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CITY OF ADELAIDE

COUNCIL ASSESSMENT PANEL

Agenda and Reports

for the meeting
Monday, 28 October 2024
at 5.30 pm
in the Colonel Light Room, Adelaide Town Hall

Council Assessment Panel

Meeting Agenda

Monday, 28 October 2024, at 5.30 pm, Colonel Light Room, Adelaide Town Hall

Panel Members

Presiding Member – Nathan Cunningham

Panel Members – Mark Adcock, Colleen Dunn, Robert Gagetti and Deputy Lord Mayor, Councillor Keiran Snape

Deputy Panel Members – 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 23 September 2024, be taken as read and be confirmed as an accurate record of proceedings.

View public 23 September 2024 Minutes here.

2. Declaration of Conflict of interest

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

3.1 187-189 Hutt Street, Adelaide [Pages 4 - 20]

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 Planning Policy Updates including Suggestions from Panel

6.2 Other Business raised at Panel Meeting

6.3 Next Meeting – 18 November 2024

7. Closure

Council Assessment Panel

Monday, 28 October 2024

Subject Site	187-189 Hutt Street, Adelaide
Development Number	24020992
Nature of Development	Demolition of Local Heritage Place and ancillary building.
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	24020992
APPLICANT:	K Koutsonas 1 Pty Ltd, and John and Evanthia Tsianos C-/ Future Urban Pty Ltd
AGENDA ITEM NO:	3.1
ADDRESS:	187-189 Hutt Street, Adelaide SA 5000
NATURE OF DEVELOPMENT:	Demolition of Local Heritage Place and ancillary building
ZONING INFORMATION:	**Zones:** • City Main Street **Subzones:** • City High Street **Overlays:** • Local Heritage Place **Technical Numeric Variations (TNVs):** ~~• Maximum Building Height (14 Metres)~~ ~~• Maximum Building Height (4 Levels)~~
LODGEMENT DATE:	18 July 2024
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Planning and Design Code (in effect) Version 2024.12 – 4 July 2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	PC
REFERRALS STATUTORY:	Not Required
REFERRALS NON-STATUTORY:	Local Heritage

CONTENTS:

All attachments and appendices are provided via Link 1

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Jennie Boisvert of 10 Corryton Street, Adelaide
- George Samaras of 192 Hutt Street, Adelaide
- Aaron Malcolm Gray of PO BOX 7236 Hutt Street, Adelaide
- Sandy Wilkinson of 112 Osmond Terrace, Norwood
- Elizabeth Rushbrook of 317 Wakefield Street, Adelaide (x 2 representations)
- The North Adelaide Society Inc of PO BOX 295, North Adelaide

Applicant

- Fabian Barone of Future Urban and James Hilditch of Hilditch Lawyers on behalf of applicants K Koutsonas and J Tsianos

1. DETAILED DESCRIPTION OF PROPOSAL

This application proposes the total demolition of a Local Heritage Place and outbuilding.

2. BACKGROUND

The site has limited development approval history with only the approval of a verandah and signage in 1993, since planning controls were introduced in the City of Adelaide on 15 June 1972.

The previous owners/occupiers owned the property from as early as 1985, until it was sold in September 2022. Prior to this sale, the property was used as a shop and dwelling, with the retail component being known as Acacia Arts.

Architect, Enzo Caroscio, who was engaged by the applicant for this development application, approached Council Administration in late December 2022 to obtain preliminary planning advice for this site. A site inspection was undertaken together with Council's Heritage Architect and the following was discussed:

- the adaptive reuse of the Local Heritage Place, comprising partial demolition and construction of new mixed-use building
- concerns regarding the structural integrity and condition of the building led to further discussion about potential demolition. Mr Caroscio was encouraged to obtain independent advice from a structural engineer, heritage architect and planning consultant.

In November 2023, Council Administration received an enquiry regarding potential use of the site as a 'shop' (café). The proponent was advised development approval would be required for a change in land use/building classification. As structural concerns had previously been raised by the owner, occupation of the site was discouraged until evidence of the structural condition was provided to Council.

In February 2024, owners revived discussions about this site with Council Administration. These discussions led the applicant to provide Council with an initial Structural Assessment undertaken by Innovis prepared in August 2023. An additional site inspection was undertaken with Council planning, heritage and building compliance staff which identified the following:

- the cosmetic appearance of the building had declined due to squatters and the owners subsequently hoarded off the site with temporary fencing
- the conclusions of the initial structural assessment were verified with respect to the buildings risk to private and public safety. A Section 155 Emergency Order was not served on the owner of the building, as reasonable measures had been taken to prevent access into the site which mitigated risk to public and private safety
- a large, dead tree had collapsed onto the northeastern portion of the building and this tree was later removed in response to Council requests.

Council Administration obtained legal advice throughout the pre-lodgement and assessment of this application.

Independent structural engineering advice and a peer review of the applicant's structural assessment was also obtained from Peter Harmer Consulting to assist with the assessment of the application.

3. SUBJECT LAND & LOCALITY

Subject Land

The subject site is located on the western side of Hutt Street, approximately 85 meters south of its intersection with Carrington Street and 35 metres north of its intersection with Halifax Street.

The allotment is rectilinear with a 14.2 metre frontage to Hutt Street, side boundaries are 34 metres in length and a site area of approximately 483m^2.

Rear access is provided from McLaren Street, via a right of way located on 183-185 Hutt Street to the north.

Built form on the land comprises a single storey building, which includes a shop (former Acacia Arts) and an attached dwelling. An outbuilding of brick construction is located at the rear of the site.

The site is listed as a Local Heritage Place in Part 11 of the Planning and Design Code. The Place is identified as item #25180, with the 'Description and/or Extent of Listed Place' being *Shop & Dwelling – External form including original fabric & detailing of façade & verandah, external walls, roof & chimneys, as visible from the street. Excludes any later additions.* A City of Adelaide Heritage Survey undertaken in 2008 describes the Place as:

- *A single-storey Victorian shop and attached residence, the shop built to the street alignment and residence (on the northern side) set back from the street with a front garden and verandah. Shop walling is of painted brick, including parapet; rare surviving original recessed shopfront retains timber-framed side lights possibly interwar changes including metal-framed windows and red tiling, and more recently-added canvas canopy and painted sign: 'Acacia Arts'. Single-fronted residence has bluestone façade, rendered side walls and rendered, painted quoins, and paired decorative rendered eave brackets. Timber framed door surrounded by lights (but no leadlight), sash window. Concave-roofed verandah with rendered columns of later date. Both roofs of corrugated galvanised iron with chimneys, the shop chimney having a chimney pot.*

The site is relatively level and contains a Significant Tree - *Ginkgo biloba (Maidenhair Tree)* which is listed in Part 10 of the Planning and Design Code. It is also significant by virtue of its circumference when measured at 1 metre above natural ground level.

Locality

The locality comprises predominantly low rise, comprising single and two level buildings.

Hutt Street has a strong character, with built form generally sited at the street edge and many buildings providing canopy cover over the footpath.

Local and State Heritage Places are commonplace in the locality along Hutt Street. There is also a high proportion of Local Heritage Places located along McLaren and Carrington Streets.

There is a mix of residential and non-residential land uses in the locality. Residential land uses are generally located to the south in the adjacent City Living Zone.

Figure 3.1 – View of subject site from Hutt Street

Figure 3.2 – View of subject site from Hutt Street

Figure 3.3 – View of rear yard of subject site

Figure 3.4 – View of neighbouring building to the north fronting Hutt Street

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

PER ELEMENT:

Demolition – Code Assessed – Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed - Performance Assessed

REASON:

Demolition is listed in Table 3 of the City Main Street Zone and therefore has a performance assessed pathway.

6. PUBLIC NOTIFICATION

The proposed development does not satisfy Table 5 (Procedural Matters) Clause 5 of the City Main Street Zone, as it involves the demolition of a Local Heritage Place.

Table 6.1 – List of Representations

No.	Representor Address	Request to be Heard
1	Virginia Munro - 3/311 South Terrace, Adelaide	No – Opposed
2	Harsh Mehta - 198a Hutt Street, Adelaide	No – In Support
3	Jennie Boisvert - 10 Corryton Street, Adelaide	Yes – Opposed
4	Jane Copeland - 17 Ada Street, Adelaide	No – Opposed
5	Lambro Manouras - L3/31 Ebenezer Place, Adelaide	No – In Support
6	George Samaras - 96-106 Grand Trunkway, Gillman	Yes – In Support
7	Jamie McClurg - 50 Stanley Street, North Adelaide	No – In Support
8	Nicole Pau - 185 Hutt Street, Adelaide	No – In Support
9	James Arsenikakis - L2/337 South Terrace, Adelaide	No – In Support
10	Evonne Moore - 77 Henry Street, Maylands	No – Opposed
11	Simone Sisisto - 71 McLaren Street, Adelaide	No – Opposed
12	Karl Chehade - 193 Hutt Street, Adelaide	No – In Support
13	Aaron Malcolm Gray - PO BOX 7236 Hutt Street	Yes – Opposed
14	Illia Sotiropolous - L3/345 King William Street, Adelaide	No – In Support
15	Sandy Wilkinson - 112 Osmond Terrace, Norwood	Yes – Opposed
16	Trevor Vlassis - 217 Gouger Street, Adelaide	No – In Support
17	Matteo Grilli – 81 McLaren Street, Adelaide	No – Opposed
18	Nick Favaro - 160 Hutt Street, Adelaide	No – In Support
19	Elizabeth Rushbrook - 317 Wakefield Street, Adelaide	Yes – Opposed

20	The North Adelaide Society - PO BOX 295, North Adelaide	Yes – Opposed
21	WITHDRAWN	
22	Elizabeth Rushbrook - 317 Wakefield Street, Adelaide	Yes – Opposed

Table 6.2 – Summary of Representations
• Precedent set by the demolition of a listed building • The building is recoverable or capable of restoration • Lack of justification for demolition based on condition of property • Loss or erosion of historic character along Hutt Street • The current state of the building detracts from the streetscape character in addition to safety and security concerns from squatters • Concern the building has been subject to wilful neglect • Current building restricts redevelopment of intended future desired outcomes of the Zone • Concern regarding future development of the site if demolished, and a suggestion this is a catalyst site Loss of commercial premises impacting activity and vibrancy of Hutt Street • Demolition of heritage building is inconsistent with other strategic documents/action plans • Seriously at variance with the Planning and Design Code

Note: The full representations and the applicant's response to the representations are included in Attachments 5 and 6.

7. AGENCY REFERRALS

There are no referral requirements to other agencies or bodies with respect to a matter of this kind.

8. INTERNAL REFERRALS

Heritage Advisor (Local Heritage)

Background

A visual inspection of the Local Heritage Place was undertaken by Council's heritage staff in November 2022.

It was noted the external walls were severely compromised, with rising and falling damp at extreme levels (the brickwork was essentially powder up to approximately 500mm to 1 metre). This was exacerbated by the removal of plaster and boarding over the internal walls to approximately 1.2 metres above finished floor level (AFF), combined with external cement rendering driving the damp further up the walls. The southern wall abutting the neighbouring property was severely compromised with extensive damp likely due to a deteriorated flashing or box gutter.

The roof was unsound with the ceiling structure having failed and causing a loss of the plastered ceiling to the back room. Equally, the roof sheeting was failing with warping, areas of corrosion and daylight visible. The eave gutters had mostly detached with the underlying fascia's rotting away. The condition of the box gutters and flashings could not be determined but is expected poor due to areas of falling damp within.

Within the residence, the flooring was spongy with sloping portions and in a later inspection, squatters had burned a hole through the floor.

The shopfront has been refurbished, likely in the 1920's. This too has suffered from the effects of long-term neglect. The glazing and timber frame are unsound and will likely require replacement, and the brick frontage suffers from extreme salt damp and is visibly leaning.

There is general movement and cracking throughout the residence that has continued unabated. Cracks of over 10mm wide are evident. The extent of dilapidation was not immediately evident as existing joinery and wall linings obscured view of these issues. The extent of movement is best identified by the door opening to the shop from the rear portion which has dropped 40-50mm on one side. These are only immediately visible issues, and it is expected that a significant degree more would be found through any conservation works (if undertaken).

It is expected most of the heritage fabric would need to be replaced. Further works would also be required to stabilise the structure such as underpinning. Rehabilitating the property would also require extensive refurbishment to bring the property to a usable condition for modern standards.

The extent of fabric to be replaced, calls into question if the integrity of the heritage value can be retained in a reconstruction, or if it would essentially be a new building masquerading as a heritage place. A further consideration is the typology of the listing. The heritage value is vested in the combination of residence and shopfront. Neither are of particular heritage value in their component parts. If one part was to be irredeemably dilapidated, then the heritage value of both would also be lost.

The immediate neighbouring buildings also reduce the visual appreciation of this residence/ shopfront in the streetscape and reduce its contextual heritage integrity. If the Local Heritage Place was part of a consistent group of Places along Hutt Street, then there would be a more obvious need for the appropriate reconstruction of the Place to retain the established historic character.

Assessment

It is expected the scope of conservation/reconstruction works would need to include:

- Full roof and verandah replacement with new verandah timberwork, roof structural repairs, new galvanised deep profile roof and verandah sheeting, new stormwater goods in galvanised finish and underground piping to discharge to water table, new flashings, chimney brick replacement and repointing
- Substantial wall reconstruction including, paint removal, removal of external cement mortar and render, underpinning, undersetting, stone and brick replacement up to 1 metre AFL, repointing and relining. New render to openings
- Demolition and rebuilding of southern boundary wall
- Lowering of external ground level relative to residence to prevent breaching of new damp course
- New concrete verandah slab
- Repair/replacement of windows and refinishing of timber doors
- Correct lean on shopfront with new structure to tie back into the rest of the structure
- Internal removal of all boarding to walls and rebuilding to 1 metre AFF in new brickwork with lime mortar before replastering
- Reinstate portions of lath and plaster ceiling where missing
- Reinstating underfloor ventilation and making good of floor joists/boards. Replacing floorboards to match where damaged
- New ceiling grid, floor and tiles to shop

From a visual inspection, the Local Heritage Place appears in very poor condition, with most of the fabric requiring replacement rather than conservation.

Specifically with respect to the interior and rear additions (not visible from Hutt Street), these are not considered to contribute to the heritage value and therefore demolition is supported.

9. PLANNING ASSESSMENT

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

9.1 Summary of City Main Street Zone Assessment Provisions

Code Ref	Assessment
Desired Outcome (DO)	
DO 1	• A mixed use zone providing important shopping, hospitality, commercial, community, cultural and entertainment facilities for the city supported by medium to high-density residential development. Non-residential activities including shops, restaurants and licensed premises positively contribute to the day and evening economies, public safety, walkability and city vibrancy.
DO 2	• The built form positively contributes to: a) a streetscape that is visually interesting at human-scale, comprising articulated buildings with a high level of fenestration and balconies oriented towards the street b) a fine-grain public realm comprising buildings with active frontages that are designed to reinforce the street rhythm and intimate character, that consider the facades, articulation and massing of existing buildings and any spaces between them and provide narrow tenancy footprints at ground level.

9.2 Summary City High Street Subzone Assessment Provisions

There are no Subzone provisions applicable to the development

9.3 Summary of Applicable Overlays

The following Overlays are applicable to the assessment of the application:

Local Heritage Place Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Development maintains the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse.		
Landscape Context and Streetscape Amenity			
PO 5.1	• Not applicable.	☐	☐
Demolition			
PO 6.1	• Refer Section 9.5.	☑	☐
PO 6.2	• Refer Section 9.5.	☑	☒
Conservation Works			
PO 7.1	• Not applicable.	☐	☐

9.4 General Development Policies

There are no General Development Policies applicable to the proposed development.

9.5 Detailed Discussion

This application proposes total demolition of a Local Heritage Place (former shop/dwelling) and outbuilding.

The Planning and Design Code prescribes applicable policies for assessment in Table 3 of the City Main Street Zone (CMSZ). The provisions are limited to four Local Heritage Place Overlay (LHPO) Performance Outcomes. LHPO PO 5.1 and 7.1 are not relevant to this assessment as the site does not contain heritage listed trees, parks, historic gardens or a memorial avenue and conservation works are not proposed. Therefore, primary considerations for total demolition of a Local Heritage Place are LHPO PO 6.1 and PO 6.2, which state:

PO 6.1 *Local Heritage Places are not demolished, destroyed or removed in total or in part unless:*

a) the portion of the Local Heritage Place to be demolished, destroyed or removed is excluded from the extent of listing that is of heritage value

or

b) the structural integrity or condition of the Local Heritage Place represents an unacceptable risk to public or private safety and is irredeemably beyond repair.

PO 6.2 *The demolition, destruction or removal of a building, portion of a building or other feature or attribute is appropriate where it does not contribute to the heritage values of the Local Heritage Place.*

PO 6.1(a) and PO 6.2 restrict demolition, destruction or removal of portions of the Local Heritage Place that form part of the extent and/or description, and therefore contribute to the heritage value of the Place. Figure 9.1.1 illustrates the external areas forming part of the listing, and as total demolition is proposed, PO 6.1(a) and PO 6.2 are not achieved. The use of 'or' in PO 6.1, followed by part (b) means the Code contemplates demolition of listed elements in certain circumstances.

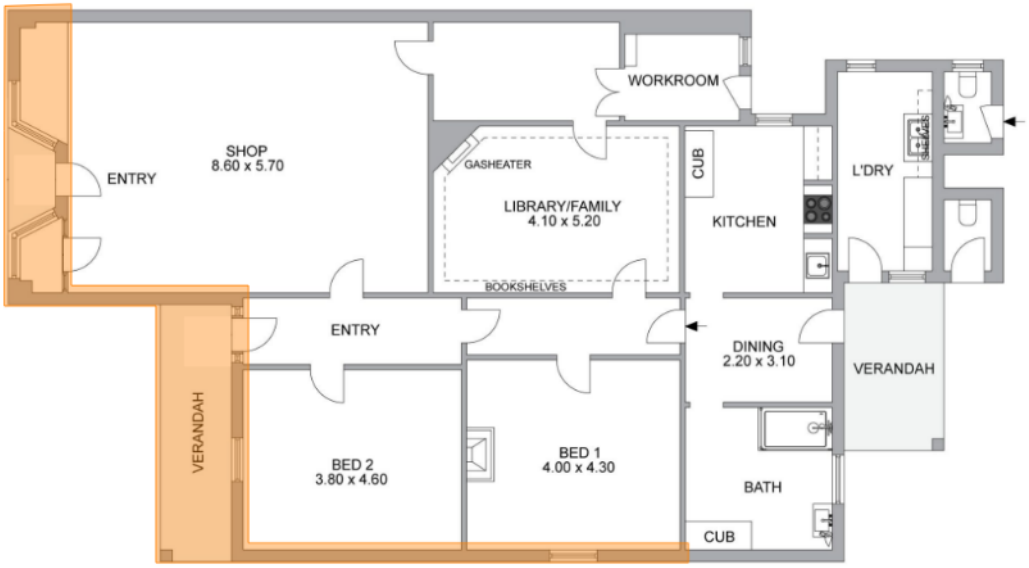

Figure 9.1.1 – Plan view highlighting elements of heritage value (visible roof and chimney not shown)

PO 6.1(b) suggests demolition may be acceptable in extenuating circumstances. It involves a twofold test, both of which must be suitably satisfied to warrant the demolition of listed fabric.

- the structural integrity or condition of the Place must represent an unacceptable risk to public or private safety.
- the structural integrity or condition of the Place must be irredeemably beyond repair.

Council's heritage advice confirmed the Place is designated as the external form of the shop and dwelling with the street facing original fabric and detailing highlighted as having particular heritage value. Elements included and excluded from the extent of the listing are examined, however discussion focuses primarily on elements of heritage value.

Unacceptable Risk to Public or Private Safety

The first test is demonstrating the structural integrity or condition of the Place represent an unacceptable risk to public or private safety.

In support of the proposal, the applicant obtained expert opinion of the structural condition of the buildings by Trevor John of FYFE. Mr John is a qualified structural engineer with comprehensive experience. An independent peer review and advice was also commissioned by Council Administration and undertaken by Peter Harmer. Mr Harmer is a building surveyor and engineer, specialising in Local Government and has been an expert witness in previous legal proceedings regarding the proposed demolition of heritage places.

The FYFE report quantifies safety through an assessment of the condition and soundness of building elements in addition to their ability to resist 'reasonable design loads'. Other factors that contribute to the safety and amenity of a building are also considered, such as consequential health issues associated with vermin, pest and mould (from dampness) and other hidden defects similar to those identified in the report.

The findings by FYFE conclude most structural and cosmetic elements of the building pose a risk to public or private safety. Table 9.1.1 illustrates building elements of heritage value that are showing varying degrees of distress and consequently pose a risk to safety.

Element	Soundness	Risk to safety	Remediation required
Roof sheeting (front)	Unsound	Yes	Replace
Roof sheeting (verandah)	Unsound	Yes	Replace
Roof flashings	Not unsound	No	Replace
Verandah framing	Unsound	Yes	Replace
Chimney	Unsound	Yes	Repair / potential replacement
Shop wall glazing	Unsound	Yes	Replace timber
Shopfront wall (under glazing)	Unsound	Yes	Replace / rectification
Glazing (shop)	Unsound	Yes	Replace framing
Shopfront wall	Unsound	Yes	Replace / rectification
Dwelling masonry wall (east)	Unsound	No	Partial replacement / rectification
Dwelling masonry wall (north)	Not unsound	No	Partial replacement / rectification

Table 9.1.1 – Summary of Engineering Findings

The most obvious visual signs of distress are cosmetic building elements including the roof and verandah sheeting, flashings and shopfront framing. Structural issues are less visible but are clearly evident in the lower masonry and stone walls of the shopfront and dwelling. The lower portion of these walls have been severely compromised by salt damp, exhibiting decades of neglect.

Mr Harmer's peer review and advice supports the conclusions of the FYFE report regarding the masonry walls, noting most external walls exhibit signs of significant rising damp. The damp has deteriorated the masonry to an extent the affected masonry is considered structurally unsound due to loss of masonry strength, deteriorated mortar and loose or dislodged masonry units. The declining structural integrity of the lower walls is evident with major cracks, distortions and displacement.

Based on the conclusions of both expert opinions, the Place is considered to represent an unacceptable risk to public and private safety. Mr Harmer determined there is no immediate risk to public safety as the site is hoarded off and the shopfront structure has not deteriorated to an extent where it is falling outwards towards the street. Notwithstanding, the conclusions demonstrate the building is in a state of disrepair and is not fit for occupation.

Irredeemably Beyond Repair

Council's legal advice confirmed the test for irredeemably beyond repair has been discussed in various Court judgments. Essentially, if a Place or building is redeemable it must be considered to be 'recoverable' or capable of saving. It will be recoverable if it can be restored, repaired or rehabilitated such that the existing original fabric can largely be brought back as opposed to requiring 'full replacement or rectification'. To put it another way, one could ask whether the original fabric is so compromised that its value would be lost were it to be repaired or replaced. If so, the Place may be irredeemably beyond repair.

For this application, Mr John recommends remediation work that would be reasonably contemplated to reinstate the structure or building element into a condition that is structurally sound, safe, and amenable. Recommended remediation measures make the distinction between repair and replacement works. In certain circumstances where replacement works are required, building works may be subject to 'rectification', such as upgrades to contemporary standards.

Table 9.1.1 illustrates much of the listed elements require full replacement such as roof and verandah sheeting, flashings and shopfront framing as they are irredeemably beyond repair.

Full replacement of these elements is not controversial as they are often necessary to facilitate the ongoing use of a Place. The contentious element argued for retention is the overall external form and materiality, mainly the shop and dwelling frontage and side wall returns. These walls are significantly compromised, with the lower third exhibiting evidence of distress from salt damp and other natural factors, exacerbated by insufficient footing supports. Mr John states:

> *'the majority of the house and shop, represented by the examples in the photographs, the remedial works goes beyond what I term "repairs" and requires demolition and reconstruction with new materials – in those cases I consider the item to be irredeemably beyond repair'.*

Specifically, in terms of the shop front and side wall, Mr John further concludes the existing single leaf brickwork is non-compliant for weatherproofing and to structurally support the glazing under 'reasonable design loads'. As the condition of masonry walls is so poor, they are unable to be remediated with repair work and would instead require rectification work to contemporary standards by removing existing brickwork and reconstructing a double leaf cavity wall. Therefore, rectification work ultimately requires the total replacement of a significant portion of the external listing.

The remaining external dwelling walls present similar degradation from salt damp and structural distress. Remediation measures required are mixed, with lower portions requiring removal of render and replacement of the full extent of affected brickwork and stonework. Mr Harmer concludes:

> *'deteriorated masonry will require the replacement of the lower section of a significant proportion of the masonry walls to enable new masonry units and mortar and a damp proof course to be installed. This is a substantial undertaking requiring the temporary support of the upper part of the masonry walls / superstructure and the removal and replacement of a significant proportion of the lower parts of the masonry walls. The extent of masonry replacement would also require an examination of the adequacy of the existing footings with consideration to contemporary standards for footings on reactive soils. The existing footings (if any) are very unlikely to be considered adequate for the support of new masonry construction. This extent of works is likely to require more resources, time and cost than rebuilding the entire superstructure.'*

It should also be noted Council's legal advice suggests that as the engineering evidence confirms the listed external form of the shop and dwelling are irredeemably beyond repair, the cost of 'replacement' becomes irrelevant to the assessment.

Seriously at Variance

The application is not considered to be seriously at variance with the relevant provisions of the Planning and Design Code. Whilst demolition of a Local Heritage Place is undesirable, LHPO PO 6.1 does contemplate demolition of listed elements in certain circumstances.

10. CONCLUSION

The demolition of elements of heritage value, or in this case, the total demolition of a Place is not one that should be taken lightly and is a matter than has been subject to various Court judgements.

This assessment has sparked debate as to whether the landowner should retain or reconstruct the Place which has been subject to varying opinion.

It is noted the Planning and Design Code does not prohibit the demolition of a Local Heritage Place. Whilst LHPO PO 6.2 is not achieved with regards to elements of heritage value proposed for demolition, PO 6.1(b) provides performance-based considerations in extenuating or extreme circumstances.

Therefore, this assessment has placed significant weight on the PO 6.1(b) whereby the structural integrity or condition of the Place must represent an unacceptable risk to public or private safety and be irredeemably beyond repair.

Both the applicant's structural engineer and Council's independent peer review conclude elements included and excluded from the listing invariably represent an unacceptable risk to public or private safety.

The redeemability of listed elements is naturally more subjective. It is contended the roof sheeting, chimney, verandah structure and sheeting and minor aspects of the building cannot be repaired and are therefore considered to be irredeemably beyond repair.

The structural integrity and condition of external walling, which is considered to be of particular heritage importance have been severely compromised by salt damp and other natural factors. To make these elements safe, remediation measures ultimately require significant replacement and/or rectification whereby only the upper portions of the external walls (dwelling) are salvageable.

With further consideration of Council's heritage advice, the typology of the listing and its heritage value is vested in the combination of the shop and dwelling. Neither are of particular heritage value in their component parts. Therefore, if one component is considered irredeemable, then the overall heritage value is considered to be lost.

Consequently, having regard to the balance of the building, the whole of the Place is considered irredeemably beyond repair, thus satisfying LHPO PO 6.1(b).

11. RECOMMENDATION

It is recommended 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

It is recommended the Council Assessment Panel resolve that:

2. Development Application Number ID 24020992, by K Koutsonas 1 Pty Ltd, and John and Evanthia Tsianos is granted Planning Consent for the following condition 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).**
    - **Demolition Plan prepared by Enzo Caroscio Architecture, dated 11 July 2024**

ADVISORY NOTES

1. Development Approval Required

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

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2. Expiration of Consent

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.

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3. Commencement and Completion

Pursuant to Regulation 93 of the Planning, Development and Infrastructure (General) Regulations 2017, 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.

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4. 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 8204 0289).

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5. City Works Permit

Any activity in the public realm, whether it be on the road or footpath (including the Adelaide Park Lands), requires a City Works Permit. This includes activities that have received Development Approval.

The City Works Guidelines detailing the requirements for various activities and fee calculator and online application form can all be found on Council's website at https://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/Site 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, noting the City of Adelaide as an interested party (minimum cover of $20 Million required);
- Copies of consultation with any affected stakeholders including businesses or residents.

Applications will require a minimum notice period of five business days. For more information, contact cityworks@cityofadelaide.com.au.

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6. Significant Tree Protection

The applicant is advised that reasonable measures should be undertaken to ensure the health of Significant Tree - *Ginkgo biloba (Maidenhair Tree)* on the land is maintained. It is recommended independent advice be obtained by a qualified arborist prior to demolition commencing.
