terms of visual impact, loss of privacy or access to natural light;
- Vehicular access is safe and convenient and each dwelling would be provided with adequate on-site car parking; and
- The development would be designed to retain and protect the health and longevity of the Significant tree on the land.

12. RECOMMENDATION

MOVED:

SECONDED:

That Development Application 090/699/2016/C2 at 134 Cross Road, Highgate 5063 to demolish an existing outbuilding and carport, alterations to existing dwelling including in-ground car stacker and construction of new two-storey dwelling at rear including garage and verandah is not seriously at variance with the provisions of the City of Unley Development Plan; and the Council Assessment Panel authorises the Team Leader of Planning to issue Development Plan Consent upon the granting of the land division approval, and subject to the following conditions:

DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.
2. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.
3. That the total stormwater volume requirement (detention and retention) for the development herein approved shall be determined in accordance with the volume requirements and discharge rates specified in Table 3.1 and 4.1 in the City of Unley Development and Stormwater Management Fact Sheet dated 15 January 2017. Further details shall be provided to the satisfaction of Council prior to issue of Development Approval.
4. Pedestrian sight lines at the common driveway access point shall be in accordance with AS/NZS2890.1:2004 figure 3.3.

5. The shared driveway and internal manoeuvring areas shall be clear of all obstructions including meters, letterboxes, landscaping and visitor parking.
6. A detailed landscape plan, including a plant species schedule, shall be submitted to Council for the planting of suitable trees, shrubs and ground covers on the site between the front of the existing dwelling and the road frontage and along the common driveway. The landscape plan shall be submitted prior to the issue of Development Approval and the landscaping established prior to occupation of the development and maintained in a healthy condition at all times. Any plantings that die or become seriously diseased must be replaced.
7. That all upper floor windows of the dwelling shall be treated to avoid overlooking prior to occupation by being fitted with either raised sills or fixed obscure glass to a minimum height of 1700mm above the floor level with such glazing to be kept in place at all times.
8. All building works and underground services carried out inside the Structural Root Zone (SRZ) and the Tree Protection Zone (TPZ) of the tree shall be carried out using non-destructive/invasive methods (i.e. Hydro-vac or by hand). These works need to be carried out by a suitably qualified arborist or under supervision of a qualified arborist.

Note: If any major tree roots are discovered inside the Tree Protection Zone the Project Arborist is to be contacted immediately to assess the situation.

9. The following building design measures shall be incorporated into the foundations of the dwelling with details to be provided to Council prior to the issue of Development Approval:
 - A Trilink Screw Pile Foundation System with pilot holes to be excavated to a minimum depth of 600mm below the existing soil grade and no narrower than the full diameter of the screw pile blade.
 - A suspended flooring system that includes:
 - A raised platform made of galvanized steel
 - Weight bearing corners
 - Covered by two layers of overlapping 12mm floor sheets manufactured from 4 hour FRL HD MgSO4 board / Alternatively 1 x 20mm sheet TG HD MgSO4 board may be used
10. There shall be no soil level changes within the Tree Protection Zone with the current soil levels to be maintained at all times.
11. The Significant tree shall be watered regularly throughout the development phase. A suitable irrigation system shall be installed prior to commencement of works. The irrigation system shall be covered with a course layer of organic mulch approximately 50–75mm thick.
12. The area of the Tree Protection Zone of the tree shall be protected during the construction process. Temporary fencing is to be erected around the Tree Protection area during construction. A sign should be placed on the fenced TPZ that states: TREE PROTECTION ZONE-NO ENTRY and the fence location must be maintained as set through-out the development until the completion of all works. The fence location cannot be altered without the expressed permission of the Project Arborist and no materials may be stored within the fenced area and there shall be no disposal of any building waste within the zone.
13. Any landscaping works within the area of the Tree Protection Zone shall not adversely affect the tree. A cellular confinement system or similar shall be employed and all

works within the area of the TPZ shall be undertaken by hand or using non-destructive methods.

14. All vehicles shall enter and exit Cross Road in a forward direction.
15. The shared access shall provide a full 6 metres width at the property boundary, be extended at this width for at least 6 metres within the site and be suitably flared to the kerbline.
16. The 6 metres x 6 metres shared driveway shall remain clear of any impediments (including utility meters, vegetation, fencing, letterboxes or parked vehicles).
17. Clear sightlines, as shown in Figure 3.3 ‘Minimum Sight Lines for Pedestrian Safety’ in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.
18. Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of Cross Road. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant’s expense.

NOTES PERTAINING TO DEVELOPMENT PLAN CONSENT:

- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- That any necessary alterations to existing public infrastructure (stobie poles, lighting, traffic signs and the like) shall be carried out in accordance with any requirements and to the satisfaction of the relevant service providers.
- The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a ‘Notice of Intention’ must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 1300 366 424 or refer to their web site at www.lsc.sa.gov.au.
- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the **applicant**.

List of Attachments		Supplied By:
A	Application Documents	Applicant
B	Representations	Administration
C	Response to Representations	Applicant
D	DPTI Referral Comments	DPTI
E	Traffic Referral Comments	Administration
F	Consultant Arborist Referral Comments	Administration

ITEM 4**DEVELOPMENT APPLICATION – 090/241/2019/C2 – 95-99 KING WILLIAM ROAD,
UNLEY SA 5061 (UNLEY)**

DEVELOPMENT APPLICATION NUMBER:	090/241/2019/C2
ADDRESS:	95-99 King William Road, Unley SA 5061
DATE OF MEETING:	16 July 2019
AUTHOR:	Amy Barratt
DEVELOPMENT PROPOSAL:	Demolish existing buildings, construct two storey building containing two retail tenancies at ground floor and two office tenancies at first floor with associated car parking and landscaping at rear
HERITAGE VALUE:	Nil
DEVELOPMENT PLAN:	19 December 2017
ZONE:	Mixed Use 1
APPLICANT:	Louke Froe Pty Ltd
OWNER:	LOUKE FROE PTY LTD and Foley Homes Pty Ltd and J M Foley Pty Ltd
APPLICATION TYPE:	Merit
PUBLIC NOTIFICATION:	Category 2
REPRESENTATIONS RECEIVED:	YES – (One support)
CAP'S CONSIDERATION IS REQUIRED DUE TO:	Manager's Discretion
RECOMMENDATION:	Approval
KEY PLANNING ISSUES:	Land use Building appearance, siting and scale Amenity and interface Access, traffic and car parking

1. PLANNING BACKGROUND

No relevant Planning Background.

2. DESCRIPTION OF PROPOSAL

The application is seeking to demolish the existing structures on the site and construct a two storey mixed use building comprising four tenancies with associated car parking at the rear. The following is a summary of the proposal:

- Four (4) tenancies consisting of two retail tenancies at ground level and two office tenancies at first floor level. The ground floor retail tenancies have a gross leasable floor area of 259m² and 270m² while the first floor office tenancies are 432m² and 426m² respectively. A central lobby provides access to each tenancy from the street frontage and rear car park;

- The proposed two storey building is of a modern style and form with a maximum height of 7.85 metres (excluding plant and lift overrun). The building is sited adjacent to the road frontage, is setback 3.6 metres from both side boundaries and 3 metres from the rear boundary (excluding the stairwell);
- The proposal includes a total of 40 on-site car parking spaces of which 12 spaces are provided at grade and a further 28 spaces provided within two parking stackers. Nine (9) vertical bicycle parking spaces are also to be provided within the rear car park. All on-site parking spaces are to be shared by the prospective tenants, staff and visitors; and
- Landscaping is to be provided adjacent to the rear boundary.

3. SITE DESCRIPTION

The subject site is located on the eastern side of King William Road between Mary Street and Arthur Street. The site is within the Mixed Use 1 Zone, with the eastern boundary abutting the Residential Streetscape Built Form Zone.

The subject land comprises two contiguous allotments described as:

- Allotment 222, Certificate of Title Volume 5439 Folio 837 (95 King William Road); and
- Allotment 223, Certificate of Title Volume 5821 Folio 871 (97-99 King William Road)

The subject land has a combined frontage to King William Road of 41.35 metres, a depth of 37.80 metres and an overall site area of 1563.03m².

The land is currently occupied by two commercial buildings and a large storage building. The building located at 95 King William Road ('the northern building') is two storeys in height and has vehicle parking at the rear. The building located on 97-99 King William Road ('the southern building') is single storey with additions and vehicle parking at the rear.

There are no regulated or significant trees on the site or on adjoining land that would be affected by the proposed development.

4. LOCALITY PLAN



5. LOCALITY DESCRIPTION

The locality comprises a mix of land uses with a diverse built form character. Existing development along the King William Road corridor includes retail shops, restaurants, consulting rooms and offices. Several buildings on the eastern side of King William Road are two storey while buildings on the western side are typically single storey and of traditional form and style including narrow shop fronts built to the street and converted villas.

While most of the original dwellings have been converted to non-residential uses, there is a group of two storey residential flats to the south of the subject land. Similarly, to the east of King William Road there is a large group of flats and a former church. To the west is an established residential area of high amenity comprising predominantly traditional dwellings on large allotments with some restrictions.

High frequency bus services are provided along King William Road and there is on-street car parking on both sides of the road.

6. STATUTORY REFERRALS

No statutory referrals required.

7. NON-STATUTORY (INTERNAL) REFERRALS

Asset Management

- Sufficient stormwater detention is provided with 2 x 3,500L tanks; and
- The canopy encroachments are supported in principle.

Traffic

- The number of parking spaces provided as part of the development is two less than the minimum required in the Development Plan, which, at three per 100m², is already a significantly reduced rate;
- The car park is generally designed to meet the absolute minimum dimensions in AS2890.1. The 12 ground floor parking spaces are 2.4m in width whereas they should be 2.6m to be appropriate for visitor parking; and
- Sight distance to pedestrians at the exit of the car park does not meet minimum requirements in AS2890.1.

The applicant has responded to the above traffic concerns.

8. PUBLIC NOTIFICATION

Category 2 notification was undertaken in accordance with Table Un/8 of the Unley Development Plan. During the ten (10) business day notification period 1 representation was received as detailed below.

8/87 Mary Street (support)

9. DEVELOPMENT DATA

Site Characteristics	Two storey building	Development Plan Provision
Total Site Area	1563.03m ²	
Frontage	41.35m	
Depth	37.8m	
Building Characteristics		
Floor Area Ground		
Tenancy 1	259m ²	250m ²
Tenancy 2	270m ²	250m ²
Lobby and Facilities	85m ²	
Floor Area Level 1		
Tenancy 1	432m ²	250m ²
Tenancy 2	426m ²	250m ²
Lobby and Facilities	119m ²	
Site Coverage		
Roofed Buildings	1293m ² (82.7%)	
Total Building Height		
From ground level	7.85m to Parapet 8.85m including raised roof section	2 Storey
Setbacks		
Ground Floor		
Front boundary (W)	On boundary (Verandah over footpath)	On boundary
Side boundary (N)	3.6m	Not specified

Side boundary (S)	3.6m	Not specified
Rear boundary (E)	3m 18m to ground floor tenancies	3m (stairs are minor encroachment)
Upper Floor		
Front boundary (W)	4.2m	Not specified
Side boundary (N)	3.6m	Not specified
Side boundary (S)	3.6m	Not specified
Rear boundary (E)	Stairs within 600mm 3m other	3m (stairs are minor encroachment)
Car parking and Access		
On-site Car Parking	40 spaces	42 spaces
Materials		
<ul style="list-style-type: none"> • Aluminium composite panel (charcoal and grey tonal range) • Board formed concrete (natural) • Powdercoated louvre system (black) • External venetian blind system (aluminium grey) • Commercial series aluminium door and window framing (satin black) • Fibre cement sheeting with paint finish (white tonal range) 		

(items in **BOLD** do not satisfy the relevant Principle of Development Control)

10. ASSESSMENT

Zone Desired Character and Principles of Development Control

Mixed Use 1 Objective
<i>Accommodation of primarily small office and consulting room development with a maximum total floor area in the order of 250 square metres per individual building, with primarily small-scale specialty goods outlets and retail showrooms, and small entertainment facilities, to complement the adjacent centre facilities.</i>
Assessment
The subject land is situated within the Mixed Use 1 Zone of Council's Development Plan and is currently occupied by two separate office buildings. The proposal is seeking to replace the existing office buildings with one integrated building comprising both office and retail uses. The building is designed with two retail tenancies at ground level that address the King William Road frontage and two office tenancies at first floor level. The combined gross leasable floor area of the office and retail tenancies is 1387m ² .
Objective 1 of the Mixed Use 1 Zone envisages a range of commercial uses, particularly offices and specialty goods outlets. The proposed office and retail tenancies are therefore supported in principle from a land use perspective. This Objective also seeks to ensure that such development is small-scale, with a size limitation of "250 square metres per individual building".
While there is a preference for small individual buildings within the zone, the proposal to construct one large building comprising multiple tenancies is considered appropriate in this instance given the wide frontage and significant land size. It is noted that the development site is one of the largest within the locality. From a built form and character perspective, the building scale would not overwhelm adjoining properties or the prevailing streetscape as it would be well removed from side and rear boundaries, has a recessive upper storey and front façade that is predominantly glass.
While the floor area of the proposed tenancies would exceed the recommended size of 250m ² , this limitation appears to relate more specifically to the conversion of existing buildings and/or

small development sites rather than new build developments on large sites. In any event, the proposed tenancies are considered small scale and would primarily serve a local catchment, thus not undermining the business function of nearby centres. Although the office tenancies in particular are significantly greater than 250m², their size is not unreasonable as offices are typically less intensive than retail uses and other commercial activities such as consulting rooms.

For these reasons, the proposed development would not entrench an incompatible land use within the locality or undermine the Objective of the Mixed Use 1 Zone as an area for small-scale commercial development. Accordingly, the proposal is considered to be an orderly and appropriate form of development.

Relevant Zone Principles of Development Control	Assessment
PDC 1 – Development should be, primarily, small-scale office and consulting room development, with limited extent of small-scale specialty goods outlets and retail showrooms, and small entertainment facilities such as restaurants.	<p>The predominant land use within the proposed development would be offices in terms of gross leasable floor area. The proposed retail tenancies are smaller and of "limited extent".</p> <p>In terms of the overall scale and land use intensity, the proposed offices with floor areas of 432m² and 426m² respectively are considered small-scale in accordance with PDC 1 of the Mixed Use 1 Zone.</p>
PDC 2 – Shop, office and consulting room development, together or individually, should have a maximum total floor area in the order of 250 square metres per individual building.	<p>Although the floor area of the proposed tenancies would exceed 250m², the intent of this floor area limitation is to facilitate 'small-scale' development so as to complement existing commercial activities along King William Road and not undermine the function of nearby commercial centres.</p> <p>As considered above, the proposed tenancies are modestly sized for such a large site, would provide a suitable mix of retail and office uses and would primarily serve a local catchment.</p> <p>While not strictly satisfying PDC 2, on balance, the size and intensity of the proposed development would sufficiently meet the intent of the Mixed Use 1 Zone.</p>
PDC 3 - Development should not exceed two storeys in height.	<p>The proposed building is of two storey scale with a maximum height of 7.85 metres, excluding roof plant and lift overrun. PDC 3 of the Mixed Use 1 Zone is therefore satisfied.</p>
PDC 4 - Development within the Mixed Use 1 Zone should: (a) provide a transition between the differing character and scale of adjacent residential and centre zones, with small landscaped building set-back areas, and maintenance of the residential appearance of buildings; (b) incorporate	<p>The subject land is located between a single storey building to the north that is setback from the road frontage and a single storey building with a shop front to the south. While both of the adjoining buildings are of a traditional form and style, the buildings are not heritage listed or contributory items.</p>

Relevant Zone Principles of Development Control	Assessment
<p><i>the second-storey of development within pitched roof spaces, particularly within the portions of the zone adjacent to residential areas; (c) locate car parking areas to the rear of buildings or behind screen walls and landscaping, so as not to be readily visible from adjacent public roads; and (d) include office, consulting room and similar development, and not consist entirely of shop development.</i></p>	<p>PDC 3 and 4(a) and (b) provide some guidance for the height, scale and design of buildings within the zone. The proposed building does not exceed two storeys in height in accordance with PDC 3, and while the building would be considerably larger than the adjoining buildings, it is considered to "provide a transition between the differing character and scale of adjacent residential and centre zones".</p> <p>PDC 4(b) considers it desirable for upper storeys to be incorporated within pitched roof spaces particularly when adjacent to a residential area. As the proposed building would have direct frontage to King William Road, which has a commercial character, and would back onto a large conventional group of two residential flats, the design of the upper storey with full height walls under a flat roof is acceptable in this instance. The building bulk of the upper level when viewed from the road would be minimised as it would be setback 4.2 metres behind the front walls of the ground floor.</p>
<p><i>PDC 5 - Development should result in low traffic generation, and direct vehicular access to arterial roads should be limited.</i></p>	<p>The additional traffic generated by the proposed development would not cause any traffic capacity issues along King William Road as the traffic volumes would be well within the capabilities of this major collector road.</p> <p>King William Road is identified in the Development Plan as a major collector road and therefore is not an arterial road.</p>
<p><i>PDC 6 - Vehicle parking should be provided in accordance with the rates set out in Table Un/5 - Off Street Vehicle Parking Requirements or Table Un/5A - Off Street Vehicle Parking Requirements for Designated Areas (whichever applies).</i></p>	<p>The proposal includes a total of 40 on-site car parking spaces of which 12 spaces are provided at grade and a further 28 spaces to be provided within two parking stackers. All on-site parking spaces are to be shared by the prospective tenants, staff and visitors.</p> <p>As the subject land has frontage to a section of road reserve along which a bus service operates as a high frequency public transit service, the site is within a 'Designated Area' for the purposes of a car parking assessment against <i>Table Un/5A - Off Street Vehicle Parking Requirements for Designated Areas</i>. The car parking rate for non-residential development within a Designated Area is a minimum of 3 spaces per 100 square metres of gross leasable floor area. On the basis of</p>

Relevant Zone Principles of Development Control	Assessment
	<p>the development having a total gross leasable floor area of 1387m², there is a theoretical demand for at least 42 car parking spaces.</p> <p>Although the proposal would have a car parking shortfall of two spaces, this car parking deficiency would not be so significant as to detrimentally affect the existing free flow and safety of pedestrian and vehicular traffic on the surrounding road network for the following reasons:</p> <ul style="list-style-type: none"> • The 'existing' development on the site has a more significant shortfall; • One additional on-street space will be made available as a result of the closure of an existing crossover; • Adequate bicycle parking will be provided on-site; and • The development site and locality is well served by public bus routes along King William Road. <p>The application has been reviewed by Council's Traffic Department, and while concerns were originally raised with the car parking shortfall and design of the car park, the applicant has adequately responded to these concerns. Council's Traffic Department is generally satisfied with the proposal in terms of car parking and traffic-related matters.</p> <p>It is considered that the proposal would sufficiently meet the anticipated car parking demand generated during peak periods.</p>

Relevant Council Wide Objectives and Principles of Development Control

An assessment has been undertaken against the following Council Wide Provisions:

City-wide Objectives and Principles of Development Control		
<i>Commercial and Industrial Development</i>	<i>Objectives</i>	1
	<i>PDCs</i>	1, 3, 4
<i>Crime Prevention</i>	<i>Objectives</i>	1
	<i>PDCs</i>	1, 2
<i>Design and Appearance</i>	<i>Objectives</i>	1, 2
	<i>PDCs</i>	1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 23
<i>Form of Development</i>	<i>Objectives</i>	1, 2, 3, 4, 7
	<i>PDCs</i>	1, 2, 3, 4, 12, 13
<i>Interface Between Land Uses</i>	<i>Objectives</i>	1, 2, 3
	<i>PDCs</i>	1, 2, 3, 6, 7

Landscaping	<i>Objectives</i>	1
	<i>PDCs</i>	1, 2
Public Notification	<i>PDCs</i>	1
Transportation (Movement of People and Goods)	<i>Objectives</i>	1, 2, 3, 5, 6, 7, 9, 10, 11, 12, 13
	<i>PDCs</i>	1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33
Waste	<i>Objectives</i>	1, 2
	<i>PDCs</i>	1, 2, 3, 4, 5, 6

The following table includes the Council-wide provisions that warrant further discussion in regards to the proposed development:

Relevant Council Wide Provisions	Assessment
Design and Appearance	
PDC 1, 3 & 16 - Building Design	<p>Council Wide PDC 1 promotes contemporary and innovative building designs provided there is sufficient regard for the desired character of the area. It is noted that the provisions of the Mixed Use 1 Zone do not preclude contemporary building designs.</p> <p>The building design incorporates uncomplicated facades that include formed concrete walls with feature louvres, front cantilevered canopies over the footpath and expansive fenestration beneath a flat roof. The external material palette is clean and robust, with predominantly light and dark tones.</p> <p>While the proposed building has a façade that is wider than most other buildings within the locality, the strong street presence at ground level would provide an interesting and pedestrian friendly environment in accordance with PDC 16.</p> <p>The Council's Asset Management Department has reviewed the location and clearances associated with the canopies and has no objection to the granting of an encroachment permit in the future.</p>
PDC 9 & 10 - Overshadowing and Visual Privacy	<p>Given the two storey scale of the proposed building it is reasonable to expect that some shadow would be cast over the adjacent land to south. As this adjoining property is used for commercial purposes and is built to the side boundary, the amenity impacts would not be significant. The adjoining residential land to the east would be affected by minimal overshadowing with only small amounts of shadow cast over an existing car parking area adjacent to the rear boundary of the subject land. Council Wide PDC 9 would be satisfied.</p> <p>There is a series of upper storey windows on the eastern (rear) elevation of the proposed building. As these windows would face directly onto residential land, the window openings have been designed with raised sills to a height of 1.7 metres above the finished floor level. The raised sills would sufficiently minimise direct views into the neighbouring property as required by Council Wide PDC 10.</p>

Relevant Council Wide Provisions	Assessment
Interface Between Land Uses	
PDC 1 & 2 – Interface and Amenity	<p>The subject land is situated within a predominantly commercial area that interfaces with a Residential Zone to the east. Existing development to the north and south and opposite King William Road to the west consists of non-sensitive land uses.</p> <p>As the site of the proposed development is adjacent to a Residential Zone, Council Wide PDC 1 and 2 seek to ensure that new development is designed and operated in a manner that 'minimises' adverse amenity impacts. While it is anticipated that the proposal would generate more frequent traffic movements, the overall amount of noise and disturbance is not expected to be significant given the small scale and non-invasive nature of the proposed land uses. The retail tenancies would mostly be accessed from King William Road as customers are most likely to seek a short-term park on-street depending on availability. It is also well recognised that offices do not involve noise generating activities and do not produce any odour.</p> <p>Landscaping is to be provided adjacent to the rear boundary as a vegetated screen. A condition of consent has been included, which requires the applicant to provide a more detailed landscaping plan.</p> <p>From an operational perspective, it is reasonable for the retail tenancies to operate on any day (seven days a week) given the existing and desired commercial character along King William Road. A condition of consent has been included that limits the operating hours to between 7.00am to 10.00pm on any day.</p> <p>For the above reasons, it is considered that the proposal would not detrimentally affect the amenity of the locality by way of noise, dust, fumes, traffic or vibration. The proposal therefore satisfies Council Wide PDC 1 and 2.</p>
Transportation (Movement of People and Goods)	
PDC 9 – Bicycle Parking	<p>Table Un/6 prescribes a bicycle parking rate of one space for every 150m² of gross leasable floor area for employees and two spaces plus an additional one space for every 500m² of gross leasable floor area for patrons. Based on these rates, the proposed development would generate a demand for approximately 15 bicycle parks.</p> <p>Nine (9) vertical bicycle parking spaces are to be provided within the rear car park. Although the proposal would be deficient of six parking spaces, there is sufficient space within the building lobby and tenancies should additional parking spaces be required.</p>
PDC 13 - Vehicular Access	<p>The proposal will utilise the existing access points at the northern and southern ends of the road frontage. The</p>

Relevant Council Wide Provisions	Assessment
	<p>northern access will provide single entry-only while the southern access will be exit-only. The existing access between the two existing buildings will be closed and reinstated to kerb and gutter.</p> <p>Council's Traffic Department is satisfied with vehicular access arrangements, which are considered to be safe and convenient. PDC 13 is therefore satisfied.</p>
PDC 21 - Car Parking Design	<p>In terms of the design of the car parking, the applicant's traffic consultant, Cirqa, has confirmed that:</p> <p><i>"the regular parking spaces (not within parking stackers) are 2.45 m wide with an adjacent aisle width of 6.2m wide – this is 0.05m and 0.4m wider than required by the Standard, thereby affording additional manoeuvrability and accessibility to the parking spaces".</i></p> <p>Council's Traffic Department is satisfied with the layout and design dimensions of the proposed car park.</p>
Waste	
PDC 1, 2, 5 & 6 – Waste Management	<p>The applicant has confirmed that Council's standard three-bin waste collection system will be used with bins to be stored within an enclosure at the rear of the site. As such, commercial vehicles will not be required to access the site. Deliveries to the site will be undertaken by regular commercial vans which can be accommodated within the general parking spaces for short periods.</p> <p>The waste storage and collection arrangements are considered satisfactory given the small size and land use nature of the proposed tenancies.</p>

11. CONCLUSION

In summary, the application is not considered to be seriously at variance with the Development Plan and sufficiently satisfies the relevant provisions of the Development Plan for the following reasons:

- The proposal is an orderly and desirable form of development in the context of the site and its locality;
- The proposed tenancies are modestly sized for such a large site, would provide a suitable mix of retail and office uses and would primarily serve a local catchment.
- The proposed building is appropriately designed in a contemporary manner that would contribute positively to the prevailing streetscapes and the character and amenity of the locality;
- The proposal would not significantly impact upon the amenity of nearby residential properties or the locality;

- The scale and operational conditions of the proposed development are such that the capacity and safety of the adjacent road and pedestrian network would not be adversely impacted upon; and
- The proposal incorporates appropriate measures for passive and active surveillance in order to achieve a safe and pleasant public environment.

The application is therefore recommended for Development Plan Consent.

12. RECOMMENDATION

MOVED:

SECONDED:

That Development Application 090/241/2019/C2 at 95-99 King William Road, Unley SA 5061 to demolish existing buildings, construct two storey building containing two retail tenancies at ground floor and two office tenancies at first floor with associated car parking and landscaping at rear is not seriously at variance with the provisions of the City of Unley Development Plan and should be GRANTED Planning Consent subject to the following conditions:

DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.
2. The development herein approved includes works, buildings, structures, areas, or landscaping, or portions thereof, which are located under, on, or over a road, reserve, or other land, owned by a public authority such as the council. Those works, buildings, structures, areas, landscaping, or portions thereof, which are so located must be maintained in a good, safe, and sound condition at all times to the reasonable satisfaction of the public authority which owns that land.
3. The car parking areas shall be developed and maintained in accordance with the approved plans at all times to the reasonable satisfaction of Council.
4. Prior to the issue of full Development Approval, a detailed landscaping plan indicating the species and location of proposed trees and shrubs on the site, shall be submitted to and approved by Council. Once approved, the landscaping must be established prior to the occupation of the development and shall be irrigated, maintained and nurtured at all times with any dead, diseased or dying plants being replaced within the next available growing season and to the reasonable satisfaction of the Council.
4. That all rear upper floor windows on the eastern elevation shall be treated to avoid overlooking prior to occupation by being fitted with either raised sills, permanently fixed non-openable obscure glazed panels or horizontal screens to a minimum height of 1700mm above floor level with such glazing or screens to be kept in place at all times.
5. The hours of operation of the premises shall not exceed 7.00am to 10.00pm on any day.
6. That no goods, materials or equipment associated with the approved development shall be stored outside of the building or designated storage areas.
7. That the approved waste disposal facilities and waste enclosure shall be installed and operative prior to occupation of the development.

8. Waste disposal vehicles and general delivery vehicles only service the development between the hours of 7am and 7pm on any day.
9. The existing vehicle crossover between the two existing buildings that is no longer required for access shall closed and reinstated to kerb and gutter in accordance with Council requirements prior to occupation of the development.

NOTES PERTAINING TO DEVELOPMENT PLAN CONSENT:

- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the **applicant**.
- The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 1300 366 424 or refer to their web site at www.lsc.sa.gov.au.
- That any necessary alterations to existing public infrastructure (stobie poles, lighting, traffic signs and the like) shall be carried out in accordance with any requirements and to the satisfaction of the relevant service providers.

NOTE: The proposed development in whole or in part encroaches upon a public place. No development approval can be obtained, and the development cannot be lawfully undertaken, unless all encroachment/s have been dealt with in a satisfactory manner. In the case of encroachments over a road, an authorisation under Section 221 of the Local Government Act 1999 will be required **and an annual fee payable to Council** in order to deal with the encroachment in a satisfactory manner. In the case of encroachments over other public places owned by the Council, contact the Council for further information.

List of Attachments		Supplied By:
A	Application Documents	Applicant
B	Representations	Administration
C	Internal Referral Comments	Administration

ITEM 5**DEVELOPMENT APPLICATION – 090/108/2018/C2 – 10 & 12 MARION STREET, UNLEY
SA 5061 (PARKSIDE)**

DEVELOPMENT APPLICATION NUMBER:	090/108/2018/C2
ADDRESS:	10 & 12 Marion Street, Unley SA 5061
DATE OF MEETING:	16 July 2019
AUTHOR:	Chelsea Spangler
DEVELOPMENT PROPOSAL:	Demolish existing contributory dwellings and other structures
HERITAGE VALUE:	Contributory
DEVELOPMENT PLAN:	19 December 2017
ZONE:	Residential Historic (Conservation) Zone Policy Area 6 – Spacious Unley and Malvern Trimmer Estate
APPLICANT:	J Meraklis
OWNER:	I Meraklis and D Meraklis
APPLICATION TYPE:	Merit
PUBLIC NOTIFICATION:	Category 2
REPRESENTATIONS RECEIVED:	YES – (1 invalid, 1 withdrawn)
CAP'S CONSIDERATION IS REQUIRED DUE TO:	Manager's Discretion
RECOMMENDATION:	Approval
KEY PLANNING ISSUES:	Demolition of Contributory Items

1. PLANNING BACKGROUND

No relevant Planning Background.

2. DESCRIPTION OF PROPOSAL

The applicant seeks to demolish two contributory dwellings and all other structures located over land at 10 and 12 Marion Street, Unley.

3. SITE DESCRIPTION

The subject site comprises of two allotments, addressed as 10 and 12 Marion Street, Unley. Both of the allotments have primary frontage to Marion street and rear access from Maud Street to the north.

10 Marion Street contains a Bluestone Cottage with rear additions, freestanding shed and a pergola (greenhouse). 12 Marion street contains a sandstone Villa with a lean to addition and a number of freestanding outbuildings. Both of the dwellings front onto Marion Street.

The site contains no regulated trees and is not affected by any easements.

4. LOCALITY PLAN



*It is noted that 1 and 14 Marion Street contain new dwellings and therefore should no longer be classified as Contributory Items however the Development Plan has not been updated to reflect this.

5. LOCALITY DESCRIPTION

Land Use

The predominant land use within the locality is residential.

Land Division/Settlement Pattern

The pattern of settlement is fairly consistent within the locality however it is noted that a number of allotments along the street have been subdivided and a new dwelling has been constructed to front onto Maud Street.

It is noted that Windsor Street (and the Linear Reserve) located to the east of the subject site

provide a natural border between the Residential Historic (Conservation) Zone and the Residential Streetscape (Built Form) Zone, where the pattern of allotments are smaller and more varied.

Dwelling Type / Style and Number of Storeys

Dwellings are predominantly single storey detached dwellings with some two storey additions and semi-detached dwellings also found within the wider area.

6. STATUTORY REFERRALS

No statutory referrals required.

7. NON-STATUTORY (INTERNAL) REFERRALS

The application was referred to Council's Consulting Heritage Architect in March 2018 and the following comments were received:

- *Number 10 is a late 1800s symmetrical cottage, number 12 a turn-of-the-century villa. Both appear to be attractive historic dwellings that contribute positively to an historic streetscape character of relatively high consistency with most dwellings dating from the late 1800s and early 1900s.*
- *The structural reports provide information regarding the “soundness” of the dwellings. The reports demonstrate that both dwellings are “unsound”. Despite this no evidence has been provided that either of the dwellings are “so unsound as to be unreasonably economically rehabilitated”.*
- *I have not seen inside number 10 however most of the photographs relate to the non-original rear lean-to and front and side additions, none of which would be desirable to retain if the place were to be rehabilitated. It would be interesting to know therefore what the condition of the main, original part of the dwelling is like and what prospects there might be for retaining it, demolishing non-original accretions and adding on.*
- *Based on the reports provided, the case for demolition of number 12 appears stronger, despite the relatively good appearance from the street (which I recall from a site visit to the place in 2016). As is the case with number 10 however the condition of non-original elements is of less concern than the original historic part of the dwelling.*
- *It is, after all, the “front and visible sides” of these dwellings and the architectural form and features visible from the public realm that relevant policy is most interested in (Zone PDC 3).*

The application was again referred so that both the Heritage Architect and a Council Building Officer were able to inspect the premises. The following comments were received from the Heritage Architect:

- *It was evident that, in both cases, the cracking had become much worse since the Structural Engineer’s report prepared in November 2017.*
- *Building Officer suggested that the applicant obtain updated reports on each dwelling from the Engineer, which I support.*

Upon receipt of the additional structural report the following comments were provided:

- *The additional structural reports are helpful.*
- *The increased extent and degree of cracking in number 12 is noted. Less change appears to be evident in number 10.*
- *A determination now needs to be made as to whether or not both dwellings are “structurally unsafe” or “so unsound as to be unreasonably economically rehabilitated”.*

- *In relation to the latter, I do not believe that any information regarding the economic aspect of rehabilitation has yet been provided.*

The Council Building Officer, along with inspecting the premises' and providing advice throughout the process, provided the following comments upon review of both the original and the additional Structural Engineers Report:

- *I have read the report from Chris Smith of TMK Consulting Engineers dated 27/11/2017 and also the addendum to the report by Chris Smith of TMK Consulting Engineers dated 3/4/2019.*
- *I also inspected both dwellings on 14/3/2019 and agree with the Engineer that the dwellings are unsound and bordering on unsafe.*

8. PUBLIC NOTIFICATION

Category 2 notification was undertaken in accordance with Table Un/8 of the Unley Development Plan. During the ten (10) business day notification period two (2) representations were received however:

- one representation was deemed invalid as it was not made in accordance with Section 35 of the Development Regulations 2008; and
- the other representation was withdrawn.

9. ADMINISTRATION NEGOTIATIONS

In March 2018, Council issued a request for further information letter that highlighted to the applicant that:

An assessment of the engineering reports submitted in support of demolition of 10 and 12 Marion Street has been undertaken against the City of Unley Development Plan policies. It is considered that the evidence put forward demonstrates that both dwellings are ‘unsound’. However, no evidence has been provided that either of the dwellings are - “so unsound as to be unreasonably economically rehabilitated”, failing to meet the Development Plan test for demolition within the Historic Conservation Area, being:

Demolition - Demolition should only be undertaken in the following circumstances:

(a) demolition of the whole of a contributory item - where the building:

- (i) is structurally unsafe or so unsound as to be unreasonably economically rehabilitated; or***
- (ii) is so compromised or altered that there is no reasonable prospect of its original fabric, and characteristic form and key features being revealed; or***

(b) demolition of portion only of a contributory item – where the portion of the item to be demolished does not involve the essential built form, characteristic elements, detailing and materials of the front or visible sides of the item as viewed from the street or any public place; or

(c) demolition of any other building – where it has no heritage value and does not contribute positively to the desired character.

For Council to consider demolition as the only viable option, further evidence will be needed to demonstrate that the dwellings are not only ‘unsound’, but that it would also be economically unreasonable to rehabilitate the dwellings.

Council met with the applicant and also sent follow up correspondence reaffirming its position

that the case for demolition had not yet been met. Following an inspection undertaken by the Council Heritage Architect and Building Officer, an addendum to the original Structural Engineers report was provided. The report summarised that:

- *Site observations taken some 17 months apart indicate both buildings are continuing to undergo significant, ongoing movement;*
- *Damage and distortion to the buildings (to both the original buildings and their additions), as observed during the most recent site inspection, is significant and is of structural concern. Both buildings, particularly the residence at no. 12 Marion Street, should not be inhabited in their current condition and can be considered to be unsafe and structurally unsound.*
- *This office strongly recommends that all access to the front portion of the residence at no. 12 Marion Street be prohibited, due to the excessive damage that has occurred to the walls and timber flooring (due to termites). The placement of appropriate warning signage is recommended.*
- *It is expected that ongoing soil movement under and surrounding the buildings will result in further building movement and deterioration to both buildings on both sites.*
- *Due to the structural condition of both buildings, this office recommends they both be demolished by a suitably experienced and licenced contractor.*

In consideration of the reports as well as discussions with the Heritage Architect and Building Officer, it is considered that 12 Marion Street was clearly deemed to be structurally unsafe. The circumstances around the structural safety of 10 Marion Street however appears less certain. As such, in June 2019, a further site inspection of 10 Marion Street was carried out by the Manager of Development and Regulatory, Planning Officer, Building Officer as well as the applicant and his consultant engineer. The following are some photos from this inspection:



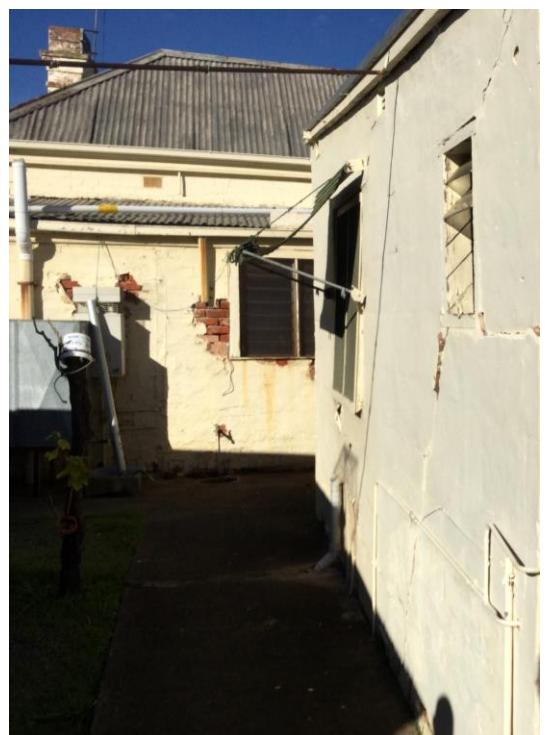
**Front Façade located behind portion of built in verandah*

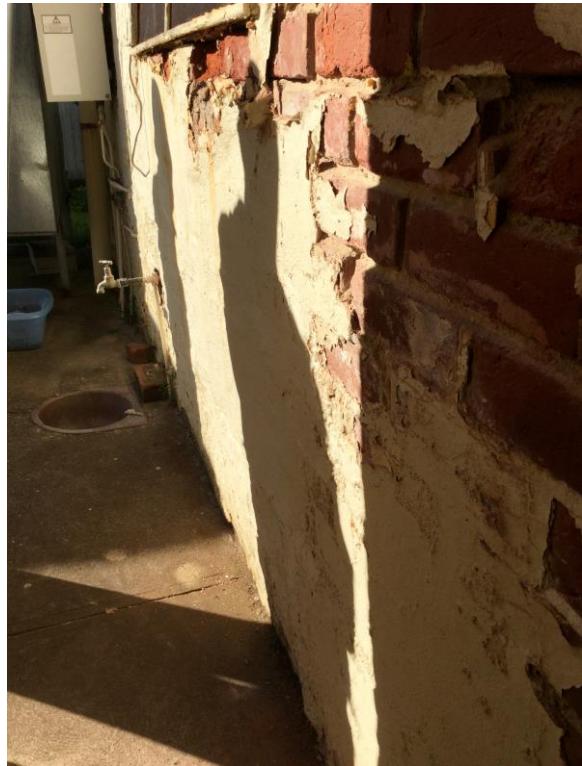


**Inside, above front entry doorway*



**Front room, facing south*





The cracking shown in the photos of the front room were replicated throughout the dwelling in all rooms. These photos were provided as an example only (and were the most accessible to take). It was also observed that several walls were bowing including the eastern external wall.

It is noted that a short inspection of 12 Marion Street was also undertaken.

10. ASSESSMENT

Zone Desired Character and Principles of Development Control

Residential Historic (Conservation) Zone

Objective 1: Conservation and enhancement of the heritage values and desired character described in the respective policy areas, exhibited in the pattern of settlement and streetscapes of largely intact original built fabric.

Objective 2: A residential zone for dwellings primarily in street-fronting format, together with the use of existing buildings and sites used for non-residential purposes for small-scale local businesses and community facilities supporting an appealing, pleasant and convenient living environment.

Objective 3: Retention, conservation and enhancement of contributory items, and the complementary replacement or redevelopment of non-contributory buildings.

Objective 4: Sensitive adaptation of contributory items for alternate, small household, living where offering tangible benefit in the retention and refurbishment of such items.

Desired Character

Heritage Value

The Residential Historic (Conservation) Zone and its 7 policy areas have particular significance to the history of Unley's settlement. These areas tell a story about life in the late 19th and early 20th Century, and of the features and circumstances of the original European communities in Unley. It is for this reason, as well as the appealing and coherent streetscapes of largely intact original building stock, that these areas merit particular attention and protection.

The important defining heritage values and statements of desired character are expressed for each of the zones seven distinctive policy areas. These values stem from the original road layout and settlement patterns. There is a strong consistency and an identifiable pattern in the way buildings, of varying proportions, are sited and massed relative to the site sizes and widths of street frontages.

There is also an identifiable rhythm of spaces between buildings and their street setbacks. Dwellings are of a traditional street-fronting format and adopt a strong street "address" with open front gardens and fencing, and with outbuildings and garaging being a recessive or minor streetscape element.

There is also a consistency in the built fabric itself with characteristic use of building forms, detailing, materials and colours.

Contributory Items

A building making a positive contribution to the heritage value and desired character of the respective policy areas is termed a "contributory item". All contributory items are highly valued and ought not be demolished as this would significantly erode the integrity of the zone. Sensitively designed alterations and additions to a contributory item are appropriate, as are changes removing or making more positive contribution of discordant building features detracting from its contributory value. The adaptation of a contributory item for alternative residential accommodation where this provides for the retention, and ongoing refurbishment, of such items is also appropriate.

Assessment

The streetscape along Marion Street (between Windsor and Duthy Streets) is well regarded, with 20 of the 26 dwellings being of heritage value. This includes the two dwellings addressed as 10 and 12 Marion Street. 10 Marion Street has had some historical additions to the front façade and to the rear. These additions do detract somewhat from the appearance of the dwelling however the form of the character cottage is still overly evident. Presently, the two

dwellings are not occupied however the yards are well maintained.

The applicant proposes to demolish both dwellings on the premise that both of the dwellings are structurally unsafe.

Relevant Zone Principles of Development Control	Assessment
<p>PDC 6 - Demolition</p> <p><i>Demolition should only be undertaken in the following circumstances:</i></p> <p>(a) <i>demolition of the whole of a contributory item - where the building:</i></p> <ul style="list-style-type: none"> <i>(i) is structurally unsafe or so unsound as to be unreasonably economically rehabilitated; or</i> <i>(ii) is so compromised or altered that there is no reasonable prospect of its original fabric, and characteristic form and key features being revealed; or</i> <p>(b) <i>demolition of portion only of a contributory item - where the portion of the item to be demolished does not involve the essential built form, characteristic elements, detailing and materials of the front or visible sides of the item as viewed from the street or any public place; or</i></p> <p>(c) <i>demolition of any other building - where it has no heritage value and does not contribute positively to the desired character.</i></p>	<p>The applicant proposes to demolish the whole of two dwellings that are listed as Contributory Items and therefore assessment against 6(b) and 6(c) is not applicable. Assessment is therefore against Zone PDC 6(a) only.</p> <p>The applicant has submitted two Structural Engineer Reports that detail the structural soundness of each dwelling. The Engineer concludes within these reports that '<i>Both buildings, particularly the residence at no. 12 Marion Street, should not be inhabited in their current condition and can be considered to be unsafe and structurally unsound.</i>'</p> <p>In review of:</p> <ul style="list-style-type: none"> • The applicant's Structural Engineer reports and addendum; • Comments and advice provided by the Council Heritage Architect and Building Officer; • Evidence submitted in terms of photos and anecdotes; • Site Inspections; and • Desktop review of historical photos and Google Streetview data. <p>It is considered that the two dwellings are first and foremost structurally unsafe, and are not fit for human habitation. Number 12 Marion is of such a state that its demolition should be attended to without delay.</p> <p>In regards to the safety risk of the dwellings and Council's obligations in terms of issuing an emergency works Order, it was advised that 'as the dwellings were not occupied and they have no intention to occupy, they did not pose an immediate threat to life safety'.</p>

Policy Area Desired Character

Policy Area 6 – Spacious Unley and Malvern Trimmer Estate	
Desired Character	
<u>Heritage Value</u> <i>An important appreciation of the heritage value is formed by the comprehensive subdivision by Trimmer (and Grainger) during 1881-1884 of the area originally known as 'New Parkside', 'Malvern' and 'Malvern Extension'. This subdivision demonstrates the extensive growth of Unley as a suburban area in the late 19th Century.</i>	
<u>Desired Character</u> <i>The spacious streetscape character is founded on wide, tree-lined streets, grid street layout (with axial views focussed on the central oval feature in 'New Parkside') and generous front gardens. Intrinsic to the area is an extensive, intact collection of contributory items including distinctive Victorian and Turn-of-the-Century villas (asymmetrical and symmetrical), double-fronted cottages and limited complementary, Inter-war era, styles. More affluent, original owners developed some larger, amalgamated allotments in the southern areas establishing grander residences and gardens.</i>	
<u>Development will:</u> <ul style="list-style-type: none">(a) conserve contributory items, in particular symmetrical and asymmetrical villas of Victorian and Turn-of-the-Century era and double-fronted cottages; and(b) be of a street-fronting dwelling format, primarily detached dwellings; and(c) maintain or enhance the predominant streetscapes and regular road and allotment patterns with:<ul style="list-style-type: none">i. dwelling sites typically of 15 metres in street frontages and with site areas ofii. 750 square metres; andiii. front set backs of some 7 metres; andiv. side setbacks of between 1 metre and 3 metres so as to maintain a total spacing between neighbouring dwelling walls, of some 4 metres; and(d) maintain and respect important features of architectural styles of contributory items having typically:<ul style="list-style-type: none">i. building wall heights in the order of 3.6 metres; andii. total roof heights in the order of 5.6 metres or 6.5 metres; andiii. roof pitches in the order of 27 degrees and 35 degrees.	
Assessment It is appreciated that 10 Marion Street contains a Contributory 'Bluestone' Cottage and 12 Marion Street contains a Contributory turn-of-the-century Villa. Both of these architectural styles are common throughout Policy Area 6 and as such are described within the Desired Character Statement above. The applicant proposes to demolish the two dwellings as they are structurally unsafe and unsound. No changes are proposed to the original allotment shape and size. These allotments are of such a size that new dwellings will be capable of being designed so that they satisfy the requirements of the Residential Historic (Conservation) Zone and more specifically Policy Area 6.	

11. DISCUSSION

Firstly, it is noted that it has been consistently stated throughout the assessment of the application that 12 Marion Street shows greater signs of deterioration despite undergoing renovations within the last ten years, than that of 10 Marion Street. It is noted that the difference in deterioration between the two dwellings may be explained for a number of reasons, including:

- There is a large Peppercorn street tree located to the front of 14 Marion Street that has roots extending into the front yard 12 Marion Street;
- 14 Marion Street and 15 Maud Street contain dwellings that were constructed circa 2012;
- There also used to be mature vegetation growing near the eastern common boundary of 14 Marion Street that was removed to make way for the new dwellings (see Aerial Image below)



*2011 Aerial Imagery

The structural safety risk of 10 Marion Street has been less certain than that of 12 Marion Street. Particularly, in that most of the concerns have been raised with the rear addition and with not so much the original Cottage. Both the Structural Engineer and the Council Building Officer however have taken the view that their assessment has been applied to the whole building. This is also reflected in Zone PDC 6 (a) which states that '*demolition of the whole of a contributory item – where the building is structurally unsafe*'.

It is clear that 10 Marion Street is unsound. However, it has not been sufficiently demonstrated that it is 'so unsound as to be unreasonably economically rehabilitated'. During the site inspection for 10 Marion Street, it was advised by the applicant's engineer that because no information has been supplied by a quantity surveyor, that to rehabilitate 10 Marion Street it needs to be considered that:

- It is highly likely that the cottage has Bluestone footings (as opposed to the conventional concrete footings) whose loose stones which need to be removed to support the building properly;
- Underpinning will need to occur every 1m-1.5m and connect beam to beam to fully support all external walls;
- Due to the extensive damage to the rear addition, it will have to be demolished and this contains the only wet areas for the dwelling. These will therefore need to be completely rebuilt in order to make the dwelling habitable;
- The front verandah will need to be removed to underpin the front of the dwelling;
- The box gutter, located in the centre of the well roof, may be leaking;
- There is salt damp throughout the dwelling;

- There is currently no damp course;
- The numerous cracked and damaged surfaces (including those with termite infestation) will need to be fixed/ replaced; and
- The floors will need to be relevelled.

Based on the advice of the applicant's engineer, Council Building Surveyor and observations during the site inspection, it is considered that the dwelling is structurally unsafe.

12. CONCLUSION

In summary, the application is not considered to be seriously at variance with the Development Plan and is considered to satisfy the provisions of the Development Plan for the following reasons:

- 12 Marion Street is deemed to be structurally unsafe in accordance with Zone PDC 6 (a);
- 10 Marion Street is deemed to be structurally unsafe in accordance with Zone PDC 6 (a).

The application is therefore recommended for Development Plan CONSENT.

13. RECOMMENDATION

MOVED:

SECONDED:

That Development Application 090/108/2018/C2 at 10 & 12 Marion Street, Unley SA 5061 to 'Demolish existing contributory dwellings and other structures', is not seriously at variance with the provisions of the City of Unley Development Plan and should be GRANTED Planning Consent subject to the following conditions:

DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.

NOTES PERTAINING TO DEVELOPMENT PLAN CONSENT:

- That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the applicant.
- It may be necessary to undertake a dilapidation report from a qualified structural engineer to ensure that buildings located on adjacent properties are protected during any demolition and construction works.

List of Attachments	Supplied By:
A Application Documents	Applicant

ITEM 6**DEVELOPMENT APPLICATION – 090/95/2019/C1 – 5 GRAHAM AVENUE, MILLSWOOD 5034 (CLARENCE PARK)**

DEVELOPMENT APPLICATION NUMBER:	090/95/2019/C1
ADDRESS:	5 Graham Avenue, Millswood 5034
DATE OF MEETING:	16 July 2019
AUTHOR:	Amy Barratt
DEVELOPMENT PROPOSAL:	Remove significant tree - Eucalyptus camaldulensis (River Red Gum)
DEVELOPMENT PLAN:	19 December 2017
ZONE:	CONSERVATION ZONE AREA 4
APPLICANT:	Herman Reginald Mohr and Julie Francis Mohr
OWNER:	Herman Reginald Mohr and Julie Francis Mohr
APPLICATION TYPE:	Merit
PUBLIC NOTIFICATION:	Category 1
REPRESENTATIONS RECEIVED:	NO
CAP'S CONSIDERATION IS REQUIRED DUE TO:	Proposed removal of Significant Tree AND Council expert advice in support of the removal has not been received.
RECOMMENDATION	Approval

1. PLANNING BACKGROUND

At lodgement, the subject application was accompanied by an Arborist Report prepared by David Mably of Arborcare Tree and Garden Solutions.

The application was referred to Councils Arboricultural Department who engaged Shane Selway of Adelaide Arb Consultants to provide advice pertaining to the tree.

It is confirmed from both of the arboricultural assessments that the tree does not display any health issues that would warrant its removal subject to its classification as a Significant tree. The applicant was advised that based on the arboricultural evidence provided, Administration were unable to support the removal of the tree.

In May, the applicant provided an Engineers report prepared by Nick Scott of NGS Engineers Pty Ltd. Councils Building Department agree with the findings of the Engineers report.

2. DESCRIPTION OF PROPOSAL

The applicant seeks the removal of a Significant *Eucalyptus camaldulensis* – River Red Gum located on the land of 5 Graham Avenue Millswood.

3. SITE DESCRIPTION

The subject site is located on the eastern side of Graham Avenue, between Fairfax Avenue (north) and Cromer Parade (south).

The site is located within the Residential Historic Conservation Zone and is currently occupied

by a single storey detached dwelling (Bungalow). The subject site has two existing vehicle access points, adjacent the northern boundary, and adjacent the southern boundary.

A carport is located alongside the dwelling on the southern side (in close proximity of the subject tree).

The subject tree is located within the south-western corner of the allotment (front yard) and is approximately 3 metres from the front fence and within 3 metres of the existing carport and driveway.

A large *Angophora costata* (Smooth Apple Myrtle) is also located within the front yard of the subject land however is not deemed to be Regulated pursuant to the Development Act.

4. LOCALITY PLAN



Subject Site

5. PUBLIC NOTIFICATION

No notification was undertaken in accordance with Schedule 9(13) of the *Development Regulations 2008* as the application is assigned Category 1.

7. ARBORICULTURAL ASSESSMENT

Eucalyptus camaldulensis – River Red Gum

- Approximately 18 metres in height
- <10 years useful life expectancy
- Circumference of 3.64m

- Structural root zone of 3.75 metres as a radius from the centre of the trunk at ground level
- Tree Protection Zone of 13.08 metres as a radius from the centre of the trunk at ground level
- Tree health is fair to good
- Tree structure is good
- Good pruning options are notable throughout the structure to enable continued crown management and tree risk mitigation

8. DEVELOPMENT PLAN ASSESSMENT

Council Wide Objective 3 - Significant Trees

The preservation of significant trees in The City of Unley which provide important aesthetic and environmental benefit.

Trees are a highly valued part of the Metropolitan Adelaide and Unley environment and are important for a number of reasons including high aesthetic value, preservation of biodiversity, provision of habitat for fauna, and preservation of original and remnant vegetation.

While indiscriminate and inappropriate significant tree removal should be generally prevented, the preservation of significant trees should occur in balance with achieving appropriate development.

SIGNIFICANT TREES

Other provisions within the City of Unley Development Plan relating to the assessment of Significant Trees include Principles of Development Control 4, 5, 6, 7, 8, 9, 10, 11, and 12. The planning assessment against the relevant principles is detailed in the table below:

Principles of Development Control		Administration Comments
6 <i>Where a significant tree or significant tree grouping:</i>		
(a)	<i>makes an important contribution to the character or amenity of the local area; or</i>	Yes. A number of large notable trees are found within the immediate locality. The subject tree is a tall specimen with a large healthy canopy. It is located within the front yard of the site, a prominent location. It is considered that the subject tree provides an important contribution to the character and amenity of the local area.
(b)	<i>forms a notable visual element to the landscape of the local area; or</i>	Yes. As described above, the subject tree forms a notable visual element to the landscape of the local area.
(c)	<i>Contributes to habitat value of an area individually, or provides links to other vegetation which forms a wildlife corridor.</i>	Yes. The subject species is indigenous to botanical regions of South Australia and therefore its contribution to habitat applies to native birds and insects, however no nesting sites within the crown or links to wildlife corridors are noted.
	<i>Development should be designed and undertaken to retain and protect such significant trees and to preserve these elements</i>	

The tree is considered to satisfy PDC 6 as a tree worthy of retention as it is considered to make an important contribution to the character and amenity of the locality as well as forming a notable visual element to the landscape of the local area. Therefore an assessment against

PDC 8 has been undertaken, as detailed below.

Principles of Development Control		Administration Comments
8	<i>Significant trees should be preserved and tree-damaging activity should not be undertaken unless:</i>	
(a)	<i>In the case of tree removal:</i>	
(i)	<i>The tree is diseased and its life expectancy is short; or</i>	No. The tree is in good health and does not have a short life expectancy.
(ii)	<i>The tree represents an unacceptable risk to public or private safety; or</i>	No. The arboricultural advice indicates that some maintenance pruning may be required for long term management however, currently the tree does not represent an unacceptable risk to public or private safety.
(iii)	<i>The tree is shown to be causing or threatening to cause substantial damage to a substantial building or structure of value and all other reasonable remedial treatments and measures have been demonstrated to be ineffective; or</i>	<p>The existing dwelling is a substantial building and structure of value. As such, the following assessment needs to be made;</p> <ul style="list-style-type: none"> a) whether the damage to the dwelling is "substantial"; b) whether the tree is the cause of the damage (or threatens to cause damage); and c) whether remedial treatments and measures have been demonstrated to be ineffective. <p>The accompanying engineers report identifies 'cracking in the house walls' of up to 12 mm (in the external masonry front wall nearest the subject tree).</p> <p>Crack width is the main factor by which damage to walls is categorised by the relevant Australian Standard (AS 2870-2011). In assessing the degree of damage, account shall be taken of the location of the building or structure where it occurs, and also of the foundation of the building or structure. Cracking up to 15mm is placed within a damage category of 3 (moderate)¹. Administration considers Category 3 cracking as substantial damage to the dwelling.</p> <p>The accompanying documentation identifies the subject tree (and adjoining non-regulated tree) to be causing damage to the subject dwelling. This conclusion is based on the proximity of the subject tree to the house, the high-water requirements of the River Red</p>

¹ The highest damage category of 4 (severe) is awarded to crack widths of 15 mm to 25 mm (depending on the number of cracks)

	<p>Gum species, the likelihood of the soil suction gradient extending beneath the dwelling, pattern of cracking, and the existing soil profile. Council's Building Officer concurs with this finding.</p> <p>The accompanying engineers report does not explore potential remedial treatments and measures. However, it is acknowledged that the dwelling has already undergone two attempts of underpinning, and that root barriers are not a recommended measure as it may incur tree damaging activity.</p> <p>It is commonly viewed that re-hydrating the soil requires a regime of monitoring that is onerous and unreasonable without any guarantee of it being successful. Further, 'underpinning necessary to achieve stability is cost prohibitive and unreasonably disruptive to household needs and functions'².</p>	
(iv)	<p><i>It is demonstrated that reasonable alternative development options and design solutions in accord with Council-wide, Zone and Area provisions have been considered to minimise inappropriate tree-damaging activity occurring.</i></p>	n/a

9. DISCUSSION

Trees are a highly valued part of the City of Unley environment and the Development Plan seeks the preservation of trees that provide important aesthetic value or habitat value.

While indiscriminate and inappropriate Significant tree removal should be generally prevent, the preservation of Significant trees should occur in balance with achieving appropriate development.

Having regard to the Relevant Council Wide PDC 8 above, the subject tree is of good health and vigour and has not been described as being a risk to private or public safety. Administration are satisfied that the tree is causing substantial damage to a substantial structure of value and that remedial treatments already undertaken, and potential measures, are likely to be ineffective.

It is acknowledged that the existing damage could worsen as the tree continues to grow and the moisture requirement increases.

10. CONCLUSION

In summary, the application is not considered to be seriously at variance with the Development Plan and is considered to satisfy the provisions of the Development Plan for the following reasons:

² Quoted from the Judgement of Commissioner Mosel Thompson v City of Unley (2008) SAERDC 62

- the subject tree is causing substantial damage to a substantial structure of value and reasonable remedial treatments and measures have been demonstrated to be ineffective

The application is therefore recommended for Development Plan CONSENT.

11. RECOMMENDATION

MOVED:

SECONDED:

That Development Application 090/95/2019/C1 at 5 Graham Avenue, Millswood 5034 to 'Remove significant tree - Eucalyptus camaldulensis (River Red Gum)', is not seriously at variance with the provisions of the City of Unley Development Plan and should be GRANTED Planning Consent subject to the following conditions:

DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:

1. That the removal of the subject significant tree (Eucalyptus camaldulensis 'River Red Gum') shall take place in accordance with the documents and details accompanying the application to the satisfaction of Council except where varied by conditions below (if any).
2. Payment of \$268.50 for Significant Tree removal is required to be paid into the Council's Urban Trees Fund within 30 days of the date of the development approval (an invoice will be attached to the development approval).

List of Attachments		Supplied By:
A	Application Documents	Applicant
B	Council Arborist Referral Comments	Administration

DECISION REPORT

REPORT TITLE: CONFIDENTIAL MOTION FOR ITEM 8 - PLANNING APPEAL – ERD COURT ACTION NO ERD-19-99 – 4
Fourth Avenue Everard Park (090/684/2018/C2)

ITEM NUMBER: 7

DATE OF MEETING: 16 July 2019

AUTHOR: ANDREW RAEURN
ACTING TEAM LEADER

RESPONSIBLE OFFICER: MEGAN BERGHUIS
GENERAL MANAGER COMMUNITY

COMMUNITY GOAL: GOE/2 Generate an approach to all Council operations which maintains the principles of good governance such as public accountability, transparency, integrity, leadership, co-operation with other levels of Government and social equity.

PURPOSE

To recommend that Item 8 be consider in confidence at 16 July 2019 Council Assessment Panel Meeting

RECOMMENDATION

MOVED: SECONDED:

That:

1. The report be received.
2. Pursuant to Regulation 13(2) (a) (ix) of the Planning, Development and Infrastructure (General) Regulations 2017, as amended, the Council Assessment Panel orders the public be excluded with the exception of the following:
 - Megan Berghuis, General Manager Community
 - Paul Weymouth, Manager Development and Regulatory
 - Andrew Raeburn, Acting Team Leader Planning
 - Amy Barratt, Acting Senior Planning Officer
 - Lily Francis, Development Administration Officer

on the basis that considerations at the meeting should be conducted in a place open to the public has been outweighed on the basis that the information relating to actual litigation or litigation that the Panel believes on reasonable grounds will take place.