

CITY OF WEST TORRENS



## Confidential Report Item 7.1

of the

### COUNCIL ASSESSMENT PANEL

will be held in the George Robertson Room, Civic Centre  
165 Sir Donald Bradman Drive, Hilton

on

**TUESDAY, 11 JUNE 2019**  
**at 5.00pm**

---

Pursuant to section 236(2) of the *Planning, Development and Infrastructure Act 2016* and clauses 16 & 17 of the *Assessment Panel Members – Code of Conduct*, it is an offence to disclose the information provided in confidence within this agenda except with prior approval of the Assessment Manager.

**Donna Ferretti**  
**Assessment Manager**

#### **City of West Torrens Disclaimer**

#### **Council Assessment Panel**

Please note that the contents of this Council Assessment Panel Agenda have yet to be considered and deliberated by the Council Assessment Panel therefore the recommendations may be adjusted or changed by the Council Assessment Panel in the process of making the formal Council Assessment Panel decision.

**Note: The plans contained in this Agenda are subject to copyright and should not be copied without authorisation.**

**INDEX**

**7 Confidential Reports Of The Assessment Manager .....1**  
7.1 Consideration of Appeal - ERD 19-69: 19 Carlton Parade, TORRENSVILLE .....1

Released

## 7 CONFIDENTIAL REPORTS OF THE ASSESSMENT MANAGER

### 7.1 Consideration of Appeal - ERD 19-69: 19 Carlton Parade, TORRENSVILLE

Application No 211/1089/2018

#### Reason for Confidentiality

It is recommended that this Report be considered in CONFIDENCE in accordance with regulation 13(2)(a) (vii) and (viii) of the *Planning, Development and Infrastructure (General) Regulations 2017*, which permits the meeting to be closed to the public for business relating to the following:

- (vii) matters that must be considered in confidence in order to ensure that the assessment panel, or any other entity, does not breach any law, or any order or direction of a court or tribunal constituted by law, any duty of confidence, or other legal obligation or duty;
- (viii) legal advice.

as this matter is before the Environment Resources and Development Court and it is a requirement of the Court that matters are kept confidential until such time as a compromise is reached or the matter proceeds to a hearing.

#### DEVELOPMENT APPLICATION DETAILS

DESCRIPTION OF DEVELOPMENT	Construction of a two storey detached dwelling and retaining walls and fencing to a maximum height of 2.2 metres.
APPLICANT	Fairmont Homes Pty Ltd
APPLICATION NUMBER	211/1089/2018 & ERD 19-69

#### RECOMMENDATION A

It is recommended to the Council Assessment Panel that:

1. On the basis that this matter is before the Environment Resources and Development Court so any disclosure would prejudice the position of Council, the Council Assessment Panel orders pursuant to regulation 13(2) of the *Planning, Development and Infrastructure (General) Regulations 2017*, that the public, with the exception of the Chief Executive Officer, members of the Executive and Management Teams, Assessment Manager, City Development staff in attendance at the meeting, and meeting secretariat staff, and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to receive, discuss and consider in confidence, information contained within the confidential reports submitted by the Assessment Manager on the basis that this matter is before the Environment Resources and Development Court and it is a requirement of the Court that matters are kept confidential until such time as a compromise is reached or the matter proceeds to a hearing.
2. At the completion of the confidential session the meeting be re-opened to the public.

## RECOMMENDATION B

1. The legal advice from Kelledy Jones in **Attachment 1** and **Attachment 2** be received and noted.
2. The Council Assessment Panel, having considered the application for consent to carry out development of land and pursuant to the provisions of the *Development Act 1993*, finds the proposal to be not seriously at variance with the Development Plan and resolves to advise the Environment Resources and Development Court that it does SUPPORT Development Plan Consent for Application No. 211/1089/2018 by Fairmont Homes to construct a two storey detached dwelling and retaining walls and fencing to a maximum height of 2.2 metres at 19 Carlton Parade, Torrensville (CT 6037/730) subject to the following conditions:

### Development Plan Consent Conditions:

1. The development must be undertaken, completed and maintained in accordance with the following plans and information:
  - Site plan by Fairmont Homes.
  - Front elevation, Rear Elevation, Lower Floor, Upper Floor, Left Elevation, Right Elevation, Southern Elevation for Lots 703 and 704, Landscaping Schedule by Fairmont Homes at Lot 301 (house 1) (118340- C).
  - SAF Consulting Engineers Drainage Plan, Job No 1808198, CRD/D, Date Oct -18, revision D.

*Reason: To ensure the proposal is developed in accordance with the plans and documents lodged with Council.*
2. The noise attenuation measures specified in the BESTEC report for 17 & 19 Carlton Parade, Torrensville 'Acoustic Services Aircraft Noise Assessment' report dated 13 December 2018 and the recommendations for Dwelling 2 noted on pp.4-5 of that report shall be adopted and installed prior to the occupancy of the development.

*Reason: To protect the amenity of residents of the dwelling from aircraft noise.*
3. The roof of the dwelling approved herein shall be finished in Colorbond® sheeting with a corrugated profile.

*Reason: To maintain the historic character and amenity of the area.*
4. All stormwater design and construction shall be in accordance with Australian Standards and recognised engineering best practices to ensure that stormwater does not adversely affect any adjoining property or public road and, for this purpose, stormwater drainage will not at any time:
  - a) Result in the entry of water into a building; or
  - b) Affect the stability of a building; or
  - c) Create unhealthy or dangerous conditions on the site or within the building; or
  - d) Flow or discharge onto the land of an adjoining owner; or
  - e) Flow across footpaths or public ways.

*Reason: To ensure that adequate provision is made for the collection and dispersal of stormwater.*
5. The stormwater connection through the road verge area shall be constructed of shape and material to satisfy Council's standard requirements as follows:
  - a) 100 x 50 x 2mm RHS Galvanised Steel or
  - b) 125 x 75 x 2mm RHS Galvanised Steel or
  - c) Multiples of the above
  - d) No connection through bus stop hard stand (if applicable).

*Reason: To maintain existing Council infrastructure.*

6. All landscaping shall be planted in accordance with the approved plans within three (3) months of the occupancy of the development. Any person(s) who have the benefit of this approval will cultivate, tend and nurture the landscaping and shall replace any plants which may become diseased or die.

A watering system shall be installed and maintained at the time landscaping is established and operated so that all plants receive sufficient water to ensure their survival and growth.

*Reason: To enhance the amenity of the site and locality and to mitigate against heat loading.*

7. The upper storey windows on the front, rear and east elevations of the dwelling shall be fitted with fixed obscure glass or raised sills to a minimum height of 1.7 metres above the upper floor level to minimise the potential for overlooking of adjoining properties, prior to occupation of the building. The glazing in these windows shall be maintained in good condition to the satisfaction of Council at all times.

*Reason: To maintain the privacy of neighbouring residents.*

8. Perimeter fencing shall be no higher than 1.8 metres and tapered down toward the street at the driveway entrance to the satisfaction of Council. All necessary approvals shall be sought where required.

*Reason: To maintain the heritage character of the street and locality.*

9. Prior to occupancy of the dwelling, a 3000 litre stormwater collection and reuse tank and associated plumbing to service all toilets and the laundry within the dwelling is to be installed and operational.

*Reason: To ensure that adequate provision is made for the collection and reuse of stormwater.*

## **FURTHER**

1. Pursuant to regulation 13(2) of the *Planning, Development and Infrastructure (General) Regulations 2017*, Item - Consideration of Appeal - ERD 19-69: 19 Carlton Parade, TORRENSVILLE, including the report, attachments and any discussions (excluding the decision), having been dealt with in confidence under regulation 13(2)(a)(vii) and (viii) of the *Planning, Development and Infrastructure (General) Regulations 2017* and in accordance with regulation 14(4) of the *Planning, Development and Infrastructure (General) Regulations 2017*, be kept confidential until a decision of the Environment, Resources and Development Court relevant to the item is made, on the basis that it is a requirement of the Court that matters are kept confidential until such time as a compromise is reached or the matter proceeds to a hearing.
2. The Council Assessment Panel gives authority to the Assessment Manager to review, but not extend, the confidential order on a monthly basis.

## BACKGROUND

This application was presented to the 12 March 2019 and 9 April 2019 CAP meetings.

A determination was made at the Council Assessment Panel meeting dated 9 April 2019 to REFUSE the application for the following reason:

- *The proposed development is contrary to Residential Zone, PDC 11*  
*Reason: The proposed side and rear setbacks are smaller than the minimum required in the zone.*

Since this meeting, the applicant has appealed the decision and a compulsory conference was held at the Environment Resources and Development Court (the Court) on 20 May 2019. Neither party were prepared for a compromise therefore the conciliation conference was dismissed and a Directions Hearing was set for 3 June 2019.

Prior to the Directions Hearing, Council has sought legal advice from Kelledy Jones. Two documents have been provided and are included as **Attachment 1** and **Attachment 2**. These are discussed below.

## DISCUSSION

Upon notification of the appeal from the applicant, Council sought preliminary legal advice from Kelledy Jones in relation to the Court process and likely costs to Council of defending the CAP's decision (see **Attachment 1**). The cost of a full appeal was estimated to be around \$14,000 depending on the number of experts and seniority of counsel required. It is likely at a minimum that Council would need to engage a lawyer and a planning consultant for such a hearing. In this instance, a barrister is unlikely to be necessary.

Council sought further legal advice (refer **Attachment 2**) following the compulsory conference in relation to the strength of argument relating to the CAP's decision and whether this would be sufficiently robust to successfully defend in the Court. The legal advice, albeit a preliminary review of the CAP's decision, has the following pertinent points regarding the matter:

- The Court would set aside the decision of the CAP and re-assess the full merits of the proposal.
- The reason of deficiencies in setback(s) alone is insufficient grounds for a reason for refusal.
- Given the orientation of the dwelling and the private open space location, it is more appropriate that the rear setback be measured from the eastern boundary.
- If the eastern boundary is the rear setback, the southern boundary should be more appropriately considered as the side setback.
- Given the difference of interpretation regarding the location of the setbacks, the associated quantitative measure is different and reduces the strength of the refusal.

The Administration has not sought independent expert planning opinion at this point. Further, Administration has requested a deferral of the Directions Hearing to allow the recently received legal advice to be re-presented to the CAP. This allows for a re-consideration of the matter in light of the legal advice and associated interpretation.

There are two alternatives that the CAP may consider:

1. Proceed to full hearing and defend the decision of the CAP dated 9 April 2019 to refuse the application; or
2. Advise the ERD Court that the CAP have re-considered the application and determined that in this instance that Development Plan Consent is warranted.

## **SUMMARY**

Legal advice from Kelledy Jones has been received by the Administration of Council and this is presented to CAP for a re-consideration of its decision to refuse the application for development at 19 Carlton Parade, Torrensville (DA 211/1089/2018). The CAP are herein given an opportunity to advise the Court of the outcome of its re-consideration of the application.

## **Attachments**

1. **Legal advice from Kelledy Jones including costings, 21 May 2019**
2. **Legal advice from Kelledy Jones, 29 May 2019**

Released

**Sonia Gallarello**

---

**From:** Tyler Johns <tjohns@kelledyjones.com.au>  
**Sent:** Tuesday, 21 May 2019 5:20 PM  
**To:** Sonia Gallarello  
**Cc:** Victoria Shute  
**Subject:** Fairmont Homes Pty Ltd v City of West Torrens (ERD 19-69) (KJ 180285)

Hi Sonia

As requested, having now reviewed the appeal documents, we set out the below quote for the initial work involved in preparing for this appeal and, noting the early stage that the matter is in, fee estimates for work in connection with the preparation and final hearing in this matter.

Please note that disbursements (being fees from external providers (i.e. planning consultants) and bulk photocopying if the materials exceed 100 pages) are extra. For the purposes of the work listed immediately below, the quotes represent the maximum fee to be charged to the Council; if the actual fees incurred are less than the quoted amount, we will charge the lesser amount.

- Reviewing the Book of Documents (together with the additional attachments), preparing an initial advice on the Council's prospects of success. Our quote to undertake a review and prepare our advice is \$2500 + GST.
- Attendance at the next directions hearing on 3 June 2019 at 9.15am, and at any subsequent directions hearings (if necessary). Our quote for attendance at each directions hearing is \$310 + GST.

We propose to discuss the appropriate level of representation for this appeal with you after the outcome of the initial (and subsequent) directions hearing, at which time we should know the level of legal representation engaged by Fairmont Homes. In particular, this discussion will involve whether an intermediate or senior lawyer from KelledyJones would be appropriate counsel, or whether a barrister should be considered. We can and will provide firmer fee estimates and quotes when we have a greater appreciation for how the matter will proceed.

However, notwithstanding the above, and noting that this appeal is in its early stages, we provide the following by way of broad estimate, for your consideration:

- Reviewing expert witness statements (as required). Our fee estimate is \$850 + GST per witness statement.
- Proofing of expert witnesses (as required). This is essential to ensure the Council's witnesses are prepared for the hearing. Our fee estimate is \$620 + GST per witness.
- Representing the Council at the hearing. This will be dependent on a number of factors, including how many days the hearing is listed for, how many witnesses are called by each party and the level of representation required by the Council. In the event that an intermediate lawyer is appropriate to represent the Council, our fee estimate for preparing for and attending the hearing is \$7500 - \$9500 + GST. However, should a senior lawyer be necessary, our fee estimate for preparing for and attending the hearing is \$10,000 - \$15,000 + GST. Barrister's fees range from \$2700-\$5500 per day in Court depending on their level of seniority. As noted above, we will discuss and confirm these figures with you as the matter proceeds.
- Should the appeal be upheld, and approval granted to the proposed development, an additional hearing on conditions will be required. By way of estimate, work required to finalise conditions is likely to amount to \$1,900 + GST. We will provide a firm quote for this work if and when required.

In addition, if unforeseen circumstances occur and the course of the proceedings change in any way, we will provide updated quotes and/or fee estimates to you.



For the avoidance of doubt, please also note that the above quotes/fee estimates do not include emails and/or telephone calls as between us and the Council in connection with obtaining instructions and providing status updates in relation to this matter.

I understand you will require approval in relation to the above work/quote. For this reason, we will not begin to consider the documents or prepare our initial advice prior to receiving confirmation and further instruction from you.

Please give me or Victoria Shute a call with any questions.

Kind regards,

**Tyler Johns**  
Lawyer



**T.** 8113 7108 | **M.** 0430 190 692 | **E.** [tjohns@kelledyjones.com.au](mailto:tjohns@kelledyjones.com.au) | **W.** [kelledyjones.com.au](http://kelledyjones.com.au)  
Level 6/19 Gilles Street Adelaide SA 5000 | GPO Box 2024 SA 5001

This communication, including all attachments, contains confidential information and is subject to legal or other professional privilege. This privilege is not waived or lost by reason of email transmission or by reason of a mistaken or unintended email transmission to the receiver. Where the receiver is not the intended recipient of this email please delete and destroy all copies and telephone KelledyJones Lawyers on + 61 8 8113 7100. This communication is subject to copyright and no part of this email should be reproduced, distributed, disseminated or adapted without written consent of the copyright owner. KelledyJones Lawyers does not warrant that this email is free from computer errors, viruses or interference, except as required by law .

**From:** [Tyler Johns](#)  
**To:** [Sonia Gallarello](#)  
**Cc:** [Hannah Bateman](#); [Victoria Shute](#)  
**Subject:** Fairmont Homes Pty Ltd v City of West Torrens (ERD 19-69) (KJ 190131)  
**Date:** Wednesday, 29 May 2019 3:42:45 PM  
**Attachments:** [image001.gif](#)

---

Hi Sonia

Further to Hannah's email last Friday (24 May 2019), we have now considered the Council's Book of Documents ('BOD') and additional attachments, together with the Notice of Appeal for the proposed development at 19 Carlton Parade, Torrensville ('the Land') and provide our advice on the merits of this appeal.

We confirm that we have also filed a Notice of Acting in the Environment, Resources and Development Court ('ERD Court') and are in the process of collating an amended BOD (inclusive of the additional attachments) to be filed with the Court.

Briefly, it is our advice that the Council's prospects of success in this appeal are finely balanced at best. This is due to the fact that only one (1) reason for refusal was provided by the Council Assessment Panel ('CAP') and that the balance of the proposal was largely in accordance with the provisions of the Development Plan.

If we are able to obtain a strong expert statement in support of the refusal, the prospects of success will be finely balanced. Failing this, it is our advice that the ERD Court will most likely overturn the refusal.

We provide our advice in detail, below.

#### **Background**

1. Mr George Papaemanouil and Ms Lynne Papaemanouil are the owners of the Land (we refer to them below as 'the Land Owners').
2. The Land is a rear hammerhead parcel, created as a consequence of a land division in 2007 (which also created the front parcel, 17 Carlton Parade). The Council has previously approved the construction of a very similar development on the Land (being for a double storey dwelling) in 2010. However, the Development Plan consent ('DPC') obtained on that occasion has since lapsed.
3. The Land Owners have now engaged Fairmont Homes Pty Ltd ('the Appellant') for the purposes of constructing this new development. As a result, on 16 October 2018 the Appellant lodged DA 211/1089/2018 for a "two storey dwelling" ('the DA') with the Council.
4. The Council determined that the DA was more appropriately described as "construction of a two storey dwelling and retaining walls and fencing to a maximum height of 2.2 metres".
5. The Land is located within the Residential Zone, Torrensville East Conservation Policy Area 33 ('the Policy Area') of the Development Plan consolidated 12 July 2018.
6. The DA was a category 2 form of development as a consequence of the procedural matters in the Residential Zone section of the Development Plan which assigns dwellings exceeding one (1) storey within Residential Policy Areas 22-33 as category 2. Public notification was undertaken in accordance with this requirement and thirteen (13) properties were notified. The Council received three (3) representations (one (1) of which was from the Land Owners).
7. On 12 March 2019, the DA went before the CAP for decision. On that occasion, whilst recommended for DPC, the CAP resolved to defer the DA to enable the Appellant to address the deficiencies in the rear set back and in the provision of private open space.
8. The DA was returned to the CAP on 9 April 2019. Whilst the Appellant provided amended plans to the CAP demonstrating additional private open space, it did not make any

adjustments to the rear set back. The Appellant contended that the rear setback (as determined by the Council) was more appropriately considered a side setback, insofar as the rear of the proposed dwelling is oriented to the east, rather than the south (being the setback the Council had assessed as being the rear). We will return to this issue below as it is critical to this appeal.

9. The DA was again recommended for DPC. However, the CAP resolved to **refuse** to grant DPC to the DA and provided one (1) reason for refusal, namely:

*Residential Zone, PDC 11*

*Reason: The proposed side and rear setbacks are smaller than the minimum required in the zone.*

10. On 26 April 2019, the Appellant filed a Notice of Appeal, appealing the decision of the CAP.

### **Merits of the Refusal**

11. The Appellant has not provided any reason for appealing the Council's decision other than "refusal of application – planning consent".
12. However, it has, in its amended proposal, indicated that it does not consider that the Council has taken an appropriate approach when determining the requisite setbacks.
13. PDC 11 of the Residential Zone of the Council's Development Plan requires, as is relevant to the DA, that there is:
- a minimum 1 metre side boundary setback at ground level;
  - a minimum 2 metre side boundary setback for the upper level of the proposed dwelling;
  - a minimum 3 metre rear boundary setback at ground level; and
  - a minimum 8 metre rear boundary setback for the upper level of the proposed dwelling.
14. The proposed dwelling has the following setbacks:
- 4 metre ground level setback from the eastern boundary;
  - 4 metre upper level setback from the eastern boundary;
  - 3 metre ground level setback from the northern boundary;
  - 3 metre upper level setback from the northern boundary;
  - 1 metre ground level setback from the southern boundary, save for the garage wall constructed on the southern boundary with a length of 8.18 metres;
  - 1 metre upper level setback from the southern boundary; and
  - 5.35 metre ground level setback from the western boundary, save for the garage wall constructed on the western boundary with a length of 6.18 metres
15. The proposed dwelling is orientated to the west, with Carlton Parade being to the north. The rear yard, and thus the private open space for the dwelling, is located to the east.
16. Council administration assessed the rear of the Land (and thus the rear setback) as being the southern boundary of the Land. This is the rear of the Land if viewed from Carlton Parade; however, for the purposes of the proposed dwelling, this boundary will function as the side of the dwelling. As noted above, the southern boundary therefore has a 1 metre setback save for the garage wall which is proposed to be constructed on the boundary.
17. It is unclear to us on what basis the Council has determined that this is the appropriate rear boundary for the purposes of the development assessment. Indeed, in this regard, we note that the Council has previously advised us that it determines the rear setback by reference to the location of the rear yard or where the rear of a dwelling is located (i.e. where there is provision of private open space). This was the approach taken by the

Council in the appeals *Studio ED3 v City of West Torrens* ERD 18-181 and 18-183. This is a practical approach to take, particularly in circumstances where there are limitations on the size of land and noting that the rear setback is often associated with the provision of private open space.

18. Please advise why this approach has been altered.
19. Notwithstanding that the proposed development would still fall short of the quantitative setback provisions set out in the Development Plan if the rear of the dwelling (to the east) was used for the purposes of determining the rear setback (albeit the shortfall would be far smaller), it is important to recall that whilst the Development Plan includes desired minimum setbacks, the Development Plan is not mandatory, nor does it have the status of statute.
20. The ERD Court has said on numerous occasions that while the Development Plan is an important guide, its language is advisory. Development Plans are to be interpreted as practical guides of practical application – a planner’s document written by planners for planners.
21. As you know, it is necessary for both the qualitative and quantitative provisions of the Development Plan to be considered in totality and, where there are shortfalls or non-compliances, to determine whether the resulting impact is so great such that it renders the development inappropriate.
22. It appears that this is the approach that you have taken in your assessment of the proposed development, noting that the DA was recommended for DPC at both CAP meetings, irrespective of the boundary used for the purposes of determining setback. This is particularly referenced in the initial Agenda report on page 123 where it states that “*while the proposed development has some deficiencies in setbacks, and is at variance to PDCs 11,12 and 13 of the Residential Zone, these shortfalls are **not considered significant enough to warrant a refusal** of the application*” (our emphasis).
23. Indeed, as noted in *Poulopoulos v City of Charles Sturt* [2001] SAERDC 21:  
*Failure to meet the setbacks prescribed by the Development Plan need not, of itself, be fatal...setbacks less than those stipulated by the Plan can be allowed provided the resultant development sits comfortably in its context.*
24. Importantly, in circumstances where a refusal is wholly predicated on setbacks, in our experience, the relevant locality needs to have a significant and prevailing character (i.e. consistent and conforming setbacks) to justify why there should be no departure from the Development Plan.
25. On our review of the locality, it does not appear that this is the case, nor was this raised in the relevant Agenda reports.
26. Accordingly, in light of the above, and noting that:
  - a. the proposed development satisfied (or came very close to satisfying) most of the applicable provisions of the Development Plan;
  - b. the shortfall in setbacks does not appear to be fatal to the function of the development (i.e. does not result in overshadowing or overlooking concerns, nor has the bulk and scale of the development been raised); and
  - c. the representation received from the owners of 16 Wainhouse Street, Torrensville (being the neighbouring land owners to the west of the Land) indicated that they had no concerns with the garage being on the shared boundary (i.e. no set back) insofar as they purchased their property on the understanding that the development was already approved (being prior to the earlier DPC lapsing);it is unlikely that the Council will be in a position to successfully defend its refusal on the

basis that the rear and side setbacks do not wholly comply with the minimum requirements set out in the Development Plan.

27. This is particularly the case in circumstances where, in our view, there is a compelling argument to be had that the rear setback ought to have been measured from the rear of the proposed dwelling rather than the rear boundary of the Land.

### Next Steps

28. Irrespective of the above, it is noted that a planning appeal requires that the DA be considered by the Court *de novo* (from the beginning). What this means is that the Court does not simply review the original decision made on an application to determine whether it was adequate. Rather, the Court undertakes a full planning assessment of the proposal, supported by opinion evidence given in person during the appeal.
29. As such, we now **recommend** that we obtain a preliminary opinion of an independent planning consultant to ascertain whether there is, in their view, additional reasons why the DA ought to have been refused such that the Council's decision may be upheld. In this regard, we **recommend** that we seek the views of Mr Dennis Batge, an experienced independent planner, to provide a preliminary opinion. This will enable us (and the Council) to be better prepared and to provide more particular advice as to the Council's relative prospects of success in this appeal.
30. We can obtain a quote for this purpose if so instructed. However, please provide the Council's instructions in this regard as soon as possible.
31. The preliminary opinion will guide our recommended strategy moving forward, subject to whether it indicates that there is a sufficient basis to proceed with the appeal and defend the refusal.
32. We confirm that we will attend the upcoming directions hearing on **Monday 3 June 2019** on the Council's behalf and will report back to you at that time. At this stage, we recommend that we be instructed to adjourn the matter for a period of four (4) – six (6) weeks to enable the Council to obtain its preliminary opinion and determine how it intends to proceed. Please provide the Council's instructions for the directions hearing as soon as possible.

Please give me or Victoria a call with any questions.

Kind regards,

**Tyler Johns**

Lawyer

KELLEDYJONES LOGO Outlook #2



**T.** 8113 7108 | **M.** 0430 190 692 | **E.** [tjohns@kelledyjones.com.au](mailto:tjohns@kelledyjones.com.au) | **W.** [kelledyjones.com.au](http://kelledyjones.com.au)

Level 6/19 Gilles Street Adelaide SA 5000 | GPO Box 2024 SA 5001

This communication, including all attachments, contains confidential information and is subject to legal or other professional privilege. This privilege is not waived or lost by reason of email transmission or by reason of a mistaken or unintended email transmission to the receiver. Where the receiver is not the intended recipient of this email please delete and destroy all copies and telephone KelledyJones Lawyers on + 61 8 8113 7100. This communication is subject to copyright and no part of this email should be reproduced, distributed, disseminated or adapted without written consent of the copyright owner. KelledyJones Lawyers does not warrant that this email is free from computer errors, viruses or interference, except as required by law .