

**CITY OF UNLEY**

**COUNCIL ASSESSMENT PANEL**

Dear Member

I write to advise of the Council Assessment Panel Meeting to be held on Tuesday 18 December 2018 at **6:00pm** in the Unley Council Chambers, 181 Unley Road Unley.

**Paul Weymouth**  
**ASSESSMENT MANAGER**

**Dated 10/12/2018**

**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:** Mr Brenton Burman (Presiding Member)  
Ms Nicole Dent  
Mr Roger Freeman  
Mrs Ann Nelson  
Mrs Jennie Boisvert

**APOLOGIES:**

**CONFLICT OF INTEREST:**

**CONFIRMATION OF MINUTES:**

MOVED:

SECONDED:

That the Minutes of the City of Unley Council Assessment Panel meeting held on Tuesday, 11 December 2018 as printed and circulated, be taken as read and signed as a correct record.

**CITY OF UNLEY**  
**COUNCIL ASSESSMENT PANEL**

**18 December 2018**

**A G E N D A**

Apologies  
Conflict of Interest  
Confirmation

Item No	Development Application	Page
1.	<u>21-23 Edmund Avenue Unley – Construction of integrated service station complex with associated fencing, landscaping, carparking and illuminated signage (including one 6m high pylon sign) and the removal of two (2) street trees along Duthy Street</u>	3-31
2.	<u>21-23 Edmund Avenue Unley – Change of use from service station and motor repair workshop to office and restaurant (including takeaway) and associated car parking</u>	32-56

Any Other Business  
Matters for Council's consideration

**ITEM 1****DEVELOPMENT APPLICATION – 090/51/2018/C3 – 21-23 EDMUND AVENUE, UNLEY SA 5061 (UNLEY)**

<b>DEVELOPMENT APPLICATION NUMBER:</b>	090/51/2018/C3
<b>ADDRESS:</b>	21-23 Edmund Avenue, Unley SA 5061
<b>DATE OF MEETING:</b>	19 December 2018
<b>AUTHOR:</b>	Matthew King (Consultant Planner)
<b>DEVELOPMENT PROPOSAL:</b>	Construction of an integrated service station complex with associated fencing, landscaping, carparking and illuminated signage (including one 6m high pylon sign) and the removal of two (2) street trees along Duthy Street
<b>HERITAGE VALUE:</b>	21 Edmund Ave – Non Contributory 23 Edmund Ave - Contributory (has demolition approval)
<b>DEVELOPMENT PLAN:</b>	Consolidated 19 December 2017
<b>ZONE:</b>	Residential Historic (Conservation) Zone Policy Area 6 – Spacious Unley and Malvern Trimmer Estate
<b>APPLICANT:</b>	Fitzsimons Group of Companies C/- Future Urban Group
<b>APPLICATION TYPE:</b>	Merit
<b>PUBLIC NOTIFICATION:</b>	Category 3
<b>REPRESENTATIONS RECEIVED:</b>	YES – 126 (122 oppose + 4 support)
<b>CAP'S CONSIDERATION IS REQUIRED DUE TO:</b>	Unresolved representations Recommendation for refusal Cat 3 where a representor wishes to be heard
<b>RECOMMENDATION:</b>	Refusal
<b>KEY PLANNING ISSUES:</b>	Land Use Character Interface Impact to residential amenity

## **1. PLANNING BACKGROUND**

The subject property at 21 Edmund Avenue has been historically used as a petrol filling station and motor repair station. The subject property at 23 Edmund Avenue has been historically used as a dwelling.

The dwelling at 23 Edmund Avenue has been purported by the applicant to have been used as a non-residential use however if accurate, this was operating without Development Approval. Council records indicate that the site at 23 Edmund Avenue is a residential site. The applicant has not been able to provide any clear evidence to suggest otherwise.

The demolition of the buildings and structures on both properties were dealt with under separate development applications of which are described as follows:

090/360/2016/C1 – Development Approval was granted for the removal of the underground fuel storage, canopy, fuel pumps and office

090/527/2017/C2 – Development Approval was granted for the demolition of the Contributory Item

090/869/2017/C1 – Development Approval was granted for the demolition of the workshop and verandah

To date, these approvals have yet to be enacted.

It is noted that the following applications are currently also under assessment for the subject site:

090/731/2018/C3 - Change of use from service station and motor repair workshop to office and restaurant (including takeaway) and associated car parking. This application is also on the meeting agenda and is to be decided following this application.

090/859/2018/C2 – Construct a single storey detached dwelling and garage on common boundaries, erect verandahs and fencing (including a new front fence). This application relates to 23 Edmund Avenue only.

## **2. DESCRIPTION OF PROPOSAL**

The proposal seeks construction of an integrated service station facility comprising the following elements:

- 123.23 square metre control building
- Fuel canopy with fuel filling points (8 in total via 4 dispensers)
- Underground fuel and LPG tanks
- A 6-metre-high internally illuminated pylon sign
- 2 x back lit company logo signs attached to the canopy with same attached to the front of the control building
- Associated car parking 7 (including 1 disabled access space) and landscaping

As a result, the proposal seeks to change the use of both properties to an integrated service station in the manner described above. The service station is proposed to operate 6:00am to 9:00pm 7 days per week.

The proposal plans suggest the service station will be operated by “Liberty”.

### **3. SITE DESCRIPTION**

The subject land comprises two allotments, those being 21 and 23 Edmund Avenue legally described as:

- Allotment 96 in Filed Plan 214 679, and
- Allotment 93 in Filed Plan 215 761.

Collectively, those two properties form the land the subject of this development and together provide a 30.48 metre frontage to Edmund Avenue and a 48.76 metre frontage to Duthy Street. Overall, the area of the land is 1,486.2 square metres.

The land presently comprises:

- A96 - a former petrol filling station and motor repair station
- A93 - A Victorian villa formerly used as a dwelling but which is now vacant



**Former petrol filling station and motor repair station. Photograph taken from opposite side of Duthy Street looking south-west.**



**Former petrol filling station and motor repair station. Photograph taken from opposite side of Duthy Street looking west.**



**Existing dwelling at 23 Edmund Avenue.**



#### 4. LOCALITY PLAN



#### 5. LOCALITY DESCRIPTION

##### Land Use

The predominant land use within the locality is residential. Non-residential development is evident in the form of the group of shops to the south-east of the land. That group of shops are listed as a Local Heritage Place.



**The above image shows the predominant uses in the locality are residential (pink) whereas existing non-residential uses are limited (blue)**

### **Land Division/Settlement Pattern**

Allotments in the locality are predominantly rectangular in shape with frontages typically 15 metres wide, with the overall area of allotments being approximately 700m<sup>2</sup>.

### **Dwelling Type / Style and Number of Storeys**

Dwellings are typically detached, Victorian and Turn of the Century villas and single storey in height.

### **Fencing Styles**

Fencing styles are highly varied with a mix of steel "Colorbond", picket, rendered masonry and palisade (with stone/brick pillar and plinth), brush and crimp wire (in a variety of heights) all evident.



## **6. STATUTORY REFERRALS**

Statutory referrals were undertaken to:

- Environment Protection Authority (EPA).

The EPA requested further information from the applicant regarding the appropriate managing of odour and stormwater/spill management, and also requested that a Construction Environmental Management Plan (CEMP) be provided.

The applicant decided to amend the plans by reducing the capacity of the fuel tank such that there was no longer a need to formally consult the EPA on the matter.

## **7. NON-STATUTORY (INTERNAL) REFERRALS**

Non-statutory (internal) referrals were undertaken to:

- Council's Heritage Architect.
- Council's Traffic and Transport Section.
- Council's Arborist.

### ***Heritage Architect Comments***

Summary based on conclusion:

- The building and structures are inconsistent with a range of Council's development plan (policies) that relate to things like built form, scale and appearance and inconsistent with prevailing character. The relatively large expanse of hard surfaces is also inconsistent with the prevailing character.
- It is acknowledged the streetscape character of Duthy Street is predominantly commercial in nature. Furthermore, there are a variety of building types and styles of Duthy Street in the locality of the subject site. Nevertheless, most are built at or near the front boundary and are of reasonably consistent scale and form.
- The streetscape character of Edmund Avenue is more consistent, and, despite one or two compromised contributory items, the prevailing character is derived from a predominance of Victorian and Turn of the Century villas and cottages of reasonably consistent form, scale and appearance.
- There is, therefore, a fundamental tension between the way in which practical aspects of service station operation influence the built form and scale of the service station buildings and structures and the aim of development plan policy that seeks new buildings that have similarities in scale and form with prevailing historic built form and character.
- The process of balancing existing use rights against shortfalls with relevant policy is not part of my remit. It is acknowledged however that efforts have been made to ameliorate differences between the proposed development and prevailing character. The scale of the proposed service station is relatively modest in terms of its use. The control building is of a height that is not dissimilar to that of the eaves height of historic buildings nearby. Despite this, the large canopy element is inconsistent with the scale of buildings and of a form that is a foreign element to

prevailing character. The substantial setback from Edmund Avenue assists in maintaining the streetscape prominence of historic dwellings near the subject site. A materials palette that appears to take some reference from historic buildings nearby is a positive aspect of the design (although samples would be helpful).

- There is an aspect of the proposed development that has not yet been addressed and should be. There is a fall down Edmund Avenue and across the subject site towards the west. How this is dealt with requires resolution and will influence how the proposed building relates to historic dwellings in Edmund Avenue including the adjacent dwelling to the west. I therefore recommend requesting a full site survey, drawings showing existing and proposed levels and streetscape elevations of both Duthy Street and Edmund Avenue showing how the proposed building relates to the streetscape.

### ***Traffic and Transport Comments***

Summary based on conclusion:

- Off-street parking does not meet the requirements of the Development Plan but is considered sufficient.
- Modifications to the crossovers result in one parking space lost on Duthy Street, and one space gained on Edmund Avenue, resulting in no net change in parking supply.
- A No Entry sign has not been provided at the southern access to the development (facing towards the service station).
- PWA comments suggest that the applicant agrees to modify pavement bares where necessary, however these modifications are not reflected on the plans provided.
- The northern access on Duthy Street is located within 6m (5.6m) of the tangent point of the Edmund Avenue/Duthy Street intersection, which is a prohibited driveway location in AS2890.1.
- The traffic volume on Edmund Avenue may increase by 91-223 vehicles, however if this is at the lower end of this range as expected, it would not have a significant impact on residential amenity.
- The SIDRA model suggests that the increased travel time along Duthy Street caused by the development at 1.1 vehicles and 1.4 vehicles n the AM and PM peak respectively is not significant.
- PWA demonstrate fuel deliveries using the 12-pump layout but not the updated 8 pump layout, which despite additional aisle width between pumps, may present greater difficulty. Updated turning profiles should be prepared.
- The applicant has demonstrated that the electronic sign would satisfy the relevant requirements in the Road Safety Checklist – Additional for Electronic Signs and 'All Advertising Signs' checklist provided in DPTI's Advertising Signs Assessment Guideline's for Road Safety.

### **City Arborist Comments**

- The landscaping plans and planting schedule within the site are appropriate when considering the use of the land.
- It is recommended that a single *Jacaranda mimosifolia*, Brazilian Rosewood be planted within the north-eastern garden bed on the corner of Duthy Street and Edmund Avenue.
- The retention of the single *Jacaranda mimosifolia*, Brazilian Rosewood on Edmund Avenue is desirable. A distance of 2.5m from the proposed crossover is recommended.
- The two trees sought to be removed on Duthy Street are only supported on the basis that the applicant agrees to pay Council \$8967.40+GST to compensate council for the loss of amenity and to contribute towards the cost of two replacement trees.

### **8. PUBLIC NOTIFICATION**

Category 3 notification was undertaken in accordance with the Unley Development Plan. During the ten (10) business day notification period the following numbers of representations were received:

- 60 representors who oppose the subject development and wish to be heard at the CAP meeting
- 62 representors who oppose the subject development and do not wish to be heard at the CAP meeting
- 1 representor who supports the subject development and wishes to be heard at the CAP meeting
- 3 representors who support the subject development and do not wish to be heard at the CAP meeting

A total of 122 representations were received that oppose the subject development. The concerns of these representors have been categorised into six (6) key areas as detailed below.

<b>Summary of Issues Raised</b>	<b>APPLICANTS RESPONSE</b>
Land Use Concerns include: <ul style="list-style-type: none"><li>• Intensification of existing use</li><li>• Inappropriate use for a 'Residential' Zone</li><li>• 'Non-complying' use</li><li>• Over development of site</li><li>• No 'need' for land use</li><li>• Industrial/contaminating type of land use</li></ul>	<p>Whilst comprising of two (2) allotments, Council's records show that historically 21-23 Edmund Avenue has been rated as one with the same land use classification over both allotments. Local knowledge confirms that 23 Edmund Ave was, in addition to a residence, used as offices in association with 21 Edmund Ave. Further, the recent application for demolition clearly stated that "... the building has historically been used as an office in association with the adjacent service station." This was accepted and at no time challenged by the Council.</p> <p>We have already acknowledged that the proposal is not residential in nature, the dominant land use sought</p>

Summary of Issues Raised	APPLICANTS RESPONSE
	<p>by the zoning. However, as previously noted, the zoning intentions and existing character of a locality are to be properly balanced and a proposed development must be judged in its historical and factual context. In fact, it is an error at law to fail to take into account such relevant considerations.</p> <p>In this instance:</p> <ul style="list-style-type: none"> <li>• the subject land is a relatively large area of land described in two (2) Certificates of Title and has been used historically (circa 1932) for non-residential purposes, noting that whilst the land use may have been discontinued it has at no time been abandoned and no declaration has been made pursuant to Sec. 6 of the Development Act, 1993, as amended;</li> <li>• the proposed development replaces existing non-complying land uses;</li> <li>• the proposed development is for consideration on its merits and does not rely on existing use rights per se;</li> <li>• the Development Plan places certain emphasis on the development of non-residential land uses as being small scale however, there are a number of existing non-residential land uses in the locality (as detailed in the Character Impact Statement) which are not small scale;</li> <li>• these existing forms of non-residential development are relevant as they contribute to the character of the zone and to the assessment of how the proposed development will affect the character and amenity of the zone; and</li> <li>• traffic and noise impacts have been appropriately addressed and determined to have minimal impact on the residential amenity of the locality.</li> </ul>
<p>Scale Concerns include:</p> <ul style="list-style-type: none"> <li>• Is not small-scale as per Zone Objective 2 of the Development Plan</li> <li>• Overdevelopment of site;</li> <li>• Is not consistent with scale of neighbouring dwellings</li> </ul>	<p>The Development Plan provides no specific guidance upon which to determine whether or not a particular proposal is "small scale" for the purposes of Objective 2 to the 'Residential Historic (Conservation) Zone. In these circumstances we say that the term "small scale" in the context of the present proposal denotes the relative size and intensity of operation and is not numeric, as such. That is to say that, it denotes character and likely functional impacts rather than apparent size per se as, strictly speaking, scale is more properly used when referring to the relative size of two or more things.</p>



Summary of Issues Raised	APPLICANTS RESPONSE
	<p>The recent decision of the Full Court of the Environment, Resources and Development (ERD) Court in the matter of <i>Shahin Enterprises P/L v Development Assessment Commission &amp; Ors</i> (17 July 2018) supports this approach.</p> <p>In this regard, and in summary, it is our opinion that:</p> <ul style="list-style-type: none"> <li>• the likely combined effects of a development of the dimensions proposed on this comparatively large site with limited impacts represents "small scale";</li> <li>• the proposal does not compete with the retail function of nearby non-residential premises;</li> <li>• the proposal has minimal impact on the free flow of traffic on Duthy Street;</li> <li>• the proposal will not generate significant levels of traffic into nearby residential areas;</li> <li>• the proposal will not to any significant degree unreasonably impact the amenity of residential premise in the locality; and</li> <li>• as detailed in the Character Impact Statement the proposed development minimises any adverse character impacts and is an improvement on the existing prevailing character.</li> </ul> <p>•</p> <p>Accordingly, it is concluded that the proposal represents "small scale" development.</p> <p>With all due respect to the author of the MasterPlan Report it is considered that the cases cited have limited relevance as:</p> <ul style="list-style-type: none"> <li>• two of the three cases cited involved the conversion of existing wholly residential to non-residential land uses which is not the case here;</li> <li>• the <i>Allbound</i> decision was, in effect, overturned (remitted back to the ERD Court) by the Supreme Court on the basis that the Commissioner had erred in the determination of small scale; <i>Paczek</i> was superseded by the decision of the Full Court of the ERD Court in <i>Reichelt &amp; Ors v City of Charles Sturt &amp; Anor</i> (17 November 2016) which granted consent to a modified application, noting that this application was for a restaurant of some 470 square metres with a party room and seating for a total of 122, drive through take away facilities, indoor playground, trading 24 hours per day, seven days a week and a freestanding 8 metre high internally illuminated pylon sign; and</li> <li>• <i>Emali</i> did not address the question of small scale.</li> </ul>

Summary of Issues Raised	APPLICANTS RESPONSE
<p>Design &amp; Appearance Concerns include:</p> <ul style="list-style-type: none"> <li>• Design is inconsistent with residential nature of the area;</li> <li>• Does not complement the character or streetscape of the locality;</li> <li>• Is not consistent with the policies of the Zone;</li> <li>• Lack of soft landscaping/ increase in hard surfaces;</li> <li>• Height</li> <li>• Inappropriate signage</li> <li>• Modern/ industrial appearance</li> </ul>	<p>We stand by our original submission in this regard in that the proposal has been consciously designed and sited, suitably references the scale and form of surrounding buildings without replicating historic styles and is an improvement to the existing prevailing character.</p>
<p>Traffic Concerns that the proposal would result in an:</p> <ul style="list-style-type: none"> <li>• Increase in traffic congestion</li> <li>• Increase in on street parking</li> <li>• Impacts to the safety of pedestrians and cyclists</li> <li>• Increase in truck movements in area</li> </ul>	<p>A comprehensive Traffic and Parking Assessment was submitted with the application. The Assessment concludes that there is more than sufficient capacity to accommodate the forecast traffic movements associated with the subject development without any adverse traffic impact on the adjoining road network.</p> <p>Council's Traffic Engineer has endorsed the Assessment noting that the traffic volume in Edmund Avenue would not have a significant impact on resident amenity.</p> <p>The author has not been challenged on his expertise.</p>
<p>Noise Concerns include:</p> <ul style="list-style-type: none"> <li>• Increase in noise resulting from the use;</li> <li>• Increase in noise earlier/ later in the day;</li> <li>• increase in traffic noise;</li> </ul>	<p>An Environmental Noise Assessment was submitted with the application.</p> <p>The Assessment concludes that subject to specific acoustic treatments, which have now been incorporated into the application, the facility has been designed to prevent adverse impacts, avoid unreasonable interference to amenity, and will not detrimentally affect the locality by way of noise, thereby achieving the relevant provisions of the Development Plan related to environmental noise.</p>

Summary of Issues Raised	APPLICANTS RESPONSE
<ul style="list-style-type: none"> <li>• Impacts of the residential amenity</li> </ul>	<p>The author has not been challenged on his expertise.</p>
<p>Landscaping &amp; Removal of Street Trees</p> <ul style="list-style-type: none"> <li>• Object to street trees being removed</li> <li>• Lack of landscaping on site;</li> <li>• Large areas of hard stand;</li> </ul>	<p>In order to facilitate safe and convenient access it is necessary to widen the existing southern crossover in Duthy Street. This requires the removal of two (2) existing street trees. The proponent has committed to replace the trees in accordance with any requirements and to the satisfaction of Council.</p> <p>Intensive and strategically placed landscaping is proposed along the boundary of the adjoining property to the west, along the Edmund Street frontage and at the Edmund Avenue and Duthy Street intersection. This will soften the appearance of the built form, provide microclimate benefits of shade and shelter and screen service and parking areas. There is limited landscaping on the lands at present.</p>

(\* denotes non-valid planning considerations)

For a full copy of each representation and the applicant's response, please refer to Appendices B & C respectively.

In regards to the applicant's response above, Council Administration advise that:

- Whilst the property was treated as a single assessment for rating purposes until 1 July 2017, the Planning Department has always recognised the respective, different land uses for planning purposes as residential; and petrol filling station and motor repair.
- Council did not challenge a land use statement made within the application for the demolition of the Contributory Item as this application was assessed on the built form aspects of the structure and not its land use. The statement therefore had no impact on the decision of that application.
- The proposed development is a Merit based form of development as an 'integrated service station complex' is not listed in the table of Non-Complying development for the Residential Historic (Conservation) Zone.

## 9. ASSESSMENT

### ASSESSMENT

#### Zone Desired Character and Principles of Development Control

<b>Residential (Historic) Conservation Zone</b>
<p><b>Objective 1:</b> <u>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.</u></p> <p><b>Objective 2:</b> A <u>residential zone for dwellings</u> primarily in street-fronting format, together with the <u>use of existing buildings and sites</u> used for <u>non-residential purposes for small scale local businesses</u> and community facilities supporting an appealing, pleasant and convenient living environment.</p> <p><b>Objective 3:</b> <u>Retention, conservation and enhancement of contributory items, and the complementary replacement or redevelopment of non-contributory buildings.</u></p> <p><b>Objective 4:</b> <u>Sensitive adaptation of contributory items</u> for alternate, small household, living where offering tangible benefit in the retention and refurbishment of such items.</p>
<b>Desired Character</b>
<p><b>Heritage Value</b></p> <p><i>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.</i></p> <p><i>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.</i></p> <p><b>Contributory Items</b></p> <p><i>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 to not be demolished as this would significantly erode the integrity of the zone. Sensitive 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</i></p>



*this provides for the retention, and ongoing refurbishment, of such items is also appropriate.*

### **Non-contributory Buildings**

*A building which detracts from the heritage value and desired character of the zone is termed a “non-contributory building”. The demolition and replacement of a non-contributory building with carefully designed infill is supported subject to meeting stringent design parameters to ensure compatible building forms and complementary, rather than inferior reproduction, buildings or building elements.*

### **Assessment**

The remaining Zone Objectives 1-3 are not satisfied because:

- Objective 1 seeks conservation and enhancement of the heritage values described within each policy area. In the case of the proposal, PA6 seeks development to “*be of a street-fronting dwelling format, primarily detached dwellings*”. The proposal does not offer such an outcome upon either property. While a replacement with a like use/built form might be accepted on 21 Edmund Avenue the same cannot be said for 23 Edmund Avenue which has a residential use.
- The proposal fails to satisfy Objective 2 which, clearly, seeks for the zone to be a place for “dwellings” and not for developments such as an integrated service station. Where non-residential uses are to be undertaken, Objective 2 is clear in that it seeks for those to occur within existing buildings, the re-purposing of which ensures the visual historic qualities of the Zone are retained.
- Objective 3 is not met because the built form is not providing a complementary replacement of existing contributory items with a type of built form readily sought by the Zone and PA 6.

The Desired Character reinforces this desire of Objective 3 in that it seeks “*...compatible building forms*”. A service station development, particularly its large canopy element, cannot be considered to display the themes and types of compatible buildings forms and design elements the Zone, expressly, seeks.

Zone Objective 4 is not relevant to the proposal on the basis that there are no contributory items proposed as both sites contain contributory items with authorised demolition approvals.

Relevant Zone Principles of Development Control	Assessment
<b>PDC# 1</b>	<p>The proposal does not satisfy Zone PDC 1 because it does not conserve and enhance the Desired Character as expressed by PA 6.</p> <p>The prevailing character is derived from a predominance of Victorian and Turn of the</p>

Relevant Zone Principles of Development Control	Assessment
	<p>Century villas and cottages of reasonably consistent form, scale and appearance.</p> <p>Given its service station form, the proposal does not conserve nor enhance this character.</p>
<b>PDC#2</b>	<p>The proposal fails to satisfy Zone PDC 2 because it does not involve any of the uses/forms of development it describes which are, in express terms, residential forms of development.</p>
<b>PDC#7</b>	<p>The proposal fails to satisfy Zone PDC 7 because non-contributory buildings and their sites should be brought into conformity with the desired character. The proposal does not achieve this policy intent.</p> <p>The proposal rather seeks to undertake a development which is at odds with the Desired Character and the prevailing character of the locality, particularly with respect to the Edmund Avenue streetscape.</p>
<b>PDC#8</b>	<p>The proposal fails to satisfy Zone PDC 8 as the proposal does not feature <i>“street fronting dwellings whose setting and form is consistent with the Desired Character”</i>.</p>
<b>PDC#10</b>	<p>The proposal fails to satisfy Zone PDC 10 because it does not <i>“suitably reference the contextual conditions of the locality”</i>. The locality, which is predominantly residential in nature, comprising Victorian and Turn of the Century villas.</p>

## **Policy Area Desired Character**

<b>Policy Area 6 – Spacious Unley and Malvern Trimmer Estate</b>
<b>Desired Character</b>
<p><b><i>Heritage Value</i></b></p> <p><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></p> <p><b><i>Desired Character</i></b></p> <p><i>The spacious <u>streetscape character</u> is founded on wide, tree-lined streets, <u>grid street layout</u> (with axial views focussed on the central oval feature in ‘New Parkside’) and <u>generous front gardens</u>. <u>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.</u> More affluent, original owners developed some larger, amalgamated allotments in the southern areas establishing grander residences and gardens.</i></p> <p><b><i>Development will:</i></b></p> <p><i>(a) conserve contributory items, in particular symmetrical and asymmetrical villas of Victorian and Turn-of-the-Century era and double-fronted cottages; and</i></p> <p><i>(b) be of a street-fronting dwelling format, <u>primarily detached dwellings</u>; and</i></p> <p><i>(c) maintain or enhance the predominant streetscapes and regular road and allotment patterns with:</i></p> <p><i>(i) dwelling sites typically of 15 metres in street frontages and with site areas of 750 square metres; and</i></p> <p><i>(ii) front setbacks of some 7 metres; and</i></p> <p><i>(iii) 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</i></p> <p><i>(d) maintain and respect important features of architectural styles of contributory items having typically:</i></p> <p><i>(i) building wall heights in the order of 3.6 metres; and</i></p> <p><i>(ii) total roof heights in the order of 5.6 metres or 6.5 metres; and</i></p> <p><i>(iii) roof pitches in the order of 27 degrees and 35 degrees.</i></p>
<b>Assessment</b>
<p>Due to existing use rights, it is accepted that the re-development of 21 Edmund Avenue could (potentially) occur with a non-residential development displaying a non-residential and ‘commercial’ form, as it does presently.</p> <p>This follows that CW PDC 7 is supportive of the re-development of building(s) used for non-residential purposes provided the new use is confined to a site used for non-residential purposes. I will discuss PDC 7 in more detail below.</p> <p>23 Edmund Avenue, however, remains that of a residential dwelling site and which accommodates a dwelling at present. The replacement of this land use with a service station use (with a clearly ‘commercial’ appearance) is at odds with the</p>

Desired Character of PA6 which seeks, in essence, residential development in the form of street fronting detached dwellings that respect established settlement patterns.

The applicant has provided advice from an experienced heritage architect who acknowledges the proposal *“differs from the specific desired character for the policy area”*. Not to isolate those comments, they go on to assert that Development Plans rarely provide guidance for petrol stations and that a more general assessment should be adopted based upon whether:

- a) All reasonable measures have been undertaken to minimise any adverse character impacts; and
- b) The proposed development is an improvement on the existing prevailing character

The approach fails to provide sufficient weight to the policy intent established by the Development Plan. That is, the Zone/Development Plan generally seeks to restrict further intrusion of non-residential land uses. It seeks to curtail (not expand) non-residential operations so as to ensure residential use, amenity and (in this case historic) character predominates.

While it is acknowledged that, from an internal site design perspective, the development can effectively function, I consider its land use, form, scale and design to be contrary to the prevailing (and desired) character, which is comprised of Victorian and Turn of the Century villas.

The proposal does not achieve the Desired Character of PA6, as described.

### **Relevant Council Wide Objectives and Principles of Development Control**

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

<b>City-wide Objectives and Principles of Development Control</b>		
<b>Crime Prevention</b>	<b>Objectives</b>	1
	<b>PDCs</b>	1, 2
<b>Design and Appearance</b>	<b>Objectives</b>	1, 2
	<b>PDCs</b>	1, 2, 3, 4, 9, 12, 13, 14, 15, 18, 19, 20, 21, 22
<b>Form of Development</b>	<b>Objectives</b>	1, 2, 3, 4, 7
	<b>PDCs</b>	1, 2, 7, 8, 9, 12, 13
<b>Hazards</b>	<b>Objectives</b>	1, 2, 3, 4, 5, 6
	<b>PDCs</b>	1, 2, 3, 4, 5, 6, 7, 8
<b>Heritage</b>	<b>Objectives</b>	5
	<b>PDCs</b>	N/A
<b>Interface Between Land Uses</b>	<b>Objectives</b>	1, 2, 3
	<b>PDCs</b>	1, 2, 5, 6, 7, 8, 9, 10, 11, 12
<b>Landscaping</b>	<b>Objectives</b>	1
	<b>PDCs</b>	1, 2



<b>Natural Resources</b>	<b>Objectives</b>	1, 2, 3, 4, 5, 6, 7, 8,
	<b>PDCs</b>	1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,
<b>Outdoor Advertisements</b>	<b>Objectives</b>	1, 3
	<b>PDCs</b>	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24
<b>Transportation (Movement of People and Goods)</b>	<b>Objectives</b>	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13
	<b>PDCs</b>	1, 3, 5, 6, 9, 10, 11, 12, 13, 14, 18, 19, 20, 21, 22, 32
<b>Waste</b>	<b>Objectives</b>	1, 2
	<b>PDCs</b>	1, 2, 3, 4, 5, 6

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

<b>Relevant Council Wide Provisions</b>	<b>Assessment</b>
<b>Crime Prevention</b>	
<b>PDC 1</b>	<ul style="list-style-type: none"> <li>Information pertaining to crime prevention measures is limited in the documentation. Entrapment spots appear to be limited, with the exception of the space between the rear of the control building and the western boundary fence. However, this area will not be the subject of pedestrian traffic. Enclosing this area with a gate or similar would be useful. Overall, the facility is open and as such lines of sight from the control building toward the area of primary use/customer activity is appropriate. There is adequate delineation between public and private land. No large blank walls attracting of graffiti are evident in the design that present to public areas. This PDC is adequately met.</li> </ul>
<b>Design and Appearance</b>	
<b>PDC 1</b>	<ul style="list-style-type: none"> <li>While an appropriate design in general terms, the proposal does not reflect the desired character of the locality on the basis it will have a 'commercial' look/appearance within an area featuring a predominance of Victorian and Turn of the Century villas and cottages of reasonably consistent form, scale and appearance. This PDC is not satisfied.</li> </ul>
<b>PDC 2 and 9</b>	<ul style="list-style-type: none"> <li>Visual impacts are acceptable to private land overall. The angle of the skillion canopy roof element is useful in limiting visual impacts of of the large roof area. The western wall of the control building, at 3.5 metres setback 1.0m metre from the residential property at 25 Edmund Avenue will not be unreasonably large or</li> </ul>

Relevant Council Wide Provisions	Assessment
	<p>bulky in its appearance considering wall heights of dwellings are typically of this order.</p> <ul style="list-style-type: none"> <li>The impacts of overshadowing are not clear as detailed diagrams have not been provided. However, when considering separation of the control building and canopy to the land to the south, and the design and site orientation relative the property to the west, I am satisfied the impacts are unlikely to be excessive. PDCs 2 and 9 are satisfied.</li> </ul>
<b>PDC 13 and 14</b>	<ul style="list-style-type: none"> <li>The overall appearance of the development is suitably co-ordinated and orderly and in isolation is acceptably in accord with PDC 13.</li> <li>Excessively large blank/uninterrupted walls do not readily face the public realm as such PDC 14 is satisfied.</li> </ul>
<b>PDC 18</b>	<ul style="list-style-type: none"> <li>There is a service area nominated north of the control building that is to be enclosed with an “aluminium batten cladding – cedar print finish” which appropriately screens bin/rainwater tank storage areas. PDC 18 is achieved.</li> </ul>
<b>Form of Development</b>	
<b>PDC 7</b>	<ul style="list-style-type: none"> <li>The proposal seeks to expand the existing non-residential use into an adjoining (and larger site) which is not in accordance with PDC 7.</li> </ul> <p>PDC 7 is quite clear in that it only envisages the redevelopment of such facilities to occur “<i>where the proposed non-residential use is <u>confined to a site used, in whole or part, for non-residential purposes</u></i>”.</p> <p>While an argument can be made about the proposal offering the community access to services provided in the form of car re-fuelling and access to convenience shopping, and in part improving site conditions (associated with 21 Edmund Avenue) these positive aspects do not overcome, in my view, the fact that PDC 7 is clear in its expectation about limiting or curtailing the expansion of non-residential activities within residential areas, particularly the subject Zone.</p> <p>From a public policy position, the authors of the Development Plan clearly identified “shops” and “petrol filling stations” as non-complying (except for alterations and additions on the same site), forms of development. This non-complying designation, reinforces the intent of Development Plan policy.</p>

Relevant Council Wide Provisions	Assessment
PDC 8	<ul style="list-style-type: none"> <li>The expansion of the existing operation is not “minor in scale”. The area of non-residential use is at present limited to an area of circa 639m<sup>2</sup> however this is to increase by more than double to be an area of circa 1486m<sup>2</sup>. This is an increase in area of 847m<sup>2</sup>.</li> <li>The more than doubling of non-residential operations in the Zone is at odds with the intentions of PDC 8 which has the role of limiting such lawfully existing operations, not facilitating their growth and expansion to the detriment of, among other things, residential amenity and character.</li> </ul>
<b>Hazards</b>	
	<ul style="list-style-type: none"> <li>The site is not subject to flooding per the <i>Unley Council 2018 Flood Inundation</i> mapping.</li> </ul>
PDC 6	<ul style="list-style-type: none"> <li>It is unclear as to existing site contaminants; however, the proposal is not seeking to change the use to a ‘sensitive use’. In the event the application is approved for planning consent, the EPA’s recommended condition seeking a CEMP should be included on the Decision Notice.</li> </ul>
<b>Interface Between Land Uses</b>	
PDC 1	<ul style="list-style-type: none"> <li>The proposal will have the <i>potential</i> for impact upon the amenity of the locality by way of noise, light spill, glare, hours of operation and traffic impacts. The question is, are these impacts unreasonable in the context of the subject locality and zone? I offer the following commentary:</li> <li><b>Noise:</b> The applicant has provided an expert noise report (from an experienced acoustic engineer) which considers the noise generating factors associated with the proposal (i.e. mechanical plant, vehicle movements and car park activity, fuel deliveries and rubbish collection). The report recommends a number of noise control measures to ameliorate noise beyond the site which are, mostly, acceptable save for the fence shown in ‘green’ which is up to the height of eaves of the dwelling at 25 Edmund Avenue. Such a height is relatively tall compared to typical boundary fencing and has the propensity to cause visual impact to the neighbouring land. There is a lack of clarity in the elevation drawings around the height of this acoustic fencing and such information would have</li> </ul>

Relevant Council Wide Provisions	Assessment
	<p>been helpful in considering such visual impact issues. In any event, in a technical sense, the conclusions of the acoustic report (i.e. in that the proposal meets applicable standards) are not disputed and noise impacts are considered adequately addressed on this basis.</p> <ul style="list-style-type: none"> <li> <b>Light spill/glare:</b> No specific details can be found in the applicant's materials to ascertain impacts in this regard, particularly light spill. If the application was considered to be supported, additional information would be required. Operating hours will necessitate illumination of the site in morning and night time periods. There is consequently expected to be more general glare from the facility and its lighting required beyond that which one would expect within a predominantly residential environment. This impact cannot be ignored and those residents with lines of sight toward the property will experience some impacts in this regard. Lesser hours of operation would be helpful in this respect (i.e. aligning with day light hours). </li> <li> <b>Hours of operation:</b> The proposal will operate from 6:00am to 9:00pm 7 days per week. These hours of operation occur during periods which have the propensity to cause some disturbance to the surrounding residential dwelling in the locality and are not considered appropriate, particularly in the context of the zone which provides limited support for non-residential uses only favouring those occurring on existing non-residential sites and which are conducive to supporting a pleasant living environment. An operation that occurs during ordinary business hours would be more conducive to the desires of the zone. </li> <li> <b>Traffic impacts:</b> The proposal will increase traffic generation in Edmund Avenue by between 4-9%, as confirmed by Council's traffic engineering staff. In some cases, this level of impact may be deemed acceptable however this is not one of those instances. The proposal and associated additional traffic impact it is likely to generate are at odds with the expectations of the Zone and broader provisions of the Plan regarding the expansion non-residential uses in residential zones. </li> </ul>



Relevant Council Wide Provisions	Assessment
<b>Transportation (Movement of People and Goods)</b>	
<b>PDC 3, 4, 13, 19 and 20</b>	<ul style="list-style-type: none"> <li>The advice provided by the applicant's traffic engineering regarding overall access strategy and car parking provision has been reviewed by Council's traffic engineering staff and determined to be acceptable such that there are not considered to be any unsafe traffic conditions and parking overspill issues created by the development.</li> </ul>

## 10. SUMMARY AND CONCLUSION

Putting aside zoning and land use intent, as a standalone development, the proposal displays satisfactory design principles. The site layout is co-ordinated and orderly. The design is typical of this form of development and in general design terms suitable and inoffensive. The control building permits passive surveillance over the public realm and largely deters criminal behaviour. The organisation of its storage elements, and the way in which it allows traffic to flow, and allocation of car parking, is acceptable.

The impacts of the development upon nearby residential land have been considered and deemed to have been minimised but not totally ameliorated. In this respect:

- The findings of the noise report are not disputed albeit the circa 3.3m high fence proposed is not ideal and will have *some* visual impact on 25 Edmund Street - alternatives should be explored.
- The hours of operation are beyond daylight hours and this gives rise to propensity for increased light spill/glare and will change the local conditions for those properties within Edmund Street with lines of sight of the subject land.
- There will be more traffic in Edmund Street resulting from the proposal – up to 9%.

Generally, attempts have been made to soften the visual impacts of the development and integrate it into the area. As noted by Council's heritage advisor (Mr Stevens) *"...efforts have been made to ameliorate differences between the proposed development and prevailing character. The scale of the proposed service station is relatively modest in terms of its use. The control building is of a height that is not dissimilar to that of the eaves height of historic buildings nearby"*.

Mr Stevens notes that *"the large canopy element is inconsistent with the scale of buildings and of a form that is a foreign element to prevailing character"*. I concur that this canopy element does detract from the character of the locality as is desired by PA 6. More fundamentally, however, Mr Stevens cites concern with the proposal's form and appearance in Edmund Avenue where he notes the *"prevailing character is desired from a predominance of Victorian and Turn of the Century villas and cottages of reasonably consistent form, scale and appearance"*. This is a serious matter in the assessment given the Zone's clear desire for preservation of character.

The merits of the application essentially turn on the clear and undeniable fact that the dwelling at 23 Edmund Avenue is a **residential use** within a Residential (Historic) Conservation Zone. Based upon the Council's own records, this site does not have any lawful rights to be deemed non-residential.

The subject land falls within a Zone which is for dwellings, primarily in street-fronting format. The proposal does not achieve this fundamental land use expectation. The proposal does not attempt to use the existing buildings for non-residential purposes of a small-scale, local business and community facility variety that would support an appealing and pleasant living environment. The proposal fails in respect to the fundamental land use test prescribed by the Zone.

Furthermore, the proposal fails an important test of the Development Plan in that it is seeking to expand a non-residential use upon an adjoining site, and this is at odds with CW PDC 7. The proposal also fails another important test of the Development Plan (per CW PDC 8) in that:

- It does not preserve or enhance the established residential character and streetscape within Edmund Avenue.
- It does not preserve or enhance the residential amenity of the locality with respect to its large acoustic fencing, its hours of operation, its increased light spill and glare, and its increased traffic conditions in Edmund Avenue.

In considering the recommendation regard has also been had to whether the proposal is considered to be seriously at variance with the Development Plan.

The judgement of Judge Costello in *Terra Group P/L v City of Port Adelaide Enfield & ANOR* [2015] SAERDC 26 (10 July 2015) is relevant in this regard and the following was noted in that case per paragraph 86:

*"The concept of seriously at variance has also been described as referring to 'an important or grave departure in either quantity or degree from the Development Plan.'"*

With regard to those comments made by Judge Costello, the proposal has been determined to be seriously variance with the Development Plan for the following reasons

- The proposal involves a use of land (namely 23 Edmund Avenue) for a non-residential use despite it being currently residential in nature.
- The proposal is not constructing a detached dwelling of a street fronting format that displays the themes and styles of housing as desired by PA6.
- The design and appearance of the proposed service station is at odds with the prevailing character of the locality and desired character of the Zone and PA 6.
- The proposal involves the expansion of a non-residential use beyond an existing non-residential site that is clearly not minor in scale and nature.

- The proposal gives rise to unacceptable interface impacts upon nearby properties with respect to visual impacts, but primarily with respect to light spill/glare, hours of operation and traffic generation.

The application is therefore recommended for REFUSAL.

## **11. RECOMMENDATION**

MOVED:

SECONDED:

That Development Application 090/51/2018/C3 at 21-23 Edmund Avenue, Unley SA 5061 for 'Construction of integrated service station complex with associated fencing, landscaping, carparking and illuminated signage (including one 6m high pylon sign) and the removal of two (2) street trees along Duthy Street' is seriously at variance with the provisions of the City of Unley Development Plan and should be REFUSED.

That, in any event, Development Application 090/51/2018/C3 at 21-23 Edmund Avenue, Unley SA 5061 for 'Construction of integrated service station complex with associated fencing, landscaping, carparking and illuminated signage (including one 6m high pylon sign) and the removal of two (2) street trees along Duthy Street' is at variance with the provisions of the City of Unley Development Plan and should be REFUSED on its merits for the following reasons:

- The proposal involves a use of land (namely 23 Edmund Avenue) for a non-residential use despite it being currently residential in nature.
- The proposal is not constructing a detached dwelling of a street fronting format that displays the themes and styles of housing as desired by PA6.
- The design and appearance of the proposed service station is at odds with the prevailing character of the locality and desired character of the Zone and PA 6.
- The proposal involves the expansion of a non-residential use beyond an existing non-residential site that is not minor in scale and nature.
- The proposal gives rise to unacceptable interface impacts upon nearby properties with respect to visual impacts, but primarily with respect to light spill/glare, hours of operation and traffic generation.

<b>List of Attachments</b>		<b>Supplied By:</b>
<b>A</b>	<a href="#">Application Documents</a>	Applicant
<b>B</b>	<a href="#">Representations</a>	Administration
<b>C</b>	<a href="#">Response to Representations</a>	Applicant
<b>D</b>	<a href="#">Internal Referral Responses</a>	Administration

**ITEM 2****DEVELOPMENT APPLICATION – 090/731/2018/C3 – 21-23 EDMUND AVENUE, UNLEY SA 5061 (UNLEY)**

<b>DEVELOPMENT APPLICATION NUMBER:</b>	090/731/2018/C3
<b>ADDRESS:</b>	21-23 Edmund Avenue, Unley SA 5061
<b>DATE OF MEETING:</b>	11 December 2018
<b>AUTHOR:</b>	Brendan Fewster
<b>DEVELOPMENT PROPOSAL:</b>	Change of use from service station and motor repair workshop to office and restaurant (including takeaway) and associated car parking
<b>HERITAGE VALUE:</b>	Contributory
<b>DEVELOPMENT PLAN:</b>	19 December 2017
<b>ZONE:</b>	Residential Historic (Conservation) Policy Area 6 – Spacious Unley and Malvern Trimmer Estate
<b>APPLICANT:</b>	B Fitzsimons
<b>APPLICATION TYPE:</b>	Merit
<b>PUBLIC NOTIFICATION:</b>	Category 3
<b>REPRESENTATIONS RECEIVED:</b>	YES – (24 oppose)
<b>CAP'S CONSIDERATION IS REQUIRED DUE TO:</b>	Unresolved representations Category 3 application where a representor wishes to be heard
<b>RECOMMENDATION:</b>	Approval
<b>KEY PLANNING ISSUES:</b>	Land Use Amenity Traffic and Car Parking

**1. PLANNING BACKGROUND**

Development Application 090/51/2018 - *Construction of integrated service station complex with associated fencing, landscaping, carparking and illuminated signage (including one 6m high pylon sign) and the removal of two (2) street trees along Duthy Street – Application is pending a decision*

Development Application 090/527/2017 – *Demolish Contributory Item – **Approved***

Development Application 090/360/2016 – *Remove underground fuel storage, canopy, fuel pumps and office – **Approved***

## **2. DESCRIPTION OF PROPOSAL**

The proposal is seeking to change the use of an existing service station and motor repair workshop to an office and restaurant.

The proposed office will be located within the existing workshop building which has a gross leasable floor area of 180m<sup>2</sup>. Some alterations to the building are proposed, including new door openings, replacement roof sheeting (Monument colour) and new and refurbished wall cladding (Surfmist colour). Bathroom facilities will be provided within the office building for shared use with restaurant patrons. The size and appearance of the building would be substantially the same.

The proposed restaurant is to be located within the service station building and the associated canopy. The kitchen will operate from the former control building and outdoor seating for 20 people will be provided beneath the canopy.

An existing crossover on Duthy Street will provide vehicular access to a new car park at the rear of the office building. The car park will contain seven spaces, with a total nine spaces to be provided on the site for staff and patrons.

The proposed operating hours are as follows:

- Office – 9.00am to 5.00pm Monday to Friday
- Restaurant – 8.00am to 10.00pm Thursday and Friday and 10.00am to 10.00pm Saturday and Sunday

## **3. SITE DESCRIPTION**

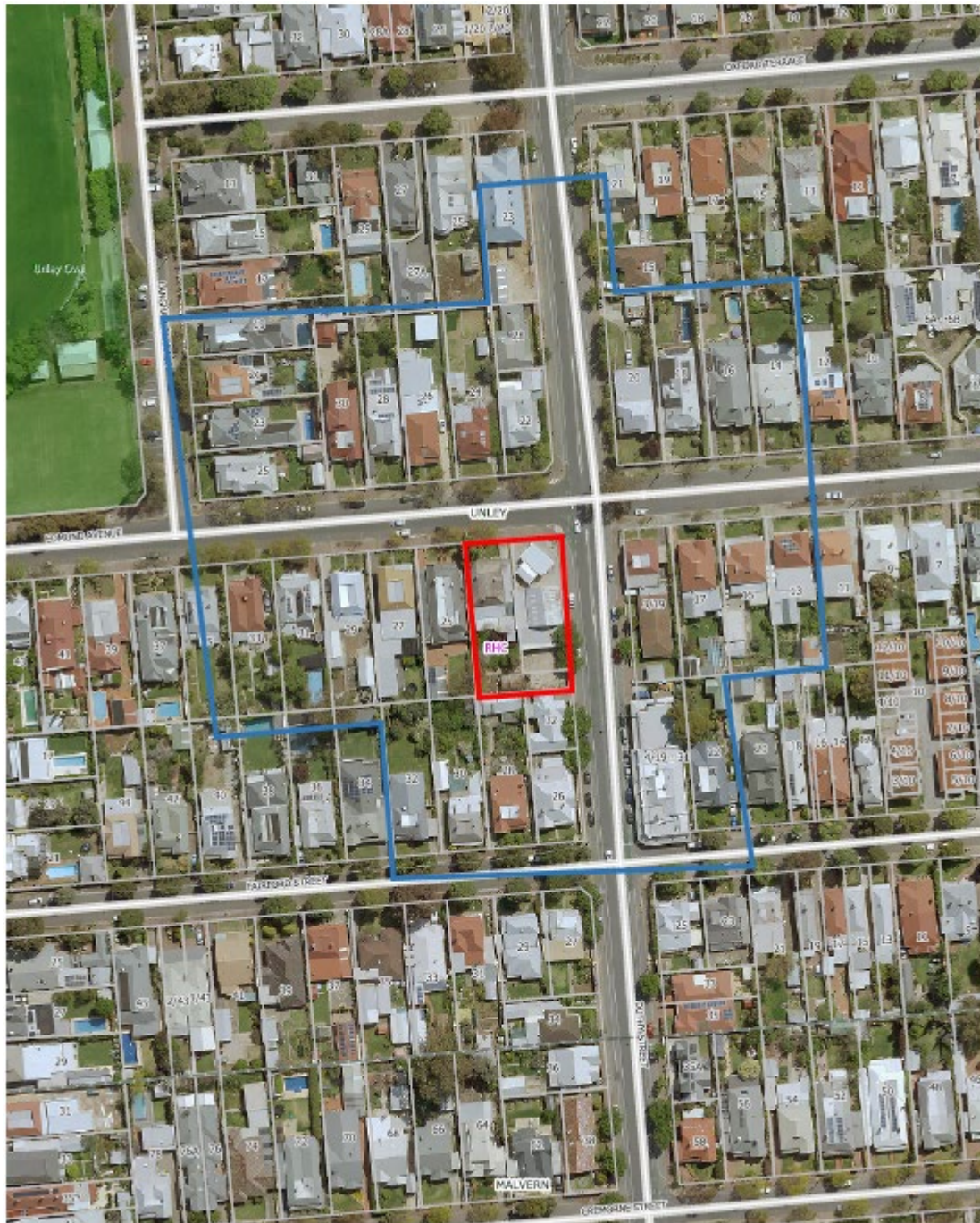
The subject land comprises two contiguous allotments located at 21-23 Edmund Avenue, Unley.

The allotments are rectangular in shape and have a combined frontage width of 30.48 metres to Edmund Avenue and 48.87 metres to Duthy Street. The land has a total area of 1489m<sup>2</sup>.

Currently occupying the land is a single storey detached dwelling at no. 23 Edmund Avenue and several buildings associated with a former service station and workshop at no.21 Edmund Avenue. Both properties are identified as Contributory Items in Council's Development Plan.

The land is naturally flat and does not contain any regulated trees. There is a right of way adjacent to the rear boundary in favour of no. 21 Edmund Avenue for driveway access.

#### 4. LOCALITY PLAN



#### 5. LOCALITY DESCRIPTION



## **Land Use**

The locality is predominantly residential in land use, although there is a small group of shops fronting Duthy Street to the south.

## **Land Division/Settlement Pattern**

The original allotment layout and development pattern is largely intact. Allotments are rectangular in shape with relatively consistent building forms and street setbacks.

## **Dwelling Type / Style and Number of Storeys**

Dwellings along Edmund Avenue typically comprise villas and double fronted cottages that reflect the original pattern of settlement. There are more recent dwelling styles to the north and south along Duthy Street.

### **6. STATUTORY REFERRALS**

No statutory referrals required.

### **7. NON-STATUTORY (INTERNAL) REFERRALS**

No non-statutory (internal) referrals were undertaken.

### **8. PUBLIC NOTIFICATION**

Category 3 notification was undertaken in accordance with the Development Act and Regulations. During the ten (10) business day notification period, 24 representations were received as detailed below.

<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased traffic, lack of car parking and impacts on bike and pedestrian access	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.

<b>29 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Inadequate outdoor dining area	No response provided
Article in magazine suggests trading will commence in January 2019 *	No response provided
<b>9 Palomino Road, Auldana (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
The proposal does not complement the area. A medical centre is more suitable.	The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts. There are a number of existing non-residential land uses in the locality. These uses are relevant as they contribute to the character of the zone and to the assessment of how the proposed development will affect the character and amenity of the locality.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased traffic, lack of car parking and impacts on the character of the area.	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Impacts on bike and pedestrian safety.	No response provided
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased traffic, lack of car parking and impacts on bike and pedestrian access	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces

	proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased traffic and lack of car parking.	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased noise and traffic will impact on the character of the area.	<p>The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts.</p> <p>The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.</p>
<b>Hairdresser 19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased traffic and lack of car parking.	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.

<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased traffic, lack of car parking and impacts on pedestrian safety	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased traffic and lack of car parking.	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Traffic congestion and impact of the character of the area.	<p>The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts.</p> <p>The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.</p>
<b>25 Edmund Avenue, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Noise and disturbance due to late operating hours, especially on Sundays. Operating hours should be limited to 8pm.	The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.

<b>18 Edmund Avenue, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Non-residential development is not consistent with the zone.	The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts.
The proposal goes beyond the intent of a small-scale business.	No response provided
Noise, traffic and amenity impacts	<p>The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts.</p> <p>The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.</p>
The built form character is not consistent with the existing character of the area.	No response provided
Insufficient landscaping	No response provided
<b>19-21 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Increased car parking demands to impact on existing businesses.	A number of the representations raise the issue of what may be described as commercial competitive interest. However, protecting existing businesses from competition is not normally of relevance to a planning assessment.
<b>25 Edmund Avenue, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
The outdoor dining area will generate significant noise operating until 10pm. Concerns that the operating hours could be extended.	The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.
The description of the businesses is vague.	No response provided

<b>25 Edmund Avenue, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
The outdoor dining area will generate significant noise operating until 10pm.	The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.
Increased traffic and lack of car parking.	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>25 Edmund Avenue, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
The outdoor dining area will generate significant noise operating until 10pm.	The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.
Article in magazine suggests other business activities within the office space. *	No response provided
The description of the businesses is vague.	No response provided
<b>Unit 7, 10 Fairfold Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Impact on the existing residential area.	The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts.
Noise and disturbance due to late operating hours	The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.
Increased traffic, lack of car parking and impacts on pedestrian safety	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall

	of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>19-31 Duthy Street, 44 Fairfold Street &amp; 4 Edmund Avenue, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
The proposal uses are not consistent with the desired uses for the RHC Zone.	The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts.
Noise and disturbance due to late operating hours and traffic congestion.	The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.
Increased traffic and lack of car parking.	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
The proposal uses are not consistent with the desired uses for the RHC Zone.	The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts.
Noise and disturbance due to late operating hours and traffic congestion.	The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.
Traffic congestion and reduced availability of on-street car parking.	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not



	met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
The proposal uses are not consistent with the desired uses for the RHC Zone.	The subject land enjoys existing use rights as a petrol filling station and motor repair station and it is considered that the proposed development represents a diminution of the corresponding amenity impacts.
Impact on the existing residential area.	The proposed development represents a diminution of the corresponding amenity impacts.
Noise and disturbance due to late operating hours and traffic congestion.	The hours of operation, which by modern day standards are not extensive, are unlikely to create land use conflicts with the residential or commercial land uses in the locality.
Traffic congestion and reduced availability of on-street car parking.	The proposed development provides a significant improvement in the parking provision and, accordingly, it is respectfully suggested that there is no proper ground for Council to refuse the application on the basis of inadequate parking.
<b>29 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Impact on existing businesses.	A number of the representations raise the issue of what may be described as commercial competitive interest. However, protecting existing businesses from competition is not normally of relevance to a planning assessment.
<b>19-31 Duthy Street, Unley (oppose)</b>	
<b>ISSUES RAISED</b>	<b>APPLICANTS RESPONSE</b>
Traffic congestion and impact on vehicle and cycling safety.	The parking demand for the existing development, using the parking rates provided in Table Un/5, has been calculated at 14 spaces which are not met on site and represents a shortfall of 14 spaces. The parking demand for the proposed development has been calculated 8 spaces with 9 spaces

	proposed on site. The parking shortfall has been eliminated and the proposed development now includes an accessible (disability) space.
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(\* denotes non-valid planning considerations)

## 9. DEVELOPMENT DATA

Site Characteristics	Description of Development	Development Plan Provision
Total Site Area	1489m <sup>2</sup>	
Frontage	30.48m (Edmund Ave)	
Depth	48.87m	
<b>Building Characteristics</b>		
Floor Area		
Office	180m <sup>2</sup>	
Restaurant	80m <sup>2</sup>	
Car parking and Access		
<b>On-site Car Parking</b>	<b>9 spaces</b>	<b>Office – 1 per 25m<sup>2</sup> Restaurant – 1 per 3 seats</b>
Colours and Materials		
Roof	Monument	
Walls	Surfmist	

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

## 10. ASSESSMENT

### Zone Desired Character and Principles of Development Control

<b>Residential Historic (Conservation) Zone</b>
<p><b>Objective 1:</b> 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.</p> <p><b>Objective 2:</b> 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.</p> <p><b>Objective 3:</b> Retention, conservation and enhancement of contributory items, and the complementary replacement or redevelopment of non-contributory buildings.</p> <p><b>Objective 4:</b> Sensitive adaptation of contributory items for alternate, small household, living where offering tangible benefit in the retention and refurbishment of such items.</p>

## **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.*

### **Non-contributory Buildings**

*A building which detracts from the heritage value and desired character of the zone is termed a "non-contributory building". The demolition and replacement of a non-contributory building with carefully designed infill is supported subject to meeting stringent design parameters to ensure compatible building forms and complementary, rather than inferior reproduction, buildings or building elements.*

## **Assessment**

The subject land is situated entirely within the Residential Historic (Conservation) Zone. While the Objectives and Desired Character for the zone primarily seek the retention and enhancement of land and buildings for residential purposes, the Development Plan provisions do not preclude non-residential development, particularly if such development would retain and refurbish existing buildings of heritage value.

Although situated within an established residential area, the subject land has longstanding use rights for non-residential purposes. A service station and motor repair workshop have operated from the site for many years and served the needs of local residents and passing motorists. The existing buildings on the land are identified as Contributory Items and therefore are considered to have attributes that contribute

positively to the historic character of the area. The proposal will retain, conserve and enhance the buildings with sensitive modifications that will enable the continued use of the buildings. The proposal is therefore considered to satisfy Objective 1, 3 and 4 of the Residential Historic (Conservation) Zone.

Having regard for the existing use of the land and the historic significance of existing buildings, on balance, the proposed development would not entrench an incompatible land use(s) within the locality or undermine the Objectives of the Residential Historic (Conservation) Zone. Accordingly, the proposal is considered to be an orderly and appropriate form of development.

Relevant Zone Principles of Development Control	Assessment
<p><b>PDC 3</b>  <i>Development should retain and enhance a contributory item by:</i>  <i>(a) refurbishing, restoring and improving the original fabric and maintaining its streetscape contribution; and</i>  <i>(b) avoiding works detrimentally impacting on the built form and its characteristic elements, detailing and materials of the front and visible sides as viewed from the street or any public place (ie the exposed external walls; roofing and chimneys; verandahs, balconies and associated elements; door and window detailing; and original finishes and materials) together with any associated original fencing forward of the main building façade; and</i>  <i>(c) removing discordant building elements, detailing, materials and finishes, outbuildings and site works; and</i>  <i>(d) altering or adding to the item and carrying out works to its site only in a manner which maintains or enhances its contribution to the desired character, and responds positively to the characteristic elements and streetscape context of its locality, in terms of the:</i>  <i>(i) rhythm of buildings and open spaces (front and side setbacks) of building sites and gaps between neighbouring building sites; and</i>  <i>(ii) building scale and forms (wall heights and proportions, and roof height, volumes and forms); and</i></p>	<p>The existing workshop building that abuts the Duthy Street frontage is in need of repairs to brickwork and the roof cladding. The proposal includes new door openings, the replacement of rusting iron roof sheeting with colorbond Monument and new and refurbished brick and colorbond wall cladding finished in Surfmist. Bathroom facilities will be provided within the office building for shared use with restaurant patrons.</p> <p>The size and general appearance of the building would remain substantially the same. The existing service station building and the associated canopy will be retained with internal alterations only to accommodate a new kitchen for the restaurant.</p> <p>The proposed refurbishment of the existing buildings would sensitively restore and improve their original fabric in a manner that would respond positively to the character and amenity of the prevailing streetscape. PDC 3 would be satisfied.</p>

Relevant Zone Principles of Development Control	Assessment
<p><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>	
<p><b>PDC 5</b>  <i>A contributory item adapted, expanded or redeveloped for alternative residential accommodation and/or care, or alternatively for a community or non-residential use should be:</i>  <i>(a) confined to an existing non-residential building or its site;</i>  <i>(b) of a form and nature readily able to accommodate such a use; and</i>  <i>(c) of a small scale and low impact, or serves a local community function, and in any event, have a minimal impact on abutting or nearby residential occupiers.</i></p>	<p>The proposed office has a gross leasable floor area of only 180m<sup>2</sup> and the restaurant would have outdoor dining for a maximum of 20 people. The overall size and intensity of the proposed land uses are considered relatively small scale and low impact and that would primarily serve a local catchment. For these reasons, the proposal would not prejudice the service/business function of nearby centres. The proposal would satisfy the intent of PDC 5 of the Residential Historic (Conservation) Zone for non-residential uses.</p>

### **Policy Area Desired Character**

<b>Policy Area 6 – Spacious Unley and Malvern Trimmer Estate</b>
<b>Desired Character</b>
<p><b>Heritage Value</b>  <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></p> <p><b>Desired Character</b>  <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>  <i>Development will:</i>  <i>(a) conserve contributory items, in particular symmetrical and asymmetrical villas of Victorian and Turn-of-the-Century era and double-fronted cottages; and</i>  <i>(b) be of a street-fronting dwelling format, primarily detached dwellings; and</i>  <i>(c) maintain or enhance the predominant streetscapes and regular road and allotment patterns with:</i>  <i>(i) dwelling sites typically of 15 metres in street frontages and with site areas of 750 square metres; and</i>  <i>(ii) front set backs of some 7 metres; and</i></p>

- (iii) 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:
- (i) building wall heights in the order of 3.6 metres; and
- (ii) total roof heights in the order of 5.6 metres or 6.5 metres; and
- (iii) roof pitches in the order of 27 degrees and 35 degrees.

### Assessment

The desired character for the policy area seeks to ensure that new development will “conserve contributory items ....”. As already considered, the refurbishment and adaptation of the existing buildings would maintain the historic features of the contributory items and respond positively to the character and amenity of the prevailing streetscape.

## 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	Objectives	1, 4
	PDCs	1, 3, 4
Crime Prevention	Objectives	1
	PDCs	1, 2
Design and Appearance	Objectives	1
	PDCs	1, 2, 3, 12, 13, 17, 18
Form of Development	Objectives	1, 3, 7
	PDCs	1, 2, 3, 7, 8, 9, 12, 13
Hazards	Objectives	1, 3, 4, 5
	PDCs	6
Heritage	Objectives	1, 5
	PDCs	
Interface Between Land Uses	Objectives	1, 2, 3
	PDCs	1, 2, 5, 6, 7, 8, 9
Landscaping	Objectives	1
	PDCs	1, 2
Public Notification	PDCs	1
Transportation (Movement of People and Goods)	Objectives	1, 2, 3, 5, 6, 7, 8, 9, 11, 12
	PDCs	1, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 19, 20, 21, 22, 23, 32, 33
Waste	Objectives	1, 2
	PDCs	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
<b>Form of Development</b>	
<b>PDC 7 &amp; 8 – Non-Residential Use</b>	<p>Council Wide PDC 7 and 8 consider some non-residential uses in a residential zone to be appropriate where confined to a site already used for non-residential purposes. Non-residential uses should be non-intensive so as to preserve the established residential character and improve the range and quality of local facilities and services.</p> <p>With a gross floor area of only 180m<sup>2</sup>, the proposed office is considered small scale from a land use perspective and would primarily serve a local catchment. Small commercial offices are typically ‘low-impact’ uses as they generate minimal noise and waste and operate during normal business hours.</p> <p>Although a more intensive use than the proposed office, the proposed café would also be of a ‘local’ scale by virtue of having a small floor area and a limited seating capacity (maximum of 20 seats). Noise and traffic movements are likely to be less invasive than the former service station and the operating hours of the restaurant and the general management of on-site activities can be adequately controlled.</p> <p>On balance, the proposal is considered acceptable from a land use perspective.</p>
<b>PDC 9 – Contributory Item</b>	<p>The use of an existing building for non-residential purposes is supported “<i>where the use enhances the form and setting of the building which is a designated Heritage Place, contributory item or a building on a valued site .....</i>”. The proposal will maintain and enhance the original fabric of the contributory items with new and refurbished cladding.</p>
<b>Hazards</b>	
<b>Objectives 4 &amp; 5 and PDC 6 – Site Contamination</b>	<p>The subject land is occupied by a former service station which contains a series of underground fuel tanks. Council understands that the fuel tanks were emptied following the closure of the service station business.</p> <p>Informal discussions between Council staff and the Environment Protection Authority (EPA) have confirmed that the proposal does not comprise a kind of development that is required to be referred to the EPA under Section 37 of the <i>Development Act 1993</i>. Based on these discussions, Council has formed the view that</p>



Relevant Council Wide Provisions	Assessment
	<p>the fuel tanks would not pose an unacceptable risk to the health and safety of patrons, workers or the general public as the tanks are empty and would not be disturbed in any way (i.e. no site works to be undertaken).</p> <p>Furthermore, the proposal would not result in a change of use to a more sensitive land use (i.e. residential or school).</p> <p>Accordingly, the land is considered to be suitable for the proposed office and restaurant uses from a site contamination perspective.</p>
<b>Interface Between Land Uses</b>	
<b>PDC 1, 2 &amp; 6 – Interface/Amenity</b>	<p>As the subject land interfaces with established residential development and is within a residential zone, Council Wide PDC 1, 2 and 6 seek to ensure that new development is designed and operated in a manner that 'minimises' adverse amenity impacts. Many of the representors have raised concerns with the potential for noise and disturbance from the restaurant and from vehicles accessing the site and surrounding roads.</p> <p>While some noise and disturbance is inevitable, particularly from patrons within the outdoor dining area and associated traffic movements, the overall impact upon the amenity of the surrounding area is not considered to be significant for the following reasons:</p> <ul style="list-style-type: none"> <li>• The office would not involve noise or odour generating activities;</li> <li>• The office would operate during normal business hours (9.00am to 5.00pm Monday to Friday);</li> <li>• The capacity for the restaurant will be limited to 20 seats;</li> <li>• The restaurant would not operate beyond 10.00pm (recommended that this be reduced to 9.00pm on Sunday evenings); and</li> <li>• Most vehicles would park within the existing/proposed car park at the rear of the office building and along Duthy Street which is a collector road with on-street parking.</li> </ul> <p>The proposed operating hours are:</p> <ul style="list-style-type: none"> <li>• Office – 9.00am to 5.00pm Monday to Friday</li> </ul>

Relevant Council Wide Provisions	Assessment
	<ul style="list-style-type: none"> <li>• Restaurant – 8.00am to 10.00pm Thursday and Friday and 10.00am to 10.00pm Saturday and Sunday</li> </ul> <p>Apart from the Sunday closing time, the operating hours are considered reasonable from an amenity perspective. It is recommended by way of a condition of consent that the Sunday closing time be restricted to 9.00pm.</p> <p>It should be noted that all activities on the site will need to be appropriately managed in order to meet the goal noise requirements of the <i>Environment Protection (Noise) Policy 2007</i>. A condition of consent is recommended to ensure that commercial deliveries take place within daytime hours.</p> <p>Accordingly, the proposal would not adversely impact upon the amenity of nearby sensitive uses by way of noise, odour, light spill or traffic. The proposal is considered to satisfy the provisions of the Interface Between Land Uses module.</p>
<b>Transportation (Movement of People and Goods)</b>	
<b>PDC 13 – Vehicle Access</b>	<p>The proposal will not alter the existing vehicle access arrangements from Duthy Street and Edmund Avenue. Both road frontages have relatively wide crossovers that have lawfully existed for many years. While the access points are located close to the road intersection, vehicle access to the restaurant site will be limited to a staff and disabled car park and delivery vehicles.</p> <p>An at-grade car park will be formalised at the rear of the proposed office building. This car park will be accessed from an existing crossover on Duthy Street via a right of way. The existing access arrangements are lawful and considered to be safe and convenient.</p>
<b>PDC 19, 20 &amp; 21 – Car Parking</b>	<p>A total of nine on-site car parking spaces are to be provided for customers and staff. Based on the floor area of the office and the number of seats within the restaurant, <i>Table Un/5 – Off Street Vehicle Parking Requirements</i> recommends a minimum of 14 on-site car parking spaces. The proposed development would therefore result in a car parking shortfall of five spaces.</p> <p>Whilst the proposal would not strictly meet the quantitative car parking requirements of the Development Plan, the car parking demands need to be</p>

Relevant Council Wide Provisions	Assessment
	<p>considered against the operational characteristics of the development and that of the surrounding locality.</p> <p>On balance, the car parking shortfall 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"> <li>• The peak evening restaurant trade would not conflict with the core operating hours of the office, meaning there would be additional parking availability within the proposed car park;</li> <li>• The restaurant will attract patronage from local residents who will potentially walk or cycle;</li> <li>• The site and locality is well served by public bus routes along Duthy Street; and</li> <li>• There is considered to be adequate on-street parking availability during peak periods, particularly along Duthy Street to address any car parking shortfalls.</li> </ul>
<b>Waste</b>	
<b>PDC 2, 5 &amp; 6 – Waste Management</b>	<p>An open waste storage area is to be provided at the rear of the proposed kitchen building. The designated area is large for the storage of general waste, recycling and organic waste bins. A condition of consent is recommended to ensure that a screening device is erected prior to the operation of the restaurant to visually screen the bins and to minimise the transfer of odour.</p> <p>Given the modest scale of the proposed restaurant, commercial size refuse bins would not be required. The proposed office would generate minimal waste.</p> <p>Waste bins would be collected once a week by Council's waste collection vehicle. The proposed waste management facilities are considered acceptable.</p>

## 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 improve the range and quality of local facilities and services without adversely impacting upon the character and amenity of the locality;
- The small scale of the proposed uses would not prejudice the service/business function of nearby centres;
- The proposed refurbishment of the existing contributory items would sensitively restore and improve their original fabric in a manner that would respond positively to the character and amenity; and
- The proposal is unlikely to lead to conditions detrimental to the free flow and safety of pedestrian and vehicular traffic within the site and on the adjacent road network.

The application is therefore recommended for Development Plan CONSENT.

## **12. RECOMMENDATION**

MOVED:

SECONDED:

That Development Application 090/731/2018/C3 at 21-23 Edmund Avenue, Unley SA 5061 for change of use from service station and motor repair workshop to office and restaurant (including takeaway) and associated car parking 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 overall capacity of the café shall be limited to a maximum of 20 persons at any one time.
3. The operating hours of the office and restaurant approved herein shall be between the following hours:

#### **Office**

- 8.30am to 5.30pm Monday to Friday

#### **Restaurant**

- 8.00am to 10.00pm Thursday and Friday
- 10.00am to 10.00pm on Saturday
- 10.00am to 9.00pm on Sunday

4. All goods and materials shall at all times be loaded and unloaded within the confines of the subject land. Delivery vehicles shall only access the site between the hours of 7.30am and 6.00pm Monday to Friday. Materials and goods shall not be stored on land delineated for use as car parking.
5. All solid waste including food, leaves, papers, cartons, boxes and scrap material of any kind shall be stored in bins having a close fitting lid. The bins shall be stored behind the kitchen/restaurant building in the designated storage area and screened so that it is not visible from the street or adjacent residential properties. A screening device shall be erected prior to the operation of the restaurant.
6. The car parking layout shall satisfy the requirements of *AS/NZS 2890.1-2004* Off-Street Car parking and *AS/NZS 2890.6-2009* - Off-Street Parking for People with Disabilities.
7. Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.
8. That the maximum size delivery vehicle to access the site shall be limited to Medium Rigid Vehicle (MRV) in accordance with Australian Standard 2890.2-2002 Parking Facilities, Part 2, Off-Street Commercial Vehicle Facilities.

List of Attachments		Supplied By:
<b>A</b>	<a href="#">Application Documents</a>	Applicant
<b>B</b>	<a href="#">Representations</a>	Administration
<b>C</b>	<a href="#">Response to Representations</a>	Applicant