

July 14, 2026

Daniel Marotti
Senior Planning Officer
Planning and Land Use Services
Department for Housing and Urban Development
Via: *The Plan SA Portal*

Dear Daniel,

APPLICATION 25036473 – RESPONSE TO REPRESENTATIONS

We act on behalf of Malvern Development SA Pty Ltd (**'the Proponent'**) and provide the following detailed response to the concerns raised by third parties during the course of the notification period. This letter should be read together with the amended architectural drawings dated 8 July 2026 and the supporting documents identified below.

A total of 77 submissions were made, and of these:

- 66 expressed their opposition to the proposed development, 10 of whom wish to be heard; and
- 10 of the representors expressed 'support with concerns' and 1 expressed unqualified 'support'.

We refer to the following updated and supplementary documents for your consideration in conjunction with the responses provided in this letter:

- updated Architectural Drawings by Woods Bagot, in **Appendix 1**;
- updated Landscape Concept Report by Landskap in **Appendix 2**;
- updated Sustainability Management Plan by ADP Consulting in **Appendix 3**;
- updated swept path and ramp details by Cirqa in **Appendix 4**; and
- updated Waste Management Plan by Rawtec in **Appendix 5**.

We firstly note that the representor in support of the proposed development, Tania Della-Putta of 192 Fisher Street, Malvern, submitted:

- their strong support for the proposed development.
- noted that the existing site is run-down and detracts from streetscape character of Unley Road.
- commends the recent mixed-use developments along Unley Road which have positively improved activation.
- acknowledges that the proposal will significantly enhance the street interfaces and improve activation, particularly through new retail/hospitality uses.
- notes receiving a letterbox drop encouraging objections but does not share those concerns.

- expressed a willingness to provide further support if required.

Further, we affirm that the proposed development:

- aligns strongly with State strategic policy directions that promote well-designed, higher density housing along key transport corridors and inner-urban locations, where access to services, employment and public transport is highest;
- introduces an underrepresented housing typology within the locality, contributing to greater housing diversity and choice in an area otherwise dominated by detached dwellings on large allotments with limited opportunities for general infill;
- supports “right-sizing” opportunities for existing residents, enabling long-term community members to remain within the local area while transitioning to more appropriate, lower-maintenance housing;
- facilitates more efficient use of the existing housing stock by freeing up larger, low-density dwellings for families and households requiring that form of accommodation;
- reflects the State Government’s broader policy intent to accommodate an ageing population through diverse, well-located housing options that function as essential social infrastructure; and
- will restore and preserve a heritage character building as an ongoing asset to the site and broader streetscape of Unley Road.

Turning to those submissions in opposition to the proposed development, we note that when considering the concerns that have been raised it is first instructive to:

- consider the relevant policies of the Planning and Design Code (**‘Code’**) that apply to the site as the statutory basis for assessing the suitability of the proposal;
- recognise that the Code is a practical, performance-based planning instrument to be interpreted on the basis that it expresses planning objectives and principles, rather than hard and fast rules with mandatory effect;
- note the well-established judicial interpretation of the Code by the Environment, Resources and Development Court and the Supreme Court, including that:
 - » Performance Outcomes (**‘PO’**) are the primary assessment policies and are intentionally qualitative in nature, enabling contextually responsive development outcomes;
 - » Desired Outcomes (**‘DO’**) inform the interpretation and consideration of POs and are not standalone policies;
 - » Designated Performance Features (**‘DPF’**) are merely a guide as to what may, but not always, be considered to satisfy the corresponding PO. They are not mandatory requirements;
 - » Technical and Numeric Variations (**‘TNV’**), while referenced in DPFs (and some POs), similarly provide guidance and are not absolute controls on development outcomes.
- have regard to the intent of the Urban Corridor (Main Street) (**‘UC(MS)’**) Zone, particularly POs 4.1 and 4.2 (Interface) and POs 5.1 and 5.2 Significant Development Sites), which focus on the mitigation (i.e. the reducing of the severity) of off-site impacts through qualitative design responses design that contextually responds to its local environment through in regard to the building profile, façade modulation and articulation and overall composition form and composition rather than prescriptive numerical thresholds

- acknowledge that properties at the periphery of the Established Neighbourhood ('EN') Zone can reasonably anticipate a degree of change where adjoining / adjacent land in the UC(MS) Zone is intended to accommodate higher intensity, mixed-use development.

Figure 1 *Representor map*



Design Refinement and Engagement with the Government Architect

Following receipt of the formal referral response, the Proponent, Woods Bagot and Future Urban engaged directly with representatives of the Government Architect to work through the remaining design concern associated with the transition of height and mass at the southern wing, particularly as perceived from the eastern residential interface. While the Government Architect supported the overall massing strategy and building height in principle, the referral response recommended further review of the southern wing massing and profile to more effectively mitigate the perception of visual bulk and scale.

The current architectural drawings dated 8 July 2026 are the result of that engagement. They retain the eight-level form and the fundamental strategic design approach, while further reducing and redistributing mass within the southern wing to establish a clearer and more legible transition toward the eastern boundary. In particular:

Setbacks

- **Levels 1 to 2:** the 5 metre setback is retained, establishing a two-level form at the closest point to the eastern residential interface;
- **Level 3:** the building façade setback is increased from 5 metres to 9.40 metres, with terraces having a setback of 5 metres and landscaping planters measuring 1.20 metres in depth along the eastern edge.

- **Level 4:** the terrace and associated southern-wing form have been deleted with the eastern setback increased from 5 metres to 9.4 metres (an increase of 4.4 metres);
- **Level 5:** the approximately 9.4 metre setback is maintained, reinforcing the intermediate step in the building profile;
- **Levels 6 and 7:** the upper southern-wing form remains set back approximately 13 metres, ensuring the tallest components are substantially recessed from the residential interface;

Apartment, balcony and terrace configurations:

- internal layouts have been reworked and landscaped terrace edges retained or introduced to soften the eastern presentation and assist with privacy and outlook management.
- **Level 3:** no change to apartment number (11 apartments), however dwelling bedroom configurations are now 3 x 1-bedroom, 3 x 2-bedroom and 5 x 3-bedroom apartments.
- **Level 4:** increased number of apartments (from 11 to 12), with bedroom configurations of 2 x 1-bedroom, 4 x 2-bedroom and 6 x 3-bedroom apartments.
- **Level 5:** increased number of apartments (from 11 to 12), with bedroom configurations of 2 x 1-bedroom, 4 x 2-bedroom and 6 x 3-bedroom apartments.
- **Level 6 and 7:** no change.

Collectively, these amendments respond directly to the Government Architect's outstanding concern by limiting the closest southern-wing interface to three levels and introducing a more pronounced sequence of upper-level setbacks. The amended elevations and sections now express a materially clearer transition between the higher built form concentrated toward Unley Road and the lower-scale residential context to the east.

The current plans also increase the dwelling yield from 68 to 70 apartments. This modest increase results from internal apartment reconfiguration rather than any increase in building height, number of levels or overall building envelope. Indeed, the overall scheduled floor area reduces from approximately 24,331 square metres to 24,225 square metres, while the internal apartment area reduces from approximately 9,206 square metres to 9,134 square metres. The amended plans continue to provide 167 on-site car parking spaces.

The following response therefore addresses the matters raised by representors by reference to the current architectural package and the further design resolution achieved through the assessment and Government Architect engagement process.

Strategic Context

Some representors asserted that, notwithstanding the zoning of the land, this site is not in an appropriate location for higher density development, and that the proposal does not align with the strategic outcomes sought by the Code nor the emerging built form context along Unley Road including references to the City of Unley's *Planning for Growth* ('**Growth**') document.

This position is not supported by the strategic planning framework, and in particular:

- The site is located within the UC(MS) Zone, which is expressly applied to key metropolitan transport corridors to facilitate increased residential density integrated with commercial and service-based activities. This intent applies irrespective of whether a location functions as a traditional retail high street, provided it benefits from strong transport connectivity and proximity to services;

- This strategic direction is reinforced by the Greater Adelaide Regional Plan ('GARP'), which identifies inner-urban corridors as priority locations for urban infill and increased housing density through higher intensity, and taller building;
- The site occupies a prominent position on a major arterial corridor within the inner metropolitan area, with direct connectivity to the Adelaide CBD and access to a wide range of services, employment and public transport options along Unley Road, King William Road and surrounding activity centres; and
- These attributes, namely, connectivity, access to services, and location within an identified growth corridor, are precisely those that underpin the application of the UC(MS) Zone and support the appropriateness of increased development intensity.

Further, the City of Unley's Growth document further supports this position, acknowledging:

"The diversity of housing in the City is reasonably limited, with little choice to downsize or find affordable medium density or higher density housing to buy or rent. This is particularly the case given changing lifestyles, the greater variety in household formations, and generally smaller families and specifically for Unley, the larger percentage of retirees and a smaller proportion of people under 34 years than the Adelaide average."

The City of Unley's Growth document also promotes:

- resilient neighbourhoods that will adapt to changing housing needs and provide more diverse housing choices
- increased housing diversity within strategic areas, while protecting the character of established historic areas.

CITY GROWTH PLAN MAP

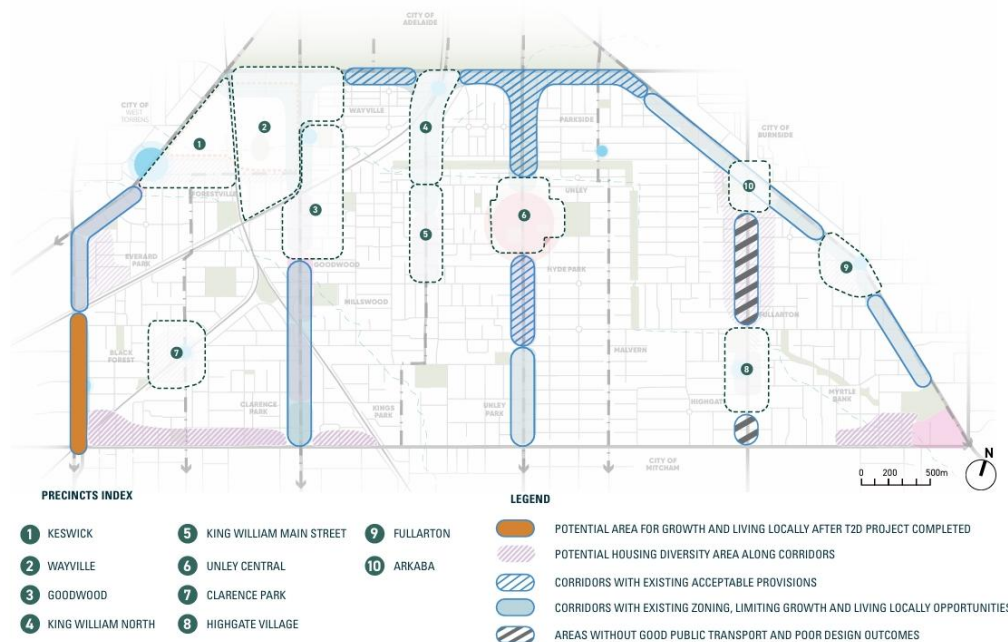


The areas of the map not highlighted are generally those of well established residential character not intended for significant policy change.
All highlighted areas are not intended to be definitive and are only indicative of the broad nature and spread of greater development potential.
Not all local activity clusters or areas are shown on the City Growth Plan. Only locations of activity centres with the opportunity for some greater capacity in land uses and services are included.

Importantly, while the Growth Strategy is not a statutory planning instrument, it provides relevant strategic context for how development intensity, including height and density, should be understood. In this regard, it does not propose any reduction in development capacity within main road corridors. Rather, it identifies sections of Unley Road (including the subject site) as "corridors with existing zoning

limiting growth and living locally opportunities”, thereby signalling that additional growth and intensified mixed-use development is both anticipated and appropriate in this location.

MAIN ROAD CORRIDORS: OPPORTUNITIES OUTSIDE PRECINCTS



PLANNING FOR GROWTH 47

Accordingly, any suggestion that the site is inherently unsuitable for higher density development is simply not supported by current planning policy, the broader metropolitan strategy, and the City of Unley’s own strategic direction.

Traffic and Access

Several representors have raised concerns regarding traffic generation, access arrangements, safety at the Eton Street interface, and potential impacts on the surrounding road network.

These matters have already been addressed in detail in Section 8.8.1 of our original Planning Report, together with the Traffic and Parking Assessment prepared by Cirqa (forming Appendix 4 of the Planning Report), which provides a comprehensive technical evaluation of the proposal against the relevant provisions of the Code and applicable Australian Standards.

None of the opposing representations are supported by independent traffic engineering evidence or peer review analysis that would call into question the findings of that assessment.

Since lodgement, the proposal has been subject to further detailed review by both the City of Unley and the Commissioner of Highways (via DIT). Both public road authorities are satisfied that the development can be accommodated within the surrounding road network without adverse impacts on traffic function or safety.

Importantly, the proposal delivers a net improvement in access arrangements by removing existing crossovers from Unley Road and consolidating vehicle access to Eton Street. This reduces conflict points on the arterial road, improves pedestrian safety, and is consistent with the intent of the UC(MS) Zone and Code provisions more broadly.

Concerns regarding sightlines at the Eton Street egress have been specifically addressed through design refinement, with the final design achieving appropriate sight distances and safe ingress and egress consistent with relevant standards.

For clarity, the proposal does not seek to alter or remove the existing road closure on Eton Street, and there is no intention for this to occur as part of the development.

Overall, the proposal provides a safe, efficient and policy-aligned access outcome, and will improve both traffic safety and the pedestrian environment relative to the existing site conditions.

Car Parking

A number of representors have raised concerns regarding the adequacy of on-site car parking provision and the potential for overflow parking within surrounding residential streets.

These matters have been comprehensively addressed in Section 8.8.2 of the original Planning Report, together with the Traffic and Parking Assessment prepared by Cirqa (forming Appendix 4 of the Planning Report).

The subject site is located within a Designated Area, where the Code expressly contemplates reduced reliance on private vehicle use, having regard to proximity to public transport, services and employment. This strategic intent has been reinforced in recent case law, including *Palma Investments Pty Ltd v Assessment Panel – City of Mitcham*, where Commissioner Dawson acknowledged that the parking rates in Table 2 (Designated Areas) are intended to support broader planning objectives of reducing car dependency and encouraging greater use of active and public transport modes.

Notwithstanding this, the current architectural plans provide a total of 167 on-site car parking spaces, comprising 78 spaces at Basement 2, 71 spaces at Basement 1 and 18 spaces at ground level. The increase from 68 to 70 apartments does not alter the access strategy, parking layout or total number of spaces.

- retains the same total parking provision shown in the notified architectural package notwithstanding the modest increase in dwelling yield; and
- provides a substantial supply of parking across two basement levels and the ground floor within a highly accessible Designated Area.

This represents an appropriate parking outcome for a mixed-use development in this location and must be considered in conjunction with the shared-parking characteristics of the proposal and its strong access to public and active transport.

The parking strategy also appropriately reflects the mixed-use nature of the development, allowing for shared use of spaces between residential and commercial components, consistent with PO 5.1 of the Transport, Access and Parking module.

In addition, the proposal incorporates public realm improvements along Eton Street, including the provision of on-street car parking, further supplementing parking availability within the locality.

All parking areas, access aisles, and ramp gradients have been designed in accordance with the relevant Australian Standards, ensuring safe and efficient operation.

Having regard to the above, the proposed development provides sufficient on-site parking to meet its anticipated demand and will not result in unreasonable overflow impacts on surrounding streets.

Loss of Existing Shops / Commercial Uses

A number of representors have expressed concern regarding the removal of existing tenancies and the perceived loss of local shops and services.

These matters have been addressed in Section 8.2 of the original Planning Report, which confirms that the proposed land use mix is strongly aligned with the intent of the UC(MS) Zone.

Importantly, the proposal does not result in a net loss of commercial activity. Rather, it delivers a measurable increase in non-residential floor area, from approximately 1,514 square metres to 1,909 square metres (total increase of 395 square metres). This uplift is coupled with a more contemporary and flexible tenancy configuration, capable of accommodating a range of retail, hospitality and commercial uses, thereby reinforcing the role of the site as an active mixed-use destination.

Furthermore, the existing building and site configuration is characterised by a dated, fragmented and relatively low-intensity commercial offering. In contrast, the proposal delivers:

- a more efficient and flexible tenancy layout capable of accommodating a broader range of uses;
- active frontages to both Unley Road and Eton Street, improving visibility, accessibility and passive surveillance; and
- integration with a complementary residential density, which will directly support the viability of on-site businesses and contribute to increased day and evening activity.

This outcome is entirely consistent with POs 1.1, 1.2, 1.3, 1.4, 1.6 and 1.7 of the UC(MS) Zone, which seek to promote vibrant mixed-use environments supported by diverse medium density residential accommodation that promote movement and activity during daylight and evening hours.

While it is acknowledged that individual existing businesses may be displaced as part of the redevelopment process, this is an inherent and accepted aspect of urban renewal within designated growth corridors and in any event, a concern that sits outside the scope of matters contemplated by the statutory planning framework.

Accordingly, the proposal should be understood as delivering a net positive outcome in terms of commercial activation, diversity of uses, and overall contribution to the Unley Road main street environment.

Density

A number of representors assert that the proposal constitutes *high density* development that is inconsistent with the *medium density* outcome sought by the UC(MS) Zone.

This contention reflects a misinterpretation of the Code.

The relevant provisions of the UC(MS) Zone (DO 1 and POs 1.1, 1.4, 1.5 and 5.1) do not prescribe density by reference to a numerical dwelling yield or *dwelling per hectare* metric. Rather, they seek to achieve:

- a vibrant mixed-use main street environment supported by residential development;
- diverse accommodation outcomes; and
- increased development yield on Significant Development Sites, subject to the management of off-site impacts and delivery of broader community benefit.

On a proper construction of these provisions, *medium density* is a qualitative concept to be assessed in context, not a fixed numerical control as has been suggested.

It is well established that, in the context of apartment-style development, the number of dwellings within a building is of limited planning relevance. The primary consideration is the built form and its impacts (e.g. massing, scale, overlooking, overshadowing and interface), rather than the internal yield of dwellings. In this regard, two buildings with identical built form will have identical planning impacts regardless of whether they contain more or fewer apartments.

Consistent with this approach:

- the Code does not apply the defined “net density” metrics where policies refer more generally to *low*, *medium* or *high* density;
- density must be assessed having regard to the zone context and the form of development envisaged; and
- what constitutes *medium density* in a strategic urban corridor location will differ materially from suburban residential contexts.

In this instance:

- the site is a Significant Development Site, is located on a primary arterial corridor, in proximity to public transport, services and activity centres;
- the proposal delivers a mixed-use outcome with active ground floor uses and residential accommodation above, directly aligning with POs 1.1, 1.4 and 1.5; and
- the development intensity is supported by the strategic intent of the UC(MS) Zone, which expressly anticipates increased yield on Significant Development Sites.

Importantly, the assessment of the proposal has not identified any adverse planning impacts arising from density in and of itself. Rather, the only substantive matters raised relate to built form and interface, which are addressed separately in this response.

Accordingly, whether the proposal is characterised as *medium* or *high* density is not determinative. The relevant question is whether the development appropriately manages its impacts and achieves the outcomes sought by the Code. On this basis, the proposal clearly satisfies the intent of the UC(MS) Zone regarding density.

Building Height

Many representors assert that the proposed development is excessive in height, does not accord with the UC(MS) Zone’s maximum building height policies, and represents an inappropriate application of the Significant Development Site provisions.

In particular, it is contended that the proposal:

- exceeds the Maximum Building Height TNV;
- improperly relies on the Significant Development Site provisions to justify additional height; and
- does not make a positive contribution to the local area.

The most relevant policies in this regard are:

UC(MS) Zone

PO 3.1 *Building height is consistent with the form expressed in the Maximum Building Height (Levels) Technical and Numeric Variation layer and the Maximum Building Height (Metres) Technical and Numeric Variation layer or positively responds to the local context including the site's frontage, depth, and adjacent primary road corridor (e.g., a State maintained road or a road with similar attributes) or street width.*

PO 5.1 *Consolidation of significant development sites (a site with a frontage over 25m to a primary road corridor (e.g., a State maintained road or a road with similar attributes) and over 2500m² in area, which may include one or more allotments) to achieve increased development yield provided that off-site impacts can be managed and broader community benefit is achieved in terms of design quality, community services, affordable housing provision, retirement facility and supported accommodation provision, or sustainability features.*

PO 5.2 *Development on a significant development site (a site with a frontage over 25m to a primary road corridor (e.g., a State maintained road or a road with similar attributes) and over 2500m² in area) designed to minimise impacts on residential uses in adjacent zones with regard to intensity of use, overshadowing, massing and building proportions.*

Design in Urban Areas

PO 12.1 *Buildings positively contribute to the character of the local area by responding to local context.*

In this regard, we submit that:

- despite the TNV featuring in PO 3.1, the PO avails two assessment alternatives, i.e. satisfy the TNV or respond to the local context, including but not limited to the factors expressly identified within the policy, in this regard we highlight:
- the site is a bona fide Significant Development Site, with substantial frontage to Unley Road and a depth and area that represent a clear capability to readily accommodate a taller built form while enabling appropriate setbacks and interface treatment;
- the site's location on a multi-lane State Maintained road and historical use as a local activity centre accommodating a variety of business activity and local services establishes a context that supports a building of greater scale and intensity; and
- the concept of 'local context' necessarily includes the planned evolution of the corridor in accordance with the envisaged development outcomes in the UC(MS) Zone and surrounding locality, rather than a static observation of existing built form.

With respect to the contention that the proposal represents an improper use of height incentives, this is based on a mischaracterisation of PO 5.1 which does not prescribe any numerical height limit or uplift mechanism. Rather, it encourages increased development yield on qualifying sites where:

- off-site impacts are appropriately managed; and
- broader community benefit is achieved in terms of:
 - » design quality
 - » community services
 - » affordable housing provision
 - » retirement facility or supported accommodation provision;
 - » or sustainability features.

Having regard to those factors, we reaffirm our opinions that these criteria are clearly satisfied and highlight that it is important to the exercising of planning judgement to consider that:

- the proposal appropriately manages off-site impacts through:

- » a considered and proportionate response to the concentration of building mass across the site, positioning the lower portion at the interface and taller portion towards Unley Road to successfully minimise overshadowing and address building mass;
- » the highly articulated architectural expression that further addresses visual building mass and scale; and
- » privacy measures to minimise impacts to the residential interface;
- broader community benefit is achieved (despite assertions that the proposal provides no community benefit whatsoever) through:
 - » the adaptive reuse of, and conservation to, a character building, which through the public notification process, has been identified to be of community value;
 - » a development of exceptional design quality, commensurate with the scale of the site that responsibly and sensitively relates to the character building;
 - » the fit for purpose design for use as a higher density housing accommodation, directly responding to needs of the community and broader strategic planning policy; and finally;
 - » the commitment to extensive sustainability inclusions and outcomes.

Accordingly, it is submitted that, having regard to the proper interpretation and application of the Code, the distinction between a built form outcome of 8 levels as opposed to 5 levels is immaterial. In this context, the assessment turns not on a numerical comparison in isolation, but on the extent to which the overall built form appropriately responds to its setting, achieves the relevant performance outcomes, and minimises interface impacts. In this regard, the proposal satisfactorily addresses these matters.

Finally, we reiterate the support of the Government Architect with respect to building height, stating:

“...in principle I support the building height, provided it is concentrated at the Unley Road frontage with recessive upper levels, incorporates a clear transition in scale to the east, and demonstrates effective strategies to mitigate off-site impacts.”

Interface (Visual Mass and Transition)

Representors contend that the development fails to provide an orderly transition to the EN Zone and will result in excessive visual bulk.

These concerns largely rely on a strict application of the 30-degree interface plane under DPF 4.1.

That approach is misplaced. As established earlier, DPFs are not mandatory controls, but indicative measures that may demonstrate compliance with the corresponding Performance Outcomes. The planning assessment turns on PO 4.1 and PO 5.2, which require that impacts of massing are mitigated and that an orderly transition is achieved.

For reference, these policies are provided below:

UC(MS) Zone:

PO 4.1 Buildings mitigate impacts of building massing on residential development within a neighbourhood-type zone.

PO 5.2 Development on a significant development site (a site with a frontage over 25m to a primary road corridor (e.g., a State maintained road or a road with similar attributes) and over 1500m² in area, which may include one or more allotments) designed to minimise impacts on residential uses in adjacent zones with regard to intensity of use, overshadowing, massing and building proportions.

Importantly, it is also relevant to have regard to the response (or absence of response) from those properties most directly affected by the eastern interface. In this regard:

- **67 Eton Street, Malvern** raised concerns in relation to:
 - » strong desire for existing 6.4 metre eastern boundary wall to be retained, which is said to provide important privacy, acoustic and security benefits
 - » potential structural impacts to the dwelling;
 - » visual bulk, overlooking, overshadowing and loss of amenity;
 - » noise and activity associated with vehicle movements, servicing and plant proximate to the eastern boundary;
 - » impacts to existing trees and vegetation;
 - » traffic generation, parking overflow, and construction impacts;
- **204 Fisher Street, Malvern**
 - » no representation was submitted.

While this is not determinative of the planning assessment, it does provide some indication that the perceived impacts relating to visual bulk and transition may be less pronounced than suggested in a number of submissions, particularly following clarification that the existing 6.4 metre boundary wall is to be retained, and particularly in relation to submissions lodged by persons located further from the site.

The Government Architect's formal referral response supported the overall massing approach but identified the southern-wing profile as the principal residual design matter requiring further refinement. Following direct engagement with representatives of the Government Architect, the architectural package has been amended to address that issue specifically.

Most notably, the Level 4 terrace and associated form have been withdrawn from the approximately 5 metre interface to approximately 9.4 metres. This limits the closest southern-wing presentation to three levels and establishes a more pronounced stepped transition through Levels 4 and 5 at approximately 9.4 metres and Levels 6 and 7 at approximately 13 metres. The amendment materially reduces the height and mass of the wall presented toward the eastern residential interface.

Turning to the planning merits of the proposal, we make the following submissions:

- the proposed building height is proportionate to its context, having regard to the site's frontage, depth and corresponding road width, as well as the broader strategic intent of the UC(MS) Zone which anticipates increased development intensity (including height and density) in strategic locations such as Significant Development Sites;
- the built form has been informed by a comprehensive design process, including two Design Review Panel sessions, resulting in an exceptionally high-quality architectural outcome that contributes positively to the locality including through the retention and integration of the existing character building on the northwest corner of the site;
- the distribution of height across the site now provides a clearer and more legible transition, with the closest southern-wing form limited to three levels, intermediate levels recessed to approximately 9.4 metres and the upper levels recessed to approximately 13 metres. The updated elevations and sections in Appendix 1 demonstrate that articulation, fenestration, material variation, setbacks and integrated landscaping collectively moderate the building's perceived mass and scale;
- the tallest portion of the building remains concentrated toward Unley Road and away from the EN Zone interface. This is reinforced by the U-shaped lower form and central void, which

provide meaningful spatial separation and align with the established pattern of rear garden open space to the east;

- the interface treatment combines substantial and progressively increasing setbacks, retention of the existing 6.4 metre boundary wall, deep-soil planting, landscaped terrace edges and built-form separation to provide an appropriate buffer to the EN Zone; and
- potential impacts associated with height, including visual bulk, overshadowing, or overlooking, have been appropriately mitigated through design measures, ensuring that there are no unreasonable amenity impacts to sensitive receivers when objectively measured against:
 - » overshadowing: Interface between Land Uses PO 3.1 and 3.2; and
 - » overlooking: Design in Urban Areas PO 16.1 and PO 32.5.

Figure 2 *View of site and locality from eastern aspect*



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259-269 UNLEY ROAD / MALVERN / 25

Figure 3 *View of development from rear yard of 57 Eton Street, Malverb*



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Heritage and Character

Representors have asserted that the proposed development is inconsistent with the heritage character of the Malvern area and that such considerations should take precedence over the policy intent of the UC(MS) Zone.

This position reflects a fundamental misunderstanding of the structure and operation of the Code.

As outlined in our response to interface matters, the Code deliberately differentiates between zones and overlays, with each spatially applied to reflect distinct planning intents and built form expectations. In this instance, the UC(MS) Zone is expressly intended to accommodate higher intensity, mixed-use development along strategic transport corridors, whereas the EN Zone seeks to preserve lower scale residential character. These are not competing frameworks where one “prevails” over the other; rather, they operate concurrently, with transition managed through the relevant Performance Outcomes (notably UC(MS) Zone POs 4.1, PO 4.2 and 5.2).

In this context, we note that:

- the zoning and overlay framework clearly establish that the subject site is intended to transition away from the lower scale, heritage-influenced character of Malvern toward a more urban, mixed-use built form outcome along Unley Road;
- the proposal does not disregard local character, but instead demonstrates a considered and high-quality architectural response that draws from existing materiality, articulation and rhythm, while appropriately expressing a contemporary built form consistent with the UC(MS) Zone’s intent;
- the existing character building on the site, despite not being subject to statutory demolition protection afforded to State and Local Heritage Places and buildings in a Historic Area Overlay, is retained and adaptively reused, ensuring its ongoing contribution to the streetscape and reinforcing its prominence on the Unley Road / Eton Street corner; and
- the overall scale and form of development is consistent with the strategic planning objectives for the Unley Road corridor and, as demonstrated elsewhere in this response, does not give rise to unreasonable impacts on the amenity or character of adjacent land within the EN Zone.

Accordingly, the proposal should not be characterised as being at odds with local character. Rather, it represents an appropriate transition of the built form along a designated growth corridor, balancing the retention of valued character elements with the delivery of intensified, high-quality development as anticipated by the UC(MS) Zone and the Code more generally.

Overlooking

Concerns have been raised by representors, particularly those located to the east of the site and by parties associated with Walford Anglican School for Girls, that the proposed development will result in privacy loss and inadequate screening of views from apartment balconies and the communal pool area and residential amenity area on Level 3.

We defer to the detailed assessment provided in Section 8.4.2 of our original Planning Report, which addresses overlooking having regard to the relevant provisions of the *Design in Urban Areas* module.

Importantly, applying the definition of ‘direct overlooking’ as set out in Part 8 – Administrative Terms and Definitions of the Code, only two properties, being 57 Eton Street and 204 Fisher Street, are situated such that a spatial relationship exists where direct overlooking may occur. No other properties,

including those located further east or on the western side of Unley Road, are affected in a manner that would meet this definition.

In this context, the extent of potential overlooking has been overstated in a number of submissions and in any event are unreasonable concerns when properly considered against the relevant Code provisions. As detailed in the original Planning Report, and further reinforced through recent design refinements, the proposal incorporates a range of appropriate and reasonable mitigation measures, including retention of the existing 6.4 metre eastern boundary wall, increased setbacks to portions of the southern wing, reorientation of balconies to reduce direct eastward outlook, integrated planter boxes and landscaping to balcony edges, and deep soil landscaping along the eastern interface, all of which collectively assist in mitigating overlooking consistent with the qualitative intent of the Code.

Overshadowing

Concerns have been raised by representors that the proposed development will result in unacceptable overshadowing of adjoining residential properties, particularly to the east.

We defer to the detailed assessment provided in Section 8.4.1 of our original Planning Report, which considers overshadowing having regard to PO 3.1 and PO 3.2 of the Interface Between Land Uses module.

As demonstrated in the shadow diagrams prepared by Woods Bagot, the proposal results in limited and appropriately managed overshadowing impacts. In particular:

- overshadowing to adjoining properties occurs primarily in the mid to late afternoon (from approximately 2:00pm on 21 June);
- no material impact occurs to north-facing habitable room windows during the critical period for solar access; and
- the primary areas of private open space continue to receive adequate levels of direct winter sunlight.

It is also relevant that the proposal retains the existing ~6.4 metre tall eastern boundary wall and that adjoining properties already experience a degree of overshadowing from established vegetation, meaning that any additional impact is incremental and contextually limited.

In this context, the extent of overshadowing impacts has been overstated in a number of submissions, and importantly by a number of representors who stand to have no overshadowing impact in their property whatsoever. The proposal achieves the qualitative intent of PO 3.1 and PO 3.2, ensuring that access to winter sunlight is maintained to a reasonable and appropriate extent, consistent with the expectations of development at this interface.

Noise

Concerns have been raised that the proposal has not adequately assessed noise impacts associated with traffic movements, servicing, and plant.

We defer to the detailed *Noise Emissions Assessment* contained within the Acoustic Report prepared by Echo Acoustics (Appendix 6 of the original Planning Report), which specifically considers noise generated by car parking activity, loading, waste collection and mechanical plant against the *Environment Protection (Commercial and Industrial Noise) Policy 2023*.

Importantly, that assessment confirms that:

- predicted noise emissions from the development comply with the applicable EPA noise criteria at all sensitive receivers, both during day and night periods;
- increases in traffic-related noise associated with the development are negligible (well within acceptable thresholds and effectively imperceptible in the context of the existing Unley Road environment); and
- standard and well-established mitigation measures (including acoustic fencing, soffit treatments, and plant attenuation) are incorporated to ensure ongoing compliance.

The assessment adopts conservative operational assumptions (including simultaneous vehicle movements, service activity and continuous plant operation) and still demonstrates compliance with the relevant criteria.

Importantly, the proposal retains the existing 6.4 metre eastern boundary wall, which was specifically identified by the occupants of 67 Eton Street as providing important acoustic benefits. The retention of this substantial masonry wall will continue to provide a meaningful degree of acoustic separation between the development and adjoining residential properties to the east.

In addition, waste collection hours are appropriately constrained in accordance with the *Local Nuisance and Litter Control Act 2016*, and final plant selections will be subject to detailed design and conditioned to meet the relevant noise standards.

Accordingly, the technical evidence confirms that the development will not unreasonably impact the amenity of adjacent sensitive receivers and satisfies PO 4.1 of the Interface Between Land Uses module.

Precedent

A number of representors have expressed concern that approval of the proposed development would set an undesirable precedent for future high-rise development along Unley Road.

This concern is misplaced.

Development applications are assessed on their individual merits against the relevant provisions of the Code as they apply to the specific site. The determination of any application does not establish a statutory precedent for the approval of future proposals.

In any event, the Code itself already establishes the strategic planning framework for development intensity within the UC(MS) Zone. This includes express policy support for increased height and yield on appropriately sized sites, particularly those that qualify as Significant Development Sites and are located along primary transport corridors.

It is also relevant that not all land within the zone will satisfy the criteria for a Significant Development Site, nor will all sites be capable of accommodating increased height while appropriately managing interface impacts. Accordingly, variation in built form outcomes is both anticipated and inherent to the practical application of the Code provisions.

In this context, the proposed development does not create a precedent, but rather represents a site-specific response that is consistent with the strategic and policy intent already envisaged for this location.

Lack of Community Consultation

Some representors have raised concerns regarding an alleged lack of community consultation and limited opportunity to influence the design of the development.

In this regard, it is noted that the public notification process is a statutory requirement under the *Planning, Development and Infrastructure Act 2016*, designed to ensure transparency and procedural fairness in the assessment of development applications.

The Act does not require proponents to undertake pre-lodgement or informal community consultation as part of the development assessment process. Rather, the statutory notification process provides the formal mechanism through which interested parties may review the proposal and make representations.

In this instance, the development application has been publicly notified in accordance with the requirements of the PDI Act, and all submissions received have been duly considered as part of the assessment process.

Accordingly, the application has followed the prescribed statutory process, and no deficiency in consultation arises.

Property Values

A number of representors have asserted that the proposed development will result in a reduction in surrounding property values.

No evidence or expert advice has been provided to substantiate these claims.

In any event, it is well established that potential impacts on property values are not a relevant planning consideration. This position has been consistently affirmed by the Environment, Resources and Development Court, including in *Lazzarino v The Corporation of the City of Campbelltown & Anor* [2015] SAERDC 5, where Commissioner Nolan stated that depreciation of surrounding property values “*is not... a matter this Court generally entertains and certainly not in the absence of any expert advice or documentation*”.

Accordingly, these assertions are not relevant to the assessment of the application and cannot be afforded weight.

Geotechnical Concerns

Some representors have outlined geotechnical concerns relative to the future construction of the development, such as the need for ground anchors as well as the presence of reactive clay soils and groundwater.

Such matters are not relevant to the planning merits and assessment of the proposal. Notwithstanding this:

- geotechnical investigations and engineering reviews have been undertaken by the Proponent to inform the detailed design and construction methodology; and
- in the event that the development proceeds, matters relating to soil reactivity, groundwater conditions and use of ground anchors are technical engineering considerations that will be appropriately addressed through detailed design, building consent and construction management processes to ensure that such works do not impact on subsurface infrastructure of adjacent properties.

Accordingly, the matters raised do not give rise to planning concerns relevant to the assessment of the development against the relevant provisions of the Code.

Conclusion

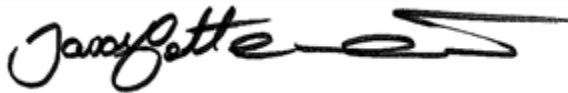
In conclusion, notwithstanding the assertions made and concerns raised in third-party submissions, it remains our view that the proposed development warrants the grant of planning consent, having regard to the comprehensive assessment provided in this response and our original Planning Report.

The proposal demonstrates a high-quality design outcome that appropriately responds to its context, aligns with the intent of the Code, and manages interface impacts to an acceptable and reasonable extent.

The Proponent and its consultant team will be available at the forthcoming SCAP hearing to address representors who wish to be heard and to respond to any questions from the panel members.

Should you require any further information in the interim, please do not hesitate to contact me on 0411 275 446 or via email at jason@futureurban.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jason Cattonar", followed by a long, horizontal, wavy line.

Jason Cattonar
Associate Director

APPENDIX 1	<i>Architectural Drawings</i>
APPENDIX 2	<i>Landscape Concept Report</i>
APPENDIX 3	<i>Sustainability Management Plan</i>
APPENDIX 4	<i>Swept path and ramp details</i>
APPENDIX 5	<i>Waste Management Plan</i>

APPENDIX 1 *Architectural Drawings*

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