



COUNCIL ASSESSMENT PANEL

Agenda and Reports

for the meeting
Monday, 30 January 2023
at 5.30 pm
in the Colonel Light Room, Adelaide Town Hall



Council Assessment Panel

Meeting Agenda

Monday, 30 January 2023, at 5.30 pm, Colonel Light Room, Adelaide Town Hall

Panel Members

Presiding Member – Nathan Cunningham

Panel Members – Councillor Phillip Martin (Deputy Lord Mayor), Mark Adcock, Colleen Dunn and Emily Nankivell

Deputy Panel Member – Prof Mads Gaardboe and Councillor Carmel Noon

Opening and Acknowledgment of Country

At the opening of the Panel Meeting, the Presiding Member will state:

‘The City of Adelaide Council Assessment Panel acknowledges that we are meeting on traditional Country of the Kaurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kaurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.’

Meeting Agenda

1. Confirmation of Minutes

That the Minutes of the meeting of the City of Adelaide Council Assessment Panel held on 12 December 2022, be taken as read and be confirmed as an accurate record of proceedings.

2. Declaration of Conflict of interest

3. Applications assessed under PDI Act 2016 (SA) with Representations

3.1 Subject Site 112 O’Connell Street, North Adelaide [Pages 4 - 18]

3.2 Subject Site 69 Finniss Street, North Adelaide [Pages 19 - 40]

4. Applications assessed under PDI Act 2016 (SA) without Representations

Nil

5. Appeal to CAP for Assessment Manager's Decision Review

Nil

6. Other Business

6.1 Other Business - Nil

6.2 Other Business raised at Panel Meeting

6.3 Next Meeting – 27 February 2023

7. Closure

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Agenda Item 3.1

Council Assessment Panel
Monday, 30 January 2023

Subject Site	112 O'Connell Street, North Adelaide
Development Number	22031803
Nature of Development	Change of use to dog day care with associated internal alterations
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	22031803
APPLICANT:	Katerina Tsimouris & Zachary Kelly
AGENDA ITEM NO:	3.1
ADDRESS:	112 O'Connell Street, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Change of use to dog day care with associated internal alterations
ZONING INFORMATION:	<p>Zone:</p> <ul style="list-style-type: none"> • City Main Street <p>Subzone:</p> <ul style="list-style-type: none"> • City High Street <p>Overlays:</p> <ul style="list-style-type: none"> • Aircraft Noise Exposure • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Design • Heritage Adjacency • Hazards (Flooding – Evidence Required) • Noise and Air Emissions • Prescribed Wells Area • Regulated and Significant Tree <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Max building height 14 metres • Min building height 2 levels • Max building height 4 levels
LODGEMENT DATE:	20 September 2022
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	2022.17 – 15 September 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kosta Tsekouras, Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Acoustic Engineer

CONTENTS:

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ATTACHMENT 2:	Site Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representation & Locality Map		

All attachments and appendices are provided via Link 1 [here](#)

PERSONS SPEAKING BEFORE THE PANEL

Representor

- Julie Johnson of 13 George Street, North Adelaide

Applicant

- Katerina Tsimouris and Zachary Kelly

1. DETAILED DESCRIPTION OF PROPOSAL

1.1 This development application proposes:

- a change of use from a vacant premises (previously a shop 'bank') to a dog day care
- customers will leave their dog/s at the day care to be cared for during the day. Dogs will not be kept at the premises overnight. Bathing and drying services will also be provided
- hours of operation are proposed between 7:30am and 7:30pm seven days a week
- a maximum of 20 dogs will be kept on site at any one time and only dogs weighing up to a maximum of 10kg will be accepted
- internal fit out work includes the demolition and construction of partition walls to create an entry foyer/reception and a rear area for storage and bathroom facilities
- advertisements or external building work are not proposed.

2. BACKGROUND

2.1 The proposed dog day care use commenced in late 2022, prior to a potential planning authorisation being granted.

2.2 Once Council became aware of the commencement of the use, the applicant was instructed to cease the use until a potential development approval was granted. The applicant ceased operations pending the issue of a development approval.

3. SUBJECT LAND & LOCALITY

Subject Land

3.1 The subject site is located on the eastern side of O'Connell Street, approximately 33 metres north of Tynte Street. The site has an area of approximately 252m², a frontage of approximately 9.5 metres to O'Connell Street and a secondary frontage to of 9.5 metres to Lohrman Street at the rear.

3.2 The site contains a single storey building that has been vacant in recent years. The site also contains an uncovered car parking area at the rear of the building.

Locality

3.3 O'Connell Street is a prominent commercial area in North Adelaide, characterised by various commercial and recreational uses including shops, offices, consulting rooms and licensed premises.

3.4 O'Connell Street is a wide thoroughfare accommodating a large volume of traffic and pedestrian activity. Built form in the locality is generally low scale, characterised by single and two storey buildings. Buildings comprise mixed architectural expressions with several Local and State Heritage Places located amongst contemporary buildings.

3.5 Lohrman Street to the east is a minor street with no footpaths. A north-south portion provides rear access for several buildings having a frontage to O'Connell Street. An east-west portion provides access to buildings fronting Tynte and George Streets. As this street provides rear vehicle access, it is characterised by at grade car parking and garaging close to the street boundary.

- 3.6 The site is located at the interface between the City Main Street Zone/City High Street Subzone and City Living Zone/North Adelaide Low Intensity Subzone. Consequently, the built form and land uses in the locality are reflective of the interface between the two zones.



Figure 3.1 – subject site viewed from western side of O'Connell Street



Figure 3.2 – rear of subject site viewed from Lohrman Street



Figure 3.3 – rear of dwellings to the northeast of subject site



Figure 3.4 – rear of dwellings to the southeast of subject site



Figure 3.5 – western side of O'Connell Street opposite subject site

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

● **PER ELEMENT**

Change of use: Code Assessed - Performance Assessed

Internal fitout: Accepted

● **OVERALL APPLICATION CATEGORY**

Code Assessed - Performance Assessed

● **REASON**

Proposed change of use is not specified as Restricted, Accepted or Deemed to Satisfy within City Main Street Zone. Application classified as Performance Assessed.

Proposed internal fit out work is Accepted development per City Main Street Zone Table 1.

6. PUBLIC NOTIFICATION

● **REASON**

Proposed use is not specified as being exempt from public notification under Table 5 of the City Living Zone. Change of use to dog day care is not considered to be of a minor nature due to potential impacts on surrounding properties. No other exemptions listed in Table 5 are applicable.

The proposal has undergone public notification and one representation was received during the notification process.

TABLE 6.1 – LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be Heard
1	Julie Johnson of 13 George Street, North Adelaide	Yes – opposed

TABLE 6.2 – SUMMARY OF REPRESENTATIONS	
Summary of Representations	Applicant Response (Summary)
Noise from animals and certain properties not included in acoustic assessment	<ul style="list-style-type: none"> • Precautions taken to mitigate noise. Acoustic consultant accessed building and our premises are completely soundproof, as requested by Council and as stated in our acoustic consultant report. Neighbours directly behind were included in calculations, as they could have been affected by noise.
Smells, odours, vermin associated with business	<ul style="list-style-type: none"> • Cleanliness is of utmost importance. Our premises will be cleaned on a regular basis throughout the day. There is no risk of vermin.
Insufficient car parking on site, leading to congestion	<ul style="list-style-type: none"> • Three private parking spaces available on our premises. Plenty of parking spaces and options on O’Connell Street for customers, which all other businesses on O’Connell Street utilise. It is up to the customer how they go about parking.
Hours of operation excessive	<ul style="list-style-type: none"> • Regarding hours of operation, the adjacent bakery is open 24/7, with people sitting out the front, making noise until early hours of the morning. There is also a nightclub nearby that is open until 3am.
Business currently operating without approval	<ul style="list-style-type: none"> • Premature opening was due to thinking we had covered all bases with the Council and with our application. Operation was ceased immediately as soon as we received notification from Council to do so. We have not opened or operated since then.
Lack of secondary access in case of fire	<ul style="list-style-type: none"> • Fire alarm sprinkler system and fire extinguishers in each room.
Incompatibility with surrounding land uses	<ul style="list-style-type: none"> • There will not be any trucks or deliveries from the back of our premises. • Dogs will always be located indoors, so as not to have an impact on adjacent businesses.

	<ul style="list-style-type: none">• Our business will help the area, by providing a service to keep dogs clean, as there are always people walking along and often seen sitting outdoors at the eateries along O'Connell Street with their dogs. We will maintain a high standard of cleanliness to the street.
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7. AGENCY REFERRALS

Nil

8. INTERNAL REFERRALS

Nil

9. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

9.1 Summary of City Main Street Zone Assessment Provisions

Subject Code Ref	Assessment	Achieved
		Not Achieved
DO1	<ul style="list-style-type: none"> Land use aligns with mixed use character in zone. 	✓
Land Use & Intensity PO 1.1	<ul style="list-style-type: none"> Land use contributes to a vibrant mix of uses in the zone and will add to vitality of the area. 	✓
Land Use & Intensity PO 1.2	<ul style="list-style-type: none"> Business will provide a service to surrounding area. 	✓
Land Use & Intensity PO 1.6	<ul style="list-style-type: none"> Non-residential use at ground level will assist in generating pedestrian activity and vibrancy along the main street. 	✓
Land Use & Intensity PO 1.7	<ul style="list-style-type: none"> Change of use constitutes efficient reuse of an existing commercial premises. 	✓

9.2 Summary of City High Street Subzone Provisions

Subject Code Ref	Assessment	Achieved
		Not Achieved
DO1	<ul style="list-style-type: none"> Land use aligns with shopping/commercial character desired in subzone and will contribute to active economy. 	✓
Land Use & Intensity PO 1.1	<ul style="list-style-type: none"> Land use contributes to a vibrant mix of uses in the zone and will add to vitality of the area. 	✓

9.3 Summary of Applicable Overlays

The following Overlays are not considered to be relevant to the assessment of the application:

- Aircraft Noise Exposure – non-residential land use
- Airport Building Heights (Regulated) – no external changes to built form
- Affordable Housing – non-residential use of existing building
- Building Near Airfields – no external changes to built form
- Design – no external changes to built form
- Hazards (Flooding – Evidence Required) – no flooding concerns
- Heritage Adjacency – building work proposed to internal areas only and therefore the proposal will not have any direct impact upon adjacent Local Heritage Place

- Noise and Air Emissions – non-residential land use
- Prescribed Wells Area – no concerns
- Regulated and Significant Tree – no regulated or significant trees on the site or adjoining land

9.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Interface Between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO1	<ul style="list-style-type: none"> • Adverse effects on neighbouring land uses are not expected. 	✓
General Land Use Compatibility PO 1.2	<ul style="list-style-type: none"> • Adverse impacts on adjacent sensitive receivers and the adjacent City Living Zone are not expected. 	✓
Hours of Operation PO 2.1	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓
Activities Generating Noise or Vibration PO 4.1	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓

Transport, Access and Parking

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO1 Vehicle Access PO 3.1 & 5.1	<ul style="list-style-type: none"> • Three existing on-site car parks are provided to the rear, however there is no minimum car parking requirement for development in the City Main Street Zone. • Safe and convenient access is proposed via an existing crossover and parking area. • There will be minimal change to vehicle movements along Lohrman Street considering three existing on-site car parks will be used by staff only. 	✓

9.5 Detailed Discussion

Land Use

The proposed use is undefined and not listed under Part 7 – Land Use Definitions in the Planning and Design Code (the Code). Part 1 – Rules of Interpretation prescribe that development which does not fall within one of the specified classes of development in Table 3 will be designated in the table as 'All Other Code Assessed Development'.

City Main Street Zone DO 1 and PO1.1 and City High Street Subzone DO1 and PO1.1 envisage a vibrant mix of land uses including shopping, hospitality, commercial, community, cultural and entertainment facilities among medium-high density housing. Despite not being defined in the Code, the proposed use is similar to desired non-residential uses in the zone and aligns with the existing and desired mixed use character. The development is expected to positively contribute to the vitality of the area during the daytime as sought by DO 1 and PO 1.1.

Zone PO 1.2 desires retail, office, entertainment and recreation related uses, supplemented by other businesses that provide a range of goods and services to the city and the surrounding district. Subzone PO 1.1 seeks uses that provide services to the local community. The dog day care will provide a service to the surrounding district that is otherwise lacking in the area. The service is expected to be utilised by residents and visitors in North Adelaide as well as the broader metropolitan area.

Zone PO 1.7 anticipates the efficient reuse of commercial premises to maintain and enhance vibrancy within activity centres. The proposed use will contribute to commercial activity as desired.

Environmental

The dog day care will accommodate up to 20 dogs at a time, providing care and supervision as well as cleaning and bathing between the hours of 7:30am and 7:30pm seven days a week. Dogs will be dropped off and picked up by owners on the same day and will not be kept on-site overnight. Only dogs weighing up to 10kgs will be cared for.

Due to potential noise impacts and proximity to noise sensitive receivers, an acoustic report was provided by the applicant. The acoustic report suggests the land use satisfies the requirements of the Code and Environment Protection (Noise) Policy 2007 in respect to noise impact. As outlined in the report, expected noise levels from the dog day care measured at the nearest sensitive receivers (two residential properties to the east, fronting George Street and Tynte Street) will be well within the noise limits. Expected noise from the dog day care is also predicted to be inaudible in adjacent commercial tenancies. The acoustic report has made recommendations for mitigation measures necessary to maintain acceptable levels of noise impact and these are included a recommended condition in Section 11.

A peer review of the acoustic report was undertaken by Council and this review concluded there were no issues with the methodology of the assessment and noise from the proposal will achieve the relevant Environment Protection (Noise) Policy 2007 criteria in accordance with Interface Between Land Uses PO/DPF 4.1. Consequently, the development is not anticipated to unreasonably impact the amenity of adjacent noise sensitive receivers and will satisfy Interface Between Land Uses DO 1 and PO 1.2.

The proposed hours of operation are similar to other businesses along O'Connell Street that are active throughout the day and evening. There are no specific hours of operation referred to for this proposed use in DPF 2.1, however noise impacts will be managed appropriately and existing uses in the area already occur well into the evening. Consequently, the proposal is considered to satisfy PO 2.1.

10. **CONCLUSION**

Despite the proposed 'dog day care' being an undefined land use in the zone, it aligns with the desired character of the City Main Street Zone and City High Street Subzone and is expected to be compatible with the O'Connell Street locality.

It has been demonstrated the operations of the land use will not have an unreasonable impact on the amenity of adjacent land by way of noise, traffic impact, hours or intensity of operation.

The proposal is not considered to be at variance with the provisions of the relevant provisions of the Planning and Design Code and exhibits sufficient merit to warrant the issuing of Planning Consent.

11. **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22031803, by Katerina Tsimouris and Zachary Kelly is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
 - **Proposed Development Details, Existing and Proposed Floor Plan Provided by Applicant on 15 September 2022**
 - **Marshall Day Acoustics – Little Dog Day Care Noise Assessment – Report Dated 21 November 2022**

2. **The acoustic attenuation measures proposed for installation within the Development as detailed in section 4.3 of the Report prepared by Marshall Day Acoustics dated 21 November 2022 forming part of this consent shall be installed within the Development to the reasonable satisfaction of the Relevant Authority. Such acoustic attenuation measures shall be operational prior to the occupation or use of the Development.**

3. **The car parking on the Land shall be for the use of staff only.**

ADVISORY NOTES

1. Expiration Time of Approval

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

3. Notifications

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

4. Advertisements

This consent does not include advertisements for which a separate application must be submitted.

Agenda Item 3.2

Council Assessment Panel

Monday, 30 January 2023

Subject Site	69 Finniss Street, North Adelaide
Development Number	22032402
Nature of Development	Demolish existing building and construct two storey detached dwelling with garage and swimming pool
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	22032402
APPLICANT:	Oren Klemich
AGENDA ITEM NO:	3.2
ADDRESS:	69 Finniss Street, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Demolish existing building and construct two storey detached dwelling, garage and swimming pool
ZONING INFORMATION:	<p>Zone:</p> <ul style="list-style-type: none"> • City Living <p>Subzone:</p> <ul style="list-style-type: none"> • North Adelaide Low Intensity <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Historic Area • Heritage Adjacency • Hazards (Flooding – Evidence Required) • Prescribed Wells Area • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum detached dwelling frontage 14m metres • Minimum detached dwelling site area 600m² • Maximum building 2 levels
LODGEMENT DATE:	26 September 2022
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	15 September 2022 – 2022.17
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edouard Pool - Senior Planner
REFERRALS NON-STATUTORY:	Local Heritage

CONTENTS:

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ATTACHMENT 2:	Subject Land & Locality Plan	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	APPENDIX 1:	Relevant P&D Code Policies
ATTACHMENT 4:	Representation Map		

All attachments and appendices are provided via Link 1 [here](#)

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Eric Breda, Community Corporation 27589 (125 Mackinnon Parade, North Adelaide)
- Keith Teagle (Architect) on behalf of Jan and Richard Rench of 3/125 Mackinnon Parade, North Adelaide

Applicant

- Matthew King from URPS on behalf of the applicant

1. DETAILED DESCRIPTION OF PROPOSAL

- 1.1 Demolition of existing office building and construction of a two-storey detached dwelling, swimming pool and garage with car stacker system.
- 1.2 The proposal will comprise:
 - kitchen, living dining and bathroom, services courtyard, laundry and garage with car stacker at ground level
 - bathroom, lounge, courtyard and three bedrooms at upper level
 - a masonry wall to Finniss Street with a height of 2 metres
 - swimming pool located in the front yard.
- 1.3 The pedestrian entry to the dwelling is proposed from Finniss Street with vehicle access to the garage provided via the right of way to the west. This is shared with dwellings at 73-95 Finniss Street and 126-137 MacKinnon Parade.

2. BACKGROUND

- 2.1 The existing building was originally a cottage constructed in the late nineteenth century. The dwelling was converted into an office in 1960, with a new addition constructed at the front, abutting the front property boundary circa 1970. The building is not heritage listed and is currently vacant.

3. SUBJECT LAND & LOCALITY

Subject Land

- 3.1 The subject site is rectangular with a depth of 32.51 metres and a width of 10.67 metres, having a total area of approximately 349m². The site is level and an open gravel surfaced car park is located at the rear.
- 3.2 The site abuts a three storey residential flat building to the rear containing five apartments, constructed in 2009, and Kathleen Lumley College to the east. To the west, the site abuts a right of way that provides vehicular access to dwellings fronting MacKinnon Parade and Finniss Street.

Locality

- 3.3 The locality is residential in nature, however a commercial premises, the British Hotel, is located 30 metres east of the site.
- 3.4 Finniss Street includes a variety of late nineteenth century and early twentieth century single storey dwellings, with a large proportion of contemporary two storey detached dwellings and some three storey residential flat buildings. Buildings on Finniss Street do not display a consistent architectural style.
- 3.5 Finniss Street has high amenity and human scale defined by the presence of established landscaping and dwellings. There is a variety of setbacks of dwellings along the street, with large stately homes set in landscaped grounds set back from the street, together with small cottages built close to the street frontage, with comparatively small, landscaped gardens.



Photo 3.1 – existing building viewed from Finnis Street



Photo 3.2 – existing building with adjacent right of way visible to the right



Photo 3.3 – Kathleen Lumley College, with subject site visible to the right



Photo 3.4 – Right of Way with three level residential flat building at 125-128 MacKinnon Parade visible to the rear



Photo 3.5 – 73 Finniss Street (adjacent property to the west of subject site)



Photo 3.6 – rear of the site used as car parking



Photo 3.7 – view of right of way to the west



Photo 3.8 – view of residential development located opposite subject site

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

- **PER ELEMENT**

New housing, swimming pool, spa pool and associated safety features
Code Assessed, Performance Assessed

Demolition – Code Assessed, Performance Assessed

Detached dwelling – Code Assessed, Performance Assessed

Fence – Code Assessed, Performance Assessed

- **OVERALL APPLICATION CATEGORY**

Code Assessed – Performance Assessed

- **REASON**

The 'highest' classification for the development is Code Assessed – Performance Assessed

6. PUBLIC NOTIFICATION

- **REASON**

Planning & Design Code – City Living Zone Table 5 – the walls proposed on the side boundaries will exceed 8 metres and 3 metres in height. Public notification has been undertaken.

The proposal has undergone public notification and 20 representations were received during the notification process.

TABLE 6.1 – LIST OF REPRESENTATIONS

No.	Representor Address	Request to be heard
1	Elle Whyatt – PO Box 67, Burnside	No - in support
2	John Colley – 273 Melbourne Street, North Adelaide	No - in support
3	Kathryn House AM – 8 Wootoona Terrace, St George	No - in support
4	Chanel Rudkin – PO Box 74, North Adelaide	No - in support
5	Fiona Wormald – 95 LeFevre Terrace, North Adelaide	No - in support
6	Mark Hender – 14 James Street, Gilberton	No - in support
7	Sarah Hender – 1B / 97 MacKinnon Parade, North Adelaide	No - in support
8	David McMahon – 78 Brougham Place, North Adelaide	No - in support

9	John Tillett – 96 Hill Street, North Adelaide	No - in support
10	Henry Gower – 96 Hill Street, North Adelaide	No - in support
11	Jacqueline Murdoch – 87-90 Palmer Place, North Adelaide	No - in support
12	Mena Muecke – 113 Kingston Terrace, North Adelaide	No - in support
13	Jane Cummings – 77 Finniss Street, North Adelaide	No - in support
14	Candy Bennett – 116 Brougham Place, North Adelaide	No - in support
15	Alf Brown – 26 Strangways Terrace, North Adelaide	No - in support
16	Julian Grose – 115 Brougham Place, North Adelaide	No - in support
17	Emma Johnson – 64 Jerningham Street, North Adelaide	Yes - in support
18	Eric Breda – PO Box 309, Kent Town	Yes - opposes
19	Annabel Duncan - 5 MacKinnon Parade, North Adelaide	No - in support
20	J & R Rench – 3/125 MacKinnon Parade, North Adelaide	Yes - opposes

TABLE 6.2 SUMMARY OF REPRESENTATIONS

Summary of Representations	Applicant Response (Summary)
Site Coverage	<ul style="list-style-type: none"> Majority of street and in particular the southern side has a more compact urban form. An open landscaped setting is not the prevailing character to aspire to. A site coverage of approximately 70% is proposed. An analysis of the locality demonstrates this is consistent with other development.
Ambiguity of Documentation	<ul style="list-style-type: none"> No response provided.
Noise Nuisance	<ul style="list-style-type: none"> The car hoist will be contained within the garage, with no external mechanical elements. The hoist will only be used sporadically and will have no impact on neighbours in terms of noise or fumes.
Safety	<ul style="list-style-type: none"> This entrance is primarily for the housing of bins and mechanical equipment associated with the pool and heating/cooling. Bins will be removed from this entrance once a week for collection, in the same way they currently are from the existing building. There is nothing remarkable about this arrangement and it does not create a potential safety hazard.
Design Quality	<ul style="list-style-type: none"> No response provided.

Green Roof	<ul style="list-style-type: none"> • The green roof will be planted with low maintenance shrubs and groundcovers. The soil level will be below the height of the existing masonry wall of the adjoining apartment building. A limited number of small trees will be planted in raised planters. • There is no intention to use this space as a terrace and there will be no impact to the privacy of the adjacent first floor balcony to the south. This balcony has a 1.5 metre high obscure glass balustrade that will provide sufficient privacy when the green roof is accessed for occasional maintenance.
Construction and Laneway Access	<ul style="list-style-type: none"> • The applicant intends for the Finniss Street frontage to provide the primary access for demolition and construction, with the laneway utilised when required. • When access to the site via the laneway is required, there are obligations as far as negotiating access to shared laneways, managing construction impacts and building on boundaries common to all development, and those undertaking works on this site will meet these obligations.

7. **AGENCY REFERRALS**

Nil

8. **INTERNAL REFERRALS**

Local Heritage

The proposal has considerable architectural merit and addresses site design parameters specific to this stand-alone new dwelling. However, the broader context relating to the Heritage Area Overlay and reinforcement of the heritage values of the area should be considered further. The following observations are raised:

- dwelling siting is reasonable given the streetscape context
- two storey dwelling and flat roof reasonable
- west of the site, later dwellings reinforce the predominantly (traditional) single storey nature of the streetscape with the two storey component to the rear. East of the site the nineteenth century dwellings are single storey. The proposed dwelling is two storey towards the front and is therefore inconsistent
- low or open front boundary fencing is desirable and encouraged for new infill dwellings and the proposal restricts private open space to the front of the dwelling, resulting in a 1.8 metre high solid fence to Finniss Street
- earlier drawings indicated a modular concrete brick (90mm H x 390mm L) and the amended drawings nominate painted masonry without identifying the brick/masonry unit. The fine grain detail of brick dimensions will alter the appearance of the dwelling, particularly the expansive western side wall. A smaller (standard) brick of 76mm H x 230mm L is more traditional in the locality.

The Heritage Place adjacency provisions do not apply as there is a considerable separation between the State or Local Heritage Places and the subject site.

9. **PLANNING ASSESSMENT**

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

9.1 **Summary of North Adelaide Low Intensity Subzone Assessment Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Development proposes a low scale dwelling replacing an undesired commercial land use. 	✓
Land Intensity & Land Use PO/DPF 1.1	<ul style="list-style-type: none"> Proposal will replace an existing non-residential land use and will add to dwelling stock. 	✓
Built Form & Character PO 2.1, 2.2, 2.3	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
Building Setbacks PO 3.3, 3.4, 3.5	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
Car Parking and Access PO 5.1	<ul style="list-style-type: none"> Vehicle access is existing and provided from the right of way located adjacent eastern boundary. 	✓

9.2 **Summary of City Living Zone Assessment Provisions**

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Land Use & Intensity PO/DPF 1.1	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
Built Form and Character PO/DPF 2.1 – 2.3	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
Building Setbacks PO/DPF 3.1 – 3.5	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
Car Parking and Access PO/DPF 5.1	<ul style="list-style-type: none"> New crossovers not proposed, with access gained from the existing right of way located east of site. 	✓

9.3 **Summary of Applicable Overlays**

The following Overlays are not considered to be relevant to the assessment of the application:

- Airport Building Heights (Regulated) and Building Near Airfields Overlay – building height not of concern
- Hazards (Flooding – Evidence Required) Overlay – no flooding concern
- Prescribed Wells Area – no prescribed wells

Heritage Adjacency Overlay

Subject Code Ref	Assessment	Achieved ✓
		Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Proposal does not directly abut Local and State Heritage listed buildings at Kathleen Lumley College to the east. Whilst the proposal is modernist with no architectural linkage to the listed places, it is sufficiently distanced to not diminish their heritage and cultural value. 	✓
Built Form PO 1.1	<ul style="list-style-type: none"> Proposal will not dominate, encroach or unduly impact on the setting of the heritage places. 	✓

Historic Area Overlay

Subject Code Ref	Assessment	Achieved ✓
		Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Proposal does not incorporate contextual design, materials or decoration. 	✓/✗
All Development PO 1.1	<ul style="list-style-type: none"> Proposal is modernist in architectural style, not referencing the historic area character. 	✗
Built Form PO 2.1 - 2.5	<ul style="list-style-type: none"> Building and wall heights comparable with prevailing buildings. The modernist design is not complementary the prevailing characteristics of the historic area. 	✓/✗
Context and Streetscape Amenity PO 6.1, 6.2	<ul style="list-style-type: none"> Whilst the building is set back a complementary distance from the front boundary, the solid masonry wall does not facilitate the creation of an open landscaped setting. 	✗
Demolition PO 7.3	<ul style="list-style-type: none"> Existing building does not conform to the values of the Historic Area Statement. Its demolition is supported. 	✓

Stormwater Management Overlay

Subject Code Ref	Assessment	Achieved ✓
		Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> A 2,000 litre rainwater tank is proposed to be located beneath the front lawn, with rainwater to be plumbed to the laundry, WC and the garden. 	✓

Urban Tree Canopy Overlay

Subject Code Ref	Assessment	Achieved
		Not Achieved
DO 1	<ul style="list-style-type: none"> Proposed to establish soft landscaping in the front yard and at the rear on the roof of the garage. 	✓
PO 1.1	<ul style="list-style-type: none"> One small tree is required. Silver birch trees are proposed for the front garden, satisfying the requirement. 	✓

9.4 Summary of General Development Policies

Design in Urban Areas

Subject Code Ref	Assessment	Achieved
		Not Achieved
DO 1	<ul style="list-style-type: none"> Refer Section 9.5. 	✗
Overlooking / Visual Privacy (low rise buildings) PO 10.1 & 10.2	<ul style="list-style-type: none"> Overlooking into dwelling on western side of right of way prevented through external blind and perforated masonry wall to western façade. South facing windows to the bathroom translucent providing privacy for the resident and neighbour. Clear glazing to the staircase and rear window of the corridor, however overlooking into the apartment at Level 1 of Unit 5, 125 MacKinnon Parade prevented by height of the obscure glazed balustrade at 1.8 metres above internal finished floor level. 	✓
Front elevations and passive surveillance PO 17.1 & 17.2	<ul style="list-style-type: none"> Upper level windows will have a view to Finniss Street providing passive surveillance. 	✓
Outlook and Amenity PO 18.1	<ul style="list-style-type: none"> Living areas have a view into the front yard. 	✓
External appearance PO 20.2	<ul style="list-style-type: none"> Refer Section 9.5. 	✗
Private Open Space PO 21.1 & 21.2	<ul style="list-style-type: none"> Refer Section 9.5. 	✓
Landscaping PO 22.1	<ul style="list-style-type: none"> Refer Section 9.5. 	✗
Car Parking, Access and Manoeuvrability PO 23.1, 23.3, 23.4	<ul style="list-style-type: none"> Parking spaces meet size requirements and do not pose a hazard to other users of the right of way. 	✓
Waste Storage PO 24.1	<ul style="list-style-type: none"> Waste bins will be stored in the garage out of public view. 	✓

Interface between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Overshadowing PO 3.1 & 3.2	<ul style="list-style-type: none"> Shadow diagrams provided demonstrating minimum requirements satisfied for overshadowing of neighbouring properties. 	✓

Site Contamination

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Site Contamination PO 1.1	<ul style="list-style-type: none"> Site history indicates no contaminating activity has occurred on the land. 	✓

Transport, Access & Parking

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Transport, Access and Parking Vehicle Parking Rates PO 5.1	<ul style="list-style-type: none"> Two on-site parking spaces required and provided. 	✓

9.5 Detailed Discussion

Built Form and Character

The proposed dwelling replaces an existing commercial land use and does not exceed the maximum desired height of two storeys. The Desired Outcome seeks residential buildings that reflect the shape and form of traditional buildings styles, with street facades that are visually interesting, incorporating articulation, modelling and a mix of materials and colours.

The proposal will be constructed in a modernist architectural style and does not satisfy the guidelines of the desired character statement. The building does not reflect the setbacks, roof forms, materials, fenestration or open space characteristics of traditional residential buildings in the locality. However, Finniss Street is not homogenous in character, with numerous modern infill dwellings in varying architectural styles.

There are several existing dwellings having flat roofs, constructed to side boundaries and with limited articulation. This proposal differs as it is modernist, with a low solid to void ratio, no ornamentation and a limited material and colour palette. The design quality is exemplary, with restrained detailing and limited material and colour palette handled in a way that does not produce an uncomfortably stark outcome when viewed from the public realm.

The upper level projects forward of the ground level, producing shade and articulation of the building mass. The large expanse of glazing to the front façade is relieved by vertical framing. The glazing produces a sense of lightness to the building façade that is counterbalanced by the solid sides of the building. The exposed western façade is punctuated by two upper level openings to internal courtyards behind, with blinds and 'hit-and-miss' brickwork providing interest and relieving the mass of wall.

In relation to roof forms, the immediate locality is dominated by skillion roof forms of Kathleen Lumley College to the east, 1970's era townhouses opposite and the three storey residential flat building to the south at 127 MacKinnon Parade. As a result, the flat roof proposed will not be an incongruous element in the townscape.

Height

The Desired Outcome statement seeks new buildings to be of one or two storeys in height. The proposal satisfies this in that the dwelling is two storeys in height. It is also noted two storey buildings predominate on the south side of Finniss Street, thus the proposed dwelling will reinforce this character.

Building Setbacks & Boundary Walls

The building will be setback 6.2 metres from the front boundary, similar to 65 Finniss Street adjacent to the east and that of other dwellings on the south side of Finniss Street. This allows for creation of a new front yard with swimming pool, lawn and tree plantings, reinstating the yard which previously existed prior to the premises being converted to offices and complementing established setbacks in the street.

The proposal will be built to both side boundaries. Of note, five dwellings along the south side of the street, from 97 Finniss Street to 109 Finniss Street, form a continuous built form of two storey dwellings close to the street.

The lack of setback on the western boundary does not cause any loss of light, views, or microclimatic impacts upon neighbouring properties as the building abuts the right of way providing separation from other properties. To the east however the proposed building will reduce light, ventilation and sense of openness to the single storey cottage, which is part of Kathleen Lumley College.

The new dwelling proposes a single storey garage at the rear of the site, abutting the adjacent residential flat building at 125-128 MacKinnon Parade. It will match the height of the ground level garage of the said building, not causing any loss of amenity.

Visual Privacy

PO 10.1 and 10.2 seek that development mitigate direct overlooking from upper level windows and balconies into habitable rooms and private open space areas of adjoining residential uses. The design incorporates perforated hit-and-miss brickwork and Ventolin blinds located between 1.25 and 5 metres from the living room and corridor windows, thereby ensuring privacy is provided to adjacent dwelling on the opposite side of the right of way.

Rear facing windows consist of opaque glass to the bathroom and clear glazing to the staircase. The clear glazing to the staircase is considered acceptable as views from the staircase are limited to the uppermost steps. This area is not 'useable' and is not expected to result in a loss of privacy. The height of the staircase landing is 2.1 metres below the windowsill and this will obstruct potential views.

Residential Amenity

The main living areas have direct access to natural light and outlook, whilst the upper level living room has direct access to light and ventilation, albeit with a limited outlook due to the 'hit-and-miss' brick screen adjacent the window. All bedrooms have access to natural light and ventilation.

The dwelling relies on the front yard to provide both landscaped and private open space. To achieve this, a 2 metre high solid masonry front wall is proposed to provide required privacy for occupants. Tall solid fences are not unusual in Finnis Street, however they are not desired. The prevalence of high solid fencing in Finnis Street, including masonry walls ensures the proposed fence is not unusual within the streetscape, despite it not satisfying the desired character for fencing.

Adequate private open space is provided, although it is not located at the rear as desired in the General Development Policies – Design in Urban Areas - Table 1 – Private Open Space.

While a minimum 70m² of soft landscaping is prescribed by Design in Urban Areas DPF 19.1, the Performance Outcome is considered met with 58m² provided as removing the existing commercial use and reinstating a residential use with front landscaping assists with increasing landscaped character in the area.

Bulk and Scale

Noting the proposal will occupy 79% of the site, it is pertinent to note it achieves several desirable outcomes as follows:

- replaces an undesirable commercial land use
- proposes a dwelling of high quality architectural design
- sites built form to achieve a complementary street setback
- re-introduces a measure of landscaped open space in the front garden and 46m² of green roof at the rear above the garage in contrast to the existing situation where none is provided.

10. CONCLUSION

The proposal is considered to comply with a majority of the qualitative and quantitative guidelines of the Planning and Design Code as it:

- replaces an undesirable non-residential land use with a dwelling
- provides adequate open space
- has a setback compatible with those established in Finniss Street
- introduces a landscaped front garden and green roof at the rear, improving amenity, microclimate and environmental performance
- satisfies the minimum requirements regarding overshadowing of adjacent residential development.

It does however diverge from the Code in several aspects as it:

- exceeds the desired maximum site coverage of 50% at 79%
- proposes construction on the eastern boundary adjacent 67 Finniss Street, reducing access to natural light, ventilation and openness
- introduces a modernist architectural design not reflective of desired traditional building styles sought in the Historic Area Overlay
- does not contribute towards the creation of an open landscaped streetscape.

Reduced weight has been placed on guidelines for new buildings to be designed in a style that incorporates traditional building forms and materials considering the locality in Finniss Street is relatively heterogenous. Dwellings in Finniss Street include several contemporary infill buildings, many of which have skillion roofs, are composed of non-traditional materials and exhibit a lack of ornamentation. This new building is not considered to be an unreasonable visual element within the streetscape.

The lack of an open style front fence diverges from the desired streetscape which seeks landscaped front gardens that are visible from the street. This cannot be avoided as the front yard will be the private open space for this dwelling.

Despite the proposal not contributing towards the desired streetscape, the varied architecture, building setbacks and open landscaped setting, the dwelling replaces a low quality commercial land use that is undesirable in the City Living Zone.

The development is not considered to be seriously at variance with the provisions of the Planning and Design Code as it proposes a land use and form of development desired in the Zone and Subzone.

It has been determined that, on balance, the proposal warrants Planning Consent.

11. **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22032402, by Oren Klemich is granted Planning Consent subject to the following reserve matter, conditions and advices:

RESERVE MATTER

Pursuant to section 102(3) of the *Planning, Development and Infrastructure Act of 2016*, the following matter shall be reserved for further assessment prior to the granting of Development Approval:

1. Details of the material of the front and side garden walls and the western facade of the dwelling shall be provided to reinforce the historic material palette that predominates in the locality to the reasonable satisfaction of the Relevant Authority.

CONDITIONS

1. **The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).**
 - **Architects Ink Drawing 22-1129DA01 Revision B**
 - **Architects Ink Drawing 22-1129DA02 Revision B**
 - **Architects Ink Drawing 22-1129DA03 Revision B**
 - **Architects Ink Drawing 22-1129DA04 Revision B**
 - **Landskap Landscape Concept package ref. No. 22.057 dated 09.11.2022**
 - **Letter from URPS dated 10 November 2022**

2. **The applicant or the person having the benefit of this consent shall ensure that all storm water runoff from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water run off shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Relevant Authority**

3. **External materials, surface finishes and colours of the Development shall be consistent with the description and sample hereby granted consent and shall be to the reasonable satisfaction of the Relevant Authority.**

4. **All collected drainage water from any planter boxes, seepage collection systems, water features, swimming pools and/or spas located on the Land shall be discharged to the sewer to the reasonable satisfaction of the Relevant Authority**

5. **Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and be maintained.**

6. **Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling.**

ADVISORY NOTES

1. Expiration Time of Approval

Pursuant to the provisions of Regulation 67 of the Planning, Development and Infrastructure (General) Regulations 2017, this consent / approval will lapse at the expiration of 2 years from the operative date of the consent / approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Notifications

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via d.planner@cityofadelaide.com.au or phone 8203 7185.

3. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

4. Boundaries

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

5. Fencing

The applicant is reminded of the requirements of the Fences Act 1975. Should the proposed works require the removal, alteration or repair of an existing boundary fence a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555.

6. Demolition

Demolition and construction at the site should be carried out so that it complies with the construction noise provisions of Part 6, Division 1 of the Environment Protection (Noise) Policy 2007. A copy of the Policy can be viewed at the following site:
www.legislation.sa.gov.au.

7. Other Requirements

In addition to notification and other requirements under the Planning, Development and Infrastructure Act and Fences Act, it is recommended that the applicant / owner consult with adjoining owners and occupiers at the earliest possible opportunity after Development Approval, advising them of proposed development work so as to identify and discuss any issues needing resolution such as boundary fencing, retaining walls, trees/roots, drainage changes, temporary access, waste discharges, positioning of temporary toilets etc.

8. Residential Parking Permits

No on-street residential parking permits will be issued for use by occupants of, or visitors to, the development herein approved (unless the subject site meets the relevant criteria). Please visit <https://www.cityofadelaide.com.au/transport-parking/parking/residentialparking/> or contact the Customer Centre on 8203 7203 for further information.

9. Damage to Council's Footpath/Kerbing/Road Pavement

Section 779 of the Local Government Act provides that where damage to Council footpath / kerbing / road pavement / verge occurs as a result of the development, the owner / applicant shall be responsible for the cost of Council repairing the damage.

10. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval. The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at www.cityofadelaide.com.au/business/permits-licences/city-works/

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

- A Traffic Management Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.); Description of equipment to be used;
- A copy of your Public Liability Insurance Certificate (minimum cover of \$20 Million required);
- Copies of consultation with any affected stakeholders including businesses or residents.