

**CITY OF UNLEY**

**COUNCIL ASSESSMENT PANEL**

**Minutes of Meeting held Tuesday, 17 September 2019  
at 7.00pm in the Civic Centre, Unley**

**ACKNOWLEDGEMENT**

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 custodians of the Adelaide region and that their cultural and heritage beliefs are still as important to the living Kurna people today.

**PRESENT:** Ms Shanti Ditter (Presiding Member),  
Mrs Jennie Boisvert  
Mr Roger Freeman  
Mr Brenton Burman  
Mr Alexander (Sandy) Wilkinson

**APOLOGIES:** Nil

**OFFICERS PRESENT:** Mr Gary Brinkworth, Assessment Manager  
Mr Andrew Raeburn, Acting Team Leader Planning  
Mrs Amy Barratt, Acting Senior Planning  
Ms Lily Francis, Development Administration Officer

**CONFLICT OF INTEREST:**

Brenton Burman declared a conflict of interest for Items 1 and 2 due to a previous professional relationship with a representor.

**CONFIRMATION OF MINUTES:**

MOVED: Jennie Boisvert                      SECONDED: Brenton Burman

That the Minutes of the City of Unley, Council Assessment Panel meeting held on Tuesday 20 August 2019, as printed and circulated, be taken as read and signed as a correct record.

**CARRIED UNANIMOUSLY**

At 7:01pm Brenton Burman left the meeting

**ITEM 1**

**DEVELOPMENT APPLICATION – 090/413/2019/DIV – 1A INVERGOWRIE AVENUE, HIGHGATE SA 5063 (FULLARTON)**

Mr James Docherty and Mrs Joanne Good, representors, and Mr Justin Ferravant, applicant, addressed the panel regarding the above-mentioned application.

An alternative recommendation was put to the panel as follows:

MOVED: Alexander Wilkinson

SECONDED: Jennie Boisvert

That Development Application 090/413/2019/DIV at 1A Invergowrie Avenue, Highgate SA 5063 for 'Land Division - Torrens Title - Create two allotments from one existing', is at variance with the provisions of the City of Unley Development Plan and should be REFUSED Planning Consent for the following reasons:

- The proposed land division would fail to provide medium to high density residential development in a form envisioned by the zone PDC 5.
- The proposed allotments would fail to provide minimum frontage width of 8m PDC 5.
- The loss of the street tree would have a detrimental impact on the amenity of the area PDC 43.

**CARRIED UNANIMOUSLY**

**ITEM 2**

**DEVELOPMENT APPLICATION – 090/742/2018/NC – 1A INVERGOWRIE AVENUE, HIGHGATE SA 5063 (FULLARTON)**

An alternative recommendation was put to the panel as follows:

MOVED: Alexander Wilkinson

SECONDED: Jennie Boisvert

That Development Application 090/742/2018/NC at 1A Invergowrie Avenue, Highgate SA 5063 to 'Construct two, single storey detached dwellings with walls on boundaries and includes garages, fencing and the removal of one (1) street tree', is at variance with the provisions of the City of Unley Development Plan and should be REFUSED Planning Consent for the following reasons:

The proposed development fails to meet the setback provisions of Major Roads Policy Area 14;

- The development would provide insufficient private open space, contrary to Council Wide Residential PDC 20;
- The width of the garaging is greater than 30% of the site frontage, contrary to Council Wide Residential PDC 29;
- The proposed development exceeds maximum impervious surfaces, contrary to Council Wide Residential PDC 17; and

- The loss of the street tree would have a detrimental impact on the amenity of the area Council Wide Residential PDC 43.
- The proposed allotments would fail to provide minimum frontage width of 8m, contrary to Policy Area PDC 5

**CARRIED UNANIMOUSLY**

Brenton Burman returned to the meeting at 7:42pm

**ITEM 3**

**DEVELOPMENT APPLICATION – 090/385/2019/C2 – 69 UNLEY ROAD, PARKSIDE SA 5063 (UNLEY)**

Ms Morgen Wynn, applicant, addressed the panel regarding the above proposal

MOVED: Alexander Wilkinson

SECONDED: Brenton Burman

That Development Application 090/385/2019/C2 at 69 Unley Road, Parkside SA 5063 for 'Change of use - restaurant/cafe and signage (Shop 1)', 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 final appearance, colours and dimensions of the proposed mural and external paint selection shall be submitted to Council, to the satisfaction of Council's Heritage Advisor, prior to the painting commencing.
3. The café/restaurant use hereby authorised shall not operate outside the following hours:
  - 8:00am to 9:00pm Monday;
  - 8:00am to 5:00pm Tuesday to Thursday;
  - 8:00am to 10:00pm Friday and Saturday; and
  - 8:00am to 5:00pm Sunday
5. The courtyard shall not be used by patrons after 8:00pm on any day.
6. Music shall not be played in the courtyard at any time.
7. That the approved waste disposal facilities and waste enclosure shall be installed and operative prior to occupation of the development.
8. Waste disposal vehicles and general delivery vehicles only service the development between the hours of 7am and 7pm on any day.

9. Patron access to the premises shall be through the Unley Road access only.

**NOTES PERTAINING TO DEVELOPMENT PLAN CONSENT:**

- It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.
- The applicant should ensure that the proposed development conforms to the Food Act 2001, Food Regulations 2017 and the Australian Food Safety Standard.
- That appropriate measures shall be taken (aiming of lights, fittings of louvres, baffles, shields or the like) to control and limit light falling on surrounding properties and that the lights shall be turned off no later than 10.00pm on Monday to Sunday.

**CARRIED UNANIMOUSLY**

**ITEM 4**

**DEVELOPMENT APPLICATION – 090/393/2019/C2 – 10 REGENT STREET, MILLSWOOD SA 5034 (UNLEY PARK)**

Mr Andrew Hill, representor, addressed the panel regarding the above-mentioned application. Mr David Handsaker and Mr David Burton addressed the panel on behalf of the applicant Mrs Haley Sampson.

MOVED: Jennie Boisvert

SECONDED: Brenton Burman

That Development Application 090/393/2019/C2 at 10 Regent Street, Millswood SA 5034 to 'Carry out alterations and construct additions including upper storey and cellar', is not seriously at variance with the provisions of the City of Unley Development Plan and should be GRANTED Planning Consent subject to the following conditions:

**DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:**

1. The Development herein approved shall be undertaken in accordance with all plans, drawings, specifications and other documents submitted to Council and forming part of the relevant Development Application except where varied by conditions set out below (if any) and the development shall be undertaken to the satisfaction of Council.
2. That the upper floor northern and southern windows be treated to avoid overlooking prior to occupation by being fitted with restricted opening windows (to maximum opening of 35 degrees angle) translucent glazed panels (not film coated) to a minimum height of 1700mm above floor level with such translucent glazing and restricted opening to be kept in place at all times.

3. That the upper floor bathroom window be treated to avoid overlooking prior to occupation by being fitted with restricted opening windows (to maximum opening of 100mm) translucent glazed panels (not film coated) to a minimum height of 1700mm above floor level with such translucent glazing and restricted opening to be kept in place at all times.
4. That prior to the issue of full development approval, details of the rear upper floor windows shall be provided showing the vertical screen positioned in the centre of the windows extended by 150mm (depth). The approved screening devices shall be constructed as approved and maintained thereafter.
5. All stormwater from the building and site shall be disposed of so as to not adversely affect any properties adjoining the site or the stability of any building on the site. Stormwater shall not be disposed of over a crossing place.

#### **NOTES**

- 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**.

**CARRIED UNANIMOUSLY**

#### **ITEM 5**

#### **DEVELOPMENT APPLICATION – 090/301/2019/C2 – 64 SHEFFIELD STREET, MALVERN SA 5061 (UNLEY PARK)**

Mrs Chrys and Ms Tina Traintafillou, representors, addressed the panel regarding the above proposal. Mr Garth Heynen of Heynen Planning Consultants, spoke on behalf of the applicant, Mrs Cathryn and Mr Nicholas Apps in support of the application.

MOVED: Roger Freeman

SECONDED: Brenton Burman

That Development Application 090/301/2019/C2 at 64 Sheffield Street, Malvern SA 5061 to 'Erect boundary fencing and swimming pool fencing', is not seriously at variance with the provisions of the City of Unley Development Plan and should be GRANTED Planning Consent subject to the following conditions:

#### **DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:**

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

#### **NOTES PERTAINING TO DEVELOPMENT PLAN CONSENT:**

- 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.
- 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](http://www.lsc.sa.gov.au).

**CARRIED**

**ITEM 6**

**DEVELOPMENT APPLICATION – 090/789/2018/C1 – 27 THORNBUR STREET, UNLEY PARK SA 5061 (UNLEY PARK)**

Mr Tom Crompton from Botton and Levinson and Mr Sean Humphries from Black Rabbitt Architects, addressed the panel on behalf of the applicants Mr Darren and Mrs Michelle Thomas.

Mr Joel Ashforth – City of Unley Arborist, addressed the panel regarding the above-mentioned proposal.

MOVED: Alexander Wilkinson

SECONDED: Roger Freeman

That Development Application 090/789/2018/C1 at 27 Thornber Street, Unley Park SA 5061 to 'Remove significant tree - Eucalyptus gomphocephala (Tuart Tree)', is at variance with the provisions of the City of Unley Development Plan and should be REFUSED Planning Consent for the following reasons:

- The tree is considered to make a contribution to the character or amenity of the local area as per Council Wide Regulated and Significant Trees Objective 3 and Principle of Development Control 6 (a) and therefore should be preserved.
- The significant tree is considered to be a notable visual element to the landscape of the local area as per Council Wide Regulated and Significant Trees Principle of Development Control 6 (b) and therefore should be preserved.
- No evidence has been provided to demonstrate that the tree is diseased and has a short life expectancy therefore removal cannot be justified under Council Wide Regulated and Significant Trees Principles of Development Control 8 (a) (i).
- No conclusive evidence has been provided to demonstrate that the tree represents a material or unacceptable risk to public or private safety, therefore removal cannot be justified under Council Wide Regulated and Significant Trees Principles of Development Control 8 (a) (ii).
- No evidence has been provided to demonstrate that the tree is causing or threatening to cause substantial damage to a building or structure of value, therefore removal cannot be justified under Council Wide Regulated and Significant Trees Principles of Development Control 8 (a) (iii).

\* Denotes Change

- The tree does not demonstrate any of the criteria for removal under Council Wide Regulated and Significant Trees Principles of Development Control 6 and 8 and therefore the tree should not be removed or damaged.

**CARRIED UNANIMOUSLY**

**ITEM 7**

**DEVELOPMENT APPLICATION – 090/963/2018/C1 – 109 CAMBRIDGE TERRACE, MALVERN SA 5061 (UNLEY PARK)**

Mr Kent Grey, applicant, addressed the panel regarding the above proposal.

MOVED: Jennie Boisvert

SECONDED: Roger Freeman

That Development Application 090/963/2018/C1 at 109 Cambridge Terrace, Malvern SA 5061 to 'Erect 1.7m high front brush fence', is at variance with the provisions of the City of Unley Development Plan and should be REFUSED for the following reasons:

- The proposed fencing exceeds the recommended height and is not constructed of complementary materials and would thereby harm the character appearance of the area.

**CARRIED UNANIMOUSLY**

**ITEM 8**

**CONFIDENTIAL MOTION DEVELOPMENT APPLICATION – 090/530/2018/C3 – 84-92 DUTHY STREET MALVERN SA 5061 (UNLEY PARK)**

MOVED: Brenton Burman

SECONDED: Jennie Boisvert

That:

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

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

**CARRIED UNANIMOUSLY**

**ITEM 9**

**DEVELOPMENT APPLICATION – 090/530/2018/C3 – 84-92 DUTHY STREET, MALVERN 5061 (UNLEY PARK)**

MOVED: Brenton Burman

SECONDED: Jennie Boisvert

- A. That the report be received and
- B. That the Environment Resources and Development Court be advised that regarding Development Application 090/530/2018/C3 – 84-92 Duthy Street, Malvern that the Council Assessment Panel supports the compromise subject to the following conditions:

**DEVELOPMENT PLAN CONSENT DETAILS OF DECISION:**

- The change in land use from existing shop and associated wood fired oven to restaurant and associated wood fired oven, and fencing for the premises at 84-92 (tenancy C & D) Duthy Street, Unley 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.
- The use hereby authorised shall not be open to the public outside the following hours.
  - Monday: 7am to 4:30pm
  - Tuesday: 7am to 4:30pm
  - Wednesday: 7am to 8pm
  - Thursday: 7am to 10pm
  - Friday: 7am to 10pm
  - Saturday: 7am to 10pm
  - Sunday: 7am to 8pm
- 3. The existing oven shall only operate as follows:
  - a) wood-fired operation shall only occur between 10am to 5.30pm, Monday to Sunday. For the sake of clarity, the term “operation” includes lighting the oven and extinguishing any lit wood but does not include any incidental embers, smoke emissions, haze or the like which may occur afterwards;
  - b) gas-fired operation may occur in accordance with the operating hours of the development specified in Condition 2 above.
- 4. The wood-fired operation shall only use dry, well-seasoned hardwood timber and the air damper shall be adjusted to allow enough airflow to provide oxygen for combustion.



5. All wood to be stored under cover and stacked loosely to allow air to circulate freely.
6. There shall be no food or drink served in the courtyard area.
7. The courtyard area shall not be used by patrons beyond 8pm (excluding access to the toilets).
8. That the premises shall accommodate a maximum of 50 seats for patron dining within the building.
9. Waste shall be stored in waste collection bins located along the western boundary adjacent the rear driveway and shall be collected between the hours of 7am and 7pm Monday to Saturday.
10. All deliveries shall occur between the hours of 8am and 4pm on any day between Monday and Saturday.
11. All deliveries associated with the authorised development shall occur on-site within the rear common driveway or utilising available on-street car parking on Duthy Street. No delivery vehicle shall block or obstruct other vehicle movements within the locality, including the driveways of other properties.
12. All lighting and any reflective surfaces shall be direct and/or shaded to ensure no light spill or glare upon another property.
13. The fence shall achieve a total height of no less than 3.0 high above the 'courtyard' ground level and be constructed from Colorbond with a minimum 0.42mm BMT or equivalent. Further, an airtight seal is required at junctions including; at the ground, at all junctions and where the barrier joins to the existing masonry structure.
14. Stratocell Whisper with a thickness of 50mm shall be installed up to a minimum height of 2.0m, adjacent the courtyard area for a length of 12.0m.
15. The 3.0m high Colorbond fence and associated 2.0 high Stratocell Whisper shall be erected no later than three months after the Development Approval date.
16. The 'courtyard' gravel shall be removed no later than 1 December 2019.

**NOTES PERTAINING TO DEVELOPMENT PLAN CONSENT:**

- The applicant should ensure that the proposed development conforms to the Food Act 2001, Food Regulations 2002 and the Australian Food Safety Standard.
- This authorisation does not include consent for additional advertisements. A separate consent will be required for further advertisements that constitute "development".

- The applicant should ensure that the proposed development conforms to the Local Litter and Nuisance Control Act.

**CARRIED UNANIMOUSLY**

**ITEM 10**  
**CONFIDENTIAL MOTION DEVELOPMENT APPLICATION –**  
**090/530/2018/C3 – 84-92 DUTHY STREET MALVERN SA 5061 (UNLEY**  
**PARK)**

MOVED: Roger Freeman  
SECONDED: Alexander Wilkinson

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

2.1 The

- Minutes
- Report
- Attachments

For:

- FOR ITEM 9 – PLANNING APPEAL – ERD COURT ACTION NO ERD-19-26 (DA 530/2018/C3) 84-92 DUTHY STREET MALVERN

remain confidential on the basis that the information contained therein concerns actual litigation being the appeals in ERD-19-26

- 2.2 The report and attachments will be kept confidential until such time as the appeal has been determined.

**CARRIED UNANIMOUSLY**

**CLOSURE**

The Presiding Member declared the meeting closed at 9:26pm.

The foregoing minutes were taken as read and confirmed at the meeting of the Panel on Tuesday 17 September 2019

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**PRESIDING MEMBER**

**DATED**     /     /

NEXT MEETING  
Tuesday, 15 October 2019