



HILDITCH LAWYERS

Level 1, 24 Grote Street
Adelaide SA 5000

GPO Box 11010
Adelaide SA 5001
www.hilditchlawyers.com

Tel 08 7325 5900
Fax 08 8231 8323
lawyers@hilditchlawyers.com

12 February 2025

The Presiding Member
State Commission Assessment Panel
GPO Box 1815
ADELAIDE SA 5001

Dear Presiding Member

Response to Representations – DA ID: 24037925 – 290 Unley Road, Hyde Park

I act for the applicant in relation to the above development application.

I have been provided with a copy of a representation submitted by Botten Levinson Lawyers on behalf of the owner of 292-294 Unley Road, Hyde Park and dated 17 January 2025.

I am instructed to respond to the legal issues raised in that correspondence and I respond as follows:

Public notification:

1. The representation makes reference to an "invalid notification process". I am instructed that the representor was granted an extension of time to submit further information in support of its original representation in response to its concerns but has since determined not to provide any further information and now relies wholly upon its original representation.

The right of way:

2. It is agreed that the "right of way over the lane" provides the only lawful vehicular access to the rear of the land at 292-294 Unley Road. This land also has a direct frontage to Unley Road.

Liability limited by a scheme approved under Professional Standards Legislation.

Hilditch Lawyers Pty Ltd ACN 145 516 276

3. It is asserted that “the existing lane does not meet current standards”. The application submitted by my client includes a proposal to upgrade that portion of the right of way which is directly adjacent to the western boundary of Allotment 67 in Filed Plan 11716, being the land known as 290 Unley Road, Hyde Park. The proposed upgrades will not prevent the balance of the right of way being upgraded should other interested parties seek to achieve that outcome in order to improve their access as well. The notion that an upgraded 4.57 metre wide of way in this particular low speed environment will be inconvenient or unsafe is wholly rejected by the applicant and its traffic consultants.
4. The proposed development will result in low volumes of additional traffic using the right of way in a low speed environment. The most significant increase in traffic flow down the right of way will arise as a result of the representor being forced to use the existing right of way for rear access instead of my client’s land.

My client can lawfully prevent the use of its land for access to the rear of 292 and 294 Unley Road at any time. There is no easement or right of way which permits the use of any part of 290 Unley Road by the owners, occupiers or visitors of the buildings at 292 and 294 Unley Road for access purposes or for any other purpose. 290 Unley Road is private land. Furthermore it is, with respect, rather odd for the representor to suggest that my client will place an unreasonable and excessive overburden on the use of the right of way in circumstances where even Ms Mellen apparently acknowledges that the great majority of traffic travelling down the right of way will be generated by vehicles travelling to the commercial premises at 292 and 294 Unley Road. It is a little difficult to see how the ventilation of this concern could assist the representor in any way.

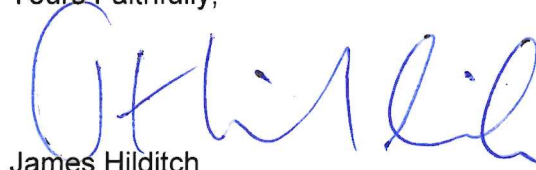
5. The right of way extends down Allotment 115 in Filed Plan 11716. A “NOTE” at the bottom of the Filed Plan confirms that “Lot 115 is a private road”. Any suggestion that a use “of this intensity” was not contemplated at the time of granting the right of way is rejected. The land is, and is intended to function as, a private road accessible via a shared right of way by multiple parties. Once again, any suggestion that a use of the intensity proposed was not contemplated when the right of way was granted must surely be tantamount to a suggestion that the intensity of the uses to which 292 and 294 Unley Road are put was most certainly not contemplated because these uses together will generate significantly more traffic down the right of way than the proposed development will. In any case, the overall traffic volumes involved will still be low whichever way the matter is looked at.

Removal of Significant Tree

6. The representor has not submitted a report from any relevant expert in support of its concerns.

I confirm my client seeks the opportunity to be heard in response to the representations and will await notice of the date and time of the relevant meeting at which the application will be considered.

Yours Faithfully,

A handwritten signature in blue ink, appearing to read 'J Hilditch', written over the printed name.

James Hilditch

james@hilditchlawyers.com

Our Ref: JRH:000891
Your Ref: