

CITY OF UNLEY

COUNCIL ASSESSMENT PANEL

**Minutes of Meeting held Tuesday 15 October 2024 6:00PM
at Civic Centre, Council Chambers**

KAURNA ACKNOWLEDGEMENT

Ngadlurlu tampinhi, ngadlu Kurna yartangka inparrinhi. Ngadlurlu parnuku tuwila yartangka tampinhi.

*Ngadlurlu Kurna Miyurna yaitya yarta-mathanya Wama Tarntanyaku tampinhi. Parnuku yaitya, parnuku tapa purruna yalarra puru purruna. **

We would like to acknowledge this land that we meet on today is the Traditional Lands for the Kurna people and that we respect their spiritual relationship with their Country.

We also acknowledge the Kurna people as the Traditional Custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kurna people today.

*Kurna Translation provided by Kurna Warra Karrpanthi

PRESENT:

Ms Colleen Dunn
Mr Terry Sutcliffe
Mr Will Gormly
Professor Mads Gaardboe (Deputy)
Brenton Burman (Presiding Member)

APOLOGIES:

OFFICERS PRESENT:

Mr Gary Brinkworth, Assessment Manager
Mr Tim Bourner, Team Leader Planning
Ms Amelia DeRuvo, Senior Planning Officer
Mr Nicholas, Bolton, Planning Officer
Ms Lauren Cooke, Planning Officer
Ms Michelle Penta, Customer Liaison Officer

CONFLICT OF INTEREST:

Nil

ITEM 3 - CONFIRMATION OF MINUTES:

MOVED: Terry Sutcliffe

SECONDED: Colleen Dunn

That the Minutes of the City of Unley Council Assessment Panel meeting held on Tuesday 10 September 2024, as printed and circulated, be taken as read and signed as a correct record.

CARRIED UNANIMOUSLY

ITEM 4.1 – 8 Rogers Street, Unley Park SA 5061- 24011525

Sarah Heaslip, representor, addressed the Panel regarding the above-mentioned application.

Lisa Rickard from Clements Architecture, spoke on behalf of the owner in support of the application.

MOVED: Will Gormly

SECONDED: Mads Gaardboe

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 24008592, by Lisa Rickard is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 1

The approved development shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).

Condition 2

The materials used on the external surfaces of the building and the pre-coloured steel finishes or paintwork must be maintained in good condition at all times to the satisfaction of Council.

Condition 3

All stormwater from the building and site shall be disposed of so as not to adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.

Condition 4

The permanently fixed obscure glazing as shown on the approved plans and elevation drawings forming part of this consent, must be installed prior to the commencement of use of the building. The permanently fixed obscure glazing must be maintained in good condition and must be maintained as effective privacy controls thereafter.

Condition 5

The permanently fixed obscure balcony balustrading as shown on the approved plans and elevation drawings forming part of this consent, must be installed prior to the commencement of use of the building. The permanently fixed obscure balcony balustrading must be maintained in good condition and must be maintained as effective privacy controls thereafter.

Condition 6

The establishment of all landscaping shall occur no later than the next available planting season after substantial completion of the development. Such landscaping shall be maintained in good health and condition to the reasonable satisfaction of Council at all times. Any dead or diseased plants or trees shall be replaced with a suitable species.

Condition 7

A watering system shall be installed at the time landscaping is established and thereafter maintained and operated so that all plants receive sufficient water to ensure their survival and growth.

Condition 8

Tree Protection Zones shall be provided for the Regulated tree on the adjoining site that is to be retained. The development must be undertaken in accordance with Appendix E – Tree Protection Zone Guidelines, Tree Protection Zone General Specifications and Guidelines, protective fencing, other protection measures, installation of scaffolding within Tree Protection Area, Ground Protection, Paving Construction within a Tree Protection Zone as recommended within the Arboricultural Impact Assessment and Development Impact Report prepared by Arborman Tree Solutions, dated 21 June 2024.

Additionally:

- Nothing shall be attached to the canopy of the trees by any means;
- All underground services, such as but not limited to, storm water, sewer, water, telecom, NBN, electrical, gas, etc. are to be located outside of the TPZ or if sited within the TPZ all trenching excavation must be conducted using hydro-vac (or alternative tree sensitive techniques) under consultation with the projects arborist;

- Arboricultural supervision during demolition works within the TPZ and SRZ; and
- Existing boundary fence post holes are used with no additional post holes being located within the SRZ or TPZ.

ADVISORY NOTES

Planning Consent

Advisory Note 1

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 2

Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 3

This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.

Advisory Note 4

Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

Advisory Note 5

The development (including during construction) must not at any time emit noise that exceeds the relevant levels derived from the *Environmental (Noise) Policy 2007*.

Advisory Note 6

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence or the erection of a new boundary fence, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 1300 366 424 or refer to their web site at www.lsc.sa.gov.au.

Advisory Note 7

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

Advisory Note 8

That any damage to the road reserve, including road, footpaths, public infrastructure, kerb and guttering, street trees and the like shall be repaired by Council at full cost to the applicant.

Advisory Note 9

You are advised that it is an offence to undertake *tree damaging activity* in relation to a regulated or significant tree without the prior consent of Council. *Tree damaging activity* means:

- The killing or destruction of a tree; or
- The removal of a tree; or
- The severing of branches, limbs, stems or trunk of a tree; or
- The ringbarking, topping or lopping of a tree; or
- Any other substantial damage to a tree, (including severing or damaging any roots),

and includes any other act or activity that causes any of the foregoing to occur but does not include maintenance pruning that is not likely to affect adversely the general health and appearance of a tree.

CARRIED UNANIMOUSLY

ITEM 4.2 – 40 Cheltenham Street, Highgate SA 5063 - 23037828

Phil Brunning on behalf of the applicant together with his light specialist, addressed the Panel answering questions on the above-mentioned application.

Motion moved for approval subject to the removal of condition 4.

MOVED: Will Gormly

SECONDED: Terry Sutcliffe

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code.
2. Development Application Number 23037828 by Concordia College c/- Phil Brunning and Associates is GRANTED Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 1

The approved development shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).

Condition 2

The hours of operation of the illuminated signage must not exceed the following period:

- Monday to Saturday - 6am to 10:30pm
- Sundays and Public Holidays - 6am to 9:30pm

Condition 3

The illumination of the existing signage shall not contain any element that flashes, scrolls, moves or changes, or imitate a traffic control device.

ADVISORY NOTES

Planning Consent

Advisory Note 1

No work can commence on this development unless a Development Approval has been obtained. If one or more consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 2

Appeal rights – General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 3

This consent or approval will lapse at the expiration of 2 years from its operative date, subject to the below or subject to an extension having been granted by the relevant authority.

Advisory Note 4

Where an approved development has been substantially commenced within 2 years from the operative date of approval, the approval will then lapse 3 years from the operative date of the approval (unless the development has been substantially or fully completed within those 3 years, in which case the approval will not lapse).

Advisory Note 5

The applicant must ensure there is no objection from any of the public utilities in respect of underground or overhead services and any alterations that may be required are to be at the applicant's expense.

CARRIED UNANIMOUSLY

ITEM 6.1 – APPLICATIONS BEFORE THE ERD COURT – SUMMARY OF COURT APPEALS

The Team Leader Planning provided an update on the following appeals lodged to the ERD Court

- 7 Thornber Street, Unley Park – Demolition of a dwelling, Refused by CAP
- 5 Regent Street, Millswood – Carport, Refused under Delegation
- 80 Avenue Road, Highgate – Demolition of a dwelling, Refused under Delegation
- 7 Thornber Street, Unley Park – Demolition of a dwelling and replacement dwelling, Refused by CAP

MOVED: Colleen Dunn

SECONDED: Mads Gaardboe

That the report be noted and received.

CARRIED UNANIMOUSLY

ITEM 7.1 – 80 AVENUE ROAD, HIGHGATE SA 5063 – 23023271 – INTO CONFIDENCE

MOVED: Terry Sutcliffe

SECONDED: Will Gormly

It is recommended that the Council Assessment Panel resolve that:

1. The report be received.
2. Pursuant to Regulation 13(2) (a) (ix) of the Planning, Development and Infrastructure (General) Regulations 2017, as amended, the Council Assessment Panel orders the public be excluded with the exception of the following:
 - Gary Brinkworth, Manager Development & Regulatory | Assessment Manager
 - Tim Bourner, Team Leader Planning
 - Amelia De Ruvo, Senior Planning Officer
 - Nicholas Bolton, Planning Officer
 - Lauren Cooke, Planning Officer
 - Michelle Penta, Customer Liaison Officer

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

CARRIED UNANIMOUSLY

ITEM 7.1 – 80 Avenue Road, Highgate SA 5063 - 23023271

MOVED: Terry Sutcliffe

SECONDED: Mads Gaardboe

It is recommended that the Council Assessment Panel resolve that:

1. Having considered the additional information submitted in support of the ERD Court appeal against CAP's decision to refuse DA 23023271 which sought planning consent for the demolition of the existing dwelling & ancillary structures; the CAP resolves to settle the appeal by way of consent order allowing the appeal, reversing the refusal of 21 June 2024 & granting planning consent to DA 23023271.
2. The CAP further authorises Council planning staff to negotiate & instruct its lawyers as to the terms of an appropriate ERD Court consent order, including the imposition of any condition they consider relevant.

CARRIED UNANIMOUSLY

ITEM 7.1 – 80 AVENUE ROAD, HIGHGATE SA 5063 – 23023271 – OUT OF CONFIDENCE

MOVED: Colleen Dunn

SECONDED: Will Gormly

It is recommended that the Council Assessment Panel resolve that:

1. The report be received.
2. Pursuant to Regulation 13(2) (a) (ix) of the Planning, Development and Infrastructure (General) Regulations 2017, as amended, the report and attachments for item 7.1 remain confidential on the basis that the information contained therein concerns actual litigation being the appeal in ERD-24-88
3. That the decision for ITEM 7.1 – 80 Avenue Road, Highgate SA 5063 – 23023271 is released to the public.
4. Formal proceedings recommence with the gallery to be reopened to the public.

CARRIED UNANIMOUSLY

OTHER BUSINESS:

The Panel members thanked Gary Brinkworth, Manager Development & Regulatory (Assessment Manager) for his contribution to the Council Assessment Panel process at Unley over the last few years. He is moving on to a new position in another Council.

The Presiding Member declared the meeting closed at 6.58pm

The foregoing minutes were taken as read and confirmed at the meeting of the Panel on Tuesday 19 November 2024.

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PRESIDING MEMBER

DATED / /

NEXT MEETING
Tuesday 19 November 2024