

<b>DEVELOPMENT NO.:</b>	26006456
<b>APPLICANT:</b>	Faros Omidvour
<b>AGENDA ITEM NO:</b>	3.1
<b>ADDRESS:</b>	38 Tucker Street, Adelaide SA 5000
<b>NATURE OF DEVELOPMENT:</b>	Undertake demolition of Local Heritage Place
<b>ZONING INFORMATION:</b>	<b>Zone:</b> • Capital City <b>Overlay:</b> • Local Heritage Place <b>Technical Numeric Variations (TNVs):</b> • Maximum Building Height (53 metres)
<b>LODGEMENT DATE:</b>	13 March 2026
<b>RELEVANT AUTHORITY:</b>	City of Adelaide Council Assessment Panel
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) Version 2026.5 12/03/2026
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed – Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	PC
<b>REFERRALS STATUTORY:</b>	None required
<b>REFERRALS NON-STATUTORY:</b>	Local Heritage

## CONTENTS:

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<b>ATTACHMENT 1:</b>	<b>Application Documents</b>	<b>ATTACHMENT 6:</b>	<b>Internal Referral Advice</b>
<b>ATTACHMENT 2:</b>	<b>Subject Land &amp; Locality Map</b>	<b>ATTACHMENT 7:</b>	<b>Council Commissioned Reports</b>
<b>ATTACHMENT 3:</b>	<b>Zoning Map</b>	<b>ATTACHMENT 8:</b>	<b>Council Commissioned Estimate</b>
<b>ATTACHMENT 4:</b>	<b>Representation Map</b>	<b>APPENDIX 1:</b>	<b>Relevant P&amp;D Code Policies</b>
<b>ATTACHMENT 5:</b>	<b>Representations</b>		

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

## **PERSONS SPEAKING BEFORE THE PANEL**

### **Representors**

- Genevieve Rowe of 1009/297 Pirie Street, Adelaide
- Alex Gersch of 5/25 Hutt Street, Adelaide
- Michael Pilkington of 9 Richmond Street, Kensington
- Elbert Brooks of The North Adelaide Society Inc, North Adelaide

### **Applicant**

- Faros Omidvour

## 1. **DETAILED DESCRIPTION OF PROPOSAL**

This application proposes the total demolition of a Local Heritage Place at 38 Tucker Street, Adelaide. The applicant is seeking demolition for safety reasons and has suggested the building is unable to be repaired.

## 2. **BACKGROUND**

Council Administration commissioned independent structural assessment reports in relation to the structural integrity of the building. One report was commissioned by Council's Building Compliance team in relation to public safety and the other report was commissioned by the Development Assessment team to assist in determining this application.

The structural engineer who prepared the report for Building Compliance had the benefit of undertaking an assessment of the property for a previous owner in 2019 which allowed a comparison of deterioration between 2019 and 2026.

Administration also commissioned a quantity surveyor's estimate in relation to the cost to repair the subject building (two different options) and for demolition and reconstruction.

These reports all form part of the attachments to this report.

Administration also sought legal advice regarding the assessment of this application.

## 3. **SUBJECT LAND & LOCALITY**

### **Subject Land**

The subject site is located on the southern side of Tucker Street. The site is rectilinear with a frontage to Tucker Street of 7.62 metres and side boundaries of 21.34 metres resulting in an overall site area of approximately 163m<sup>2</sup>.

Built form on the site comprises a single storey cottage listed as a Local Heritage Place in Part 11 of the Planning and Design Code. This place is identified as # 246 "House". Council records indicate the City of Adelaide proposed its listing in 1992 and this was supported by the owner at that time. Accordingly, no further assessment against relevant listing criteria was undertaken prior to listing.

The site is relatively level and there is no significant vegetation.

### **Locality**

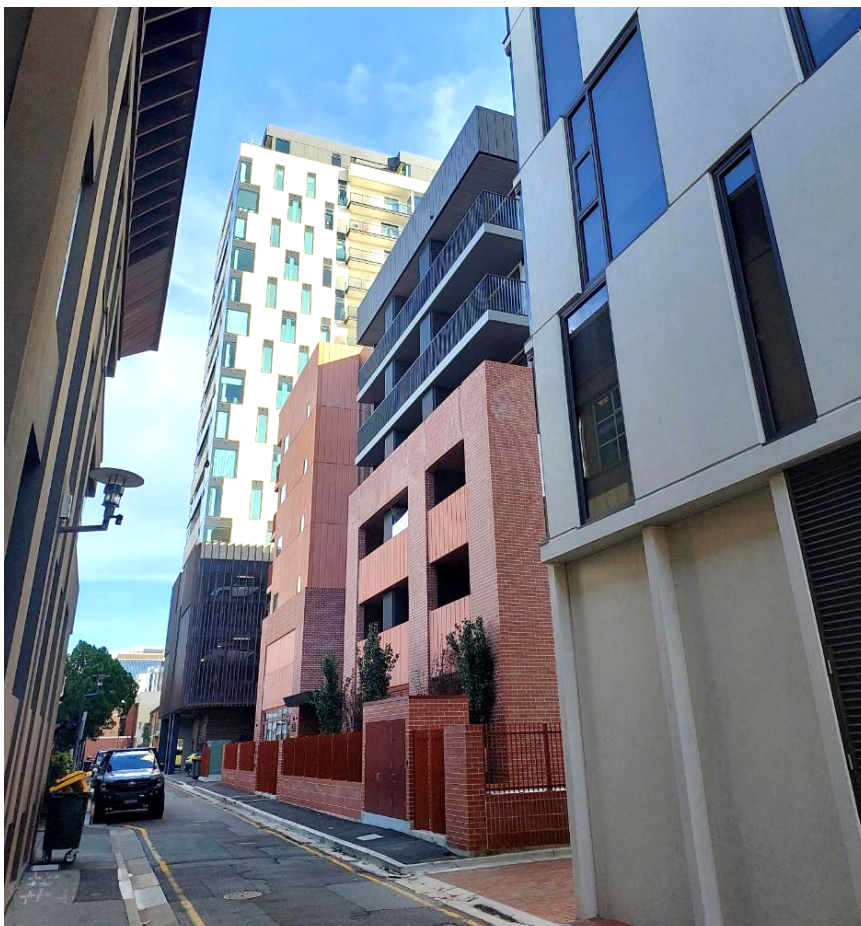
Tucker Street has an entry/exit point to both Hutt Street and Flinders Street. The locality is mixed in terms of built form with several recently constructed medium and high-rise developments to the north and smaller scale cottages on the southern side.

Residential and commercial land uses are typical in the locality. There are three Local Heritage Places at 32, 38 (subject site) and 44 Tucker Street.

**Figure 3.1 – subject site**



**Figure 3.2 – northern side of Tucker Street looking west**



**Figure 3.3 – southern side of Tucker Street looking west**



**Figure 3.4 – Tucker Street looking east**



#### 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 listed in Table 3 of the Capital City Zone and has a performance assessed pathway.

#### 6. **PUBLIC NOTIFICATION**

The proposed development was publicly notified as it does not satisfy Table 5 of the Capital City Zone with demolition of a Local Heritage Place proposed and listed as an exception under column B of Table 5. It cannot be defined as an 'excluded building' as the dwelling is an element specifically listed in the Local Heritage listing in Part 11 of the Planning and Design Code.

**Table 6.1 – List of Representations**

No.	Representor Address	Request to be Heard
1	Stevie Cross – 403/272 Flinders Street, Adelaide	No – In support
2	Genevieve Rowe – 1009/297 Pirie Street, Adelaide	Yes – Opposed
3	Romeo Caporaso – 47b Newton Road, Newton	No – Support with concerns
4	Michael Nelson – 611/297 Pirie Street, Adelaide	No – Opposed
5	Ginny Munro – 164 Sturt Street, Adelaide	No – Opposed
6	Jason Daniell – PO Box 1251, Murray Bridge	No – Opposed
7	Alex Gersch – 5/25 Hutt Street, Adelaide	Yes – Opposed
8	John Marshman – 11/25 Hutt Street, Adelaide	No – Opposed
9	Michael Pilkington – 9 Richmond Street, Kensington	Yes – Opposed
10	North Adelaide Society Inc – PO Box 295, North Adelaide	Yes – Opposed

**Table 6.2 – Summary of Representations**

- Support demolition due to inhabitable conditions and with appropriate management of impacts
- No information about proposed use
- Recent demolition and construction in the locality
- Remaining heritage properties need greater justification and clarification to be removed
- Retain and maintain heritage properties rather than demolish
- Typical housing of the era so can façade and streetscape be retained
- Demolition as last resort, not a thorough assessment including repairs
- Onus on owners to maintain heritage value
- Loss of amenity with loss of heritage fabric and precedent set by the demolition of a listed building
- Seriously at variance with the Planning and Design Code

## **7. AGENCY REFERRALS**

There are no referral requirements to other agencies or bodies required.

## **8. INTERNAL REFERRALS**

### **Senior Heritage Architect**

The property is listed as a Local Heritage Place. The file record shows the City of Adelaide proposed its listing in 1992, which was supported by the then-owner. At the time, a local heritage listing did not require a detailed assessment unless an owner objected to a listing. Local Heritage Places such as 38 Tucker Street do not have a detailed assessment sheet.

Basic heritage research indicates the property was likely constructed between 1894 and 1900. The allotment was created in 1894, and has cycled through several owners, most notably the Adelaide Electric Supply Company (1920-1935).

Visually, the cottage is demonstrative of a narrow single fronted cottage typical of the Federation period, demonstrating a squared pecked finish stone front façade wall with red brick dressings and red brick side wall returns, a hipped galvanised corrugated iron roof and eyelash verandah.

The dwelling is typical of Adelaide's heritage listed places. Consequently, this means it is one of many similar examples across the city. Collectively, these types of places are responsible for Adelaide's internationally appreciated historic character.

From a streetscape amenity perspective, the dwelling forms part of a row of three cottages (38 and 44 being listed places) that share some similarities and, together, contribute to a comfortable sense of scale and residential character along a portion of Tucker Street.

With regard to the assessment of heritage significance, it is important to note the thresholds required to list heritage places are much higher today than they were at the time of the listing of 38 Tucker Street.

As with many other decisions made under previous legislative environments, the listings are held to have met the criteria and thresholds required at the time. Nevertheless, the relative 'heritage value' of the place will be a relevant consideration. The greater the 'heritage value'; the more compelling the case for demolition needs to be.

## 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 Capital City Zone Assessment Provisions**

#### **Capital City Zone Assessment Provisions**

<b>Code Ref</b>	<b>Assessment</b>
<b>Desired Outcome (DO)</b>	
DO 1	<ul style="list-style-type: none"> <li>A zone that is the economic and cultural focus of the state supporting a range of residential, employment, community, educational, innovation, recreational, tourism and entertainment facilities generating opportunities for population and employment growth.</li> </ul>
DO 2	<ul style="list-style-type: none"> <li>High intensity and large-scale development with high street walls reinforcing the distinctive grid pattern layout of the city with active non-residential ground level uses to positively contribute to public safety, inclusivity and vibrancy. Design quality of buildings and public spaces is a priority in this zone.</li> </ul>

### 9.3 **Summary of Applicable Overlays**

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

#### **Local Heritage Place Overlay**

<b>Code Ref</b>	<b>Assessment</b>	<b>Met</b>	<b>Not Met</b>
<b>Desired Outcome (DO)</b>			
DO 1	<ul style="list-style-type: none"> <li>Development maintains the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse.</li> </ul>		
<b>Landscape Context and Streetscape Amenity</b>			
PO 5.1	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Demolition</b>			
PO 6.1	<ul style="list-style-type: none"> <li>Refer Section 9.5.</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 6.2	<ul style="list-style-type: none"> <li>Total demolition proposed and therefore heritage values of the Local Heritage Place are being removed.</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Conservation Works</b>			
PO 7.1	<ul style="list-style-type: none"> <li>Not applicable.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

### 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. The applicant has provided an engineering inspection report in support of the application. The report contends cracks have developed in the dwelling due to construction works opposite the site to the north. The report includes a record of damage/cracks present in the property, an opinion regarding probable cause and recommending the dwelling be assessed by an experienced structural engineer.

Council Administration has the benefit of two independent reports. Both detail the level of structural damage with the building. However, they indicate the building could be repaired through underpinning and/or reconstruction of the eastern wall, together with flooring repair, general masonry repair and roof timber rectification. Neither report provides any information regarding costs associated with the works. Consequently, Administration obtained a quantity surveyor's estimate based on a review of the reports. This includes an estimate of the costs involved in:

- a) underpinning
- b) rebuilding of the eastern wall, including new footings
- c) demolition of the building and construct new dwelling.

### Summary of Expert Reports

#### *KB Consulting (Applicant)*

This report concludes the place is not structurally safe largely due to the condition of the eastern wall and more general cracking. It is recommended the whole of the dwelling footings and roof framing should be assessed by an experienced structural engineer. No other opinion is expressed regarding prospects of repair.

#### *PT Design (Council Administration)*

The 2019 report suggests the eastern wall cracking was consistent with that expected for a dwelling of its age and built in this region of Adelaide with highly reactive soils. Internal cracking was suggested to be repairable. The potential for underpinning was raised to limit footing movement; however, it was noted this would be a large undertaking, disruptive and costly.

The 27 April 2026 report is more extensive. It noted movement, a sloping hallway floor and internal cracking. It has been suggested this condition could arguably be expected for a building of its age. The external eastern wall is the most significant concern. A remediation strategy has been suggested involving underpinning, masonry repair, rectification of the timber roof spread and implementation of compliant stormwater management systems around the perimeter of the building. A full replacement of the eastern boundary wall was not recommended.

#### *Tecon (Council Administration)*

This report comprises a one-page summary with an attached report from Maxwell Consulting Engineers. The eastern boundary wall is found to be a possible significant threat to safety in its current condition.

The opinion is expressed the extent of rectification works required are likely to be 'prohibitively expensive' compared to demolition of the whole building and rebuilding to current standards. No estimated costing is provided, and seeking advice from a quantity surveyor was recommended.

The report outlines a range of issues including poor stormwater management and roof framing that could be rectified at insignificant cost. The hallway floor is noted as being out of plumb and more significantly, the cracking and eastern boundary wall are noted as major concerns. It is suggested restoring the dwelling to an appropriate performance level would require 'significant investment' to provide long term serviceable results. It suggests the eastern boundary wall would need to be rebuilt with new footings or remediation feasible by underpinning.

It is suggested the cost of remedial works to restore amenity and structural adequacy are likely to be 'prohibitive' relative to demolition and a subsequent rebuild to current day standards. It concludes by suggesting the eastern wall requires complete replacement and remediation at footing level.

#### *Quantity Surveyor Report (Council Administration)*

The Quantity Surveyor's Report provides cost estimates in relation to three different remediation options. A summary of the estimated costs excluding GST are as follows:

- Option A – repair the building including underpinning \$751,000
- Option A – (alternative) – as above but new wall and footings \$794,000
- Option B – demolish and construct new dwelling \$920,000

It should be noted contingencies are included in these estimates, discussed further below.

#### Assessment Against Planning and Design Code

The Planning and Design Code prescribes applicable policies in Table 3 of the Capital City Zone (CMZ). The provisions are limited to four Local Heritage Place Overlay Performance Outcomes (LHPO). LHPO POs 5.1 and 7.1 are not relevant as the site does not contain heritage listed trees, parks, historic gardens or a memorial avenue and conservation works are not proposed.

Therefore, the primary considerations for total demolition of a Local Heritage Place are limited to LHPO PO 6.1 and PO 6.2 as follows:

*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 condition of the Local Heritage Place represents an unacceptable risk to public or private safety and results from actions and unforeseen events beyond the control of the owner 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 was amended on 15 January 2026 to include the concept of neglect. As the subject application was lodged on 13 March 2026, this version of this PO applies.

POs 6.1(a) and PO 6.2 restrict demolition, destruction or removal of portions of a Local Heritage Place that form part of the extent and/or description and therefore contribute to the heritage value of the Place. As the applicant intends to demolish the whole building, these POs are not achieved however the use of 'or' in PO 6.1, followed by part (b) means the Code contemplates demolition of listed elements and the entire place itself in certain circumstances.

PO 6.1(b) suggests demolition may be acceptable in limited circumstances with a threefold test:

1. Does the structural condition of the place represent an unacceptable risk to safety?
2. Has the condition resulted from actions or unforeseen events beyond the control of the owner?
3. Is the place irredeemably beyond repair?

These points are discussed in further detail as follows:

### *1. Unacceptable Risk to Public or Private Safety*

The 2026 PT Design report was commissioned from a safety perspective and is relied upon for this test. It concluded the immediate risk of structural collapse is currently assessed as low. However, the long-term serviceability of the eastern wall is compromised.

It is acknowledged by all experts the eastern wall is of most concern regarding safety. On that basis it represents an unacceptable risk to private safety.

### *2. Condition from actions or unforeseen events beyond the control of the owner*

In the 2019 PT Design report, advice was provided to the previous owner regarding stormwater/pavement remediation and the potential for underpinning of the eastern boundary wall which may have mitigated the building against the current severity of subsidence of the eastern wall and structural distress. However, given the advice was provided to a previous owner, it would be difficult to draw a conclusion that this was conveyed to the current owner.

### *3. Irredeemably Beyond Repair*

Administration has received legal advice confirming the test for irredeemably beyond repair. This concept has been previously discussed in various Court judgments. The advice confirms that in general terms, the concept of 'repair' involves making good the original fabric. If that was not possible such that the place, or a 'substantial part' of the place, needed to be completely replaced or rebuilt then that would potentially support an application for demolition.

Essentially, if a Place or building is redeemable it must be considered '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.

The reports commissioned by Administration suggest the eastern wall, which is of most concern, could either be underpinned or removed and rebuilt. It seems arguable that if repairs were undertaken to this portion of the building, the original fabric would not be so compromised that its value would be lost.

The concept of 'reasonableness' is not specifically incorporated in PO 6.1 i.e. if the cost of repair is of such a magnitude relative to the end result, it would be unreasonable to require such (a place well below modern day construction standards with ongoing repair and maintenance burdens). Nevertheless, Court authority is that this remains a relevant consideration. The costs for the various options are an important consideration; particularly if the heritage values of the place are not particularly high or exceptional. What is reasonable is a relative concept varying from case to case.

The greater the heritage value demonstrated by a building, the greater the efforts that can be reasonably expected to restore it. Conversely, the less a building demonstrates heritage value, the lower the bar for what is considered unreasonable.

It is also appropriate to have regard to the function and reasonable needs and expectations of an owner of property in the relevant locality. Therefore, ideally it is necessary to consider:

1. The relative heritage value of the place
2. The extent of works required and the impact those works would have on the original fabric and heritage value of the place
3. The cost of undertaking the repair works – whether the cost of repairing the place, that is of bringing it to structural soundness so that it may be used, is so unreasonably expensive having regard to the end result, as to be undesirable
4. The practicality and impact on function of the necessary works, having regard to contemporary standards of living.

Whether a place can be reasonably repaired should also necessarily encompass a consideration as to whether reasonable restoration could occur in a manner that facilitates reuse having regard to contemporary standards of habitation.

As a general observation regarding the quantity surveyor's report, the contingencies allowed for in each of the three options appear on the high side when a dollar value is assigned to each. For example:

- both Option As – design (10%), builders (25%), escalation (6%), construction (15%); professional fees (15%) total approximately \$345,000 to \$360,000
- contingencies for Option B are less – builders (10%), construction (5%), professional fees (5%), total approximately \$286,000.

The cost difference between the two Option As if contingencies are omitted is \$408,400 as opposed to \$431,000 (including repair / rebuild of not only the eastern wall but also the balance of the place). The cost of demolition and construction of a new dwelling (Option B) omitting contingencies is \$629,330.

There is also the potential for the applicant to access Council's Heritage Incentive Scheme funding where a monetary contribution towards conservation works could be provided. However, there are rigorous requirements for any such application and funding is limited and highly sought after.

Whilst the cost is not insignificant, it has been demonstrated the building is potentially not irredeemably beyond repair.

#### 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 generally undesirable, LHPO PO 6.1 contemplates demolition of listed elements in certain circumstances.

## **10. CONCLUSION**

The applicant is seeking to demolish an existing Local Heritage Place. No other alternative has been proposed by the applicant other than total demolition. Demolition of elements of heritage value, or in this case, total demolition of a Local Heritage Place, is not one which should be taken lightly and is a matter which has been the subject of various Court judgements.

The Planning and Design Code does not prohibit the demolition of a Local Heritage Place. It contemplates total demolition if the structural condition of the Local Heritage Place represents:

- an unacceptable risk to public or private safety, and where;
- the condition of the place has not resulted from actions and unforeseen events beyond the control of the owner, and
- is irredeemably beyond repair.

All the structural experts conclude the eastern wall is unsafe however to varying degrees, as well as expressing varying views regarding potential remedies.

Whilst it is acknowledged there is a significant cost involved in either repairing or removing and replacing the eastern wall, the building is arguably not irredeemably beyond repair considering the options provided by the structural experts. Repairing or rebuilding the wall would retain the Local Heritage Place as desired by the Planning and Design Code as it pertains to PO 6.1 of the Local Heritage Overlay.

The application, on balance, is recommended for refusal as it does not meet PO 6.1 of the Local Heritage Overlay in that the listed place is not considered to be irredeemably beyond repair.

## 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 26006456, by Mr Faros Omidvour, is refused Planning Consent for the following reason:
  - The proposal does not meet PO 6.1 of the Local Heritage Overlay as the Local Heritage Place is not considered to be irredeemably beyond repair.