COUNCIL DEVELOPMENT ASSESSMENT PANEL

NOTICE OF MEETING

TO:                                    Dr Susan Shannon
Presiding Member:

Members:                               Mr Rob Veitch, Ms Fleur Bowden,
                                       Mr David Hughes, Mr Kevin Fischer,
                                       Ms Merilyn Nicolson, Mr Simon Zeller

NOTICE is hereby given that a Meeting of the Town of Gawler Council Development
Assessment Panel will be held in the Council Chamber, Town Hall, 89 Murray Street,
Gawler, on Monday 14 November 2016 commencing 6.30pm.

A copy of the Agenda for the above meeting is supplied.

Ryan Viney
Acting Manager Economic Development,
Regulatory Services and Communications
4 November 2016
For the Meeting of the Town of Gawler Council Development Assessment Panel to be held on Monday 14 November 2016 in the Council Chamber, Town Hall, 89 Murray Street, Gawler, commencing at 6.30PM.

Welcome and Presiding Member Introductions

1. Attendance Record
   1.1 Roll Call
   1.2 Apologies – Simon Zeller
   1.3 Leave of Absence

2. Confirmation of Minutes –
   That the minutes of the Council Development Assessment Panel Meeting held on Monday 10 October 2016 be confirmed as a true and correct record of proceedings.

3. Business Arising from Previous Minutes

4. Declaration of Interest by Members of the Panel

5. Reports:

<table>
<thead>
<tr>
<th>Development Application:</th>
<th>Applicant:</th>
<th>Address:</th>
<th>Nature of Development:</th>
</tr>
</thead>
<tbody>
<tr>
<td>490/386/2016</td>
<td>Barossa Land Conveyancers</td>
<td>44 Paxton Street WILLASTON</td>
<td>Construction of a New Office Building (in form of a Dwelling) with associated Storage, Landscaping and Car Park</td>
</tr>
</tbody>
</table>

<table>
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<tr>
<th>Development Application:</th>
<th>Applicant:</th>
<th>Address:</th>
<th>Nature of Development:</th>
</tr>
</thead>
<tbody>
<tr>
<td>490/240/2015</td>
<td>Greener Lawn Solution</td>
<td>Lot 10 Pearsons Road HILLIER</td>
<td>Change of use to horticulture (market garden), including horticulture building (measuring 27.1 metres x 9.1 metres x 4.5 metres high, sixty-four (64) poly houses (measuring 48 metres x 7 metres x 3.8 metres overall height), pump house, chemical storage building, water storage tank (22,500L), associated car parking (4 spaces) and buffers (constructed and vegetated)</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>Development Application:</th>
<th>Applicant:</th>
<th>Address:</th>
<th>Nature of Development:</th>
</tr>
</thead>
<tbody>
<tr>
<td>490/484/2016</td>
<td>Judy’s Childcare &amp; Learning Centre</td>
<td>1 Scheibener Terrace GAWLER</td>
<td>Tree Damaging Activity - Removal of a Significant Tree</td>
</tr>
</tbody>
</table>
### Development Applications

<table>
<thead>
<tr>
<th>Application</th>
<th>Pursued Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>490/329/2016</td>
<td><strong>5.4 Development Application:</strong> Change in Use from 'Shop' and 'Hall' to 'Restaurant' and 'Three (3) Residential Flat Buildings' and associated Additions and Alterations to a Local Heritage Place</td>
</tr>
<tr>
<td>490/248/2016</td>
<td><strong>5.5 Development Application:</strong> Demolition of an existing dwelling and construction of seven (7) single storey group dwellings, one (1) single storey detached dwelling and associated retaining wall and fence (exceeding 2.1 metres combined height), common driveway and landscaping.</td>
</tr>
<tr>
<td>490/549/2015 (490/D035/15)</td>
<td><strong>5.6 Development Application:</strong> Torrens Title Land Division (3 allotments into 4)</td>
</tr>
<tr>
<td>490/478/2016 (490/C026/16)</td>
<td><strong>5.7 Development Application:</strong> Community Title Land Division (1 allotment into 7)</td>
</tr>
</tbody>
</table>
6. Information Items:

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<tr>
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</thead>
<tbody>
<tr>
<td>6.1</td>
<td>Appeal Matters</td>
<td>118</td>
</tr>
<tr>
<td>6.2</td>
<td>Matters previously deferred</td>
<td>119</td>
</tr>
</tbody>
</table>

7. Other Business


9. Closure
COUNCIL DEVELOPMENT ASSESSMENT PANEL
AGENDA

Monday 14 November 2016
5. Reports:

<table>
<thead>
<tr>
<th>Item Number</th>
<th>5.1</th>
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</thead>
<tbody>
<tr>
<td>Development Application</td>
<td>490/386/2016</td>
</tr>
<tr>
<td>Author(s)</td>
<td>Development Assessment Planner (Jessica Lewig)</td>
</tr>
<tr>
<td>Applicant</td>
<td>BAROSSA LAND CONVEYANCERS</td>
</tr>
<tr>
<td>Owner</td>
<td>S MCMENAMIN</td>
</tr>
<tr>
<td>Subject Land</td>
<td>44 Paxton Street WILLASTON 5118 LOT: 16 PLN: D111592 CT: 6168/998</td>
</tr>
<tr>
<td>Description of Development</td>
<td>Construction of a New Office Building (in form of a Dwelling) with associated Storage, Landscaping and Car Park</td>
</tr>
<tr>
<td>Zone</td>
<td>Residential</td>
</tr>
<tr>
<td>Public Notification Category</td>
<td>Category 3</td>
</tr>
<tr>
<td>Previous Reference/Motion</td>
<td>nil</td>
</tr>
<tr>
<td>Lodgement Date of Application</td>
<td>07/07/2016</td>
</tr>
<tr>
<td>Relevant Development Plan</td>
<td>Consolidated</td>
</tr>
<tr>
<td>Recommendation</td>
<td>Approval subject to Conditions and Reserve Matters</td>
</tr>
<tr>
<td>Delegation</td>
<td>Category 3 development where a representor wishes to be heard in support of their representation (3.3.1.1)</td>
</tr>
<tr>
<td>Attachments Under Separate Cover</td>
<td>Attachment 1 – Application Plans and Documentation</td>
</tr>
<tr>
<td></td>
<td>Attachment 2 – Amended plans</td>
</tr>
<tr>
<td></td>
<td>Attachment 3 – Representation received</td>
</tr>
<tr>
<td></td>
<td>Attachment 4 – Response to representors</td>
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</tbody>
</table>

PROPOSAL

This proposal seeks Development Plan Consent for the Construction of a New Office Building (in form of a Dwelling) with associated Storage, Landscaping and Car Park. In particular, the proposal includes:

- Construction of a new office building (in the form of a dwelling);
- Change in use of the site to office;
- Storage outbuilding (6m x 6.1m);
- Landscaping;
- Associated car parking;
- Hours of operation Monday-Friday 8:30am-5:00pm
Copies of the plans and documentation relating to this application are contained within Attachment 1.

Copies of the amended plans and documentation relating to this application are contained within Attachment 2.

BACKGROUND

In summary, the key aspects pertaining to the assessment of this application are:

- The suitability of the proposed office use within the Residential Zone;
- The interface between land uses;
- Visual amenity impacts of the proposal;
- Overlooking/overshadowing;
- Car parking and traffic impacts;
- Location within a Flood Zone as delineated within the Gawler (CT) Development Plan; and
- Stormwater management.

DEVELOPMENT APPLICATION HISTORY

- 490/493/2015 – Land Division (1 into 2) – Approved by Delegation – Creation of subject allotment

LOCALITY

The main characteristics of the locality are as follows:

| NORTH | • Immediately north is a vacant residential lot which was created as part of the land division which resulted in the creation of the subject allotment.  
|       | • Further north are more residential allotments |
| EAST  | • Directly to the east is Brown Street  
|       | • On the other side of Brown Street there are 2 residential allotments;  
|       | • To the east of the residential allotments there is SCOSA which is located within the Mixed Use Historic Conservation Zone  
|       | • Further east is the AMPM 24 hour service station which is located on Main |
| SOUTH | • Immediately south adjoining the property is Paxton Street  
|       | • On the other side of Paxton Street are primarily residential allotments  
|       | • Stratco (hardware store) has a secondary street access from Brown Street to the south of the subject allotment |
| WEST  | • Primarily residential allotments  
|       | • Further west lies Bright Street |
SUBJECT SITE

The subject site is located within the Residential Zone and more specifically within the Willaston Residential Policy Area. The land is predominately square shaped, with dimensions 23.2m x 22.3m totalling approximately 523m². The subject site is reasonably flat and is currently vacant. The subject site was created as part of a land division (490/493/2015) which divided one allotment (44 Paxton Street) into two new allotments - the subject allotment and the neighbouring allotment.

CATEGORISATION (PUBLIC NOTIFICATION)

The application has been advertised pursuant to Section 38 of the Development Act 1993, as a Category 3 application:

<table>
<thead>
<tr>
<th>Properties notified:</th>
<th>38 owners and occupiers were notified during the public notification process and an advertisement was placed in the Bunyip newspaper.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Representations opposed to application:</td>
<td>One representation was received.</td>
</tr>
<tr>
<td>Persons wishing to be heard:</td>
<td>The following representors identified that they wish to address the Panel:</td>
</tr>
<tr>
<td>Address</td>
<td>Representor</td>
</tr>
<tr>
<td>39 Paxton Street, Willaston</td>
<td>B + J McLean</td>
</tr>
<tr>
<td>Summary of Representations:</td>
<td>The issues contained in the representations can be briefly summarised as follows:</td>
</tr>
<tr>
<td></td>
<td>• Traffic impacts</td>
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<tr>
<td></td>
<td>• Impact of proposal on streetscape</td>
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<tr>
<td></td>
<td>• Overlooking</td>
</tr>
<tr>
<td></td>
<td>• Overshadowing</td>
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<tr>
<td></td>
<td>• Safety concerns</td>
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<tr>
<td></td>
<td>• Location within residential zone</td>
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</table>

The above representations have also been addressed in the assessment below. The applicant has provided a detailed response to the representations and has addressed many of the concerns raised. The applicant’s response can be summarised as follows:
Traffic impacts

- The location on the allotment allows for on-site car parking being located at the rear of the building, thus not seen from the representors dwelling;
- The building is only occupied 5 days per week and not 7 days, and thus would have fewer vehicle movements than a normal dwelling; and
- Clients and customers will visit the complex by appointment only (average 2 visitors or clients to the site on a daily basis)

Impact of proposal on streetscape

- The proposed office complex has been designed professionally and externally appears as a normal dwelling;
- Prior to the land division which created the subject allotment, there was an existing dwelling on the original allotment that faced Paxton Street. This development is essentially replacing the originally dwelling with a similar building that will be used for a low impact business (office); and
- The proposed building has been designed in such a manner that it can be used as a dwelling, should the proposed office cease to operate in the future.

Overlooking/ Overshadowing

- The ‘subject land’ is separated from the representor by Paxton Street, along with the proposed development only being single storey construction.

Safety concerns

- The proposed office will only operate from Monday to Friday between 8.30am to 5.00pm;
- The proposed development is not the kind that attracts large number of people off the street or sells commodities that attract clients.

Location within Residential Zone

- The ‘subject land’ is located on the corner of Paxton Street and Brown Street, approximately 150 metres from the intersection of Main North Road and Paxton Street;
- SCOSA is located 3 allotments or approximately 65 metres east of Brown Street on the same side as the ‘subject land’;
Adjacent to the SCOSA site is a 24 hours service station which provides fuel and other commodities to the travelling public on a 24 hour basis. The service station is located approximately 115 metres east from the subject land;

In addition ‘Stratco’ which has access to both Brown Street and Main North Road is located approximately 65 metres from the intersection of Paxton Street and Brown Street;

Hence there are a number of businesses within 800 metres of Main North Road.

A copy of the representations is contained in Attachment 3.

A copy of the response from the applicant to the representations is contained within Attachment 4.

REFERRALS

No External Referrals required by the Schedule 8 of the Development Regulations, 2008:

<table>
<thead>
<tr>
<th>Internal Council Referrals</th>
<th>Advice/Response/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Comments</td>
<td>• The site is not located within the Gawler River 1 in 100-year ARI flood plain with respect to the 2015 Australian Water Environments Flood Data</td>
</tr>
<tr>
<td></td>
<td>• Car parking to be undertaken in accordance with Australian Standards AS 2890.1, 2004 – Parking facilities Part 1 Off-street car parking</td>
</tr>
<tr>
<td></td>
<td>• Any new driveway to be constructed in accordance with Council Standard Detail SK-303</td>
</tr>
<tr>
<td></td>
<td>• Stormwater detention required to limit the 100 year ARI post development flows to the 5 year ARI pre-development flows</td>
</tr>
</tbody>
</table>

ASSESSMENT

The zoning of the land and relevant provisions

At the time of lodgement, the subject land was within the Residential Zone, and more specifically within the Willaston Residential Policy Area. The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:
Nature of Development

The proposed development seeks the construction of an office within a Residential Zone. Within this Zone, Residential Zone Principle of Development Control (RZPDC) 27 lists an office as a ‘non-complying’ form of development except where the total floor area is less than 150m².

As outlined within the planning report provided by the applicant (undertaken by Mr Trevor White of Planning Solutions SA) the total floor area of the proposed new building is 151.08m². Excluding the
wet areas of the kitchen (8.28m$^2$) and separate bathroom (5.40m$^2$) the total leasable area of the office is 137.40m$^2$. Thus the proposal is assessed as a merit form of development against the relevant provisions of the Development Plan.

Schedule 9 of the Development Regulations 2008 does not make direct reference to the categorisation of an office for public notification purposes, resulting in the proposed application defaulting to Category 3 or Category 1(minor) public notification. The applicant’s planning consultant considered within his report that the application should be considered to be Category 1(minor) under Schedule 9, Part 1, 2(g) of the Regulations which defines a Category 1(minor) development thus:

2. **Except where the development is classified as non-complying under the relevant Development Plan, any kind of development which comprises –**

   (g) a kind of development which, in the opinion of the relevant authority, is of a minor nature only and will not unreasonably impact on the owners or occupiers of the land in the locality of the site of the development.

However given the proposed use is not residential in nature, Council staff (as the relevant authority) determined that the application should not be considered to be minor given its location within a Residential Zone. Thus the application defaulted to be a Category 3 form of development.

**Visual Amenity/ Appearance**

**Building design**

The proposed office building has been designed to resemble a dwelling in order to minimise the visual impact on the locality specifically and the Residential Zone more generally. Further, the floor plan has been set out so that the proposed building could be converted to a dwelling were the use as an office to cease (subject to a change in use application submitted to Council).

The proposal seeks façade articulation through the use of a variety of materials including sandstone brick, red clay bricks and rendered walls. The use of windows and incorporation of a verandah helps to break up the bulk of the primary façade of the dwelling. Thus it is considered that the proposal achieves the requirements of CWPDC 241 regarding building design.

The proposed garage addresses Brown Street, and is considered to be visually unobtrusive when viewed from Paxton Street due to the increased setback relative to the façade and verandah of the dwelling. CWPDC 243, 246 and 250 are considered to be met.
RZPDC 7 seeks the scale, bulk and design of non-residential development to be sensitive to the character of the surrounding residential environment. Given the design of the subject building resembles a dwelling, it is considered that this requirement is achieved. Further, it is considered that the design of the building will not result in detrimental impacts on the visual amenity of the locality in accordance with CWPDC 1, and enhances and reflects the residential character sought for the Policy Area in accordance with CWPDC 4, 252 and the Desired Character Statement for the Policy Area.

As part of the subject application, the applicant is seeking for an outbuilding for storage. The proposed dimensions (6.2m x 6m) are considered to be that of a residential scale outbuilding, and would be considered to be appropriate if the application was intended for a dwelling. Further, the dimensions and setback requirements meet those outlined within CWPDC 280.

Setbacks

The proposed new building was initially set back from the front boundary by 4 metres (m). At the request of Council staff, this setback was increased to 5m to keep in line with the adjacent existing development, thus meeting the requirements of CWPDC 245. The development is sited in keeping with the existing setbacks of the streetscape and thus fulfils CWPDC 98.

As the subject site is located partially within a low-risk flood zone as delineated within the Development Plan, there are larger side and rear setback requirements than the Council Wide provisions; 1m side setback, 4m rear setback. The proposal meets these requirements, and thus meets the requirements of RZPDC 22. The issue of the proposal's location within a Flood Zone is discussed in further detail below.

Overshadowing/ Overlooking

The representation received raised issues with regards to overshadowing and overlooking to the representors property.

It is considered that there is no overlooking from the subject land to any allotment specifically to the representors property (number 39 Paxton Street) as it is separated from the proposed development by Paxton Street. The proposed building is proposed to be constructed approximately 300 mm above the existing ground level, which is typical for residential dwellings. Rather than causing an overlooking issue, the presence of windows to the front of the proposed building is encouraged as it provides an opportunity for passive surveillance to the street in accordance with CWPDC 268. Further, the provision of windows to the front façade of the structure is encouraged from an urban-design perspective in accordance with CWPDC 240.
It is further considered that there will be no overshadowing to the representors property for the reason outlined above; the property is separated from the subject site by Paxton Street. There are not considered to be any overshadowing impacts to neighbouring properties due to the single storey proposal. Given its appearance and form as a dwelling, it is considered any impact on the neighbouring properties would be the same as if the applicant had lodged for a detached dwelling application. CWPDC’s 253 and 254 regarding overshadowing are considered to be satisfied.

Considering the above, this development within a residential area is considered to be designed to minimise overlooking and overshadowing of nearby residential properties in accordance with CWPDC 99.

**Landscaping**

As part of the subject application, the a landscaping plan has been provided which shows garden beds with low-lying shrubs, and a gravel area with native feature grasses addressing Paxton Street. This is considered typical of the landscaping provided for a dwelling within the locality, and is further enhances the building appearance as a residential dwelling, rather than as an office. The proposed landscaping meets the requirements outlined within CWPDC 281 and 282.

**Residential Zone and Interface between Uses**

**Suitability of location within Residential Zone**

The proposed development is located within the Residential Zone. Residential Zone Objective (RZO) 1 seeks for primarily residential development within the Zone, together with local facilities that support a healthy and convenient living environment. However this is further clarified within RZPDC 4 which lists other non-residential uses as being appropriate where the nature and scale of the use serves a local area function, and where the character and amenity of the area is not detrimentally affected.

Given that the proposed building takes the form and appearance of a dwelling (as discussed above), it is considered that the visual amenity impacts on the locality are negligible. Further, the total floor area of the proposed office is less than the 150m² non-complying trigger outlined within RZPDC 27.

In close proximity to the subject allotment there are several other non-residential uses:

- **SCOSA**: Located 3 allotments or approximately 65 metres east of Brown Street on the same side as the ‘subject land’ within the Mixed Use Historic (Conservation) Zone. This
business assistance to the handicapped and disabled and has substantial on-site parking for small commuter buses, clinicians and carers.

- AMPM Petrol Station: 24 hours service station which provides fuel and other commodities to the travelling public. The service station is located approximately 115 metres east from the subject land within the Mixed Use Historic (Conservation) Zone.

- Stratco: The hardware store has access to both Brown Street and Main North Road is located approximately 65 metres from the intersection of Paxton Street and Brown Street within the Mixed Use Historic (Conservation) Zone.

Whilst these uses are located within the Mixed Use Historic (Conservation) Zone (where such development is envisaged), it is considered the proposed use of an office within the Residential Zone is a much lower-impact use on the subject locality than those mentioned above which have a clearly commercial appearance. Given the design, low impact use and proposed hours of operation (see below), it is considered that the proposed development will be difficult to identify as being commercial in nature. Thus it will not negatively impact on the residential locality, and is designed in accordance with CWPDC’s 7, 8, 9, 10, 52, 97, 100 and CWO 39 regarding minimising the conflicts between land uses.

Hours of Operation and Traffic Impacts

CWO 39 seeks for development to be designed and located to prevent adverse impact and conflict between land uses. This is further elaborated upon in CWPDC 97 which discusses the impact of hours of operation on the locality. In this vein, the applicant seeks for the hours of operation to be restricted to:

    Monday–Friday – 8:30am-5:00pm

These hours are considered to be normal business hours. Further, The applicants planning consultant has noted both within his report and response to the representation that for the business which will be using the office, Barossa Land Conveyancers, the majority of transactions are done via electronic means, and the only time clients visit the site is to sign contracts either for the sale or purchase of a dwelling or business. This is via appointment only with approximately 2 clients per day and is thus considered to be a low-impact use of the land. It is therefore considered that the proposed hours of operation and minimal client/ customer numbers would result in negligible impacts on the neighbouring properties relative to a residential use of the land.

The current staffing arrangements for the business (currently located on Main North Road) are:

- 1 Principal; and
3 Full time equivalents.

The applicant’s planning consultant discussed in the planning report and response to the representation that it is likely that the staff would remain on site for the duration of the working day, resulting in minimal impacts of additional people within the area during these hours.

It is not anticipated that the number of employees proposed for the office use would place additional strain on the locality (as raised within the representation) as the proposal essentially takes the form of a 5 bedroom home. These numbers could be anticipated were the application for a dwelling, rather than an office.

Thus it is considered that the representors concerns regarding ‘all day long’ traffic movements and the additional strain on infrastructure are addressed given there would only be approximately 2 vehicles/clients during the day in addition to the 4 staff. This is considered to be minimal given the levels of traffic which Paxton Street is currently subject to.

The location of and access to car parking for both the clients and employees is addressed below within this report under the heading ‘Car parking’.

Flood Zone

A portion of the subject land is shown within the Gawler (CT) Development Plan to be located within an area prone to flooding. This area is shown to be a Low Risk area as per Figure FI/6 within the Gawler (CT) Development Plan, and only covers the south-west portion of the allotment. This is only because the flood data is mapped in 15m x 15m squares. Upon discussion with Council’s Engineering department, it was confirmed that the most recent flood data showed that the subject site was not located within the predicted Flood Zone and no flood level was given. As RZPDC seeks for dwellings to have a finished floor level of 300mm above the predicted 1 in 100-year flood level, and given that there is not predicted flood level as the site is now outside of the predicted flood zone, the required FFL reverts to the Council Wide requirement of 300mm above the street water table as per CWPDC 283. This has been achieved as per the submitted site survey plan.

Given that the site is not located within the predicted Low Risk Flood area the flood provisions outlined within the Development Plan are no longer considered to be applicable.

Car parking

As the proposal is for an office, Table Ga/1 lists the car parking requirements as follows:

Office: 4 spaces per 100m²
The proposed floor area for the office is 137.40m$^2$ or 151.08m$^2$ including the bathroom and kitchen wet areas. When considering either floor area, the car parking requirement for the proposed use is 6 car parks. This requirement has been met, with the provision of 2 undercover carparks within the proposed garage, and 4 uncovered carparks. Thus the requirements of CWPDC 264 and 364 regarding the provision of adequate parking has been met.

The car parking layout proposed has been amended since the application was lodged to ensure all car parking spaces were located within the subject land. Further, the amendment has reduced the visual impact on the Brown Street streetscape as the number of carparks directly fronting Brown Street has been reduced from 4 to 2. This reduction results in the proposal more successfully meeting the requirements of Council Wide PDC 265 regarding the visual impact of car parking and the width of crossovers.

The amended car parking layout has resulted in the uncovered parks having a ‘stacked’ formation. As mentioned above it is likely that the staff would remain on site for the duration of the working day, resulting in minimal vehicle movements for the employees. Thus the stacked car parking design would be suitable for the proposed use.

In essence, the car parking provided mirrors a layout similar to a dwelling application in that two undercover parks are provided within a double garage, with an additional access point to the rear of the property which is proposed to be fenced off with double gates. This design is very similar to a potential access configuration for detached dwelling located on the subject site, and further demonstrates the design of the proposal conforming with the residential locality.

The on-site car parking will be designed in accordance with AS 2890.1, 2004 – Parking facilities Part 1 Off-street car parking and will be sealed with bitumen. Thus the carpark will be designed in accordance both with the relevant Australian Standard and provisions within the Gawler (CT) Development Plan.

This amended plan formed part of the public notification package which was available for viewing both at Council’s office and online.

**Stormwater**

As part of the proposal, the applicant has submitted an indicative stormwater management and site levels plan which shows the provision of a 5000L detention tank to ensure the 100 year ARI post development flows are returned to the 5 year ARI pre-development flows in accordance with CWPDC 135 and 137. Further, there is a private easement for stormwater discharge located to the south-eastern boundary of the site.
A detailed stormwater management plan shall be submitted as the requirement of a ‘reserve matter’. This plan would address the management of surface stormwater, and ensure adequate water quality treatment for surface runoff, in particular from the proposed carpark.

Stormwater management on the site will be required to satisfy both Council Development Plan requirements and Australian Engineering standards. Given the topography of the site and the location of existing easements, it is not considered that the management of stormwater will be problematic or difficult to achieve.

CONCLUSION

Whilst the proposal seeks for an office use within a Residential Zone, it has been demonstrated that the design of the building will substantially reflect that of a detached dwelling. The proposed hours of operation are considered to be within ‘normal’ business hours and given the intended use of the land, would not detrimentally impact the neighbouring residential amenity. Further, the majority of transactions for the subject business are done via electronic means, and the only time clients visit the site is to sign contracts either for the sale or purchase of a dwelling or business. This is via appointment only with approximately 2 clients per day. Thus the proposal is considered to be a low-impact use of the land.

Whilst the Development Plan shows the subject site as being located within a Low Risk Flood area, Council’s internal engineers have assessed the most recent flood data and determined that the subject site now lies outside of this predicted flood hazard area.

Given the low impact on the neighbouring residential allotments, it is considered that the proposal is not at variance with the provisions of the Development Plan and that Development Plan Consent should be granted subject to conditions and reserve matters.

RECOMMENDATION

That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan and that DEVELOPMENT PLAN CONSENT be GRANTED to Development Application 490/386/2016 by BAROSSA LAND CONVEYANCERS for Construction of a New Office Building (in form of a Dwelling) with associated Storage, Landscaping and Car Park at 44 Paxton Street WILLASTON 5118, subject to the following conditions:
Reserved Matters

The Council Development Assessment Panel requires the following matter which is reserved pursuant to Section 33(3) of the Development Act 1993 to be addressed to the reasonable satisfaction of Council staff:

1. A detailed Stormwater Management Plan shall be prepared and submitted to Council for approval demonstrating but not limited to the following:
   a. Stormwater detention for the site, limiting the 100-yr post development flow to the 10-year ARI pre development flow;
   b. The method of stormwater detention for the proposed site and car parking area; and
   c. The finished levels of the site (including any subsequent retaining walls were required).

   **REASON:** No stormwater management plans have been submitted with the application.

   **NOTE:** Council reserves the right to attach further conditions in relation to this.

Development Plan Consent Conditions

1. That the development is undertaken in accordance with Development Application No 490/386/16 the approved plans, details and conditions therein.

   **REASON:** To ensure the development is undertaken in accordance with the approved plans.

2. The subject land shall be maintained to the reasonable satisfaction of Council at all times.

   **REASON:** To ensure the site is maintained in a reasonable condition.

3. The hours of operation for the hereby approved use shall be limited to the following periods:
   - Monday – Friday: 8:30am to 5:00pm

   **REASON:** To ensure the operation of the approved use does not detrimentally impact upon the amenity of adjoining properties.

4. Containers, bins or receptacles used for the temporary storage of garbage, waste or refuse arising from the premises, shall be located and/or screened from public view to the reasonable satisfaction of Council.

   **REASON:** To ensure the storage of waste does not detrimentally impact the amenity
5. The car park layout and dimensions shall conform to the requirements as set out in AS2890.1: 2004 – Off street car parking.
   
   **REASON:** To ensure the car parking area complies with the relevant Australian Standard.

6. All vehicle parking bays shall be appropriately line marked prior to the occupation of the use hereby approved.
   
   **REASON:** To ensure car parking areas are clearly delineated.

7. The first two stacked car parking bays and the garage shall be designated to ‘staff parking only’, with the remainder of carparks available for visitors.
   
   **REASON:** To ensure car parking areas are clearly delineated.

8. Access driveway between the property boundary and the kerb line shall be constructed in accordance with Council’s standard detail SK-302. The driveway shall be sealed with an approved durable material such as concrete, bricks, pavers or asphalt.
   
   **REASON:** To ensure the driveway crossover is constructed in accordance with Council standard details

9. No materials, goods or containers shall be stored in the garage or in the carpark unless otherwise approved by Council.
   
   **REASON:** To ensure sufficient car parking has been provided on site.

10. External 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.
    
    **REASON:** Lighting shall not detrimentally affect the amenity of the locality

11. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that do not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.
    
    **REASON:** To ensure stormwater is appropriately managed on site.

12. The proposed landscaping shall be established on the site in accordance with the approved plan prior to the occupation of the site and shall be maintained and nurtured at all times, with any diseased or dying plants replaced.
13. Site work, demolition work and building work shall be carried out only between the hours of 7:00am to 7:00pm Monday to Saturday. No work is permitted on Sundays, and as per EPA requirements for work of this nature.

**REASON:** To ensure any works do not cause unreasonable amenity impacts of adjoining properties.

14. During construction, precautions shall be taken to prevent the pollution of stormwater by mud, silt, dust or other debris from the site in accordance with EPA Code of Practice for the Building and Construction Industry.

**REASON:** To ensure no pollution or contaminants enter the public stormwater system.

**Advisory Notes**

1. The applicant is advised that no signage has been approved as part of the subject application.
Item Number | 5.2
--- | ---
Development Application | 490/240/2015
Author(s) | Brendan Fewster (Consultant Planner)
Applicant | Greener Lawn Solution
Owner | Trustee D V Nguyen & Huynh Family Trust
Subject Land | Lot 10 Pearsons Road HILLIER 5116
Description of Development | Change of use to horticulture (market garden), including horticulture building (measuring 27.1 metres x 9.1 metres x 4.5 metres high, sixty-four (64) poly houses (measuring 48 metres x 7 metres x 3.8 metres overall height), pump house, chemical storage building, water storage tank (22,500L), associated car parking (4 spaces) and buffers (constructed and vegetated)
Zone | Rural
Public Notification Category | Category 3
Previous Reference/Motion | Item 5.1, 14 December 2015
Lodgement Date of Application | 24/04/2015
Relevant Development Plan | 27 November 2014
Recommendation | Approval
Delegation | 3.3.1.4 – Unresolved representations and representors wishing to be heard
Attachments Under Separate Cover | Attachment 1 – Agenda and Minutes of previous meeting Attachment 2 – Application plans and documentation Attachment 3 – Locality plan Attachment 4 – External referrals

BACKGROUND

The application was presented to the Development Assessment Panel (DAP) on 14 December 2015 with a recommendation for approval subject to a series of conditions. At the meeting on 14 December 2015 the DAP resolved that:

“the matter be DEFERRED to allow the applicant to provide additional information for consideration along with any other external referrals to other agencies to address the concerns of the Panel Members queries relating to stormwater management and the potential development of an environmental Management Plan”.

The relevant extracts from the Agenda and Minutes of the DAP meeting are contained within Attachment 1.

In response to the concerns raised by the DAP, the applicant has provided the following information:
• Revised proposal plans that include a reduction of the number of poly houses from 67 to 64 and the location of waste storage bins and firefighting vehicle access;

• Construction details for a small chemical storage building; and

• A stormwater management plan, calculations and associated documentation prepared by Hudson Environ, a civil and structural engineering consultancy.

PROPOSAL

This proposal is for the following:

Change of use to horticulture (market garden)

• The proposed change of land use relates to a land area of 2.12 hectares. The land is currently used as a market garden for the production of zucchinis. Prior to the unauthorised change in the use of the land, the land was vacant. According to Council records, the land was used some time ago for cereal farming and sheep grazing.

Horticultural Building

• A horticultural building measuring 27.1 metres in length, 9.1 metres in width and 4.5 metres in height to the top of the walls.

• The walls, roof and doors are to be clad in Colorbond sheeting and finished in a green colour.

• Large sliding doors and a personal access door are located on the western elevation.

• The building is to be used for the storage of a tractor and other farm machinery and to transfer produce (zucchinis) from buckets into boxes for transport.

• No washing, grading or packaging of produce is to occur within the building.

• The building is to be located approximately 7 metres from the western boundary, 60 metres from Hillier Road to the south, 4 metres from the eastern boundary and some 300 metres from the northern boundary.

• The existing trees adjacent to the eastern side of the building will be retained with additional plantings (Olive trees) provided along the eastern and western boundaries.

• Stormwater from the building is to be directed to a 22,500 litre water storage tank. The overflow from this tank is to be directed to the existing dam.
Poly Houses

- A total of 64 poly houses are proposed which equates to a roof area of approximately 20,000 square metres (2 Ha).
- The poly houses are in groups of 6, 7 or 8 with spaces between each group for access.
- All of the poly houses are 48 metre in length, 7 metres in width and 2.5 metres in height to the gutters.
- The roofs are a dome shape with 500mm wide open box gutters and external gutters.
- The structures are of steel frame construction with a white polyethylene film (plastic) walls and roof.
- The poly houses are to be located approximately 10 metres from the Pearsons Road frontage, at least 12 metres from the northern boundary, approximately 8 metres from the eastern boundary and at least 15 metres from the southern boundary.
- Stormwater runoff from the poly houses will be collected from gutters and directed to an existing dam. The dam water will be used for irrigation on the site.

Other Elements

- The plantations will be irrigated via bore water and rainwater collected from the poly houses. The subject land has a water license to take 11,366kL per annum of underground water for irrigation purposes.
- A swale is to be provided along the perimeter boundaries to confine water runoff from road ways.
- A small pump house located on the edge of the dam.
- A small chemical storage building measuring 3.45 metres in length and width that is to be located centrally within the site.
- A gravel car park area for four vehicles for staff.
- Access for firefighting vehicles around the perimeter of the site and between the two rows of poly houses.
- Vegetated buffers are proposed around the perimeter of the poly houses and comprise one row of olive trees and one row of native trees.
A constructed screen or buffer consisting of a shade cloth fence that has already been erected (retrospective approval now sought) around the perimeter of allotment boundaries in order to mitigate dust.

Headland areas have been provided at the end of each of the row and in-between the groups of poly houses for tractor manoeuvring.

The site will be accessed via the existing access on Pearsons Road and a new access is proposed at the north-western corner of the site.

A central all-weather access road is proposed through the middle of the site linking the two access points. These will allow vehicles, tractors and small trucks (including CFS appliances) access within the site.

Only minimal earthworks are required for the construction of the proposed buildings.

Whilst the dam on the subject land is an integral part of the stormwater management system, the dam does not require approval under the *Development Act 1993* as it is less than five megalitres in size and does not have levees or mounds that are more than three metres above natural ground level.

Chemicals are to be hand sprayed within the enclosed poly houses.

There will be up to seven workers on the site at any one time. It will be a predominantly family operated farm.

The site working hours in peak summer months will be between 6.00am and 8.00pm daily (peak times) and between 8.00am and 8.00pm daily (off-peak times).

No machinery will be operated until 8am or after 5pm in peak periods.

Copies of the amended plans and other documentation relating to this application are contained within *Attachment 2*.

### SUMMARY OF KEY ISSUES

In summary, the key aspects pertaining to the assessment of this application are whether:

- The proposal accords with the Desired Character of the area;
- Adverse amenity impacts, such as noise, spray drift, odour, dust, health and visual impact would occur;
- The proposal includes appropriate land and farm management practises;
- There would be a loss of rural character;
Stormwater management is adequate;
The development would be served by safe and convenient vehicular access; and
The development would pose an unacceptable bushfire risk.

DEVELOPMENT APPLICATION HISTORY

The history of Development Applications on the site includes:

- 490/791/2007 - land division (1 into 2) approved on 11 February 2008; and

SUBJECT SITE

An inspection of the site and the surrounding area has been undertaken.

The subject land is a hammerhead shaped allotment with a frontage of 409 metres to Pearsons Road and a handle section that fronts onto Hillier Road. The site has a total area of approximately 4 hectares.

The land is formally described in Certificate of Title Volume 6034 Folio 108, comprising Allotment 10 in Deposited Plan 79698 in the area named Hillier. Whilst there are easements, encumbrances or Land Management Agreements affecting the land, there is a right of way approximately one metre wide that follows the full length of the Pearsons Road frontage.

The site is currently occupied by a small dam, a pump shed, a lean-to addition onto the bore shed, a zucchini plantation and some poly house framing. As the land is currently being used unlawfully for zucchini production, this aspect of the proposal is being assessed retrospectively. A white shade cloth structure that is two metres in height has been affixed to existing boundary fencing as a form of screen or barrier.

There is some native vegetation along the boundaries of the ‘handle’ section of the allotment, which is approximately 20 metres in width. The land has a gentle slope, with a cross fall in a south-westerly direction.

LOCALITY

The main characteristics of the locality are as follows:

| NORTH | To the north there are predominantly rural residential allotments. According to Council records, some of these properties are also used for livestock grazing. |
| EAST | Immediately to the east is a rural residential property (27 Reed Road), which also features horticulture. An olive tree plantation covers approximately half of the site. There are no vegetated buffers surrounding this plantation, aside from the on the Reed Road side. The other sides are just an open buffer that appears to be less than 5 metres in width. The dwelling on this allotment is approximately 150 metres from the eastern boundary of the subject land. The other property (11 Reed Road) directly to the east of the subject land is also a rural residential property used for livestock grazing. The dwelling on this property is 160 metres from the eastern boundary. Other properties are rural residential allotments that also feature livestock grazing. |
| SOUTH | Immediately to the south is Hillier Road and a small rural residential property (248 Hillier Road). The dwelling on this allotment is approximately 60 metres from the southern boundary of the main portion of the subject land. Hillier Road is surfaced (bitumised), but does not have kerb or gutter. Properties to the south are predominantly used for rural residential and some are also used for agriculture purposes and horse keeping. It is noted that there is a horticultural use (vineyard) on the corner of Badman Street and Hillier Road (197 Hillier Road). No vegetated buffers surround this vineyard. |
| WEST | Immediately to the west is Pearsons Road, a gravel road with no kerb or gutter. On the other side Pearsons Road are rural residential properties that are also used for livestock grazing. The two dwellings on the opposite side of Pearsons Road (adjacent the main portion of the subject land) are approximately 50 metres from the front western boundary of the subject land (105 and 109 Pearsons Road). The rural residential property on the corner of Pearsons and Hillier Road (268 Hillier Road) features a small olive tree plantation that occupies approximately a quarter of this allotment. This property is bordered by native vegetation, which could be considered a form of vegetative buffer, but features trees only. The dwelling on this property is approximately 130 metres from the front western boundary (adjacent the ‘handle’ |
section of the hammer-head shaped allotment) of the subject land.

A locality plan is contained within Attachment 3.

PUBLIC NOTIFICATION

The application was previously notified as a Category 3 development pursuant to Section 38 of the Development Act, 1993. Five (5) representations were received during the notification period. The concerns raised by the representors and the response to of the applicant to the representations were outlined in the original DAP report in Attachment 1.

REFERRALS

External Referrals required by the Schedule 8 of the Development Regulations, 2008:

<table>
<thead>
<tr>
<th>Referrals/Notice</th>
<th>Advice/Response/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Environment, Water and Natural Resources</td>
<td>The Department advised that they are not opposed to the proposed development and indicated that the applicant holds a water license to take up to 11,366 kL per annum. No conditions were recommended.</td>
</tr>
</tbody>
</table>
| Primary Industries and Regions SA (Informal referral only) | • It is not a Council’s role to regulate how chemicals can be used for primary production purposes. Chemical use in South Australia is already regulated under the Agricultural and Veterinary Chemical (Control of Use) Act 2002 and Regulations 2004 which is administered by PIRSA. This includes provisions for addressing the issue of spray drift and includes a Duty of Care for responsible chemical use. Chemical products that can be legally used already have strict regulatory use instructions provided on product labels and these labels and products have already been approved via the Australian Pesticides and Veterinary Medicines Authority (APVMA).  
• Biosecurity SA would consider it to be unreasonable to further stipulate any specific chemical use requirements for a proposed market garden (i.e. that chemical used must be biological or part of an Integrated Pest Management System) as these stipulations are not a reasonable chemical use regulatory requirement for any form of primary production and are not conditions to which other primary
producers need to comply with.

- Depending on the products used, slight chemical odour might be detectable at times but should have no adverse impact on surrounding areas.

<table>
<thead>
<tr>
<th>Internal Council Referrals</th>
<th>Advice/Response/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Department</td>
<td>The stormwater management design has been reviewed and is considered acceptable subject to the following requirements:</td>
</tr>
<tr>
<td></td>
<td>- Bore water is not to be mixed with stormwater on-site where there is potential for this stormwater to contaminate the subject land, the public stormwater system or neighbouring properties;</td>
</tr>
<tr>
<td></td>
<td>- Provide a continuous perimeter earth mound around the southern and western boundaries of the site to an even level of 40.400 metres Australian Height Datum (m AHD);</td>
</tr>
<tr>
<td></td>
<td>- Provide an overflow pipe from the site dam that is no greater than 225mm in diameter at the overflow level of 41.44 metres Australian Height Datum (m AHD) that will adequately function without an air locking mechanism;</td>
</tr>
<tr>
<td></td>
<td>- Stormwater detention is to be provided to limit the post development 1 in 100-year ARI storm event to the 1 in 5 year pre-development flow for site discharge to Pearson Road;</td>
</tr>
<tr>
<td></td>
<td>- Provide an internal site stormwater management system that will not cause any stormwater to overflow into neighbouring properties for all storm events up to an including the 1 in 100-year ARI storm event.</td>
</tr>
</tbody>
</table>

A Reserve Matter that addresses the above requirements is recommended.

A copy of the external referral is contained within Attachment 4.

**ASSESSMENT**

**The zoning of the land and relevant provisions**

At the time of lodgement, the subject land was within the Rural Zone. The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:
Background

The staff report presented to the Panel on 14 December 2015 (refer to Attachment 1) provided a detailed assessment of the relevant planning matters relating to the proposed development. These matters were considered by the Panel and it was resolved that the information provided by the applicant did not adequately address on-site stormwater management or the potential environmental effects of the development.

As the nature of the development is substantially the same as the original proposal, the following assessment focusses on key issues that were previously raised by the Panel.

Form of Development

It is observed that the subject land is well entrenched within the Rural Zone, with the nearest zone boundaries being 350 metres to the north (Light Regional Council boundary, at least one kilometre to the east (Deferred Urban Zone) and approximately two kilometres to the south-east (Residential Zone).
The underlying Objective of the Rural Zone is for "land to be retained in use primarily for agricultural purposes". The use of rural land for primary production is further supported by Council Wide Objective 82, which states:

"Retention of rural areas for agricultural, horticultural and grazing purposes and the maintenance of the natural character and rural beauty of such areas".

Council records and aerial photography indicate that the subject land has historically been used for small-scale dry land farming. The proposal to change the use of the land to a market garden would ensure the land is retained for horticultural purposes in accordance with the intent of the Rural Zone. A market garden is a common form of primary production that typically takes place within a series of glass or poly houses and is similar in nature to a plant nursery. It is noted that Principle of Development Control 15 of the Rural Zone lists "agriculture" and a "plant nursery" as complying kinds of development within the zone. This means that the land for all intents and purposes could be used 'as of right' for the cultivation of animals and food products and also as a plant nursery which involve glass and shade houses.

When balanced against the existing site and locality characteristics and the Objective and Desired Character for the Rural Zone, the proposal to change the use of the subject land to a market garden with associated poly houses is considered to be an orderly and desirable form of development from a land use perspective.

Environmental Management

Chemical Usage

The proposed market garden will involve the periodic use of chemicals. All chemicals will be stored within a proposed storage shed that is to be located centrally within the site. Importantly, chemical spraying will only occur within the poly houses when the sidewalls are down. Any spraying of weeds outside of the poly houses will be conducted by hand and therefore fully controlled. Stormwater runoff will also be collected within a sealed system to avoid any potential contamination of stormwater. These operational and management practices will ensure that spray drift and chemical odour is sufficiently contained.

As requested by the Panel, the application has been referred ‘informally’ to Primary Industries and Regions SA (PIRSA) to seek advice on chemical use and management for the proposed market garden and for primary production uses generally. It is noted that the referral of the application to PIRSA was not a statutory requirement under the Development Act 1993.

The advice of PIRSA is summarised as follows:
It is not a Council's role to regulate how chemicals can be used for primary production purposes. Chemical use in South Australia is already regulated under the Agricultural and Veterinary Chemical (Control of Use) Act 2002 and Regulations 2004 which is administered by PIRSA. This includes provisions for addressing the issue of spray drift and includes a ‘Duty of Care’ for responsible chemical use. Chemical products that can be legally used already have strict regulatory use instructions provided on product labels and these labels and products have already been approved via the Australian Pesticides and Veterinary Medicines Authority (APVMA);

Biosecurity SA would consider it to be unreasonable to further stipulate any specific chemical use requirements for a proposed market garden (i.e. that chemicals used must be biological or part of an Integrated Pest Management System) as these stipulations are not a reasonable chemical use regulatory requirement for any form of primary production and are not conditions for which other primary producers need to comply with; and

Depending on the products used, slight chemical odour might be detectable at times but should have no adverse impact on surrounding areas.

The proposal is considered to include on-site management practices to ensure chemical usage does not cause any adverse impacts on surrounding land.

Operational

It is typical for primary production activities within rural areas to generate some ‘periodic’ noise given that such activities often include tractors and other farm vehicles and machinery. This is particularly the case during planting and harvesting seasons. Notwithstanding this, Council Wide Objective 39 and 40 seek to ensure that new development adequately protects community health and amenity whilst also supporting the operation of desired land uses.

In terms of minimising noise, the applicant has indicated that no machinery will operate outside of 8am to 5pm which would therefore be well within the daytime hours prescribed by the Environment Protection (Noise) Policy 2007 of the Environment Protection Authority (EPA). The daytime hours of the policy area are between 7.00am and 10.00pm. As the water pump equipment will be located within a pump shed, the noise from the operation of the pump will not be significant.

While some dust in the warmer summer months is generally unavoidable in rural areas, the applicant has confirmed that a roof mounted sprinkler system is to be installed within each poly house which will be used to suppress dust during tilling or rotary hoeing of the land. Conditions to this effect have been recommended. It is also noted that the physical screen or buffer (shade cloth fence) has already been constructed around the perimeter of allotment boundaries as a method of
dust control and the proposal includes the planting of vegetated buffers as a long-term and more robust dust mitigation solution.

With the above mitigation measures in place, it is expected that any dust generated by the proposed development would not be any more significant than the dust currently generated by vehicles accessing Pearsons Road given that it is an unsealed gravel road. The main access driveway through the subject land will comprise of all-weather (compacted gravel) construction and grass coverage will need to be maintained within headland areas to avoid mud and dust from tractor use.

**Buffers**

As detailed above, the proposed poly houses are to be located approximately 10 metres from the Pearsons Road frontage, at least 12 metres from the northern boundary, 8 metres from the eastern boundary and at least 15 metres from the southern boundary. In addition to these spatial buffers, a vegetated screen or buffer of at least 4 metres in width is to be planted along all of the boundaries that immediately surround the poly houses. Over time the vegetation will provide a visual screen and also mitigate dust, whilst a constructed screen in the form of an existing shade cloth fence (retrospective approval now sought) will provide a satisfactory short term solution.

For the above reasons and subject to recommended conditions of consent, it is considered that the proposed development can rightfully co-exist with nearby residences as it would not cause unreasonable impacts on surround land users through noise, spray drift, dust or traffic movements. The proposal therefore satisfies Council Wide Objective 39 and 40 and Principle of Development Control 97, 98, 102, 103, 104 and 105.

**Stormwater Management**

The applicant has engaged the services of a Civil and Structural Engineer, Hudson Environ, to prepare a stormwater management plan for the development. Stormwater runoff from the poly houses will be collected from gutters and directed to an existing dam. The dam water will be used for irrigation on the site. In terms of surface runoff, a swale is to be provided along the perimeter boundaries to confine and manage water runoff from road ways.

Council’s Engineer has reviewed the stormwater management design and considers it acceptable subject to the following requirements:

- Bore water is not to be mixed with stormwater on-site where there is potential for this stormwater to contaminate the subject land, the public stormwater system or neighbouring properties;
• Provision of a continuous perimeter earth mound around the southern and western boundaries of the site to an even level of 40.400 metres Australian Height Datum (m AHD);

• Provision of an overflow pipe from the site dam that is no greater than 225mm in diameter at the overflow level of 41.44 metres Australian Height Datum (m AHD) that will adequately function without an air locking mechanism;

• Stormwater detention is to be provided to limit the post development 1 in 100-year ARI storm event to the 1 in 5 year pre-development flow for site discharge to Pearson Road;

• Provision of an internal site stormwater management system that will not cause any stormwater to overflow into neighbouring properties for all storm events up to and including a 1 in 100-year ARI storm event.

A Reserve Matter that addresses the above requirements has been recommended.

**CONCLUSION**

When assessed against the relevant provisions of the Town of Gawler Development Plan and having regard to the context of the locality and the nature of the proposed development, it is considered that the proposal satisfies the relevant provisions of the Development Plan.

The proposal to change the use of the subject land to a market garden with associated poly houses is an orderly form of development that is envisaged within the Rural Zone as it would ensure that the land is retained for primary production purposes.

Whilst the proposal would involve the use of chemicals and may generate some noise and dust on occasion, it has been demonstrated that appropriate environmental management practices would be in place to adequately protect surrounding land users from impacts such as noise, spray drift, dust and traffic nuisance.

It has also been demonstrated that stormwater runoff could be appropriately managed on-site.

Accordingly, the proposal warrants Development Plan Consent subject to a reserve matter and conditions.

**RECOMMENDATION**

That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan and that DEVELOPMENT PLAN CONSENT be
GRANTED to Development Application 490/240/2015 by GREENER LAWN SOLUTION for CHANGE OF USE TO HORTICULTURE (MARKET GARDEN), INCLUDING HORTICULTURE BUILDING (MEASURING 27.1m (L) X 9.1m (W) X 4.5m (H)), SIXTY-FOUR (64) POLY HOUSES (MEASURING 48m (L) X 7m (W) X 3.8m OVERALL HEIGHT), PUMP HOUSE, CHEMICAL STORAGE BUILDING, WATER STORAGE TANK (22,500L) AND ASSOCIATED CAR PARKING (4 SPACES) & BUFFERS (CONSTRUCTED & VEGETATED) at Pearsons Road HILLIER 5116, subject to the following conditions:

Reserved Matters

1. Council requires the following matter which is reserved pursuant to Section 33(3) of the Development Act 1993 to be addressed to the reasonable satisfaction of Council staff prior to the granting of Development Approval:

   • A detailed stormwater management design be supplied and approved by the Council that incorporates the following requirements:

     a. Bore water is not to be mixed with stormwater on-site where there is potential for this stormwater to contaminate the subject land, the public stormwater system or neighbouring properties;

     b. Provision of a continuous perimeter earth mound around the southern and western boundaries of the site to an even level of 40.400 metres Australian Height Datum (m AHD);

     c. Provision of an overflow pipe from the site dam that is no greater than 225mm in diameter at the overflow level of 41.44 metres Australian Height Datum (m AHD) that will adequately function without an air locking mechanism;

     d. Stormwater detention is to be provided to limit the post development 1 in 100-year ARI storm event to the 1 in 5 year pre-development flow for site discharge to Pearson Road; and

     e. Provision of an internal site stormwater management system that will not cause any stormwater to overflow into neighbouring properties for all storm events up to and including a 1 in 100-year ARI storm event.

NOTE: Council reserves the right to attach further conditions in relation to this.
REASON: To ensure that the stormwater design meets the requirements of Council Engineering Standards and the Development Plan.

Development Plan Consent Conditions

1. That the development is undertaken in accordance with Development Application number 490/240/2015, the approved plans, conditions and details therein.
   REASON: To ensure the development is undertaken in accordance with the approved plans.

2. The operating hours of the market garden shall be as follows:
   - Site working hours in peak times between 6.00am and 8.00pm daily and between 8.00am and 8.00pm daily in off-peak times; and
   - Machinery shall be operated only between 8.00am and 5.00pm.
   REASON: To ensure the development operates in accordance with the approval and noise impacts are minimised.

3. All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, drained and delineated in accordance with Australian Standard AS 2890.1:2004. All car parking spaces shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and car parking areas shall be constructed of compacted gravel prior to occupation of the development and maintained in good condition at all times to the reasonable satisfaction of Council.
   REASON: To provide adequate, safe and efficient off-street parking for users of the development.

4. All goods and materials shall at all times be loaded and unloaded within the confines of the subject land at all times and shall not be stored in areas designated for car parking.
   REASON: To provide safe and efficient movement of people and goods.

5. 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.
   REASON: Lighting shall not detrimentally affect the amenity of the locality.

6. The cladding for the pump shed shall comprise of sound and undamaged materials that are to be painted in a dark or earth tone colour within one (1) month of Development Approval being granted.
   NOTE: browns, greys, greens and beige are suitable colours.
REASON: Second-hand materials should be of good quality and painted a neutral shade.

7. The unauthorised carport/additions onto the existing shed that houses the bore shall be removed within one (1) month of Development Approval or upon substantial completion of the horticultural building.

NOTE: Council reserves the right to undertake enforcement action separately in relation to this issue.

REASON: To ensure unauthorised structures are removed in accordance with the application documents.

8. The horticultural building approved herein shall not be used for human habitation or industrial purposes.

REASON: To ensure the proposed development is orderly and undertaken in accordance with the approved plans.

9. No washing, grading or packaging shall occur within the horticultural building (no mechanical conveyor, washing or packing line machine).

NOTE: Transferring produce from buckets or the like into containers, boxes or fruit bins for transport is permitted.

REASON: To ensure the proposed development is orderly and undertaken in accordance with the approved plans.

10. The appearance and structural integrity of the poly houses approved herein shall be maintained to the satisfaction of Council. Torn or damaged polyethylene film shall be repaired or replaced as soon as practicable.

REASON: To maintain and enhance the visual amenity of the locality where the poly houses are located.

11. Chemical spraying of the market garden shall be undertaken only by hand and within the enclosed poly houses when all sidewalls are rolled down.

REASON: To ensure that chemical spray drift does not occur.

12. A sprinkler system shall be installed on the roof/ceiling of each poly house within one (1) month of the substantial completion of each poly house to the satisfaction of Council.

REASON: To minimise dust nuisance to adjacent residential properties.
13. Tilling or rotary hoeing of the land should only occur when the roof or ground based sprinkler system is in operation.

   REASON: To minimise dust nuisance to adjacent residential properties.

14. The central access road shall be constructed of compacted gravel (all-weather construction) and the headland areas shall be constructed of compacted gravel or covered in grass, with such works completed within three (3) months of Development Approval.

   REASON: To minimise dust nuisance to adjacent residential properties and to ensure all access is provided.

15. All waste shall be removed from the subject land at least once a week.

   REASON: To maintain the amenity of the locality.

16. The vegetated screens shall comprise of a vegetated area with a minimum width of 4 metres and a 5 metre firebreak on one side of the vegetated area. The vegetation shall comprise of random plantings of a variety of fast growing and robust tree species of differing growth habits to achieve 50 percent porosity for airflow, including at least one row of semi-mature trees that has a minimum canopy height of 4 metres at maturity. The vegetation shall be planted at 4 metre spacing. Such vegetation shall be maintained in good health and condition at all times with any dead or diseased plants being replaced in the next planting season to the satisfaction of Council.

   REASON: To minimise the risk of environmental nuisance and potential land use conflict.

17. Semi-mature trees shall be planted within the road verge of Pearsons Road directly in front of the subject land within three (3) months of Development Approval. Council will determine the appropriate size and species of trees and the planting of the trees shall be undertaken in consultation with Council’s Open Space and Operations Officer. Such vegetation shall be maintained in good health and condition at all times with any dead or diseased plants being replaced in the next planting season to the satisfaction of Council.

   REASON: To minimise the risk of environmental nuisance, potential land use conflicts and to soften the appearance of the proposed development.

18. The constructed shade cloth screen shall be removed in its entirety within twelve (12) months of Development Approval or the shade cloth shall be replaced with shade cloth of a more natural tone.
NOTE: Browns, greys, greens and beige are suitable colours. Council reserves the right to undertake enforcement action separate to this Development Application. No part of the structure, including posts shall be over 2.1 metres in height.

REASON: The temporary constructed buffers should be removed once the semi-mature vegetated buffer plantings have become established.

19. The water level of the dam shall be maintained at a level no higher than one metre vertical distance below the crest. A levelling device shall be installed within one (1) month of Development Approval to ensure this occurs.

REASON: To minimise erosion, protect the environment and to ensure no ponding of stormwater resulting from development occurs on adjacent sites.

20. Site work, demolition work and building works shall be carried out only between the hours of 7.00am to 7.00pm Monday to Saturday. No such work is permitted on a Sunday, as per EPA requirements for work of this nature.

REASON: To ensure the amenity of the locality is not impacted upon during construction.

21. The access driveway between the property boundary and the kerb line shall be constructed in accordance with Council’s standard detail SK-301. The driveway shall be an appropriate all-weather material such as gravel.

REASON: To provide safe and efficient movement of people and goods.

22. The proposed access driveway shall be located a minimum of one metre from any water meters, street tree, light pole or stormwater pit.

REASON: To provide safe and efficient movement of people and goods.

Notes

- If the dam is enlarged to a capacity of more than 5ML a separate development approval would be required.


- If additional poly houses or planting rows are proposed outside of the poly houses a further development application will be required.
• The applicant is reminded of their duty to act reasonably in relation to the management of natural resources within the State, in accordance with Section 9 of the Natural Resources Management Act 2004.

• The development involves the take of water from the Northern Adelaide Plains Prescribed Wells Area established under the Natural Resources Management Act 2004 (NRM Act). The development approved does not include the taking of any water for which an authorisation may be required under the NRM Act.

• Section 144 of the Natural Resource Management Act 2004 requires the occupier of the land which a well is situated to ensure that the well (including the casing, lining and screen of the well and any mechanism used to cap the well) is properly maintained. A permit is required from the Department of Environment, Water and Natural Resources for any work to be carried out on a well or for new wells to be drilled. Information on specific wells can be obtained from www.waterconnect.sa.gov.au


• The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

• It should be ensured that all stormwater used for irrigation purposes meets the Environment Protection (Water Quality) Policy 2003.
### PROPOSAL

The Applicant seeks Development Approval to remove a significant River Red Gum (*Eucalyptus camaldulensis*) from the site at 1 Scheibener Terrace, Gawler. The subject tree is located within a 3 x 2 metre raised garden area within the outdoor play area at Judy’s Childcare and Learning Centre.

The building (childcare centre) located on the site is listed as a State Heritage Place (Former Gawler Wesleyan Methodist Manse).

The tree has a single trunk which was visually estimated by Council’s independent arborist (Dr Dean Nicolle) to measure approximately 4.5metres – 5metres at one (1) metre above natural ground level and is therefore considered to be a Significant Tree under Regulation 6A of the *Development Regulations 2008*.

Removal is being sought by the applicant due to safety concerns to the users of this area (predominantly children and employees) from limbs that are threatening to fall.

Copies of the plans and documentation relating to this application are contained within Attachment 1.
SUMMARY OF KEY ISSUES

In summary, the key aspects pertaining to the assessment of this application are:

- Tree is highly visible and forms a notable element of the landscape;
- The tree is not considered by the State Heritage Department to be fundamental to the value of the State Heritage Place which is located on the subject site;
- The canopy of the tree is located above a high-use area of a child care centre;
- The tree has reached its useful life expectancy;
- The overall risk to personal safety has been determined by the independent arborist to be moderate to high and unacceptable, increasing over time;
- The risk to personal safety is in correlation to the under-crown use of the site;
- Risk mitigation techniques (other than tree removal, land-use modification, and engineered protective structures), such as pruning techniques and branch cabling, are not considered to be a viable solution to reduce the risk associated with the tree in this case due to the vigour of the tree, the deteriorating branch structure of the tree, the high crown of the tree, and the very high under-crown use of the site.

DEVELOPMENT APPLICATION HISTORY

- June 30, 2000 – 490/300/200 – Tree damaging activity (pruning of branches) approved under delegation.

LOCALITY

The main characteristics of the locality are as follows:

<table>
<thead>
<tr>
<th>NORTH</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Directly north - Todd Street</td>
</tr>
<tr>
<td></td>
<td>On the opposite side of Todd Street is a State Heritage Place – Uniting Church</td>
</tr>
<tr>
<td></td>
<td>New additions to Uniting Church and associated car parking to the north-west</td>
</tr>
<tr>
<td></td>
<td>Foodland shopping centre and associated car parking to the north-east on the same side of Todd Street as the Uniting Church (located within Town</td>
</tr>
</tbody>
</table>
### SUBJECT SITE

- The subject tree is located at 1 Scheibener Terrace within the Residential Historic Conservation Zone and more specifically within the Residential Light Historic Conservation Policy Area.

- There is a State Heritage Place located on the subject site - Former Gawler Wesleyan Methodist Manse.

- The site has an area of 1099m².

- The tree is located on the eastern boundary of the subject site.
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CATEGORISATION (PUBLIC NOTIFICATION)

The application was not required to be advertised pursuant to Section 38 of the Development Act 1993. Under Schedule 9 (13) of the Development Regulations 2008, any development which comprises a tree-damaging activity in relation to a regulated or significant tree on private property is listed as Category 1 and does not require public notification.

REFERRALS

External Referrals required by the Schedule 8 of the Development Regulations, 2008:

<table>
<thead>
<tr>
<th>Referrals/Notice</th>
<th>Advice/Response/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Heritage Department</td>
<td>“The proposed development is considered to be acceptable in relation to the above State heritage place for the following reasons.</td>
</tr>
<tr>
<td></td>
<td>- The significant tree is to be removed for safety reasons and will have an acceptable impact on the heritage values of the State Heritage place.</td>
</tr>
<tr>
<td></td>
<td>- The large eucalypt is not intrinsic to the significance of the State Heritage Place.” – M Heathcote, 19/10/2016</td>
</tr>
</tbody>
</table>

ASSESSMENT

The zoning of the land and relevant provisions

At the time of lodgement, the subject land was within the Residential Historic (Conservation) Zone, and more specifically within the Light Residential Historic (Conservation) Policy Area. The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:

<table>
<thead>
<tr>
<th>Section</th>
<th>Objectives</th>
<th>Principles of Development Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council Wide:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conservation</td>
<td>13</td>
<td>34, 35</td>
</tr>
<tr>
<td>Regulated Trees</td>
<td>69, 70</td>
<td>207, 208, 209</td>
</tr>
<tr>
<td>Significant Trees</td>
<td>84</td>
<td>305, 306, 307</td>
</tr>
<tr>
<td>Zone:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Residential Historic (Conservation)</td>
<td>2</td>
<td>1, 3</td>
</tr>
</tbody>
</table>
Visual Amenity
The subject tree is approximately 24 metres tall with an average spread of 18 metres. The tree has a single trunk which leads into several irregularly-spaced branches varying in length and weight. The crown of the tree is high and ‘funnel shaped’, moderate in density and evenly weighted.

Due to its size, the tree is highly visible from Scheibener Terrace and Tod Street. It provides an important contribution to the amenity of the area. Its visual contribution is enhanced due to the fact that it is one of the largest trees on the north-west side of Scheibener Terrace.

To the south-east of the subject tree, there are numerous other trees of varying species and size within Council’s reserve, however these trees are separated from the subject tree by Schiebener Terrace.

With regards to the visual impact on the historic character of the locality, the State Heritage Department have advised that the removal of the significant tree would have an acceptable impact on the heritage values of the State Heritage Place, and that the tree is not intrinsic or essential to the significance of the State Heritage Place. Thus its removal is not constrained by Council Wide Objective 13, Council Wide PDC 34, 35 and 283, Zone Objective 2, Zone PDC 1 and 3, Policy Area Objective 1, 2 and 3 or Policy Area PDC 6 as its removal will not negatively impact on the State Heritage Place.

Tree Health
Council has engaged an independent Arborist, Dr Dean Nicolle, to provide assessment on the subject tree. He has stated the following in his report dated 21 September 2016:

- *The tree is currently in an above average and stable state of health;*
- *The tree has moderate vigour;*
- *The tree has evidence of minor and non-damaging borer activity;*
- *Minor termite activity is visibly evident, which does not necessarily indicate reduced tree health but does have the potential to significantly affect the structural integrity of the tree especially at structurally critical joints;*
- *Actual life expectancy (how much longer the tree will be alive), thirty (30) plus years;*
Useful life expectancy (how much longer the tree can safely fulfil its function under existing conditions and zero management), zero (0) years;

In summary the tree is not diseased, however its life expectancy under the current conditions is considered by Council's independent arborist to have been surpassed, i.e. useful life expectancy of zero (0) years. As such it meets the requirements of Council Wide PDC 208(a) and 307(a)(1)(i) for removal with regards to having a short life expectancy.

Dr Dean Nicolle’s Arborist Report is included as Attachment 2.

Risk Assessment

A risk assessment has been undertaken by Dr Nicolle with regard to the potential impacts of both branch and whole-of-tree structural failure. A Summary of his findings are detailed below:

Whole-of-tree structural failure

Whole-of-tree structural failure in healthy and mature *Eucalyptus camaldulensis* is uncommon. The base of the subject tree is evenly buttressed healthy, and appears to be sound. The trunk of the tree appears to be healthy and sound. The likelihood of whole-of-tree structural failure is considered to be very low.

Branch failure

Mature *Eucalyptus camaldulensis* can be subject to occasional sudden limb failure, which can occur in sound timber. Most branches in the subject tree, whilst generally healthy and well structured, are becoming increasingly long and end-weighted, increasing the likelihood of structural branch failure events and especially sudden limb failure event. Overall likelihood of branch failure is considered to be low to moderate but gradually increasing over time.

The consequence of any structural branch failure events in the subject tree is significantly increased by two factors:

1. The relatively large ground-to-crown distance which increases the impact potential of any branch failure event partly due to past pruning; and
2. The very high use of the under-crown area of the tree due to its use as a primary outdoor play area for a childcare facility.

The overall risk to personal safety has been determined by Dr Nicolle to be moderate to high and unacceptable, increasing over time. The risk to personal safety is in correlation to the under-crown use of the site.

Due to the moderate to high and unacceptable risk to personal safety, the removal of the tree is supported by Council Wide PDC 208(b) and 307(a)(1)(ii).
Damage to a building
The tree is not currently causing or threatening to cause substantial damage to a structure of value.

Type of Tree Species
The subject tree is indigenous to the local area.

The subject tree is not listed as rare or endangered, and thus its removal is not restricted by Council Wide Objective 70(c) and is partially supported by Council Wide PDC 305(b).

Habitat Value
The tree is a reproductively mature specimen of a locally indigenous Australian native species. No faunal hollow are evident. Therefore, Dr Nicolle is of the opinion that the tree arguably represents an important habitat for native fauna.

Alternative Risk Reduction Options
Dr Nicolle has provide three options in his report in order to reduce the risk to safety presented by the tree. He has also indicated that one of these option should be actioned as a matter of high priority. These options are outlined below:

1. Significant land use modification
   Dr Nicolle has suggested that the risk could be reduced to an acceptable level by significantly modifying the type and frequency of use of the under-crown area of the tree. This would essentially involve changing the site from a very high-use outdoor play area from a commercial childcare and early learning centre to a lower-use site. Such a land-use change is unlikely to be considered a realistic option for the site.
   As such it is not considered that this is a reasonable option.

2. Construction of an under-crown protective structure
   Dr Nicolle considers that the risk to safety associated with the tree could be reduced to an acceptable level by the construction of adequately-engineered under-crown protective structure (e.g. shade-sails or a similar open-sided canopy structure). Any such structure would need to be pole or pylon-held with open sides and a water-permeable roof to minimise its effect on the health and longevity of the tree.
   The load-bearing capabilities and costs of such a structure were not examined as part of Dr Nicolle’s report (requiring engineering and economic expert advice respectively), but may be considered prohibitive and/or unreasonable in this case, considering the size and height
of branches which may potentially fail from the tree and the under-crown area required (18 x 10 metres = 180 square metres) for such a structure.

This option is also considered to not be reasonable due to the high costs and size of the structure required.

3. **Tree removal**

   Complete removal of the tree will eliminate the risk to safety associated with the tree.

   This is the option being pursued by the applicant as detailed within their application form to Council (see Attachment 1).

Further, Dr Nicolle has stated that other risk mitigation techniques (other than tree removal, land-use modification, and engineered protective structures), such as pruning techniques and branch cabling, are not considered to be a viable solution to reduce the risk associated with the tree in this case due to the vigour of the tree, the deteriorating branch structure of the tree, the high crown of the tree, and the very high under-crown use of the site.

Given that the alternative remedial treatments and measure that have been proposed are not considered to be reasonable, it is considered that the removal of the subject tree can be supported by Council Wide PDC 307(a)(2)

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**CONCLUSION**

Whilst the subject tree provides an important amenity value to the locality, it is not considered by the State Heritage Department to be intrinsic to the value of the State Heritage Place which is located on the subject site. Given the use of the subject land as a child care centre, and the high use of the under-crown area, the risks associated with potential branch failure are considered by the independent arborist to be moderate to high and unacceptable, increasing over time. Further, risk mitigation has been advised to be undertaken as a matter of priority. Whilst the independent arborist has offered two risk mitigation techniques, modifying the land use or constructing an under-crown structure are not considered to be reasonable given the existing lawful use of the land and the associated costs. Other risk mitigation techniques have been determined by Dr Nicolle to be unviable. It follows that the only viable risk mitigation technique is tree removal, and this option can be supported by Council Wide PDC’s 208 and 307. Therefore, it is considered the tree warrants removal, and Development Approval should be granted.
RECOMMENDATION

That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan and that DEVELOPMENT PLAN CONSENT be GRANTED to Development Application 490/484/2016 by JUDY'S CHILDCARE & LEARNING CENTRE for Tree Damaging Activity - removal of a significant tree at 1 Scheibener Terrace GAWLER 5118, subject to the following conditions:

1. That the development is undertaken in accordance with Development Application No. 490/484/2016, the approved plans and details therein.

   REASON: To ensure the development is undertaken in accordance with the approved plans.

2. Pursuant to Regulation 117 of the Development Regulations 2008, three replacement trees shall be planted for each regulated tree removed pursuant to this development consent.

   REASON: To ensure the development is undertaken in accordance with the relevant legislation.

3. Replacement trees shall be capable of growing to a substantial expected mature size.

   REASON: To offset the removal of the regulated tree.

4. The replacement trees are to be maintained appropriately. Any tree which dies or is removed due to disease or other factors is to be replaced in the same location (or other location approved by Council through a new location plan). This shall take place within 3 months of such event, with a tree from Council's list of suitable trees at that time.

   REASON: To ensure the replacement trees are maintained in a healthy condition.
**Item Number** 5.4

**Development Application** 490/329/2016

**Author(s)** Development Assessment Planner (Jessica Lewig)

**Applicant** S RUDDUCK

**Owner** 63 MURRAY STREET PTY LTD

**Subject Land** 63 Murray Street GAWLER 5118
LOT: 87 PLN: F5550 CT: 5856/328

**Description of Development** Change in Use from 'Shop' and 'Hall' to 'Restaurant' and 'Three (3) Residential Flat Buildings' and associated Additions and Alterations to a Local Heritage Place

**Zone** Town Centre Historic (Conservation)

**Public Notification Category** Category 1

**Previous Reference/Motion** nil

**Lodgement Date of Application** 08/06/2016

**Relevant Development Plan** Consolidated April 28 2016

**Recommendation** Approval subject to Conditions and Reserve Matters

**Delegation** Deemed to be more appropriately considered by the CDAP (3.3.1.6)

**Attachments Under Separate Cover**
- Attachment 1 – Application Plans and Documentation
- Attachment 2 – Amended plans
- Attachment 3 – Acoustic Report
- Attachment 4 – Applicants response to request for additional information

**PROPOSAL**

The proposal seeks Development Plan Consent for the change in use from 'shop' and 'hall' to 'restaurant' and 'three (3) residential flat buildings' and associated additions and alterations (upgrades) to a Local Heritage Place.

In particular the proposal includes:

- Change in use of the ground floor from 'shop' to 'restaurant';
- Change in use of the upper floor from 'hall' to 'residential flat building' (containing 3 apartments);
- Demolition of the existing internal staircase;
- Construction of an addition to the rear of the existing building, consisting of toilets, service access and foyer leading to 3 upstairs apartments;
- Raising the rear roofed area with a skillion clerestory roof;
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- Installation of additional windows/ openings;
- Minor patching and repointing to the façade of the building;
- Introduction of a mezzanine floor;
- Internal fitout for a restaurant;
- Provision/formalisation of associated car parking (3 spaces for the residential flat buildings, 2 spaces for the restaurant) to the rear of the site (adjoining High St);
- The installation of signage (associated advertising);
- Formalisation (including repair) of onsite stormwater management;

Copies of the plans and documentation relating to this application are contained within Attachment 1.

Copies of the amended plans and documentation relating to this application are contained within Attachment 2.

BACKGROUND (INCLUDING EARLY SITE HISTORY)

The building on the subject site is listed as a Local Heritage Place as contained within Table Ga/5 of the Gawler (CT) Development Plan. The following outlines a brief history of the subject site:

- The subject building was originally constructed c1859 by the Independent Order of Oddfellows, with its official opening on April 5, 1859 as the Oddfellows Hall;
- In 1866, the hall was used as a church hall by the Gawler Baptist Church prior to the construction of their church building at 18 Murray Street;
- In 1966, the Oddfellows Hall was converted into a snooker recreation Centre;
- A bicycle store occupied the ground floor of the building from around the mid 1980's up until 2008, with the owner of the bicycle store (from 1996 onwards) indicating that the upper floor was sublet as a boxing club while the ground floor was a bike shop

Given the previous lawful uses of the building, and the design of the building which facilitates separate access to the upper level, Council staff acknowledge existing separate use rights of the Oddfellows Hall as a ‘hall’ for the upper level, and ‘shop’ for the ground floor. Further, the applicant

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1 Whitelock, D. Gawler: Colonel Lights Country Town (Adelaide, Corporation of the Town of Gawler, 1989), 289
2 Whitelock, Gawler, 209
3 Whitelock, Gawler, 182
has obtained legal advice from Botten Levinson Lawyers which also found that these existing use rights lawfully exist.

The Oddfellows Hall achieved its Local Heritage status within Council Development Plan in 2001 as it was deemed to satisfy the following criteria under Section 23(4) of the *Heritage Places Act 1993*:

- It displays historical, economic or social themes that are of importance to the local area, being one of the oldest buildings in the town, the first Oddfellows Hall in the state and the main place for public gatherings in Gawler during the 1860's;
- It has played an important part in the lives of local residents, especially those who have used the building;
- It displays aesthetic merit, design characteristics or construction techniques of significance to the local area, retaining remnants of the original fine architecturally-designed building;
- It is associated with a notable personality of event, namely the significant opening of Gawler’s largest public building.

Prior to 2015, the original timber framed windows were removed without a valid development authorisation and replaced with aluminium framed windows on the northern façade of the building. Council staff have been investigating the unauthorised removal with the intent to potentially proceeding with enforcement action to rectify this unauthorised development. Council is currently continuing investigations and pursuing potential enforcement action under the *Development Act 1993*.

It is important to note that investigations are ongoing and that the ownership of the subject land changed in January 2016, (i.e. the current owners did not undertake the unauthorised works). As part of preliminary discussions, reinstating the timber windows was raised with the current applicant and land owner, however when the application was submitted, the plans indicated the exiting aluminium windows to be retained. Clarification was sought from the applicant, who confirmed that they would not be reinstating the timber windows.

Potential enforcement action for the unauthorised removal of windows is still ongoing. However, Council cannot hold up the assessment and determination of the current application presented before the panel as a result of any potential enforcement action.
DEVELOPMENT APPLICATION HISTORY

- 490/411/2013 – Change of use from ‘shop’ to ‘personal services establishment’ (Tattoo studio) – Refused (information not provided within the specified time under Regulation 19 of Development Regulations 2008)
- 490/236/2015 – Change of use to ‘indoor recreation centre’ – Refused (information not provided within the specified time under Regulation 19 of Development Regulations 2008)

LOCALITY

The main characteristics of the locality are as follows:

<table>
<thead>
<tr>
<th>NORTH</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Gawler Bakery (Contributory Heritage Place)</td>
</tr>
<tr>
<td></td>
<td>Shops and cafes located within a Local Heritage Place</td>
</tr>
<tr>
<td></td>
<td>Calton Road</td>
</tr>
<tr>
<td>EAST</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Murray Street and several retail and office tenancies</td>
</tr>
<tr>
<td></td>
<td>Further east over Julian Terrace is Apex Park (Council Reserve)</td>
</tr>
<tr>
<td>SOUTH</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Gawler Florist and Gawler Museum (State Heritage Place)</td>
</tr>
<tr>
<td></td>
<td>Retail and office tenancies</td>
</tr>
<tr>
<td>WEST</td>
<td></td>
</tr>
<tr>
<td></td>
<td>High Street</td>
</tr>
<tr>
<td></td>
<td>Phoenix Plaza (State Heritage Place) and associated multi-level car parking</td>
</tr>
</tbody>
</table>
SUBJECT SITE

The subject site is located at 63 Murray Street, Gawler within the Town Centre Historic Conservation Zone and more specifically within the Town Centre Light Historic Conservation Policy.
Area. The building that is existing on the subject site is listed as a Local Heritage Place as the ‘Oddfellows Hall’. To the rear of the existing structure is a carpark, which is accessed from a laneway that runs the length of the northern boundary. The subject site has an area of approximately 640m².

CATEGORISATION (PUBLIC NOTIFICATION)

This application was not required to be advertised pursuant to Section 38 of the Development Act, 1993.

The proposal was categorised as Category 1 in accordance with Schedule 9, 6(1)(h) of the Development Regulations 2008, as the proposed development is located within a Town Centre Zone, delineated within the Gawler (CT) Development Plan and not located on a zone boundary.

REFERRALS

No External Referrals required by the Schedule 8 of the Development Regulations, 2008:

<table>
<thead>
<tr>
<th>Internal Council Referrals</th>
<th>Advice/Response/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Department</td>
<td>The internal staircase in its current form does not meet the requirements of the Building Code of Australia, namely:</td>
</tr>
<tr>
<td></td>
<td>• The treads are slate, badly dilapidated and present a significant tripping hazard;</td>
</tr>
<tr>
<td></td>
<td>• The riser heights are uneven</td>
</tr>
<tr>
<td></td>
<td>• The hand rail is too low</td>
</tr>
</tbody>
</table>

ASSESSMENT

The zoning of the land and relevant provisions

At the time of lodgement, the subject land was within the Town Centre Historic (Conservation) Zone, and more specifically within the Town Centre Light Historic (Conservation) Policy Area. The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:
## Nature of Development

The proposed development seeks the change of use from ‘hall’ and ‘shop’ to ‘residential flat building’ and ‘restaurant’ within a Town Centre Historic (Conservation) Zone.

The proposed uses are not listed as either ‘complying’ or ‘non-complying’ forms of development for the Zone and thus is assessed as a merit form of development.

It must be noted that the definition of a ‘shop’, as per Schedule 1 of the Development Regulations 2008, includes the use of the land as a ‘restaurant’. The land use is only differentiated within the Gawler Development Plan due to separate car parking rates applying to each use based on floor area.

As mentioned above, the proposal was categorised as Category 1 in accordance with Schedule 9, 6(1)(h) of the Development Regulations 2008, as the proposed development is located within a

<table>
<thead>
<tr>
<th>Section</th>
<th>Objectives</th>
<th>Principles of Development Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Council Wide:</td>
<td></td>
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<tr>
<td>Appearance of Land, Buildings and the Public Environment</td>
<td>1</td>
<td>1, 4, 6, 8, 9</td>
</tr>
<tr>
<td>Centres and Shops</td>
<td>5, 7, 8</td>
<td>21, 25, 26</td>
</tr>
<tr>
<td>Conservation</td>
<td>12</td>
<td>35</td>
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<tr>
<td>Form of Development</td>
<td>20, 21</td>
<td>97, 98, 100, 101, 102, 103</td>
</tr>
<tr>
<td>Interface Between Land Uses</td>
<td>39</td>
<td></td>
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<tr>
<td>Natural Resources</td>
<td>52, 53, 54</td>
<td>131, 133, 134, 135, 136, 137, 138, 139, 140, 141</td>
</tr>
<tr>
<td>Outdoor Advertisements</td>
<td>65, 66, 67</td>
<td>182, 183, 184, 185, 186, 187, 188, 189, 191, 192, 193, 194, 195, 196, 197, 199, 203, 204</td>
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<td>1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12</td>
<td>6, 7, 13, 15, 16, 17, 18, 19, 20, 23, 24, 26, 27, 29, 30, 31, 32, 33</td>
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<tr>
<td>Policy Area:</td>
<td>Desired character</td>
<td>1, 2</td>
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</table>

The proposed development seeks the change of use from ‘hall’ and ‘shop’ to ‘residential flat building’ and ‘restaurant’ within a Town Centre Historic (Conservation) Zone.

The proposed uses are not listed as either ‘complying’ or ‘non-complying’ forms of development for the Zone and thus is assessed as a merit form of development.

It must be noted that the definition of a ‘shop’, as per Schedule 1 of the Development Regulations 2008, includes the use of the land as a ‘restaurant’. The land use is only differentiated within the Gawler Development Plan due to separate car parking rates applying to each use based on floor area.

As mentioned above, the proposal was categorised as Category 1 in accordance with Schedule 9, 6(1)(h) of the Development Regulations 2008, as the proposed development is located within a
Town Centre Zone, delineated within the *Gawler (CT) Development Plan* and not located on a zone boundary.

**Visual Amenity Impacts/ Repairs and Restoration Works to the Existing Building**

As mentioned above, the subject building is listed as a Local Heritage Place in Table Ga/5 of the Gawler (CT) Development plan, specifically *the historic form and fabric of the building but not including the cantilevered veranda or concrete façade additions*.

With regards to physical alterations to the subject building, the proposal involves:

- Demolition of the existing internal staircase;
- Construction of an addition to the rear of the existing building consisting of new toilet amenities, service access and foyer leading to 3 apartments upstairs;
- Raising the rear roofed area with a skillion clerestory roof;
- The installation of additional windows to the northern and southern elevation, and skylights/openings to the southern elevation;
- Minor repairs to the façade of the building's stone façade including patching and repointing;
- Introduction of a mezzanine floor for the residential flat buildings;
- Internal fitout for a restaurant; and
- Associated advertising.

As the subject building is a Local Heritage Place and also located within a Heritage (conservation) Zone, the application has been assessed by Council’s independent Heritage Advisor, who has provided comment (see above).

**Removal of staircase**

The existing internal staircase has been proposed to be removed as a result of the proposed application for a number of reasons which include:

- *The treads are slate and badly dilapidated (delamination) and present a significant tripping hazard;*
- *The riser heights are uneven at the top most step and this is a major stumbling hazard. It is not possible to correct this without a major rebuild; and*
- *The hand rail is too low and not able to be raised without spoiling the integrity of the item.*
Council's Heritage Advisor notes that 'While there is some discomfort in the regrettable loss of the staircase to the side and rear, this is considered reasonable and necessary to support the new use'. Further, as mentioned above, these issues result in the staircase not being compliant with the Building Code of Australia.

Town Centre Historic (Conservation) Zone Objective (TCEH(CZO) 7 and TCEH(CZO) 11 seek retention/restoration, adaption and re-use of desired building stock and maximisation of the potential of derelict and underutilised land. This is further emphasised by Town Centre Historic (Conservation) Zone Principle of Development Control (TCEH(CZPDC's) 20 and 23 which seek retention, adaption and upgrading of items identified within Table GA/5 (Local Heritage Places). Given that the new use will activate a vacant and previously underutilised Local Heritage Place, it is considered that this new development (which will see the Local Heritage Place maintained and used) compensates for the loss of the existing staircase.

**Additional structures**

The demolition of the existing staircase facilitates the addition of a courtyard and allows for the internal modifications required for restaurant facilities and access to the upper level apartments (residential flat building). The proposed addition and alterations to the building are considered by Council's Heritage Advisor to be acceptable as they will not detract from the visual prominence of the Local Heritage Place, and are of a complementary style. Thus the requirements of Council Wide Principle of Development Control (CWPDC) 4 and 35 TCEH(CZ Objective 5 regarding development having minimal impact, and not detracting from the heritage value of the Local Heritage Place are met.

**External colours and finishes**

The applicant is seeking to maintain and repair the front (western) façade of the Local Heritage Place, with the colours and materials to remain 'as is'. This includes retaining

- Unpainted render;
- Aluminium windows;
- Shop front and timber entry door suite;
- Super Elliot lettering;
- Painted surfaces to be repainted with Solver ‘Broken White’ 8500;
- Cantilevered awning to be repaired as existing.

The north elevation is proposed to be repaired as follows:
Existing blue stone walling to remain with repairs to mortar in matching colour and texture;

Existing render to be ‘made good’ (patched and repaired)

Existing windows and gutters to remain unpainted;

New walls and roof unpainted, galvanised iron;

New skylights clear glass.

The east and south elevations will be repaired similarly.

It is considered that the proposed finishes will conserve and maintain the existing streetscape character and complement the historic significance of the Local Heritage Place in accordance with TCeH(C)ZPDC’s 13, 15, 17, 18 and 19.

Inclusion of mezzanine level

The inclusion of the mezzanine floor has a minimal impact on the streetscape presence of the Local Heritage Place as the works are all internal. Further, the addition of the mezzanine level facilitates the residential use of the upper level. This is discussed further below under the heading ‘Land Use – Residential Flat Building’

Signage

The existing building façade contains an existing fascia with the dimensions of 450mm x 7600mm on the eastern facade. The applicant is proposing signage within the existing facia with dimensions of 350mm x 1800mm. Verandah fascia signs are considered to be appropriate within the Zone as per TCeH(C)ZPDC 32(d). The signage will not be illuminated, and will be of a form and scale that is complementary to the facia and contained within the architectural features of the buildings facade. This approach is considered to be designed in accordance with Table Ga/4 relating to signage.

This limited signage is not considered to detrimentally impact on the Local Heritage Place, and is in line with the signage that was previously located on the fascia when the use of the building was a shop (Gawler Cycles). As such, CWO’s 65-67 and CWPDC’s 182-204 regarding signage are considered to be satisfied.

Land Use – Café

Change of use

As previously stated, the existing use rights of the subject site are acknowledged as:
The proposal seeks to change these uses to:

- Ground floor – Café
- First floor – Residential flat building

There are several provisions within the Gawler (CT) development plan which support the proposed use as a café and residential apartments.

The proposal is located on the main street (Murray Street) within the Town Centre Historic (Conservation) Zone. CWO's 5, 7 and 8 seek the location of shops and cafes to be located within centre zones, reinforcing the town centre as the main focus for retail, entertainment and cultural activities for the local and expanding region. These objectives are further reinforced by CWPDC’s 21 and 25 regarding the nature of development within centre zones.

Further, the Desired Character Statement for the Policy Area speaks to Murray Street retaining the distinctive historical, commercial and civic character of older style ground floor shop fronts and residential use above. Café/ restaurant and dwellings on 1st floor or upper levels are listed as appropriate uses for the Policy Area. This dual-use (restaurant ground floor, residential use above) proposed is supported by the relevant provisions of the development plan.

**Hours of operation**

The applicant has proposed the following hours of operation:

- **Monday:** Closed
- **Tuesday:** 5pm-10pm
- **Wednesday-Friday:** 12pm-2pm, 5pm-10pm
- **Saturday:** 5pm-10pm
- **Sunday:** 12pm-2pm, 5pm-10pm

These hours are considered appropriate within the Town Centre Zone where cafes/ restaurant are envisaged forms of development and reflect the hours of operation of many other businesses.

**Number of patrons**

The proposal indicated three (3) separate dining areas. The size of these three areas can be summarised as follows:
It is noted that a courtyard area is proposed which will provide additional dining area in fair weather. The applicant has clarified within their correspondence dated 14/10/2016 (see Attachment 4) that including the courtyard, the maximum number of patrons will remain at 84, with the courtyard providing an alternative to indoor dining in fair weather. That is to say that the maximum number of patrons will not increase; the seating will be relocated to the courtyard in fair weather.

It is noted that the plans originally submitted to Council indicated an area of outdoor dining, however it was confirmed that this was not to form part of this Development Application. As such, this component will not be assessed as part of this Application, and will form part of a separate ‘Outdoor Dining Permit’ and require a Section 222 permit under the Local Government Act 1993.

The applicant has also confirmed that the maximum number of staff on site at any one time will be limited to seven (7).

The number of patrons (seats) is a key component of this application as it determines the carparking rate for the restaurant-portion of the land use. This is discussed further within this report under the heading “carparking”.

**Land Use – Residential Flat Building**

**Apartment size/ Design**

Objective 6 for the TCeH(C)Z seeks the use of upper building levels for residential and serviced apartments. This is further reinforced by the Desired Character Statement for the Town Centre Light Policy Area in which the use of upper floor levels for residential development is considered to be appropriate.

In response, the applicant seeks to convert the upper floor of the existing building into three (3) apartments (residential flat buildings). Each apartment proposes to consist of two (2) bedrooms, a bathroom, open living and kitchen area. As part of the new apartment design, a mezzanine floor is proposed which will result in a void over the respective living areas. The proposed internal floor areas of each apartment are as follows:
Given the intent of CWPDC 218 which seeks residential allotments of varying size to encourage housing diversity, and CWO 80 which encourages medium density development in close proximity to centres, the size of the proposed apartments is considered to be appropriate.

Further, CWO 75 regarding the provision of housing which meets the need and preferences of the community is met. The proposed apartment-style of housing provides an alternative housing choice to a detached dwelling (which characterises the majority of Gawler’s housing stock) that is located within the town centre.

CWPDC 263 seeks to restrict the number of dwellings within a residential flat building which share a common entry. The associate Design Technique limits this number to eight (8) and thus the requirements of this PDC are met.

**Location within a Town Centre Zone**

The proposed residential flat building is located within the Town Centre Historic (Conservation) Zone. This proximity to shops, cafes and public open space is anticipated to encourage walking, cycling and public transport. The latter is facilitated by the location of bus stops and the Gawler Central train station, which are within walking distance of the proposed residential flat buildings. The proposed development further anticipates cycling as a primary form of transportation with the inclusion of a bike storage area on the ground floor. The aim of encouraging walking, cycling and public transport is outlined in CWO 76 and CWPDC 214(b)(c)&(d), and it is considered that the location of the proposed development facilitates these objectives.

The interface between the proposed residential development and the existing and proposed uses of the Town Centre zone are further addressed later within this report.

**Private open space**

It is noted that the design of the site does not propose private open space for the residential flat building. Whilst this does not satisfy the requirements of CWPDC’s 256, it is considered that the subject site’s proximity to public open space and its location within a Town Centre zone allows it to meet the intention of this PDC. That is, the subject site is in close proximity to Council reserves with facilities that would allow both passive and active outdoor recreation. Goose Island and Apex Park reserves are both located within 100m of the subject site and provide open, grassed areas, barbeque facilities and playgrounds. Other areas of public open space within 500m of the subject
site include Pioneer Park, Henry Chenoweth Reserve and Light Square. Further, Dead Man’s Pass is located within one (1) kilometre of the subject site.

Given the nature of apartment-style living, it is anticipated that this shortfall in private open space would be considered by any future tenant given its location within the Town Centre Zone and its proximity to public reserves. Further, it is considered that any addition of a balcony (or similar) to the proposed apartments (which would facilitate the provision of an area of private open space) would materially and detrimentally impact the heritage value of the Local Heritage Place.

As indicated on the proposed site plan, there is a communal yard that will allow for the storage of rubbish bins and other associated uses as per CWPDC 271(b). This area is screened from view with a 2m corrugated fence in accordance with CWPDC 6. Garbage collection is anticipated to maintain the status quo. This communal yard also provides an area for the storage of goods in accordance with CWPDC 272.

As such it is considered that the shortfall in private open space is acceptable given the style of housing proposed, the proximity to public reserves, its location within the Town Centre, and the potential detrimental impact to the Local Heritage Place.

**Orientation/ Solar access**

CWPDC’s 253 and 254 speak to the availability of adequate solar access to habitable rooms. The proposed units are provided natural sunlight through the following design techniques:

Unit 1: As part of the proposed alterations and additions to the Local Heritage Place, additions to the rear of the building will ‘lift’ the ceiling to accommodate proposed unit 1. This addition will allow for new windows to both the north and south façades, which will facilitate solar access to the mezzanine level of unit 1 (i.e. where the bedrooms are located). There are two existing windows on the northern façade that permit solar access to the living area on the first floor. The void over the living area also allows solar access to filter down from the mezzanine-level windows.

Unit 2: Two existing windows to the northern façade allow for solar access to the living area on the first floor. To enable natural light to the two bedrooms on the mezzanine level, two new skylights are proposed on the southern elevation. As per unit 1, there is a void above the living area.

Unit 3: One existing window to the northern façade allows for solar access to bedroom 2, an existing window to the western façade allows solar access to the living room, and an existing window on the southern elevation provides for bedroom 1. As per the other units, there is a void over the living area.
Through the use of existing and proposed new windows, the development is considered to adequately address the issues of solar access.

**Overlooking/ Visual privacy**

The subject site is bordered by two existing access driveways/ laneways. It also directly fronts Murray Street. CWPDC 268 seeks to encourage passive surveillance of public and communal streets through the design of dwellings. Given the location of both the proposed and existing windows relative to habitable rooms (as discussed above), passive surveillance over the neighbouring laneways and Murray Street is encouraged and thus the requirements of the PDC are met.

**Interface between uses**

CWPDC’s 8 and 9 seek for development to be designed so as to not unduly affect the levels of privacy or result in noise emission which would detrimentally affect the amenity of adjacent properties. Given that the proposal seeks for residential form of development above a proposed café, the acoustic impact of this use on the residential use must be considered.

As a result, the applicant has engaged an Acoustic Engineer (Sonus) to prepare an acoustic assessment on the impact of the proposed café on the proposed residential use. This acoustic report is contained within Attachment 3.

The findings of this report can be summarised thus:

- In order to achieve the BCA airborne noise attenuation requirement, a second ceiling shall be constructed below the existing ceiling of the proposed café which comprises
  - two layers of 16mm thick fire-rated plasterboard resiliently mounter using rubber isolation clips to the existing ceiling beams such that there is a minimum 160mm wide air cavity between the layers; with
  - 75mm thick glass or mineral fire insulation (with minimum density of 14kg/m3) installed in the cavity; and
- Ensure music played in the restaurant is background music only (maximum 43bD in any one-third octave band between 31.5Hz and 125 Hz); and
- Ensure speakers are mounted from the ground only.

The Acoustic Engineer is of the opinion that if the proposed development is undertaken in accordance with the above recommendations, the proposal will comply with the EPA Guidelines as
per CWPDC 103. As such, it is considered that the interface between land uses will not result in any unreasonable conflict with regards to acoustic impacts, and this will be consistent with CWO39 and CWPDC 97(b), 98, 100, 101 and 102.

**Stormwater**

As part of the subject proposal, the applicant is required to properly manage stormwater generated on the site given the new works. The applicant has submitted an indicative stormwater management plan and has indicated that full details will be provided for Building Rules Consent. As such, it is recommended that the full stormwater management plan be submitted as a reserve matter. This detailed design will allow the application to meet the requirement with regards to stormwater outlined within the Gawler (CT) Development Plan.

Stormwater management on the site will be required to satisfy both Council Development Plan requirements and Australian Engineering standards. Given the topography of the site and the nature of the existing buildings, it is not considered that the management of stormwater will be problematic or difficult to achieve.

**Carparking and Access**

As mentioned above, the subject proposal seeks to limit the number of patrons for the restaurant to 84, with 7 staff. Additionally, there are 3 residential flat building proposed for the upstairs level.

Given that patronage restrictions on land typically relate to the availability of car parking it is important to establish the difference in car parking of each of the proposed uses.

Based on Table Ga/1 of the Gawler (CT) Development Plan, a restaurant typically requires a total 1 car park per 3 seats. For a maximum number of 84 people, a total of 28 car parks would be required for the site. In accordance with CWPDC 264, one (1) car park is required to be provided per medium (2 bedroom) residential flat building, and 0.25 parks per dwelling for visitors. Thus the total carparking number required is 32 carparks.

As mentioned above, the site currently enjoys existing use rights as a 'shop' (155m²) and ‘hall’ (153m²). A shop requires 7 spaces per 100m², and a hall requires 1 space per 3 seats. The applicant’s planning consultant has predicted a possible 102 seats for the floor area of the hall (1.5m² per seat) (see Attachment 1). Thus the site currently enjoys an existing carparking credit of 45 car parks.
This credit is required to be taken into account as part this proposal. This consideration is reflective of the ERD Court decision in the matter between *Stamopolous Pty Ltd v City of Holdfast Bay [2004]*, which held that when determining car parking requirements for a new development, any shortfall in car parking associated with the existing use is lawful and cannot be added to any shortfall created by the proposed development for the purposes of a planning assessment. Similarly, the ERD Court found that an existing car parking shortfall does not need to be rectified by a proposed development (*Carrabs Nominees Pt Ltd v City of Burnside [2003]*).

Accordingly, when subtracting the required 32 car parks from the existing parking credit, this would equate to a credit of 13 carparks. Thus it is considered that the provision of carparking is acceptable as the existing credit is not being exacerbated by the proposed land uses. Further, the requirements of TCeH(C)ZPDC’s 26, 27 and 29 are met.

Irrespective of the abovementioned credit, the proposal provides 5 car parks on site, one of which is provided for disability access. Three of these car parks are to be provided for exclusive use by the occupants of the residential flat buildings in accordance with CWPDC 264, with the remaining two for use by patrons of the restaurant. These car parks will be signed or line marked to clearly identify the carparking allocation.

The carparking location will be to the rear of the allotment as per existing, thus minimising any visual impact on the cohesion of the streetscape and on the Local Heritage Place, thus meeting the requirements of TCeH(C)ZPDC 30 and Objectives 3 and 8.

**CONCLUSION**

The proposal seeks for the change in use from ‘shop’ and ‘hall’ to ‘restaurant’ and ‘residential flat building’.

Although the proposed residential flat building fall short of the quantitative requirements outlined within the *Gawler (CT) Development Plan*, it is considered that the location within the Town Centre Zone facilitates access to numerous reserves and parks. Further, any addition of a balcony would likely detrimentally impact that value of the Local Heritage Place.

Whilst there is a physical shortfall in car parking on site, the subject site currently enjoys a credit of carparks due to its existing lawful use rights. Thus there is not car parking shortfall as per the findings of *Stamopolous Pty Ltd v City of Holdfast Bay [2004]*.

The proposed uses are envisaged for the Zone and the Policy Area. Further it is considered that the proposal is not at variance with the provisions of the Development Plan and that Development Plan Consent should be granted subject to conditions and reserve matters.
RECOMMENDATION

That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan and that DEVELOPMENT PLAN CONSENT be GRANTED to Development Application 490/329/2016 by S RUDDUCK for Change in Use from 'Shop' and 'Hall' to 'Restaurant' and 'Three (3) Residential Flat Buildings' and associated Additions and Alterations to a Local Heritage Place at 63 Murray Street GAWLER 5118, subject to the following conditions:

Reserved Matters

The Council Development Assessment Panel requires the following matter which is reserved pursuant to Section 33(3) of the Development Act 1993 to be addressed to the reasonable satisfaction of Council staff:

2. A detailed Stormwater Management Plan shall be prepared and submitted to Council for approval demonstrating but not limited to the following:
   a. Stormwater detention for the site, limiting the 100-yr post development flow to the 10-year ARI pre development flow;
   b. The method of stormwater detention for the proposed site and car parking area; and
   c. The finished levels of the site (including any subsequent retaining walls were required).

REASON: No stormwater management plans have been submitted with the application.

NOTE: Council reserves the right to attach further conditions in relation to this.

Development Plan Consent Conditions

1. That the development is undertaken in accordance with Development Application No 490/329/2016, the approved plans, details and conditions therein.

   REASON: To ensure the proposed development is undertaken in accordance with the approved plans

2. The subject land including car parking areas shall be maintained to the reasonable satisfaction of Council at all times.

   REASON: To preserve the amenity of the locality

3. The structures shall be maintained to the reasonable satisfaction of Council at all times.
REASON: To preserve the amenity of the locality

4. Containers, bins or receptacles used for the temporary storage of garbage, waste or refuse arising from the premises, shall be located and/or screened from public view to the reasonable satisfaction of Council.

REASON: To preserve the amenity of the locality

5. Driveway, car parking spaces, manoeuvring areas and landscaping areas shall not be used for storage or display of materials or goods.

REASON: To ensure sufficient car parking is provided onsite at all times.

Waste collection shall be carried out only between the hours of 7:00 am to 7:00 pm Monday to Saturday and 9:00 am to 7:00 pm Sunday and Public Holidays.

REASON: To preserve the amenity of the locality.

6. The hours of operation for the hereby approved restaurant use shall be limited to the following periods:

- Monday: Closed
- Tuesday: 5pm-10pm
- Wednesday-Friday: 12pm-2pm, 5pm-10pm
- Saturday: 5pm-10pm
- Sunday: 12pm-2pm, 5pm-10pm

REASON: To ensure the operation of the approved use does not detrimentally impact upon the amenity of adjoining properties.

7. The number of seats provided for the restaurant hereby approved shall be limited to 84 seats at any one time.

REASON: To ensure the car parking requirements are met.

8. Noise from devices and/or activities on the subject site should not impair or impinge on the amenity of neighbours at any time and shall be in accordance with the Environment Protection Agency (Noise) Policy 2007 at all times.

REASON: To minimise nuisance to adjacent sites and to preserve the amenity of the locality.
9. The hereby approved development shall be undertaken in accordance with the requirements outlined within the hereby stamped approved Acoustic Report by Sonus (’63 Murray Street, Gawler – Noise Transfer Assessment’ dated September 16).

**REASON:** To minimise nuisance to adjacent sites and to preserve the amenity of the locality.

10. All loading and unloading of vehicles and manoeuvring of vehicles in connection with the now approved land use shall be carried out entirely within the subject land.

**REASON:** To provide adequate, safe and efficient off-street parking for users of the development.

11. The car park layout and dimensions shall conform to the requirements as set out in AS2890.1: 2004 – Off street car parking.

**REASON:** To ensure the car parking area complies with the relevant Australian Standard.

12. All vehicle parking bays shall be appropriately line marked prior to the occupation of the use hereby approved.

**REASON:** To ensure car parking areas are clearly delineated.

13. Car parking bays identified on approved plans as 3, 4 and 5 on the car park shall be designated to ‘residents parking only’.

**REASON:** To ensure car parking areas are clearly delineated.

14. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that do not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.

**REASON:** To ensure stormwater is appropriately managed on site.

15. Site work, demolition work and building work shall be carried out only between the hours of 7.30 am to 6.30 pm Monday to Saturday and 9.00 am to 5.00 pm Sunday, and as per EPA requirements for work of this nature.

**REASON:** To minimise nuisance to adjacent sites and to preserve the amenity of the locality.
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<th>Item Number</th>
<th>5.5</th>
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<tr>
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<td>490/248/2016</td>
</tr>
<tr>
<td>Author(s)</td>
<td>Development Assessment Planner (Ebony Cetinich)</td>
</tr>
<tr>
<td>Applicant</td>
<td>G A BROOKS</td>
</tr>
<tr>
<td>Owner</td>
<td>GELMAY PTY LTD &amp; G A &amp; L M BROOKS</td>
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<tr>
<td>Subject Land</td>
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<tr>
<td>36 Jane Street WILLASTON 5118 LOT: 16 PLN: F154717 CT: 5686/779; and 38 Jane Street WILLASTON 5118 LOT: 19 PLN: F154720 CT: 5815/562; and Knight Street WILLASTON 5118 LOT: 17 PLN: D22122 CT: 6135/312</td>
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<td>Description of Development</td>
<td>Demolition of an existing dwelling and construction of seven (7) single storey group dwellings, one (1) single storey detached dwelling and associated retaining wall and fence (exceeding 2.1 metres combined height), common driveway and landscaping.</td>
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<td>Residential Zone</td>
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<td>Previous Reference/Motion</td>
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<td>Lodgement Date of Application</td>
<td>02/05/2016</td>
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<td>Relevant Development Plan</td>
<td>28 April 2016</td>
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<tr>
<td>Recommendation</td>
<td>Approval</td>
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<td>Delegation</td>
<td>3.3.1.6 – Development which the Manager deems more appropriately considered by the Council Development Assessment Panel as it relates to a Community Title land division application creating 5 or more additional residential allotments (clause 3.3.1.4)</td>
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<tr>
<td>Attachments Under Separate Cover</td>
<td>Attachment 1 – Application Plans and Documentation Attachment 2 – Original Site Plan Attachment 3 – Willaston Policy Area Map (Figure Res/9)</td>
</tr>
</tbody>
</table>

**PROPOSAL AND BACKGROUND**

The applicant seeks Development Plan Consent for seven (7) single storey group dwellings and one (1) single storey detached dwelling. In particular, the proposal will include:

- Demolition of an existing single storey detached dwelling;
- Construction of seven (7) single storey group dwellings;
- Construction of one (1) single storey detached dwelling;
- Construction of a common driveway and crossover;
Installation of stormwater infrastructure within the drainage easement
Installation of stormwater detention infrastructure outside of the drainage easement;
Construction of retaining walls and fencing exceeding 2.1 metres in combined height; and
Establishment of landscaping

Typically a Development Application involving the construction of dwellings would not be required to be presented to the Council Development Assessment Panel (CDAP) under current Staff/CDAP Delegations. In this circumstance the application is presented to the CDAP given that it relates to two land division applications which are required to be presented to the CDAP for a decision (Development Applications 490/549/2015(DAC: 490/D035/15) and DA490/478/2016 (DAC: 490/C026/16) discussed below).

Copies of the plans and documentation relating to this application are contained within Attachment 1.

BACKGROUND AND RELATED APPLICATIONS

- DA490/549/2015 (DAC: 490/D035/15) - Torrens Title Land Division (3 allotments into 4)
  
  Referred to as the Torrens Title land division for the purposes of this report

- DA490/478/2016 (DAC: 490/C026/16) – Community Title Land Division (1 allotment into 7)
  
  Referred to as the Community Title land division for the purposes of this report

The subject built form application has been assessed concurrently with the abovementioned land division applications in order to demonstrate that the proposed allotments are suitable for their intended residential use. The Torrens Title land division creates a “development lot” and the Community Title land division creates the individual allotments for proposed development to occur.

LOCALITY

A locality map is contained in Figure 1 below. The main characteristics of the locality are as follows:

<table>
<thead>
<tr>
<th>NORTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The Residential Zone and Willaston Policy Area continue to the north of the subject site.</td>
</tr>
<tr>
<td>• Further to the north is the Special Uses Zone (Willaston Cemetery), The Gawler and Light Council Area Boundary and the Northern Expressway.</td>
</tr>
<tr>
<td>• The adjoining allotment to the north (allotment 100, to be created as part of the associated Torrens Title land division) is a large vacant allotment intended to be</td>
</tr>
</tbody>
</table>
subdivided for residential use in the future.

- Residential allotments further to the north are consistent in size (790m$^2$ to 1120m$^2$) and contain detached dwellings.

### EAST

- The Residential Zone and Willaston Policy Area continue to the east of the subject site.
- The locality is bound to the east by Main North Road and the Gawler and Light Council Area Boundary.
- Allotments to the east of the subject site are typically residential in use with the exception of a Motor Repair Station located on Main North Road.
- Infill Development has occurred regularly throughout the locality to the east of the subject site resulting in a diverse range of allotment sizes and housing types (both detached dwellings and group dwellings).
- Multiple large and underutilised residential allotments exist to the east (south east) of the subject site.

### SOUTH

- The Residential Zone and Willaston Policy Area continues to the south of the subject site, allotments are residential in use.
- Allotments in close proximity to the south of the subject site are typically long and rectangular in shape, some of which are large and underutilised.
- Infill Development has occurred regularly throughout the locality to the south of the subject site resulting in a diverse range of allotment sizes and housing types (both detached dwellings and group dwellings).

### WEST

- The Residential Zone and Willaston Policy Area continues to the west of the subject site and further to the south west is the Residential Historic (Conservation Zone).
- The locality is bound to the west by Redbanks Road.
- Allotments in close proximity to the west of the subject site are large in area (2146m$^2$ to 6700m$^2$), contain detached dwellings and are earmarked for infill development.
- Residential allotments further to the west vary in size and shape (some of which are of a hammer head (battle-axe) configuration) and predominantly contain detached dwellings and group dwellings.
- A retirement village is located in close proximity to the west of the subject site.
and the expansion of the village by an additional 8 group dwellings has recently received Development Plan Consent.

Figure 1: Locality Map

- Residential Zone
- Residential Historic (Conservation) Zone
- Special Uses Zone/Willaston Cemetery
- Existing Infill Development
- Subject Site
- Gawler/Light Council Area Boundary
SUBJECT SITE

- The subject site comprises of two allotments (known as allotment 101 and 103) proposed to be created as part of the associated Torrens Title land division application (see Figure 2 below).

- The subject site is of an irregular hammerhead (battle-axe) configuration with access via Jane Street.

- The subject site is currently largely vacant with the exception of a portion of an existing dwelling and two ancillary structures proposed to be removed.

- The subject site has an area of 2,693m$^2$ and is located wholly within the Residential Zone and Willaston Policy Area.

- A significant tree is located in the rear yard of adjoining allotment 42 Jane Street, Willaston, approximately 5 metres from the south eastern boundary of the subject site (indicated in Figure 2 below).
Figure 2: Site Plan

CATEGORISATION (PUBLIC NOTIFICATION)

This application was not required to be advertised pursuant to Section 38 of the Development Act, 1993. The application is considered as Category 1 development pursuant to Schedule 9, Part 1 (2)(a)(b) of the Development Regulations 2008 as the proposal involves the construction of one (1) detached dwelling and seven (7) single storey dwellings. No dwellings are proposed to be two-storey.

REFERRALS

No External Referrals were required by the Schedule 8 of the Development Regulations, 2008.
The following internal referrals were undertaken and advice provided:

<table>
<thead>
<tr>
<th>Internal Council Referrals</th>
<th>Advice/Response/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering</td>
<td>Comments:</td>
</tr>
<tr>
<td></td>
<td>- The proposed stormwater management system will function satisfactorily if connected to the stormwater pipe within the easement, however, detailed civil design plans indicating pipe depths and junction box locations are required prior to the issue of Full Development Approval.</td>
</tr>
<tr>
<td></td>
<td>- The vehicle swept paths are acceptable and are considered to demonstrate safe and convenient movement to Australian Standard AS2890.</td>
</tr>
<tr>
<td></td>
<td>- The proposed collection of bins from the verge is acceptable as private bin collection is not a service currently provided within the Town of Gawler.</td>
</tr>
<tr>
<td></td>
<td>- Common services crossing perpendicular to the easement is acceptable in one location provided that the services are protected (i.e. covered by a concrete slab).</td>
</tr>
<tr>
<td></td>
<td>- The amended stormwater detention calculations reflect the correct predevelopment flow.</td>
</tr>
<tr>
<td></td>
<td>Recommended conditions:</td>
</tr>
<tr>
<td></td>
<td>- Please provide a Stormwater Quality Improvement Device to achieve EPA Water Sensitive Urban Design water quality requirements of the Council Development Plan prior to Full Development Approval being granted. Such designs may include but not be limited to bioretention devices, rain-gardens, and gross pollutant traps prior to detention.</td>
</tr>
<tr>
<td></td>
<td>- Provide detailed civil engineering plans including all stormwater pipe design details to Council satisfaction prior to Full Development Approval being granted.</td>
</tr>
<tr>
<td></td>
<td>- Provide a Soil, Erosion and Drainage Management Plan prior to Full Development Approval being granted.</td>
</tr>
</tbody>
</table>
Horticulture (Suitability of landscaping species and locations)

- The species of trees indicated on the Landscaping Plan within the development are suitable for this area. The trees are Australian Native but are not indigenous.
- The root system of the trees are shallow and are unlikely to cause damage to the infrastructure within the easement, however, the developer and residents will need to be informed that the trees located over the easement may need to be removed if maintenance or repair works are required to be carried out.

Horticulture (Street tree removal)

- The tree is a young non-regulated *Callistemon harkness* (Gawler Hybrid).
- The removal of a street tree is justified on the basis that infill development is envisaged within the locality and the access driveway has been designed for safe access and egress to the housing development.
- The developer will be required to pay Council $300.00 for removing and replacing the subject tree.
- The replacement tree will be planted in a different location along the same street in order to avoid crowding.

Horticulture (Significant Tree advice)

- A significant River Red Gum (*Eucalyptus camaldulensis*) is located at 42 Jane Street, Willaston approximately 5 metres from the rear boundary of the property.
- The tree has a trunk circumference measurement of 3.10 metres when measures at 1 metre above natural ground, however, the tree bifurcates at this point and the leading stems flare out from the trunk, exaggerating this measurement.
- In accordance with Australian Standard AS4970, the radius of the Tree Protection Zone (TPZ) is calculated at 8.8 metres from the base of the tree. Approximately 38m² or 15% of the total TPZ is located within the adjoining property (the subject site for the purposes of this report).
- The development occurring within the TPZ comprises driveway and landscaping strips, none of which will require total root removal to a
depth which will cause Tree Damaging Activity. As such, encroachment of the root system by the proposed development is estimated to be 5% and is below the acceptable amount (10%) under the Australian Standards.

- The boundary fence will suffice as an adequate tree protection measure and a full arborist report will not be warranted due to the low impact, if any, the proposed development have on the tree.

**ASSESSMENT**

**The zoning of the land and relevant provisions**

At the time of lodgement, the subject land was within the Residential Zone, and more specifically within the Willaston Policy Area. The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:

<table>
<thead>
<tr>
<th>Council Wide Section</th>
<th>Objectives</th>
<th>Principle of Development Controls</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appearance of Land, Building and Public Environment</td>
<td>1</td>
<td>1, 4, 5, 6, 7, 8 and 9</td>
</tr>
<tr>
<td>Energy Efficiency</td>
<td>18</td>
<td>42 and 43</td>
</tr>
<tr>
<td>Form of Development</td>
<td>20 and 21</td>
<td>46, 47, 48, 52 and 53</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>33, 38</td>
<td>83, 84, 85, 86, 87, 90, 91</td>
</tr>
<tr>
<td>Natural Resources</td>
<td>52, 53, 54</td>
<td>127, 131, 132, 133, 134, 135, 136, 137, 138, 140, 141 and 165</td>
</tr>
<tr>
<td>Regulated Trees</td>
<td>69 and 70</td>
<td>207 and 209</td>
</tr>
<tr>
<td>Significant Trees</td>
<td>84</td>
<td>305, 306, 308 and 309</td>
</tr>
<tr>
<td>Sloping Land</td>
<td>85</td>
<td>310 and 311</td>
</tr>
<tr>
<td>Transportation (Movement of People and Goods)</td>
<td>92, 93 and 95</td>
<td>359, 363, 364, 366 and 371</td>
</tr>
<tr>
<td>Waste</td>
<td>97, 98</td>
<td>372, 373, 374, 376, 377, 378, 381, 382, 383</td>
</tr>
</tbody>
</table>
The key aspects involved in the assessment of the application include:

- Consistency with the existing and desired character of the area;
- Assessment against the provisions of the Gawler Development Plan;
- Boundary setbacks;
- Private open space;
- Car parking;
- Site coverage;
- Orientation;
- Earthworks and retaining walls;
- Landscaping;
- Waste collection;
- Safe and convenient access and egress;
- Stormwater management; and
- Impact on Regulated Trees

Background (Amendments to the Proposal)

The proposal in its initial form involved the construction of eight (8) single storey group dwellings and one (1) single storey detached dwelling, associated landscaping and common driveway. Following an initial planning assessment of the application, the site was considered to be overdeveloped for a number of reasons, primarily, the minimum front setback distances could not be achieved from both Jane Street and the internal driveway. In addition, the amount of landscaping, visitor car parking spaces and lighting to the internal driveway was also considered to be inadequate.

Accordingly, the following amendments were made to the proposal:
A reduction in the total number of proposed dwellings from nine (9) to eight (8);

Three additional landscaping areas were included within the common property and the width of three existing landscaping strips was increased between 1.5 and 2 metres;

Four additional visitor car parking spaces were included within the common property (in addition to the one visitor car parking space provided for each dwelling).

Lighting bollards were added to the internal driveway.

Sky lights were added to two of the dwellings which do not achieve optimal solar orientation.

The colours of the construction materials for the dwellings were varied to minimise the duplication of building styles and facades.

The amendments to the proposal allow for greater consistency with the Gawler Development Plan and the existing character of the locality. In addition, the extra landscaping strips, visitor car parking spaces and lighting bollards soften the impact of the built form and increase the functionality of the development.

A large plan comparing the original and amended proposal will be presented on the night of CDAP. The original Site Plan by Andrew Zummo is contained within Attachment 2.

**Consistency with the existing and desired character of the area**

The Desired Character Statement and Objective 1 of the Willaston Policy Area seeks for existing housing stock to be maintained and the number of dwellings increased through infill development of large vacant and underutilised sites. More specifically, the subject site is earmarked for infill development, as indicated on the Willaston Policy Area Map (Figure Res/9)(see Attachment 3). The proposal occurs on land identified as being ideal for infill development and involves the construction of an additional seven dwellings. As such, the proposal is considered to be a desired and appropriate form of development within the locality and is in accordance with the Desired Character Statement and Objective 1 of the Willaston Policy Area. Furthermore, the construction of group dwellings assists in achieving a range of housing types and styles sought by Residential Zone Objective 1 and Principle of Development Control (PDC) PDC 1.

Infill development consistent with the establishment of group dwellings accessed via a common internal driveway has occurred regularly throughout the locality. Approximately 12 infill development sites have been identified within 300 metres of the subject site which contain allotments ranging in size, shape and number (typically between 2 and 13 per development).
Taking into consideration the prominence of group dwellings and infill development within the locality, the proposal is considered to be consistent with the existing character of the area, in accordance with PDC 10 of the Residential Zone.

**Assessment against the provisions of the Gawler Development Plan**

A majority of PDC’s relating to the proposal are qualitative in nature with quantitative Design Techniques accompanying them. As such, the quantitative requirements stipulated by Design Techniques have been used as a guide in the assessment of the proposal. It is important to note that Design Techniques are examples of how PDC’s can be satisfied. Departure from a Design Techniques can be warranted when the overall intent of the associated PDC can be satisfied in a different or more suitable way.

**Boundary Setbacks**

The boundary setbacks for the proposed dwellings are contained in **Table 1** below.

**Table 1: Boundary Setbacks**

<table>
<thead>
<tr>
<th>Proposed Dwelling</th>
<th>Front Setback (dwelling) (m)</th>
<th>Front Setback (garage) (m)</th>
<th>Side Setback (garage) (m)</th>
<th>Side Setback (other side) (m)</th>
<th>Rear Setback (m)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>9.2</td>
<td>11.0</td>
<td>0</td>
<td>1</td>
<td>1.4</td>
</tr>
<tr>
<td>2</td>
<td>2.1</td>
<td>5.5</td>
<td>0</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>2.1</td>
<td>5.5</td>
<td>0</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>4</td>
<td>2.0</td>
<td>5.5</td>
<td>0</td>
<td>0.9</td>
<td>4</td>
</tr>
<tr>
<td>5</td>
<td>2.0</td>
<td>5.5</td>
<td>0</td>
<td>0.9</td>
<td>4</td>
</tr>
<tr>
<td>6</td>
<td>1.8</td>
<td>5.5</td>
<td>0</td>
<td>1</td>
<td>1.1</td>
</tr>
<tr>
<td>7</td>
<td>1.8</td>
<td>5.5</td>
<td>0</td>
<td>1</td>
<td>1.1</td>
</tr>
<tr>
<td>8</td>
<td>4.2</td>
<td>5.5</td>
<td>1</td>
<td>1.5</td>
<td>1</td>
</tr>
</tbody>
</table>

Council Wide PDC 247 seeks for dwellings to be setback from side and rear boundaries to minimise their impact on adjoining properties in terms of visual amenity, overshadowing and maintaining adequate daylight to private open space. Design Techniques 247.1 and 247.4 suggest that one (1) metre side setbacks and three (3) metre rear setbacks are sufficient in satisfying the above PDC. Lesser rear and side setbacks for the proposed dwellings are considered appropriate and acceptable as the garages/carports are either located adjacent to one another on the side
boundary, or are relatively limited in length and height so not to unreasonably impact on the visual amenity, sunlight and private open space of adjoining properties, in accordance with Council Wide PDC’s 247, 248 and 250. In addition, existing infill sites within the locality (i.e. 52 Jane Street and 49 Main North Road) contain dwellings with lesser side and rear setbacks.

Dwellings 2 to 8 are sufficiently setback from the internal driveway in order to incorporate a landscaping buffer between the dwelling and the driveway, consistent with Council Wide PDC 249, which seeks for dwellings to be setback from internal driveways to minimise noise and glare impacts to bedrooms. Dwelling 1 addresses Jane Street and maintains the same front setback distance as the existing dwelling situated on the site, in accordance with Council Wide PDC 245, which requires dwellings to be setback from the site frontage to contribute to the existing streetscape character.

Private Open Space

Council Wide PDC’s 256 and 257 state that private open space (POS), of a sufficient area, shape, gradient and location to be functional for the occupants needs, should be provided for each dwelling. In this instance, the quantitative parameters of Design Technique 257.2 have been used as a guide in order to establish whether the sufficient POS has been provided for each proposed dwelling. The requirements of Design Technique 257.2 are contained within Table 2 below.

<table>
<thead>
<tr>
<th>Site Area of Dwelling</th>
<th>Minimum Area of POS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 250m²</td>
<td>a) 20 percent of site area;</td>
</tr>
<tr>
<td></td>
<td>b) balconies, roof patios, etc. can comprise part of this area provided the area of each balcony, roof patio, etc. is 10m² or greater;</td>
</tr>
<tr>
<td></td>
<td>c) one part of the space is directly accessible from a habitable room and has an area equal to or greater than 10 percent of the site area with a minimum dimension of 5 metres and a maximum gradient of 1 in 10.</td>
</tr>
<tr>
<td>Less than 250m²</td>
<td>a) 35m²;</td>
</tr>
<tr>
<td></td>
<td>b) balconies, roof patios, etc. can comprise part of this area provided the area of each balcony, roof patio, etc. is 8m² or greater;</td>
</tr>
<tr>
<td></td>
<td>c) one part of the space is directly accessible from a habitable room and has an area of 16m² with a minimum dimension of 4 metres and a maximum gradient of 1 in 10.</td>
</tr>
</tbody>
</table>
A summary of the POS provided for the proposed dwellings is contained within Table 3 below. A hatched red line indicates where the specific POS criteria (as listed above) have not fully been met. The shortfalls are discussed in greater detail below.

Table 3: Summary of POS provided by the proposal

<table>
<thead>
<tr>
<th>Proposed Dwelling</th>
<th>Site Area (m²)</th>
<th>Total POS (m²)</th>
<th>Total POS (%)</th>
<th>Usable Area (m²)</th>
<th>Usable Area (%)</th>
<th>Usable Area Dimensions (m) (Length x Width)</th>
<th>Directly Accessible</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>433</td>
<td>N/A</td>
<td>18.5</td>
<td>14.5</td>
<td>10.5 x 6.1</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>244</td>
<td>59.5</td>
<td>N/A</td>
<td>47.8</td>
<td>14.8 x 4</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>243</td>
<td>59.5</td>
<td>N/A</td>
<td>47.8</td>
<td>14.8 x 4</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>220</td>
<td>52.8</td>
<td>N/A</td>
<td>41.3</td>
<td>13.1 x 4</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>220</td>
<td>52.7</td>
<td>N/A</td>
<td>41.3</td>
<td>13.16 x 4</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>257</td>
<td>N/A</td>
<td>28.4</td>
<td>21.6</td>
<td>16.4 x 4</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>256</td>
<td>N/A</td>
<td>28.6</td>
<td>21.6</td>
<td>16.6 x 4</td>
<td>Yes</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>309</td>
<td>N/A</td>
<td>27.4</td>
<td>16.1%</td>
<td>15.5 x 4</td>
<td>Yes</td>
<td></td>
</tr>
</tbody>
</table>

As demonstrated above, proposed dwellings 2, 3, 4 and 5 satisfy all POS requirements stipulated by Design Technique 257.2. Proposed dwellings 1, 6, 7 and 8 satisfy a majority of the POS requirements, however, fall short of meeting the minimum percentage of total POS and the minimum usable area dimension (width only). In saying this, it is considered that adequate usable POS is provided for all dwellings, as the space is directly accessible from an internal living room and the length measurement is considerably greater than the minimum requirement, allowing residential activities (i.e. clothes drying and outdoor entertaining) to sufficiently take place. Given that a majority of POS requirements have been met and the POS area is considered to be useable, the shortfalls are considered to be minor and not detrimental to the proposal. Furthermore, the dwellings are unable to be positioned closer to the front boundary to allow the 5 metre minimum dimension to be met, as the setback distance to the internal driveway will be inadequate. With this in mind, it is considered that the intent of Council Wide PDC 256 and 257 is satisfied by the proposal.

Car Parking

Council Wide PDC 264 seeks for sufficient on site car parking spaces to be provided taking into account the number and size of dwellings. Design Techniques 264.1 and 264.2 specify a distinct
rate for detached dwellings and group dwellings depending on their size or number of bedrooms. A summary of the car parking rates specified by Design Techniques 264.1 and 264.2 and the number of car parking spaces provided by the proposal is contained within Table 4 below.

Table 4: Summary of car parking rates and car parking provided

<table>
<thead>
<tr>
<th>Dwelling Type and Size</th>
<th>Rate (Number of Spaces Per Dwelling)</th>
<th>Required number of spaces</th>
<th>Provided number of spaces</th>
<th>Provision met</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group dwelling (3+ bedrooms)</td>
<td>1.25</td>
<td>8.75</td>
<td>14</td>
<td>Yes</td>
</tr>
<tr>
<td>Detached dwelling</td>
<td>1 covered and 1 uncovered</td>
<td>1 covered and 1 uncovered</td>
<td>2 covered and 3 uncovered</td>
<td>Yes</td>
</tr>
<tr>
<td>Visitor Spaces</td>
<td>0.25 (per group dwelling only)</td>
<td>1.75</td>
<td>4</td>
<td>Yes</td>
</tr>
</tbody>
</table>

The proposal consists of seven (7) three bedroom group dwellings and one (1) detached dwelling. As demonstrated above, the proposal provides adequate on-site car parking spaces in excess of the rates stipulated by Design Techniques 264.1 and 264.2. As such, the proposal is considered to satisfy Council Wide PDC 264. In addition, the swept paths shown on the Site Plan by Andrew Zummo (Contained within Attachment 1) demonstrate that all car parking spaces achieve safe and efficient manoeuvring of vehicles in accordance with Council Wide PDC’s 266, 345, 363 and 364.

Site Coverage

Council Wide PDC 251 details that the site coverage of an allotment should provide sufficient space for:

a) pedestrian and vehicle access and vehicle parking;

b) storage and cloths drying;

c) private open space and landscaping; and

d) front, side and rear boundary setbacks appropriate to the locality.

Design Technique 251.1 suggests that one way of satisfying the above criteria is by achieving a maximum site coverage of 55% for allotments less than 300 square metres and 50% for allotments between 301 and 450 square metres. A site coverage summary for the proposal is shown in Table 5 below.
As shown in Table 4 above, each dwelling satisfies the recommended site coverage requirements specified by Design Technique 251.1. In addition, each site is considered to have sufficient private open space, vehicle parking and boundary setbacks, consistent with Council Wide PDC 251.

Orientation

Proposed dwellings 1, 2, 3, 6, 7 and 8 achieve efficient solar orientation as internal living areas and external POS areas face in a northerly direction, in accordance with Council Wide PDC’s 42, 43 and 254. Proposed dwellings 4 and 5 do not have efficient solar orientation as internal living areas and external POS areas face in a southerly direction. To improve the amount of light to the internal living areas of dwellings 4 and 5, the inclusion of skylights or roof windows was recommended and subsequently provided by the applicant. While optimal solar orientation may not be achieved for two dwellings, on balance, the partial inconstancy with Council Wide PDC’s 42, 43 and 254, is not considered to be of detriment to the proposal.

Earthworks and Retaining

The proposal requires some earthworks and retaining walls to provide benched dwelling sites and usable POS. The northern portion of the site, involving dwellings 3, 6, 7 and 8, will be cut below natural ground level and retaining walls will be installed to the boundary of the subject site (maximum height varying between 0.2 and 0.95 metres). The south western portion of the site, involving dwellings 4 and 5, will be filled and retaining walls will be installed to the boundary of the subject site (maximum height varying between 0.4 and 0.87 metres). A majority of the south
eastern portion of the site, involving dwellings 1 and 2 and common driveway, will not require retaining walls.

The impact of the fill retaining wall located on the rear boundary of dwellings 4 and 5 is considered to be acceptable as the wall will only occupy approximately 26.3 metres or 25% the length of the boundary of adjoining allotment (34 Jane Street). To reduce the impact of the fill retaining wall on the adjoining allotment, the external façade of the wall will be of a decorative finish. It is important to note that the height of the fill retaining wall cannot be minimised as the proposed bench levels of dwellings 4 and 5 are required to ensure that stormwater can be discharged from the site via gravity to the stormwater system within the common driveway.

The earthworks and retaining walls required for the proposal are considered to be in accordance with Council Wide PDC’s 284, 285 and 286 which seek for the filling of land and height of retaining walls not to exceed 1 metre above existing ground level and the excavation (cutting) of land not to exceed 2 metres below existing ground level. Furthermore, the proposal is considered to integrate with the natural topography of the land in order to minimise the amount of earthworks and retaining (i.e. balanced amount of cut and fill) consistent with Council Wide PDC’s 310 and 311.

**Landscaping**

Council Wide PDC 281 requires landscaping to be provided to all areas of communal space, driveways and shared car parking areas. Through amendments to the proposal, the applicant has provided an increased amount of landscaping within the common property in order to enhance the attractiveness of the site, soften the built form and provide a buffer between dwellings and the common driveway, in accordance with Council Wide PDC’s 275, 281, 282 and 351.

Landscaping will comprise a mixture of ground covers, low lying shrubs and grasses and small trees, namely:

- Kangaroo Grass (*Themedra Triandra*)
- Purpurea (*Donaea Viscosa*)
- Kangaroo Paw (*Anigozanthus Flavidus*)
- Flax Lilly (*Dianella Tasmanica*)
- Wild Iris (*Dietes Grandiflora*)
- Scrub/Bush Cherry (*Syzygium Australe*)
- Dwarf Magenta Cherry (Red) (*Syzygium Australe Elite Red*)
Aussie Copper Lilly Pilly (*Syzygium Australe Copper*)

The trees proposed to be located within the easement are suitable and have a shallow root system, unlikely to cause damage to infrastructure - see the Referrals Section (Horticulture (Suitability of landscaping species and locations).

A copy of the Landscaping Plan by Andrew Zummo is contained within Attachment 1.

**Waste Collection**

Bins are proposed to be collected from the Jane Street road verge. The owners/occupies of each dwelling will be responsible for the storage and refuge of bins on their property. The frontage to Jane Street (approximately 13 metres excluding access points) ensures that sufficient space is available for the storage of bins for collection within the road verge (total of 16 bins – being one recycle and general waste bin per dwelling). Given that waste can be adequately stored and collected from the site, the proposal is consistent with Council Wide PDC's 53, 373, 376 and 377.

NOTE: Bin pick up from individual dwelling sites was investigated, however, it was established that the proposed access driveway would not fulfil the Northern Adelaide Waste Management Authority (NAWMA) requirements. In addition, private bin collection is not a service that is currently available within the Town of Gawler.

**Safe and convenient access and egress**

The proposal provides vehicular access for proposed dwelling 1 via a private driveway and dwellings 2 to 8 via a separate internal common driveway, accessed via Jane Street. A majority of the common driveway has a width of 5.5 metres and a vehicle pass bay (6 x 6 metres clear of any services etc) is situated at the entrance of the development to facilitate two way vehicle movements on site. Landscaping strips at regular intervals assists in reducing the speed of vehicles using the common driveway and increases pedestrian safety. The width of the driveway is sufficient for, and facilitates, the safe and efficient manoeuvring of vehicles from all on site car parking spaces. Two vehicle turn around areas are provided to allow all vehicles which enter the site to adequately manoeuvre and exit in a forward direction. Taking into consideration the above, the vehicular access and egress arrangements are consistent with Council Wide Objective 81 and PDC's 323, 328, 337, 338 and 363.

The driveway for dwelling 1 requires a new crossover to be installed and the common driveway requires an existing crossover to be extended. Extending the common driveway crossover
requires a small (non-regulated) street tree to be removed. Council’s Open Space and Horticulture Officer performed street tree removal assessment, his comments are contained within the Referrals Section - Horticulture (Street tree removal).

**Stormwater management**

A Stormwater Management Plan has been prepared by MLEI Consulting Engineers detailing the method of stormwater management on site (contained within Attachment 1). Council’s Engineering Department has reviewed the Stormwater Management Plan and calculations by MLEI Consulting Engineers and considers that the proposed stormwater system (including stormwater detention) is achievable and sufficient in managing stormwater during a rainfall event. Accordingly, the proposal satisfies Council Wide PDCs 53, 133, 134, 135, 136 and 137.

A drainage easement and associated infrastructure is proposed to be located within the common property to ensure that stormwater is efficiently discharged from the adjoining allotment to the west (known as allotment 100 created as part of the associated Torrens Title land division) to the Jane Street water table. The easement is required because the south western portion of allotment 100 slopes away from the existing stormwater infrastructure within Knight Street. The easement will be registered as part of the associated Torrens Title and Community Title land division applications. The infrastructure will be required to be constructed prior to the issue of Section 51 clearance of the associated Torrens Title land division and prior to the occupation of any dwellings (proposed as part of the subject application).

**Impact on Regulated Trees**

A Significant River Red Gum (*Eucalyptus Camaldulensis*) is located in the rear yard of 42 Jane Street, Willaston, approximately 5 metres from the south eastern boundary of the subject site and will be retained as part of the proposal (see image below). As discussed previously, Council’s Open Space and Horticulture Officer performed an assessment of the subject tree and established that the proposal is unlikely to negatively impact on the health and conservation of the Significant Tree, consistent with Council Wide Objectives 69, 70 and 84 and PDC’s 207, 305, 306, 308 and 309. See Internal Referrals - Horticulture (Significant Tree advice).
CONCLUSION

The applicant is proposing seven (7) single storey group dwellings and one (1) single storey detached dwelling, associated retaining wall and fence (exceeding 2.1 metres combined height), common driveway and landscaping.

The proposal is considered to be a desired form of development within the Willaston Policy Area and is consistent with the existing character of the area. Furthermore, the development is unlikely to negatively impact on the amenity of adjoining properties and the health of Regulated Trees.

On balance, it is considered that the proposal satisfies the relevant provisions of the Gawler Development Plan and it is recommended that Development Plan Consent be granted subject to conditions.

RECOMMENDATION

That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan and that DEVELOPMENT PLAN CONSENT be GRANTED to Development Application 490/248/2016 by G A BROOKS for Seven (7) single storey group dwellings and one (1) single storey detached dwelling and associated
common driveway and landscaping at 38 Jane Street WILLASTON 5118, subject to the following conditions:

Reserved Matter requirements:

The following detailed information shall be submitted for further assessment by Council Staff, as delegates of the Council Development Assessment Panel, and are deemed to be reserved matters pursuant to section 33(3) of the Development Act 1993.

1) Detailed stormwater management plan shall be prepared and submitted to Council for approval, demonstrating but not limited to the following:

   a) Surveyed levels of the land (including contours and spot levels);
   b) Location and extent of excavation, fill, batter and retaining walls;
   c) Bench levels, finished floor levels and paving levels (including road surface level);
   d) Location of all stormwater infrastructure including sizes and depths;
   e) Stormwater detention details (including calculations);
   f) Stormwater quality improvement device details; and
   g) Method of pipe protection for stormwater infrastructure crossing the easement.

Development Plan Consent Conditions:

1) The development hereby approved shall be undertaken in accordance with Development Application No 490/248/2016, the approved plans, details and conditions therein.

   **REASON:** To ensure the development is undertaken in accordance with the approved documentation.

2) Prior to the issue of Full Development Approval, a demolition plan for the existing dwelling located on allotment 103, shall be submitted to Council for approval or privately certified with building rules documents.

   **REASON:** To ensure that demolition meets the standards of National Construction Code

3) Prior to the issue of Full Development Approval, full engineering details and specifications for any retaining wall over one (1) metre in height or combination of retaining wall and fence exceeding the height of 2.1 metres shall be submitted to Council for approval or privately certified with building rules documents.
REASON: To ensure all structures constituting 'development' obtain the required statutory approvals.

4) Prior to the issue of Full Development Approval, a Soil, Erosion and Drainage Management Plan shall be provided to, and approved by Council.
   
   REASON: To ensure land is maintained during construction.

5) Prior to the occupation of any dwellings hereby approved, the access point between the property boundary and the kerb line shall be constructed in accordance with Council’s standard detail SK-302. Any redundant vehicle access points shall be reinstated in accordance with Council Standard SK-305 to match the existing kerb and street water table to the reasonable satisfaction of Council.
   
   REASON: To ensure safe and convenient vehicle access/egress is provided.

6) The access point shall be located a minimum distance of one metre from, but not limited to, any water meter, street tree, light pole or stormwater pit, otherwise the applicant shall pay full cost for the relocation of these items.
   
   REASON: To ensure safe and convenient vehicle access/egress is provided.

7) Prior to the construction of the of the access point between the property boundary and the kerb, the applicant shall pay $300 to Council for the relocation of the existing street tree.
   
   NOTE: Please contact Council to arrange an invoice.
   
   REASON: To ensure the street tree is removed and relocated.

8) Prior to the occupation of any dwellings hereby approved, all driveways and car parking areas shall be constructed with bitumen as indicated on the approved Stormwater Management Plan by MLEI Consulting Engineers (Drawing no. C01, Revision: P8), and maintained to the reasonable satisfaction of Council at all times.
   
   REASON: To ensure safe and convenient vehicle access/egress is provided.

9) All on-site visitor car parking spaces within the common access driveway shall be designed and line marked in accordance with AS 2890.1:2004 - Off-street Car parking.
   
   REASON: To ensure car parking complies with Australian Standards’.

10) A sign with the message ‘visitor car parking’ having an advertising area not exceeding 0.2m² shall be erected demonstrating visitor car parking onsite and shall be maintained in a good and legible condition at all times.
   
   REASON: To ensure the visitor car parking area is clearly depicted.
11) Prior to the occupation of any dwellings hereby approved, landscaping as indicated on the approved Landscaping Plan by Andrew Zummo (Revision: G07, Date: 15 Dated) shall be planted on the site and maintained in good condition at all times. Any landscaping that becomes diseased or dying shall be replaced with the same or similar species to the reasonable satisfaction of Council.

**REASON:** To ensure the development is undertaken and maintained in accordance with the approved plans.

12) All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.

**REASON:** To ensure the stormwater is appropriately managed on site.

13) All rubbish, recycling and organic waste bins shall be stored within their respective dwelling sites at all times away from public view other than when required for collection, at which time the bins shall be placed in the designated collection area within the Jane Street road reserve.

**REASON:** To ensure the collection/refuge of waste does not unreasonably impact the amenity of the immediate locality.

14) The external facades of retaining walls located on the rear and side boundaries of dwellings 4 and 5 shall be of a decorative finish.

**REASON:** To ensure the development does not unreasonably impact the amenity of the immediate locality.

15) Site work, demolition work and building work shall be carried out only between the hours of 7.30 am to 6.30 pm Monday to Saturday and 9.00 am to 5.00 pm Sunday, and as per EPA requirements for work of this nature.

**REASON:** To ensure the development does not unreasonably impact the amenity of the immediate locality.

16) During construction, dust emissions from the site shall be controlled by a dust suppressant or by watering regularly to the reasonable satisfaction of Council.

**REASON:** To ensure the development does not unreasonably impact the amenity of the immediate locality.
Item Number | 5.6
---|---
Development Application | 490/549/2015 (490/D035/15)
Author(s) | Development Assessment Planner (Ebony Cetinich)
Applicant | G BROOKS
Owner | GELMAY PTY LTD
Subject Land | 36 Jane Street WILLASTON 5118 LOT: 16 PLN: F154717 CT: 5686/779; and 38 Jane Street WILLASTON 5118 LOT: 19 PLN: F154720 CT: 5815/562; and Knight Street WILLASTON 5118 LOT: 17 PLN: D22122 CT: 6135/312
Description of Development | Torrens Title Land Division (3 allotments into 4)
Zone | Residential Zone
Public Notification Category | Category 1
Previous Reference/Motion | Nil
Lodgement Date of Application | 10/08/2015
Relevant Development Plan | 30 April 2015
Recommendation | Approval
Delegation | 3.3.1.5 – Land division where a Regulated Tree is located within 10 metres of a proposed boundary
Attachments Under Separate Cover | Attachment 1 – Attachment 2 – Application Plans and Documentation Willaston Policy Area Map (Figure Res/9).

PROPOSAL

The applicant seeks Development Plan Consent and Land Division Consent to divide three (3) existing allotments located at 36 Jane Street, 38 Jane Street and Lot 17 Knight Street, Willaston. The existing allotments are proposed to be sub-divided into four (4) Torrens Tile allotments with the following parameters:

<table>
<thead>
<tr>
<th>Allotment</th>
<th>Existing Structure/s</th>
<th>Allotment Size (m²)</th>
<th>Frontage (m)</th>
<th>Shape</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Nil</td>
<td>8791</td>
<td>15</td>
<td>Irregular</td>
</tr>
<tr>
<td>101</td>
<td>Two outbuildings (to be removed)</td>
<td>2693</td>
<td>13</td>
<td>Irregular</td>
</tr>
<tr>
<td>102</td>
<td>Dwelling and two outbuildings (to be retained)</td>
<td>1103</td>
<td>20.53</td>
<td>Regular</td>
</tr>
<tr>
<td>103</td>
<td>Dwelling (lean-to to be removed)</td>
<td>433</td>
<td>12.14</td>
<td>Regular</td>
</tr>
</tbody>
</table>
In particular the proposal will create two “development lots” to enable further division of the land. In particular, allotment 100 will be subject to a future land division application and allotment 101 is subject to a current Community Title land division and built form application (DA490/248/2016 and DA490/478/2016 (DAC: 490/C026/16) discussed below).

The subject land division is presented to the Council Development Assessment Panel (CDAP) for a determination under current staff/CDAP Delegations, as one (1) Regulated (Significant) Tree is located within 10 metres of a proposed allotment boundary. In addition, the subject land division relates to a Community Title land division which is required to be presented to the CDAP for a decision (also discussed below).

Copies of the plans and documentation relating to this application, including the Plan of Proposed Division, are contained within Attachment 1.

BACKGROUND AND RELATED APPLICATIONS

- DA490/248/2016 – Demolition of existing dwelling and construction of seven (7) single storey group dwellings, one (1) single storey detached dwelling and associated retaining wall and fence (exceeding 2.1 metres combined height), common driveway and landscaping
  
  Referred to as the built form application for the purposes of this report

- DA490/478/2016 (DAC: 490/C026/16) – Community Title Land Division (1 allotment into 7)
  
  Referred to as the Community Title land division for the purposes of this report

The subject Torrens Title land division application has been assessed concurrently with the abovementioned land division and built form applications in order to demonstrate that proposed allotments 101 is suitable for its intended residential use.

LOCALITY

A locality map is contained in Figure 1 below. The main characteristics of the locality are as follows:

<table>
<thead>
<tr>
<th>NORTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The Residential Zone and Willaston Policy Area continue to the north of the subject site.</td>
</tr>
<tr>
<td>• Further to the north is the Special Uses Zone (Willaston Cemetery), The Gawler and Light Council Area Boundary and the Northern Expressway.</td>
</tr>
</tbody>
</table>
| EAST | • The adjoining allotment to the north (allotment 100, to be created as part of the associated Torrens Title land division) is a large vacant allotment intended to be subdivided for residential use in the future.  
• Residential allotments further to the north are consistent in size (790m$^2$ to 1120m$^2$) and contain detached dwellings.  
• The Residential Zone and Willaston Policy Area continue to the east of the subject site.  
• The locality is bound to the east by Main North Road and the Gawler and Light Council Area Boundary.  
• Allotments to the east of the subject site are typically residential in use with the exception of a Motor Repair Station located on Main North Road.  
• Infill Development has occurred regularly throughout the locality to the east of the subject site resulting in a diverse range of allotment sizes and housing types (both detached dwellings and group dwellings).  
• Multiple large and underutilised residential allotments exist to the east (south east) of the subject site. |
| SOUTH | • The Residential Zone and Willaston Policy Area continues to the south of the subject site, allotments are residential in use.  
• Allotments in close proximity to the south of the subject site are typically long and rectangular in shape, some of which are large and underutilised.  
• Infill Development has occurred regularly throughout the locality to the south of the subject site resulting in a diverse range of allotment sizes and housing types (both detached dwellings and group dwellings). |
| WEST | • The Residential Zone and Willaston Policy Area continues to the west of the subject site and further to the south west is the Residential Historic (Conservation Zone).  
• The locality is bound to the west by Redbanks Road.  
• Allotments in close proximity to the west of the subject site are large in area (2146m$^2$ to 6700m$^2$), contain detached dwellings and are earmarked for infill development.  
• Residential allotments further to the west vary in size and shape (some of which are of a hammer head (battle-axe) configuration) and predominantly contain |
detached dwellings and group dwellings.

- A retirement village is located in close proximity to the west of the subject site and the expansion of the village by an additional 8 group dwellings has recently received Development Plan Consent.

Figure 3: Locality Map
subject site

- The subject site comprises three existing residential allotments located at 36 Jane Street, 38 Jane Street and Lot 17 Knight Street, Willaston. These allotments are referred to as the 'subject land' for the purposes of this report (see Figure 2 below).

- 36 Jane Street is rectangular in shape and contains an existing dwelling and two ancillary structures in the front portion of the allotment (to be retained). The rear portion of the allotment is vacant and clear of vegetation.

- 38 Jane Street is irregular in shape and contains an existing dwelling and two ancillary structures in the front portion of the allotment (to be removed). The rear portion of the allotment is vacant and clear of vegetation.

- Lot 17 Knight Street is an irregular shaped allotment which is currently vacant aside from four remnant trees, none of which are Regulated.

- 36 Jane Street has an area of 2,211m², 38 Jane Street has an area of 4,173m² and Lot 17 Knight Street has an area of 6,640m², giving the subject land a total combined area of 13,024m².

- A significant tree is located in the rear yard of adjoining allotment 42 Jane Street, Willaston, approximately 5 metres from the south eastern boundary of the 38 Jane Street (indicated in Figure 2 below).

- The subject site is located wholly within the Residential Zone and Willaston Policy Area.
CATEGORISATION (PUBLIC NOTIFICATION)

This application was not required to be advertised pursuant to Section 38 of the Development Act, 1993. The application is considered as Category 1 development pursuant to Schedule 9, Part 1 (2)(f) of the Development Regulations 2008 as the proposal does not create more than 4 additional allotments.
# COUNCIL DEVELOPMENT ASSESSMENT PANEL

## AGENDA

**Monday 14 November 2016**

## REFERRALS

External Referrals required by the Schedule 8 of the *Development Regulations, 2008*:

<table>
<thead>
<tr>
<th>Referrals/Notice</th>
<th>Advice/Response/Conditions</th>
</tr>
</thead>
</table>
| Development Assessment Commission | The following conditions are required to be imposed on the development should the application be approved:  
1) Payment of $6488 into the Planning and Development Fund (1 allotment/s @ $6488 /allotment). Payment may be made by credit card via the internet at [www.edala.sa.gov.au](http://www.edala.sa.gov.au) or by phone (8303 0724), by cheque payable to the Development Assessment Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 136 North Terrace, Adelaide  
2) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes. |
| SA Water | The following conditions are required to be imposed on the development should the application be approved:  
1) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services (SA Water H0035544).  
2) The internal drains shall be altered to the satisfaction of the SA Water Corporation.  
3) On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries. |
Internal Council Referrals | Advice/Response/Conditions
--- | ---
Engineering | Internal advice was provided as part of the associated built form Development Application 490/248/2016.
Horticulture | Internal advice was provided as part of the associated built form Development Application 490/248/2016.

ASSESSMENT

The zoning of the land and relevant provisions

At the time of lodgement, the subject land was within the Residential Zone, and more specifically the Willaston Policy Area. The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:

<table>
<thead>
<tr>
<th>Council Wide Section</th>
<th>Objectives</th>
<th>Principles of Development Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appearance of Land, Buildings and the Public Environment</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Form of Development</td>
<td>20, 21 and 22</td>
<td>46, 52, and 53</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>33, 37 and 38</td>
<td>83, 84, 85, 86 and 87</td>
</tr>
<tr>
<td>Land Division</td>
<td>41</td>
<td>108, 109 and 110</td>
</tr>
<tr>
<td>Regulated Trees</td>
<td>69 and 70</td>
<td>207 and 209</td>
</tr>
<tr>
<td>Residential</td>
<td>74, 75, 76, 80 and 81</td>
<td>214, 215, 216, 217, 218, 219, 222, 228, 229, 233, 235 and 236</td>
</tr>
<tr>
<td>Significant Trees</td>
<td>84</td>
<td>305, 306, 308 and 309</td>
</tr>
<tr>
<td>Transportation and Access</td>
<td>81</td>
<td>316, 317, 323, 325, 337, 338 and 340</td>
</tr>
<tr>
<td>Transportation (Movement of People and Goods)</td>
<td>95</td>
<td>359 and 363</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section</th>
<th>Objectives</th>
<th>Principle of Development Controls</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Zone</td>
<td>1</td>
<td>1, 2, 3, 9, 10</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section</th>
<th>Objectives</th>
<th>Principle of Development Controls</th>
</tr>
</thead>
<tbody>
<tr>
<td>Willaston Policy Area</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>
The key aspects involved in the assessment of the application include:

- Consistency with the existing and desired character of the area;
- Suitability of allotments for intended residential use;
- Provision of safe and convenient access and egress; and
- Provision of services and infrastructure.

Background (Knight Street)

- A historic land division occurring over the subject land resulted in an unmade road reserve (known as Knight Street) becoming land locked.
- The unmade Knight Street road reserve has not changed as a result of the subject land division and is of no consequence in the assessment of the application (i.e. the unmade road reserve was previously land locked and will remain land locked until the future development of allotment 100 occurs).
- Council will be working with the developer in the future division of allotment 100, to ensure that Knight Street is extended to rectify the land locked portion of the road.
- This will form part of a future land division application, however, the developer has begun preliminary discussions with Council's Property and Engineering Departments.

Consistency with the existing and desired character of the area

The proposed land division is considered to be a desired form of development within the Willaston Policy Area as it will facilitate the development of large underutilised allotments earmarked for infill development on the Willaston Policy Area Map (Figure Res/9). A copy of the Willaston Policy Area Map is contained within Attachment 2. Infill development has occurred regularly throughout the locality. As such, the proposal is considered to be consistent with the existing character of the area as the division will facilitate similar infill development in accordance with PDC 10 of the Residential Zone.

Suitability of allotments for intended residential use

Council Wide PDC’s 109 and 217 and Residential Zone PDC 9 seek to ensure that when land is divided, the proposed allotments are suitable for their intended residential use.
- Allotment 102 contains an existing dwelling and two ancillary structures and is considered to meet the quantitative requirements of the Gawler Development Plan due to the large size of the allotment.
• Allotment 100 is of a sufficient size and shape to be divided further, as such, indicative dwelling plans were not required to be provided.

• The related built form application demonstrates that allotments 101 and 103 are sufficiently capable of being developed for residential purposes. Furthermore, allotment 101 can be developed within the tolerable allowance of encroachment for Regulated Trees in accordance with Australian Standard (AS4970). This will be discussed in greater detail in the assessment of the built form application.

NOTE: All existing structures located on allotments 101 and 103 will be removed as part of the subject application to ensure that the land is clear and ready for residential development.

**Provision of safe and convenient access and egress**

• Allotment 100 will maintain existing access arrangements from Knight Street.

• Allotment 102 will maintain existing access arrangements from Jane Street.

• Allotment 103 will require a new access point from Jane Street and allotment 101 requires an existing access point from Jane Street to be extended. This was assessed as part of the associated built form application where it was demonstrated that allotments 101 and 103 can achieve safe and convenient access and egress. As such, the proposal is in accordance with Council Wide PDC’s 110, 217, 228, 323, 337, 338 and 340.

**Provision of services and infrastructure**

The subject land is located within an established residential area that is adequately serviced by public infrastructure, including the provision of water, sewer, stormwater and electricity.

• Proposed allotment 102 will maintain existing stormwater and sewer arrangements as the site contains an existing dwelling and ancillary structures which will be retained.

• Stormwater drainage for proposed allotments 101 and 103 has been assessed as part of the associated built form application and is considered to be acceptable, in accordance with Council Wide PDC’s 83, 84, 110, 216, 228, 229 and 234.

• Stormwater drainage for proposed allotment 100 will form part of the assessment of any future Development Applications. In saying this, it is important to note that the subject proposal involves the creation of a drainage easement over proposed allotment 101 in order to facilitate effective stormwater drainage from proposed allotment 100 to the Jane Street water table when the land is subdivided in the future. The easement is required because the south western portion of allotment 100 slopes away from the existing stormwater infrastructure within Knight Street.

NOTE: Construction of the infrastructure within the drainage easement will form part of the associated built form application.
An existing easement to the Minister for Infrastructure will be maintained over proposed allotment 100.

CONCLUSION

The applicant is proposing a Torrens Title land division to create four (4) residential allotments (one (1) additional). Two development lots (allotments 100 and 101) will result from the proposed land division, to enable further subdivision of the land (infill development). A separate, however, associated Community Title land division and built form Development Application demonstrates that allotments 101 and 103 are suitable for their intended residential use and the Significant Tree located on the adjoining allotment does not impede the ability of allotment 101 to be developed. The proposal is considered to be a desired form of development within the Willaston Policy Area and is consistent with the existing character of the area.

On balance, it is considered that the proposal satisfies the relevant provisions of the Gawler Development Plan and it is recommended that Development Plan Consent, Land Division Consent and Development Approval be granted subject to conditions.

RECOMMENDATION

That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan and that DEVELOPMENT PLAN CONSENT be GRANTED to Development Application 490/549/2015 (DAC Reference - 490/D035/15) by G BROOKS for Torrens Title Land Division (3 allotments into 4) at 36 Jane Street WILLASTON 5118, subject to the following conditions:

Council Requirements (Development Plan Consent Conditions):

1) The development is undertaken in accordance with Development Application number 490/549/2015 (EDALA 490/D035/15), the approved plans, conditions and details therein.
   
   REASON: To ensure the development is undertaken in accordance with the approved plans.

2) During construction, precautions shall be taken to prevent the pollution of stormwater by mud, silt, dust or other debris from the site in accordance with EPA Code of Practice for the Building and Construction Industry.
REASON: To ensure the environment and amenity of the locality is not detrimentally impacted by any building/demolition work.

3) Site work, demolition work and building work shall be carried out only from Monday to Saturday 7am – 5pm. No work is permitted on Sundays except for dust control as per EPA requirements for work of this nature.

REASON: To ensure the amenity of the locality is not detrimentally impacted by any building/demolition work.

4) All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that do not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.

REASON: To ensure that stormwater is adequately managed on-site and discharged to Council’s stormwater management system.

Council Requirements (Land Division Consent Conditions):

1) Prior to the issue of Section 51 Clearance of allotments 100 and 103, all existing structures located on allotments 101 and 103 as indicated on the Proposed Plan of Division by SKS Surveys Pty Ltd (Reference: 201815), shall be demolished to the reasonable satisfaction of Council.

REASON: To ensure the allotments are suitable for their intended use.

2) Prior to the issue of Section 51 Clearance, all rubbish or deleterious material shall be removed from the subject land to the reasonable satisfaction of Council.

REASON: To ensure the allotments are suitable for their intended use.

3) Prior to the issue Section 51 Clearance, the Proposed Plan of Division shall be amended and uploaded to EDALA showing the existing dwelling located on allotment 103 as being demolished

REASON: To ensure the allotments are suitable for their intended use.

4) Prior to the issue of Section 51 Clearance of allotments 100 and 101, the infrastructure within the drainage easement as indicated on the Proposed Plan of Division by SKS Surveys Pty Ltd (Reference: 201815), shall be installed to the reasonable satisfaction of Council.

REASON: To ensure that stormwater is adequately managed on-site and discharged to Council’s stormwater management system.
Referral Authority Conditions:

1) Payment of $6488 into the Planning and Development Fund (1 allotment/s @ $6488 /allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (8303 0724), by cheque payable to the Development Assessment Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, at Level 5, 136 North Terrace, Adelaide.

2) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

3) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services (SA Water H0035544).

4) The internal drains shall be altered to the satisfaction of the SA Water Corporation.

5) On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.
PROPOSAL

The applicant seeks Development Plan Consent and Land Division Consent to divide one (1) allotment into seven (7) Community Title allotments with the following parameters:

<table>
<thead>
<tr>
<th>Allotment no.</th>
<th>Size (m²)</th>
<th>Frontage to Common Road</th>
<th>Shape</th>
</tr>
</thead>
<tbody>
<tr>
<td>201</td>
<td>244</td>
<td>14.87</td>
<td>Regular</td>
</tr>
<tr>
<td>202</td>
<td>243</td>
<td>14.87</td>
<td>Regular</td>
</tr>
<tr>
<td>203</td>
<td>220</td>
<td>13.13</td>
<td>Regular</td>
</tr>
<tr>
<td>204</td>
<td>220</td>
<td>13.16</td>
<td>Regular</td>
</tr>
<tr>
<td>205</td>
<td>257</td>
<td>Irregular</td>
<td>Irregular</td>
</tr>
<tr>
<td>206</td>
<td>256</td>
<td>Irregular</td>
<td>Irregular</td>
</tr>
<tr>
<td>207</td>
<td>309</td>
<td>20</td>
<td>Irregular</td>
</tr>
</tbody>
</table>
The subject land division is presented to the Council Development Assessment Panel (CDAP) for a determination under current staff/CDAP Delegations, as one (1) Regulated (Significant) Tree is located within 10 metres of a proposed allotment boundary. In addition, the subject land division relates to a Torrens Title land division which is required to be presented to the CDAP for a decision (also discussed below).

Copies of the plans and documentation relating to this application, including the Plan of Proposed Division, are contained within Attachment 1.

BACKGROUND AND RELATED APPLICATIONS

- DA490/549/2015 (DAC: 490/D035/15) - Torrens Title Land Division (3 allotments into 4)
  
  Referred to as the Torrens Title land division for the purposes of this report
- DA490/248/2016 - Construction of seven (7) single storey group dwellings, one (1) single storey detached dwelling and associated retaining wall and fence (exceeding 2.1 metres combined height), common driveway and landscaping
  
  Referred to as the built form application for the purposes of this report

The subject Community Title land division application has been assessed concurrently with the abovementioned land division and built form applications in order to demonstrate that the proposed allotments are suitable for their intended residential use. The subject site or “development lot” which enables further subdivision of the land by Community Title, is proposed to be created as part of an associated Torrens Title land division application.

LOCALITY

A locality map is contained in Figure 1 below. The main characteristics of the locality are as follows:

| NORTH | The Residential Zone and Willaston Policy Area continue to the north of the subject site. |
|       | Further to the north is the Special Uses Zone (Willaston Cemetery), The Gawler and Light Council Area Boundary and the Northern Expressway. |
|       | The adjoining allotment to the north (allotment 100, to be created as part of the associated Torrens Title land division) is a large vacant allotment intended to be |
subdivided for residential use in the future.
- Residential allotments further to the north are consistent in size (790m$^2$ to 1120m$^2$) and contain detached dwellings.

### EAST
- The Residential Zone and Willaston Policy Area continue to the east of the subject site.
- The locality is bound to the east by Main North Road and the Gawler and Light Council Area Boundary.
- Allotments to the east of the subject site are typically residential in use with the exception of a Motor Repair Station located on Main North Road.
- Infill Development has occurred regularly throughout the locality to the east of the subject site resulting in a diverse range of allotment sizes and housing types (both detached dwellings and group dwellings).
- Multiple large and underutilised residential allotments exist to the east (south east) of the subject site.

### SOUTH
- The Residential Zone and Willaston Policy Area continues to the south of the subject site, allotments are residential in use.
- Allotments in close proximity to the south of the subject site are typically long and rectangular in shape, some of which are large and underutilised.
- Infill Development has occurred regularly throughout the locality to the south of the subject site resulting in a diverse range of allotment sizes and housing types (both detached dwellings and group dwellings).

### WEST
- The Residential Zone and Willaston Policy Area continues to the west of the subject site and further to the south west is the Residential Historic (Conservation Zone).
- The locality is bound to the west by Redbanks Road.
- Allotments in close proximity to the west of the subject site are large in area (2146m$^2$ to 6700m$^2$), contain detached dwellings and are earmarked for infill development.
- Residential allotments further to the west vary in size and shape (some of which are of a hammer head (battle-axe) configuration) and predominantly contain detached dwellings and group dwellings.
- A retirement village is located in close proximity to the west of the subject site.
and the expansion of the village by an additional 8 group dwellings has recently received Development Plan Consent.

**Figure 5: Locality Map**

**SUBJECT SITE**

- The subject site comprises one allotment (known as allotment 101) proposed to be created as part of the associated Torrens Title land division application (see Figure 2 below).
- The subject site is of an irregular hammerhead (battle-axe) configuration with access via Jane Street.
The subject site is currently largely vacant with the exception an existing dwelling and two ancillary structures which will be removed as part of the associated Torrens Title land division application.

The subject site has an area of 2,693m² and is located wholly within the Residential Zone and Willaston Policy Area.

A significant tree is located in the rear yard of adjoining allotment 42 Jane Street, Willaston, approximately 5 metres from the south eastern boundary of the subject site (indicated in Figure 2 below).

Figure 6: Site Plan

CATEGORISATION (PUBLIC NOTIFICATION)

This application was not required to be advertised pursuant to Section 38 of the Development Act, 1993. The application is considered as Category 1 development pursuant to Schedule 9, Part 1 (4)
of the *Development Regulations 2008* as the proposal involves the division of land by way of strata plan under the *Community Titles Act 1996*.

**REFERRALS**

External Referrals required by the Schedule 8 of the *Development Regulations, 2008*:

<table>
<thead>
<tr>
<th>Referrals/Notice</th>
<th>Advice/Response/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Development Assessment Commission</td>
<td>The following conditions are required to be imposed on the development should the application be approved:</td>
</tr>
<tr>
<td></td>
<td>3) Payment of $40,056 into the Planning and Development Fund (6 allotment/s @ $6676 /allotment). Payment may be made by credit card via the internet at <a href="http://www.edala.sa.gov.au">www.edala.sa.gov.au</a> or by phone (7109 7018), by cheque payable to the Development Assessment Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor, 101 Grenfell Street, Adelaide.</td>
</tr>
<tr>
<td></td>
<td>4) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.</td>
</tr>
<tr>
<td>SA Water</td>
<td>The following conditions are required to be imposed on the development should the application be approved:</td>
</tr>
<tr>
<td></td>
<td>1) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services (SA Water H0049811).</td>
</tr>
<tr>
<td></td>
<td>2) The developer must inform potential purchasers of the community lots in regards to the servicing arrangements and seek written agreement prior to settlement, as future alterations would be at full cost to the owner/applicant.</td>
</tr>
<tr>
<td></td>
<td>Notes: SA Water advises on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.</td>
</tr>
</tbody>
</table>
COUNCIL DEVELOPMENT ASSESSMENT PANEL
AGENDA

Monday 14 November 2016

<table>
<thead>
<tr>
<th>Internal Council Referrals</th>
<th>Advice/Response/Conditions</th>
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<tbody>
<tr>
<td>Engineering</td>
<td>Internal advice was provided as part of the associated built form Development Application 490/248/2016.</td>
</tr>
<tr>
<td>Horticulture</td>
<td>Internal advice was provided as part of the associated built form Development Application 490/248/2016.</td>
</tr>
</tbody>
</table>

ASSESSMENT

The zoning of the land and relevant provisions

At the time of lodgement, the subject land was within the Residential Zone, and more specifically the Willaston Policy Area. The following Town of Gawler Development Plan Objectives and Principles of Development Control (PDC’s) were considered in the assessment of this application:

<table>
<thead>
<tr>
<th>Council Wide Section</th>
<th>Objectives</th>
<th>Principles of Development Control</th>
</tr>
</thead>
<tbody>
<tr>
<td>Appearance of Land, Buildings and the Public Environment</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Form of Development</td>
<td>20, 21 and 22</td>
<td>46, 52, and 53</td>
</tr>
<tr>
<td>Infrastructure</td>
<td>33, 37 and 38</td>
<td>83, 84, 85, 86 and 87</td>
</tr>
<tr>
<td>Land Division</td>
<td>41</td>
<td>108, 109 and 110</td>
</tr>
<tr>
<td>Regulated Trees</td>
<td>69 and 70</td>
<td>207 and 209</td>
</tr>
<tr>
<td>Residential</td>
<td>74, 75, 76, 80 and 81</td>
<td>214, 215, 216, 217, 218, 219, 222, 228, 229, 233, 235 and 236</td>
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<tr>
<td>Significant Trees</td>
<td>84</td>
<td>305, 306, 308 and 309</td>
</tr>
<tr>
<td>Transportation and Access</td>
<td>81</td>
<td>316, 317, 323, 325, 337, 338 and 340</td>
</tr>
<tr>
<td>Transportation (Movement of People and Goods)</td>
<td>95</td>
<td>359 and 363</td>
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<table>
<thead>
<tr>
<th>Section</th>
<th>Objectives</th>
<th>Principle of Development Controls</th>
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<tbody>
<tr>
<td>Residential Zone</td>
<td>1</td>
<td>1, 2, 3, 9, 10</td>
</tr>
<tr>
<td>Willaston Policy Area</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>
The key aspects involved in the assessment of the application include:

- Consistency with the existing and desired character of the area;
- Suitability of allotments for intended residential use;
- Provision of safe and convenient access and egress; and
- Provision of services and infrastructure.

Consistency with the existing and desired character of the area

The proposed land division is considered to be a desired form of development within the Willaston Policy Area as it involves the development of large underutilised allotments earmarked for infill development on the Willaston Policy Area Map (Figure Res/9). A copy of the Willaston Policy Area Map is contained within Attachment 2. Infill development consistent with the establishment of allotments accessed via a common internal driveway has occurred regularly throughout the locality. As such, the proposal is considered to be consistent with the existing character of the area as the division will result in similar infill development, in accordance with PDC 10 of the Residential Zone.

Suitability of allotments for intended residential use

Council Wide PDC’s 109 and 217 and Residential Zone PDC 9 seek to ensure that when land is divided, the proposed allotments are suitable for their intended residential use. The related built form application demonstrates that allotments 201 to 207 and the common property are sufficiently capable of being developed for residential purposes, within the tolerable allowance of encroachment for Regulated Trees in accordance with Australian Standard (AS4970). This will be discussed in greater detail in the assessment of the built form application.

Provision of safe and convenient access and egress

Access and egress has been assessed as part of the associated built form application. It has been demonstrated that safe and convenient access and egress between Jane Street and the proposed allotments can be achieved via the internal driveway (common property). As such, the proposal is in accordance with Council Wide PDC’s 110, 217, 228, 323, 337, 338 and 340.

Provision of services and infrastructure

The subject land is located within an established residential area that is adequately serviced by public infrastructure, including the provision of water, sewer, stormwater and electricity. Stormwater
drainage has been assessed as part of the associated built form application and is considered to be acceptable, in accordance with Council Wide PDC’s 83, 84, 110, 216, 228, 229 and 234.

The subject land division application results in the creation of a drainage easement within the common property to ensure that stormwater is efficiently discharged from the adjoining allotment to the west (known as allotment 100 created as part of the associated Torrens Title land division) to the Jane Street water table. The easement is required because the south western portion of allotment 100 slopes away from the existing stormwater infrastructure within Knight Street.

NOTE: the construction of the infrastructure within the easement will form part of the associated built form application.

CONCLUSION

The applicant is proposing a Community Title land division to create seven (7) residential allotments (six (6) additional). The associated built form application demonstrates that the proposed allotments are suitable for their intended residential use and the Significant Tree located on the adjoining allotment does not impede the ability of allotments and common property to be developed. The proposal is considered to be a desired form of development within the Willaston Policy Area and is consistent with the existing character of the area.

On balance, it is considered that the proposal satisfies the relevant provisions of the Gawler Development Plan and it is recommended that Development Plan Consent, Land Division Consent and Development Approval be granted subject to conditions.

RECOMMENDATION

That having regard to the relevant provisions of the Gawler (CT) Development Plan, pursuant to Section 33(1) of the Development Act 1993, that the application is not seriously at variance with the Development Plan and that DEVELOPMENT PLAN CONSENT be GRANTED to Development Application 490/478/2016 (DAC reference 490/C026/16) by G BROOKS for Community Title Land Division (1 allotment into 7) at 38 Jane Street WILLASTON 5118, subject to the following conditions:

Council Requirements (Development Plan Consent Conditions):

1) The development is undertaken in accordance with Development Application number 490/478/2016 (DAC Reference: 490/C026/16), the approved plans, conditions and details therein.
REASON: to ensure the development is undertaken in accordance with the approved plans.

2) During construction, precautions shall be taken to prevent the pollution of stormwater by mud, silt, dust or other debris from the site in accordance with EPA Code of Practice for the Building and Construction Industry.

REASON: To ensure the environment and amenity of the locality is not detrimentally impacted by any building/demolition work.

3) Site work, demolition work and building work shall be carried out only from Monday to Saturday 7am – 5pm. No work is permitted on Sundays except for dust control as per EPA requirements for work of this nature.

REASON: To ensure the amenity of the locality is not detrimentally impacted by any building/demolition work.

4) All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that do not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.

REASON: To ensure that stormwater is adequately managed on-site and discharged to Councils stormwater management system.

Advisory Notes:

1) Prospective purchasers are advised that the construction and development of the common driveway should be undertaken prior to any settlement being reached on the purchase of community allotments. Purchases are made aware that the construction of services over common land is a matter that should be incorporated into any contracts of sale for the security and safety of any purchases.

2) The applicant/owner is advised to contact Council’s Contracts and Projects Officer on 0418 834 430 prior to commencing any work within the road verge (i.e. access point).

Council Requirements (Land Division Consent Conditions):

1) Prior to the issue of Section 51 Clearance, the access point between the property boundary and the kerb line shall be extended to a width of 6 metres, constructed in accordance with Council’s standard detail SK-302. Any redundant vehicle access points shall be reinstated in accordance with Council Standard SK-305 to match the existing kerb and street water table to the reasonable satisfaction of Council.

REASON: To ensure safe and convenient vehicle access/egress is provided.
2) Prior to the issue of Section 51 Clearance and prior to the construction of the access point between the property boundary and the kerb, the applicant shall pay $300 to Council for the relocation of the existing street tree.

NOTE: Please contact Council to arrange an invoice.

REASON: To ensure the street tree is removed and relocated.

Referral Authority Conditions:

1) Payment of $40,056 into the Planning and Development Fund (6 allotment/s @ $6676/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Development Assessment Commission marked “Not Negotiable” and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor, 101 Grenfell Street, Adelaide.

2) A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

3) The financial requirements of SA Water shall be met for the provision of water supply and sewerage services (SA Water H0049811).

4) The developer must inform potential purchasers of the community lots in regards to the servicing arrangements and seek written agreement prior to settlement, as future alterations would be at full cost to the owner/applicant.

Advisory Notes:

1) SA Water advises on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non-standard fees.
6. Information Items:

Item Number  6.1
Title  INFORMATION ITEM - APPEAL MATTERS
Date  14 November 2016
Author(s)  Acting Team Leader Development Services

<table>
<thead>
<tr>
<th>Name</th>
<th>Issue</th>
<th>Address</th>
<th>Officer Decision</th>
<th>DAP Decision</th>
<th>Appellant</th>
<th>Status</th>
<th>Next Action</th>
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<tr>
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RECOMMENDATION:

That the contents of this report be received and noted.
COUNCIL DEVELOPMENT ASSESSMENT PANEL
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Item Number 6.2
Title INFORMATION ITEM – MATTERS PREVIOUSLY DEFERRED
Date 14 November 2016
Author(s) Acting Team Leader Development Services

<table>
<thead>
<tr>
<th>Application</th>
<th>Deferral Date</th>
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<th>Address</th>
<th>Officer</th>
<th>Status</th>
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</thead>
<tbody>
<tr>
<td>490/240/2015</td>
<td>14/12/2015</td>
<td>Change of Use to Horticulture (Market Garden)</td>
<td>Greener Lawn Solution</td>
<td>Lot 10 Pearsons Road Hillier</td>
<td>Brendan Fewster</td>
<td>Application is being presented as part of this Agenda.</td>
</tr>
</tbody>
</table>

RECOMMENDATION:

That the contents of this report be received and noted.