

Development Assessment Panel Agenda & Reports

15 February 2016

Our Vision

*A City which values its heritage, cultural diversity,
sense of place and natural environment.*

*A progressive City which is prosperous, sustainable
and socially cohesive, with a strong community spirit.*

City of Norwood Payneham & St Peters
175 The Parade, Norwood SA 5067

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City of
Norwood
Payneham
& St Peters

10 February 2016

To all Members of the Development Assessment Panel:

- Mr Terry Mosel (Presiding Member)
- Mr Don Donaldson
- Mr Phil Smith
- Mr Kevin Duke
- Ms Evonne Moore
- Ms Jenny Newman
- Ms Fleur Bowden
- Mr Carlo Dottore
- Mr John Minney

NOTICE OF MEETING

I wish to advise that pursuant to Section 56A of the *Development Act 1993*, the next Ordinary Meeting of the Norwood Payneham & St Peters Development Assessment Panel, will be held in the Mayor's Parlour, Norwood Town Hall, 175 The Parade, Norwood, on:

Monday 15 February 2016, commencing at 7.00pm.

Please advise Jo Kovacev on 8366 4530 or email jkovacev@npsp.sa.gov.au if you are unable to attend this meeting or will be late.

Yours faithfully

Mario Barone
CHIEF EXECUTIVE OFFICER

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City of
**Norwood
Payneham
& St Peters**

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VENUE Mayors Parlour, Norwood Town Hall

HOUR

PRESENT

Panel Members

Staff

APOLOGIES

ABSENT

1. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE DEVELOPMENT ASSESSMENT PANEL HELD ON 20 JANUARY 2016**

2. **STAFF REPORTS**
 - Items to be starred (.....)
 - All unstarred items to be adopted (.....)

2. STAFF REPORTS

**2.1 DEVELOPMENT APPLICATION 155/635/2015 – JMC STAR ENTERPRISES PTY LTD –
79 & 79A BEULAH ROAD, NORWOOD**

| | |
|--------------------------------------|---|
| DEVELOPMENT APPLICATION: | 155/635/15 |
| APPLICANT: | JMC Star Enterprises Pty Ltd |
| SUBJECT SITE: | 79 and 79A Beulah Road, Norwood (Certificates of Title Volume: 5094 Folio: 922, Volume 5094 Folio 921 and Volume 5956 Folio 534) |
| DESCRIPTION OF DEVELOPMENT: | To use a church hall, located at the rear of the main church hall, for tuition and rehearsals in association with a children’s dance, singing and drama teaching facility (Theatre Bugs) with ancillary storage, including within a shipping container placed adjacent to (behind) the hall. |
| ZONE: | Residential Historic (Conservation) Zone, Norwood 3 Policy Area, Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015) |
| PUBLIC NOTIFICATION CATEGORY: | Category 3 |

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application to use a church hall, located at the rear of the main church hall, for tuition and rehearsals in association with a children’s dance, singing and drama teaching facility (Theatre Bugs) with ancillary storage, including within a shipping container placed adjacent to (behind) the hall.

Staff do not have delegated authority to determine the Application, as it is Category 3 for public notification purposes. As such, the Application is referred to the Panel for determination.

In making its determination, the Panel is required to consider whether, on balance, the proposal is firstly seriously at variance with the Development Plan as a whole. If so, the Application must be refused consent pursuant to Section 35(2) of the *Development Act 1993*. If not, the Panel must go on to consider whether the proposal sufficiently accords with the Development Plan to merit consent.

Background

On 12 September 2015, JMC Star Enterprises lodged a Development Application (DA 155/635/15) seeking approval to use two church halls at 79 Beulah Road for a children’s drama facility known as Theatre Bugs. The two church halls are shown as Front Hall and Rear Hall in the image below.



Theatre Bugs currently operates from a former church hall at 134 The Parade, Norwood. It is understood that new premises are required, as the lease is not able to be extended at the current premises.

Development Application 155/635/15 underwent public notification from 12 to 23 October 2015. The Council has subsequently had cause to reconsider the nature of the Development Application, based on consideration of the history of the use of both of the church halls.

The Development Act 1993 requires that Development Approval be obtained for a change of use of land. Section 6 of the Development Act deals with the concept of a change of use of land and explains what is regarded as a continuation of an existing use. Whether a proposed use of land constitutes a change of use or a continuation of an existing use is often not straight forward and will require careful consideration of a range of circumstances. In the case of the two church halls, it is evident that since their construction in 1878 (front hall) and 1923 (rear hall), they have been used for a range of uses including a school (by the Church and Norwood Primary School), theatrical/dance groups, community dances, sports groups, community groups (scouts, dramatic society) etc.

Having considered extensive contemporaneous evidence of the history of the use of the two church halls, it has been determined that the front hall has existing use rights for class teaching/instructional type activities, including use for dance, singing and drama activities, consistent with the intended use of the hall by JMC Enterprises Pty Ltd. In this respect, recent activities in the front hall have included:

Burnside Calisthenics - 2013-2014

- Monday 4:00pm – 9:30pm
- Wednesday 4:00pm – 9:00pm
- Thursday 4:00pm – 8:30pm
- Saturday 10:00am – 11:00am
- Sunday (fortnightly) 2:00pm – 6:00pm
- **Total 18 hours/week (average)**

RMT Modelling and Acting Agency – 2013-2015

- Tuesday 4:00pm – 9:00pm
- Friday 4:15 – 5:45pm
- **Total 6.5 hours/week**

Ridgehaven Calisthenics 2014-2015

- Saturday (monthly) 11:30-1:30
- **Total 0.5 hours/week (average)**

Centre Stage Dance Classes 2003-2012

- Monday 6:45 – 8:45pm
- Tuesday 9:30am – 11:00am and 3:15pm – 7:45pm
- Wednesday 9:00am – 12:00pm and 4:00pm – 8:00pm
- Thursday 1:30pm – 7:30pm
- Friday 4:00pm – 8:00pm
- Saturday 9:30am – 1:30pm
- **Total 30 hours/week**

Extensive contemporaneous evidence of similar class teaching/instructional type activities having taken place within the front hall prior to 2003, including prior to the introduction of interim planning controls in 1972, has been provided. Therefore, the front hall may be used by Theatre Bugs, without seeking Development Approval.

On the other hand, any existing use rights for class teaching/instructional type activities within the rear hall, have been abandoned due to a recent eleven (11) year tenure by an artist.

Accordingly, the Applicant has sought to amend the Development Application so as to exclude the front hall. The nature of the Development Application, as amended, has now been determined to be to use a church hall, located at the rear of the main church hall, for tuition and rehearsals in association with a children's dance, singing and drama teaching facility (Theatre Bugs) with ancillary storage, including within a shipping container placed adjacent to (behind) the hall.

Subject Land Attributes

| | |
|----------------------|---|
| Shape: | irregular |
| Frontage width: | 55 metres |
| Depth: | 53 metres |
| Area: | 2881m ² |
| Topography: | essentially flat |
| Existing Structures: | two storey rectory with an associated freestanding carport and two church halls |
| Existing Vegetation: | two large regulated pine trees and a range of smaller shrubs and small trees |

The subject land contains the church rectory, the front church hall and the rear church hall. A gravel surfaced driveway enters the subject land immediately west of the rectory, circles around the rear of the rectory and returns to Beulah Road between the rectory and the two church halls.

The front church hall was constructed in 1878, seven years after the rectory was built in 1871. A newspaper article from 1879 states:

“At present only the large hall has been erected, beside and back of the building having an unfinished appearance, but at some future time it is intended to add eight classrooms, four on either side, and a larger room at the back.”

The extra classrooms were added to the front hall in 1912 and the rear hall was constructed in 1923.

At the time interim development controls were introduced in the area (January 1972), the rear hall was being hired by:

- two community clubs (a pistol club/sporting shooters' association and a camera club); and
- Dural Leeds, a manufacturer of window furnishings and screens (i.e. a commercial use).

Prior to 1972, uses of the church halls included the following land uses, although it is unclear as to which hall certain acts or activities were occurring in:

- use as a school;
- community dances;
- use by sports groups (badminton, sporting shooters); and
- use by community groups (scouts, dramatic society).

Since 1972, uses of the rear hall have included:

- as a storage facility for Grace Bros Removals;
- by theatrical/dance groups, including a dance and theatre group and a performing arts collective;
- by Children's bookshelf (use unknown);
- use by the Church Ministry Society;
- use by Parade Apparel (understood to be a clothing store); and
- use by Mr Grauso as an art studio between 2004 and 2015.

While dance & performance type activities have featured from time to time in the rear hall, the 11 year exclusive use and occupation tenure by Mr Grauso has resulted in any existing use rights for such uses being abandoned.

The rear hall is a stone, open plan building, containing a small stage at the western end. High level windows are located in the northern wall of the hall and standard-height windows in the southern side wall.

Locality Attributes

Land uses: mix of residential and church uses
Building heights (storeys): predominantly single storey

The subject land is located on the northern side of Beulah Road, mid-way between Osmond Terrace and Sydenham Road. The subject land is bounded on the eastern side by an open car parking area associated with Prophet Elias, the Greek Orthodox Parish of Norwood and Eastern Suburbs.

To the rear of the subject land are residential properties containing detached and semi-detached dwellings fronting Sheldon Street, and a group dwelling located at 32 Sheldon Street.

Aside from the two adjacent church properties, Beulah Road has a residential character and contains a mix of dwelling types, predominantly single storey and detached.

A plan of the subject land and its surrounds is contained in **Attachment A**.

Proposal in Detail

The applicant is seeking consent to use the rear hall for tuition and rehearsals in association with a children's dance, singing and drama teaching facility (Theatre Bugs).

The proposed hours of operation are set out below.

During School Terms (39 weeks per year)

Monday – Thursday 3:45 to 8:00pm

Friday 8:30am – 1:00pm

Saturday 8:30 – 1:00pm

Sunday – rehearsals a few Sundays per year (maximum of 6 per year)

During School Holidays (10 weeks per year)

Thursday 8:30am – 4:30 pm

Occasional rehearsals on other days

The Church currently uses the rear hall for Sunday School and will continue to do so while Theatre Bugs is operating from the premises. An agreement is in place however, allowing Theatre Bugs to use the rear hall on up to 6 occasions per year, in lieu of the Sunday School.

The Applicant has advised that the average class size is 11 students, with only one class being conducted from the hall at any given time. The maximum class size is 18 students. Most classes would involve tuition from one (1) teacher; however some larger classes would involve tuition by up to three (3) teachers. Classes involve performing to pre-recorded music and students do not use microphones.

It is proposed that class start and finish times be staggered with those of classes in the front hall, so as to reduce the peak parking demand and traffic generation associated with the subject land. A timetable showing how the classes would be staggered has been provided and shows a gap between class start and finish times of between 15 and 30 minutes.

Twenty three (23) car parking spaces are proposed, comprising fifteen (15) existing car parking spaces located adjacent to the rear boundary and eight (8) new spaces, located on the western side of the rectory. These new spaces are proposed to be created by replacing a portion of an existing lawn area with a gravel surface (matching the driveway) and installing concrete wheel stops. A 'kiss and drop' location is proposed adjacent to a gate located between the front and a rear hall, which is to be the only access point to both halls.

A shipping container is proposed to be located behind the rear hall, for general storage purposes. The shipping container is proposed to have a standard personal access door in the side of the container, in addition to a larger opening at the rear.

A copy of the proposed plans and details are contained in **Attachment B**.

Notification

The proposal has been identified and processed as a Category **3** form of development.

Seven (7) representations were received (all opposed) in response to this notification, copies of which are contained in **Attachment C**. The key issues raised by representors are, in summary:

- Noise from activity within the hall
- Noise from vehicle traffic
- Dust and pollution
- Impact of signage on the heritage value of the hall
- Lack of acceptance of existing use rights for the front hall
- The shipping container will be an eyesore
- The traffic generated will not fit on site
- Insufficient parking on site
- Property values will fall
- Excessive hours of operation
- Headlights of cars will shine into adjacent residential property
- The shipping container blocks a right of way to 38 and 40 Sheldon Street

The following representors desire to be heard personally by the Development Assessment Panel (DAP):

- *A/Prof Sanghamitra Guha*
- *Ms Janet Murray*
- *Ms Elizabeth Williams*
- *Ms Elizabeth Hanson*
- *Mrs Jo and Mr Chris McDermott*

The Applicant has responded to the representations received and a copy of their response is contained in **Attachment D**.

State Agency Consultation

The *Development Regulations 2008* do not require consultation with State Government Agencies.

Discussion

The subject land is located within the Residential Historic (Conservation) Zone (Norwood 3 Policy Area) of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

The key issues, specific to this Development Application, are discussed in detail below.

Land Use

The following Development Plan provisions provide guidance on the land uses which are envisaged for the land and managing land use conflict:

| | |
|----------------------------------|---------------------------------|
| Residential H(C) Zone Objective: | 7, 8 |
| Residential H(C) Zone PDC's: | 7 |
| City Wide Objectives: | 1, 7, 10, 26, 27 |
| City Wide PDC's: | 1, 3, 4, 12, 82, 83, 84, 86, 89 |

Objective 7 and Principle of Development Control 7 of the Residential Historic (Conservation) Zone state respectively:

“The continuance or reintroduction of non-residential use only where there is a historic basis for such a use, or where non-residential use will significantly contribute to the retention of historic character and not impact on residential amenity.”

and

“The following kinds of development are considered appropriate in the Residential Historic (Conservation) Zone:

- (a) dwellings at densities that reflect of the historic development patterns of the locality and the established residential amenity and the historic character of the zone;*
- (b) dwelling additions;*
- (c) outbuildings and minor forms of development that are ancillary to the residential use of land;*
- (d) the retention, continuation and rehabilitation of old buildings reflecting the traditional character of the area; and*
- (e) non-residential use where there is a historic basis for such a use, for example, old corner shops.”*

Consistent with the above policies, the proposal is to reintroduce a non-residential use where there is a historical basis for a non-residential use. The rear hall was originally constructed as a hall to be used principally by the Church as part of the Sunday school. The nature and intensity of use within the rear hall has varied over time, however it has always been used for non-residential purposes and aside from use by the church, there has been periods of time where it has been used by third parties for various purposes, including by theatrical/dance groups, including a dance and theatre group and a performing arts collective.

Objective 7 makes a distinction between a situation where there is a historical basis for a non-residential use and a situation where there is no historical basis for a non-residential use. In the latter situation, the desire for a non-residential use to establish in the zone is qualified, insofar as it may only occur where it will contribute to the historic character and not impair the residential amenity. This indicates some level of acceptance that non-residential uses in situations where there is a historic basis for such a use, may result in some impact on residential amenity.

An example of the application of this is a local corner shop. The policy encourages corner shops which may have been converted to a residential use over time, to revert back to a corner shop, despite the fact that a shop will often result in some impact (generally noise and traffic) on adjacent residential properties, presumably on the basis that a viable commercial use will help to support the ongoing retention and conservation of the building.

That being said, there are other provisions of the Development Plan aimed at maintaining a reasonable level of residential amenity which apply, including Objective 8 of the Residential Historic (Conservation) Zone, which states:

“Maintenance of a pleasant and functional living environment broadly meeting the needs and expectations of local residents.”

A common concern amongst the representors is that the proposed use of the rear hall will cause excessive noise, both as a result of activities within the hall and on-site vehicular movements associated with the use.

Activities within the hall are proposed to comprise drama/acting tuition and rehearsals. It is understood that a microphone will be available for teachers to use if needed, however students will not use a microphone. Music is to be played on an audio system.

City Wide Principle of Development Control 89 provides quantitative criteria for development involving music. In particular, Principle 89 states:

Development proposing music should include noise attenuation measures that achieve the following desired noise levels:

| Noise level assessment location | Desired noise level |
|--|--|
| <i>Adjacent existing noise sensitive development property boundary</i> | <p><i>Less than 8 dB above the level of background noise (L90, 15min) in any octave band of the sound spectrum;</i></p> <p style="text-align: center;"><i>and</i></p> <p><i>Less than 5 dB(A) above the level of background noise (LA90, 15min) for the overall (sum of all octave bands) A-weighted level.</i></p> |
| <i>Adjacent land property boundary</i> | <p><i>Less than 65dB(Lin) at 63Hz and 70dB(Lin) in all other octave bands of the sound spectrum;</i></p> <p style="text-align: center;"><i>or</i></p> <p><i>Less than 8 dB above the level of background noise (L90, 15min) in any octave band of the sound spectrum and 5 dB(A) overall (sum of all octave bands) A-weighted level.</i></p> |

City Wide Principle of Development Control 86 provides quantitative criteria for development that emits noise, other than music. In particular, Principle 86 states:

Development that emits noise (other than music noise) should include noise attenuation measures that achieve the relevant Environment Protection (Noise) Policy criteria when assessed at the nearest existing noise sensitive premises.

The Applicant engaged Acoustic Engineers, Sonus, to assess whether the proposed use will achieve the criteria in Principle 89. In summary, this was performed as follows:

- Background noise levels were measured at the rear of 79 Beulah Road between 15 and 20 January, during the proposed hours of operation for the hall (after school until 8:00pm Monday to Thursday and Friday and Saturday mornings);
- The music noise criteria for each octave band and an overall weighted level, was determined, by adding 8dB(A) and 5dB(A) respectively, to the lowest background noise levels during background testing;

- The car park noise criteria was determined by applying a 'penalty' to the usual goal noise level of 53dB(A) in the Environment Protection (Noise) Policy, due to the modulation of noise from carpark activity, resulting in a criteria of 47d(B)A at the residential properties;
- Music was played within the rear hall by Sonus, at a level consistent with measurements taken by Sonus in similar facilities and to enable instructional voice in a children's class to be heard. The chosen level was 77dB(A). The applicant has advised that the level at which Sonus played the music was 'uncomfortable' and higher than they anticipate playing music;
- Predictions were made of the music noise levels at the residential properties, based on the internal music levels transferred to outside of the hall, with the door and windows closed;
- Predictions were made of the car park noise levels at the residential properties, based on a range of previous noise measurements and observations by Sonus at similar facilities, taking into account people talking, opening and closing of car doors, vehicles starting, vehicles idling, vehicles moving and accelerating and general movements on a gravel surface.

A copy of the report by Sonus is contained in **Attachment E**.

The predictions indicate that the music will achieve the relevant criteria, without any specific acoustic treatment measures, other than having the door and windows closed. Similarly, the combined use of the car park and driveway are predicted to achieve the Policy goal noise level of 47dB(A) at all residences in the vicinity of the car park.

The predicted level of music noise at the boundary of adjacent residential properties, is 35dB(A), which is 5dB(A) higher than the lowest background noise measurement during background noise testing and therefore is at the upper limit of the allowable noise pursuant to Principle 89. There are two things to note in this regard. The first is that the applicant has advised that the volume at which Sonus played music was higher than that which it would ordinarily be played. Sonus have confirmed that to be the case, in order to provide a conservative assessment. The second is that background noise testing occurred while the front hall was not in operation. Theoretically, given that existing use rights exist for the front hall to be used currently, background noise testing could have occurred while the front hall was being used. This would have resulted in a higher background noise level and resultant higher noise criteria for the rear hall.

In this context, the fact that the predicted noise is at the upper limit of the allowable noise level, is not a concern. In order to minimise the prospect of the music noise exceeding the upper limit at any given time, if the Panel determines to approve the application, the following conditions are recommended.

1. That the music level within the rear hall be limited to a maximum of 77dB(A).
2. Once the system is in place, the music level is to be confirmed and the operating settings (volume control and other settings on the system) are to be photographed. A summary report is to be sent to Council.
3. The door to the rear shall have a self-closing mechanism installed and the door and all windows shall be closed at all times whilst lessons are held within the hall or music is played within the hall for any other reason.

Subject to the imposition of the above conditions, it is considered that the proposal would result in the maintenance of a pleasant and functional living environment broadly meeting the needs and expectations of local residents, consistent with Objective 8 of the Residential Historic (Conservation) Zone.

Carparking/access/manoeuvring

The following Development Plan provisions provide guidance with respect to car parking access and manoeuvring considerations:

Residential H(C) Zone PDC: 32

City Wide Objectives: 32 & 34
City Wide PDC's: 98, 104, 115, 120, 121, 122 & 124

Residential Historic (Conservation) Zone Principle 32 states that vehicle access to sites should be via minor streets and/or existing crossovers where possible. The proposed vehicular access arrangements are consistent with this Principle, as existing crossovers are to be used.

Currently traffic circulates through the site entering from the crossover located between the rectory and the halls and leaving via the crossover located west of the rectory. It is proposed to reverse this movement, so as to provide a longer available queue length for vehicles behind the kiss and drop area, so there is no risk of the queue extending out onto Beulah Road.

Additionally, it would enable students being dropped off at the kiss and drop to exit the passenger side of the car and not need to cross over the driveway. The proposed access and egress arrangements are considered to be orderly, safe and convenient. Concerns regarding dust from vehicle movements are considered to be unfounded, due to the slow speed that vehicles are likely to move through the driveway, due to its size and layout.

The Development Plan does not provide a car parking rate for a use in the nature of that which is proposed. It is therefore necessary to consider the likely car parking demand, based on class size and other users of the car park (i.e. the Church and the front hall). The Applicant has advised that the average class size is 11 students and the maximum class size is 18 students. This applies to both of the halls. Class start and finish times for the front and rear hall are at least 15 minutes apart.

Based on observations of the current Theatre Bugs operation on The Parade, Norwood, some parents of students are likely to park their car and walk their children to the entry foyer, while others are likely to use the 'kiss and drop' facility. Some parents will choose to wait in the car park for the lesson to finish, while others will choose to leave and come back. The extent to which the kiss and drop facility would be chosen, is likely to be somewhat dependent on the availability of convenient on-site car parking.

Based on the maximum class size of 18 students, if 33% of parents used the 'kiss and drop' facility and the remaining 66% used the car park *and* chose to remain in the car park until the end of their child's lesson (this is considered unlikely, as some would likely leave and return), there would be 12 remaining car parking spaces, to cater for the commencement of class in the other hall. Applying the same scenario to the other hall, the proposed allocation of 23 car parking spaces would be approximately sufficient to cater for the likely demands in a peak demand scenario, when both halls are being used at maximum capacity.

One of the representors has advised that the proposed shipping container blocks a right of way to 38 and 40 Sheldon Street. However, the east-west easement referred to by the representor, is located on their own properties; not the Church property. That easement subsequently provides access to the north-south driveway on the Church property, which 38 and 40 Sheldon Street do have rights of way over, however is not blocked by the proposed shipping container. The location of the east-west easement on the land at 38-40 Sheldon Street is verified when cross-referencing the allotment boundary dimensions on the relevant Titles. As the shipping container does not interrupt the use of the easement located on the land at 38-40 Sheldon Street, nor the north-south driveway on the Church property, it is not obstructing any rights of way.

In the event that the Panel determines to grant consent to the Application, it is recommended that conditions be imposed, requiring that concrete wheel stops be installed to delineate the new angled car parking spaces adjacent to the rectory and 'entry only' and 'exit only' signs be installed to indicate the revised flow of traffic.

Trees (significant, mature & street) and landscaping

The following Development Plan provisions provide guidance with respect to considerations relating to significant trees, mature trees, street trees and landscaping:

Residential H(C) Zone Desired Character Statement
Residential H(C) Zone PDC: 36

City Wide Objectives: 24
City Wide PDC's: 73-78

Residential Historic (Conservation) Zone Principle of Development Control 36 states:

Development should ensure the preservation of natural landscape features that contribute to the character and appearance of the zone.

The proposal involves the conversion of an area of lawn to car parking to accommodate eight (8) angled car parking spaces, between the rectory and the church. This represents a small reduction in the overall landscaping on the property and is set behind two large pine trees, which are to be retained. Accordingly, the proposal is considered to be reasonably consistent with Principle 36.

Streetscape/bulk/scale/character

The proposed shipping container is in a location where it will not be visible from the street, nor any adjacent properties. Therefore it will have no negative impact on the character of the locality.

No other building work is proposed. Advertising does not form part of the current application. The Applicant has advised that a separate Development Application will be lodged for advertising in the event that the current Application is granted consent. Any such subsequent Application for signage will be assessed against the relevant provisions of the Development Plan with advice from the Council's Heritage Advisor, with the overarching premise being that signage be discreet, tasteful and minimal.

Summary

The proposal to use the rear hall for tuition and rehearsals in association with a children's dance, singing and drama teaching facility is consistent with the desire expressed in the Development Plan, for the Residential Historic (Conservation) Zone to accommodate non-residential uses on sites where there is a basis for non-residential land uses.

The impacts associated with the proposed use on the amenity of adjacent residential properties, are considered to be within reasonable expectations. The predicted noise levels associated with music and activities within the car parking area and driveway are within the EPA noise policy and the relevant quantitative Development Plan provisions. It is considered that adequate car parking is provided on site to cater for the likely demand.

As no building work or advertising is proposed, no impact on the visual character of the locality will result from the proposal. The proposed shipping container is located such that it will have no detrimental impact on the streetscape or character of the locality.

Accordingly, it is considered that the proposal **is not** seriously at variance with the Development Plan and sufficiently accords with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/635/15 by JMC Star Enterprises Pty Ltd to use a church hall, located at the rear of the main church hall, for tuition and rehearsals in association with a children's dance, singing and drama teaching facility (Theatre Bugs) with ancillary storage, including within a shipping container placed adjacent to (behind) the hall on the land located at 79 and 79A Beulah Road, Norwood, subject to the following requirements, conditions and notes:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- Site plan prepared by Warwick Smith, received by the Council on 4 February 2016
- Email from Warwick Smith to Mark Thomson, dated 21 December 2015, 12:15am
- Email from Warwick Smith to Mark Thomson, dated 13 January 2016, 10:18am

Conditions

1. Classes shall only be held in the rear hall during the following times:
 - Monday to Friday 8:30am to 8:00pm
 - Saturday and Sunday 8:30am to 1:00pm
2. The rear hall shall be used for classes on Sunday on a maximum of six (6) occasions per year.
3. The music noise level within the rear shall not exceed 77dB(A) measured within the hall.
4. Once the audio system is in place, the music level is to be confirmed by an Acoustic Engineer and the operating settings (volume control and other settings on the system) are to be photographed. A summary report is to be sent to Council.
5. The door to the rear shall have a self-closing mechanism installed and the door and all windows shall be closed at all times whilst lessons are held within the hall or music is played within the hall for any other reason.
6. Concrete wheel stops shall be installed to delineate the angled car parking spaces located adjacent to the rectory.
7. Signs shall be installed to displaying 'entry only' and 'exit only', to indicate the revised flow of traffic. Details of the signs shall be provided to the reasonable satisfaction of the Council prior to their installation.

Notes to Applicant

1. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.
2. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/0813/2015 – D'ANDREA & ASSOCIATES (SA) PTY LTD – 315 PAYNEHAM ROAD, ROYSTON PARK

| | |
|--------------------------------------|---|
| DEVELOPMENT APPLICATION: | 155/0813/15 |
| APPLICANT: | D'Andrea & Associates (SA) Pty Ltd |
| SUBJECT SITE: | 315 Payneham Road, Royston Park (Certificate of Title - Volume: 5308, Folio: 99) |
| DESCRIPTION OF DEVELOPMENT: | Change of use from an office to consulting rooms with associated alterations and additions (non-complying) |
| ZONE: | Residential Zone Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015) |
| PUBLIC NOTIFICATION CATEGORY: | Category 3 |

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application that involves a change of use from an office to consulting rooms with associated alterations and additions.

Staff do not have delegated authority to determine the Application, as it is a Category 3 form of development for public notification purposes.

As such, the Application is referred to the Panel for determination.

In making its determination, the Panel is required to consider whether, on balance, the proposal is firstly seriously at variance with the Development Plan as a whole. If so, the Application must be refused consent pursuant to Section 35(2) of the *Development Act 1993*. If not, the Panel must go on to consider whether the proposal sufficiently accords with the Development Plan to merit consent.

Being a non-complying form of development, if the Panel determines to grant consent, the Application will be referred to the Development Assessment Commission (DAC), which will subsequently determine whether or not to concur with the decision of the Panel. If the DAC does not concur with the decision of the Panel to grant consent to the Application, then the Application cannot proceed. If the Panel does not grant consent to the Application, then the concurrence of the DAC will not be required.

Subject Land Attributes

| | |
|----------------------|---|
| Shape: | regular |
| Frontage width: | 18.29m |
| Depth: | 60.96m |
| Area: | 1115m ² |
| Topography: | essentially flat |
| Existing Structures: | an office building and associated car parking |
| Existing Vegetation: | a lawn area adjacent Payneham Road and minor landscaping in the rear car parking area |

The subject land contains an office building with a gross leasable area of 310 square metres and a car parking area with fourteen (14) car parking spaces. The building on the subject land was originally constructed as a dwelling. The existing office use and associated car parking was approved in November 1990 (via DA 190/1151/90).

Locality Attributes

Land uses: mix of office, shop, consulting rooms and residential
 Building heights (storeys): several two storey
 Streetscape amenity moderate – the amenity is compromised by the vehicular movements associated with Payneham Road

A plan of the subject land and its surrounds is contained in **Attachment A**.

A large two-storey mixed use building and an associated car parking area is located on the adjacent land at 313 Payneham Road. A residential flat building containing five (5) dwellings is located on the adjacent land at 317 Payneham Road. Detached dwellings abut the rear boundary of the subject land, at 171, 173 and 175 First Avenue.

Within the locality, a group of shops are located at 305-309 Payneham Road and the Payneham Hotel is located at 319-327 Payneham Road.

Proposal in Detail

The Applicant is seeking consent for a change of use from an office to consulting rooms with associated alterations and additions.

The alterations and additions to the building include the demolition of the front two (2) rooms of the existing building and the construction of two (2) new rooms with essentially the same layout and footprint. The proposed additions are of a contemporary architectural style with a flat roof located behind a silver metallic ‘Scyon Matrix’ clad parapet, with large anodised aluminium windows to provide a commercial appearance.

The proposed alterations and additions do not result in any increase the floor area of the building, which remains at 310 square metres.

The existing car parking area at the rear of the subject land is proposed to be supplemented with three (3) additional car parking spaces at the front of site, adjacent to Payneham Road, resulting in a total of seventeen (17) on-site car parking spaces. Vehicular access and egress remains unchanged, with access from both Payneham Road and Salisbury Avenue, via a right of way at the rear of the allotment.

1800mm high black powder-coated security gates and associated security fencing are proposed at the side of the building and at the rear of the site to secure the car parking area outside of business hours.

The existing landscaping is proposed to be supplemented to off-set the loss of landscaping at the front of the site resulting from the proposed additional car parking spaces.

The relevant details of the proposal in terms of areas, setbacks and the like are set out in Table 1 below.

TABLE 1: DEVELOPMENT DATA:

| Consideration | Proposal | Development Plan Merit Assessment Quantitative Guideline |
|-----------------------|--------------------|--|
| Site Area | 1115m ² | N/A |
| Allotment Width | 18.29m | N/A |
| Allotment Depth | 60.96m | N/A |
| Floor Area (total) | 310m ² | N/A |
| Car Parking Provision | 17 spaces | 16 spaces (Table NPSP/9 – 4 spaces per consulting room) |

Plans and details of the proposed development, including a Statement of Effect, are contained in **Attachment B**.

Notification

The proposal has been identified and processed as a Category 3 form of development. No representations were received in response to this notification.

State Agency Consultation

Whilst the subject land is located adjacent to an arterial road (Payneham Road), the proposed development was not referred to Commissioner of Highways pursuant to Schedule 8 of the *Development Regulations 2008*, as the proposed development does not alter an existing access point, nor will it change the nature of movement through and existing access point.

Discussion

The subject land is located within the Residential Zone of the Norwood Payneham and St Peters (City) Development Plan. Consulting rooms with a floor area of greater than 250 square metres, which abut an arterial road, are listed as a non-complying form of development within the Zone. As such, the Applicant has submitted a Statement of Effect, pursuant to Regulation 17 of the *Development Regulations 2008*.

The key issues, specific to this Development Application, are discussed in detail below.

Land Use

The following Development Plan provisions provide guidance on the type of development that is envisaged within the Development Plan:

| | |
|--|------------------------|
| Residential Zone Desired Character Statement | |
| Residential Zone PDC's: | 1, 2, 4 & 15 |
| City Wide Objectives: 1, 2, 3, 5, 7, 12, 13, 26 & 27 | |
| City Wide PDC's: | 1, 3, 4, 6, 80 & 82-84 |

Residential Zone Principle of Development Control 15 lists land uses that are non-complying within the Zone. Residential Zone PDC 15 states (in part):

"The following forms of development (including building work, a change in the use of the land, or division of an allotment) are considered inappropriate and are non-complying:

Consulting rooms except:

- (a) the re-use of a building originally constructed for the use as a shop, consulting room or office with a total gross leasable floor area of 250 square metres or less; or*
- (b) where the site fronts an arterial road and has a total gross leasable floor area of 250 square metres or less; or*
- (c) it is ancillary to the function or operation of an aged care/retirement facility; or*
- (d) within the Medium Density Policy Area, where located on the ground floor of a mixed use building that fronts an arterial road and where the gross leasable floor area does not exceed 500 square metres."*

The subject land fronts an arterial road (Payneham Road) consistent with part (b) above, however the gross leasable area of the building is 310 square metres, which exceeds the prescribed 250 square metre threshold for consulting rooms in the Residential Zone.

The 250m² threshold serves dual purposes, including ensuring that the resulting built form is of a residential scale as prescribed within the Zone, and that the establishment of a non-residential land use does not have an adverse impact on the hierarchy of Centres within the Council area.

The Desired Character Statement for the Residential Zone states (in part):

“Along arterial roads, some opportunity for the establishment of non-residential uses will be provided through the conversion of existing dwellings, small-scale purpose built buildings and on the ground floor of mixed-use buildings in close proximity to centres. Careful management of the building envelope and vehicle access/egress arrangements for this type of development will be required to ensure that it does not have an unreasonable impact on the amenity of residents located to the rear of arterial road sites and on local and arterial road networks.”

The Desired Character Statement for the Residential Zone reiterates that opportunities for non-residential land uses should be limited to the conversion of existing dwellings or small-scale purpose built buildings.

In this instance, whilst modifications are proposed to the existing building to accommodate the proposed change of use to consulting rooms, the floor area will remain unchanged from the previous offices. As such, there will be minimal change to the scale of the building or the associated floor areas.

In terms of the potential impact on the Centres hierarchy, the proposed development is not likely to have any significant impact as the proposed consulting rooms remain of a relatively small scale.

It is apparent when considering all relevant provisions of the Development Plan, that the intent behind listing consulting rooms as a non-complying land use within the Residential Zone, is to preserve a high level of amenity for residents within the zone, thereby avoiding the impacts that can be associated with consulting rooms, such as noise related to staff and customer vehicular movements and the visual amenity impacts of signage, car parking areas and the like.

If approved, the proposed development will result in an increase in the number of vehicular movements to and from the subject land. However, the increased traffic movements are not likely to impact on the amenity of any nearby residential properties, due to the background noise associated with existing traffic volumes on Payneham Road during operating hours.

The locality contains several non-residential land uses including shops, offices, a hotel and a cafe. In this context and having regard to the fact that the subject land has been used as an office since 1990, it is considered that the operation of consulting rooms from the subject land will not have a detrimental impact on the general character or amenity of the locality.

The Applicant has stated that the proposed operating will be between 9:00am and 5:00pm Monday to Friday; and between 9:00am and 12:00pm on Saturdays. If the Panel determines to grant Development Plan Consent, then it is recommended that a condition of consent be included limiting the hours of operation to 7:00am until 7:00pm Monday to Friday; and 8:00am to 6:00pm on Saturdays. It is considered that this will provide some level of flexibility for future occupiers.

Despite the proposed land use being a non-complying land use in the Residential Zone and at odds with the objectives of the Residential Zone, it is considered that there are sufficient site-specific circumstances that apply in this instance, to warrant the establishment of the proposed consulting rooms. As such, the proposed land use is considered to be acceptable.

Streetscape/bulk/scale/character

The following Development Plan provisions provide guidance with respect to the built form considerations:

| | |
|--|-------------------------|
| Residential Zone Desired Character Statement | |
| Residential Zone Objectives: | 3 |
| Residential Zone PDC's: | 6, 13 |
| | |
| City Wide Objectives: | 8, 18, 19, 20 |
| City Wide PDC's: | 28, 29, 30, 32, 39 & 40 |

The proposed development includes the demolition of the front two (2) rooms of the building and the associated hipped roof, and the reconstruction of two (2) rooms in the same footprint with a contemporary commercial architectural style. The proposed building alterations will effectively give the building a new facade which is dominated with glazing and naturally anodised commercial aluminium window joinery, with silver metallic "Scyon Matrix" clad parapet concealing a flat roof.

The subject land is not located within a Historic (Conservation) Zone and there are no heritage places in the locality. As such, the contemporary form and the high proportion of glazing within the front facade are considered to be acceptable in this locality.

No business identification signage is proposed with the current Application. In the event that signage is desired for the proposed consulting rooms (as is likely), it will need to be the subject of a separate Development Application. That said, any future business identification signage will need to be reasonably discreet and coordinated in appearance so as to conform to the relevant provisions of the Development Plan.

Car-parking/access/manoeuvring

The following Development Plan provisions provide guidance with respect to car parking access and manoeuvring considerations:

| | |
|-----------------------|-----------------------------------|
| City Wide Objectives: | 32 & 34. |
| City Wide PDC's: | 98, 104, 115, 120, 121, 122 & 124 |
| Tables: | NPSP/9 |

In terms of the provision of on-site car parking, Tables NPSP/9 provides car parking rates for consulting rooms. Table NPSP/9 prescribes a rate of four (4) car parking spaces for every consulting room. The proposed development includes four (4) consulting rooms, which will result in a theoretical demand for sixteen (16) on-site car parking spaces.

The proposed development will include an upgrade of the existing car parking area to accommodate seventeen (17) on-site car parking spaces. The provision of on-site car parking is therefore considered to be acceptable.

Vehicular access and egress remain unchanged. Whilst manoeuvring associated with the three (3) new car parking spaces proposed at the front of the building is safe and convenient, car parking space No. 1 is located only 4.6 metres from the Payneham Road kerb, which could cause conflicts between vehicles reversing from this space, in the event that another vehicle is entering the land from Payneham Road.

In this context, given that there is a theoretical surplus of one (1) on-site car parking space, it is recommended that car parking space No. 1 be deleted and replaced with additional landscaping, which will improve the visual appearance of the development and, importantly, provide for a reasonable area for a vehicle to stand off-street when entering from Payneham Road, in the event that a vehicle is reversing from car parking spaces No. 2 or 3. Should the Panel determine to approve the development, a condition is recommended to this effect.

Trees (significant, mature & street) and landscaping

The following Development Plan provisions provide guidance with respect to considerations relating to significant trees, mature trees, street trees and landscaping:

| | |
|-----------------------|-------|
| City Wide Objectives: | 24 |
| City Wide PDC's: | 73-78 |

There are no regulated trees located on the subject land or surrounding properties affected by the proposed development. There are also no street trees located adjacent to the subject land.

The Applicant has provided an indicative landscaping plan which illustrates a range of species including small trees, shrubs and groundcovers. The proposed landscaping includes generous areas at the front of the building and reasonable areas adjacent to the rear car parking area, which will complement the development and provide for a reasonable level of streetscape amenity.

The provision of landscaping is considered to be acceptable. If the Panel determines to approve the development, it is recommended that a condition be imposed requiring an irrigation system to be installed and for the landscaping area to be maintained in good condition.

Environmental Sustainability

The following Development Plan provisions provide guidance with respect to environmental sustainability considerations:

| | |
|-----------------------|-----------|
| City Wide Objectives: | 23 |
| City Wide PDC's: | 12, 67-72 |

The proposed building work includes substantial glazing to the front facade. The front facade has a south-eastern aspect and, as such, the high level of glazing is not expected to result in any excessive heat loading on the building during summer.

The proposed development includes the construction of three (3) additional car parking spaces, which are proposed to be constructed with concrete pavers which are impervious (although this will be reduced to two (2) spaces if the Panel adopts the recommendation to impose a condition requiring the removal of car parking space No. 1. The addition of two (2) or three (3) additional car parking spaces will only have a negligible impact on stormwater runoff from the site.

In terms of waste management, it is considered that the proposed consulting rooms are unlikely to generate significant waste, albeit that there may be a requirement for secured medical waste. In this instance, there is adequate space behind a security fence and gate on the north-eastern side of the building, for waste to be stored securely whilst it is awaiting collection.

The subject land is considered to be well landscaped and will provide an improved amenity for occupants and visitors alike.

Summary

The Residential Zone lists consulting rooms of greater than 250m², which abut arterial roads, as a non-complying land use. However, the subject land has a history of non-residential land use with the site used as offices since 1990. The proposed adaptive re-use of the building for consulting rooms will ensure the economic viability of the building, which is a positive aspect of the development.

Furthermore, adequate on-site car parking is proposed to cater for the likely demand of the staff and visitors.

In terms of impacts on adjoining residential properties, taking into account the background noise of traffic on Payneham Road and the fact that no trading is proposed after 7.00pm, it is likely that the proposal will not impact unreasonably on the amenity of nearby residents.

Given that the subject land is already used for non-residential purposes and other non-residential land uses exist within the locality, the proposal will not result in the 'creep' of a non-residential land use into the Residential Zone (in terms of its relationship with existing surrounding land uses). If the subject land was surrounded entirely by residential land uses, then the proposed use would have required further detailed analysis in regards to its suitability.

Overall, it is considered that the proposal is not seriously at variance with the Development Plan and sufficiently accords with the relevant provisions of the Development Plan to warrant consent, notwithstanding its non-complying status.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/0813/15 by D'Andrea & Associates (SA) Pty Ltd for a change of use from an office to consulting rooms with associated alterations and additions, on the land located at 315 Payneham Road, Royston Park, subject to the concurrence of the Development Assessment Commission and the imposition of the following conditions and notes:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- Plans and details prepared by D'Andrea & Associates Building Designers, Issue Date 08-02-16, Revision A, received by the Council on 8 February 2016.

Conditions

1. The hours of operation shall be limited to 7:00am until 7:00pm Monday to Friday; and 8.00am to 6.00pm on Saturdays.
2. All plants within the proposed and or planted within the landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.
3. All plants shall be watered through the installation of a suitable irrigation system which shall be maintained to the reasonable satisfaction of the Council or its delegate.
4. All landscaped areas shall be separated from adjacent driveways and parking areas by a suitable kerb or non-mountable device to prevent vehicle movement thereon (incorporating ramps or crossovers where appropriate to facilitate the movement of disabled persons).
5. Access to buildings and designated accessible car parking spaces shall be designed and provided in accordance with the provisions contained in Australian Standard *AS1428*.
6. All car parking spaces shall be line marked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.
7. All trade waste and other rubbish shall be stored in covered containers pending removal and shall be kept screened from public view to the reasonable satisfaction of the Council or its delegate.
8. All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Council or its delegate.

Notes to Applicant

1. The granting of this consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
2. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
3. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

4. The Applicant is advised that business identification signage does not form part of this approval and that any future signage may require Development Approval. The Applicant and future occupants should make enquiries to the Council's planning staff on 8366 4530 with regards to business identification signage.

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/834/2015 – CATHOLIC CHURCH ENDOWMENT SOCIETY INCORPORATED – 80-82 PAYNEHAM ROAD, STEPNEY

| | |
|--------------------------------------|---|
| DEVELOPMENT APPLICATION: | 155/834/2015 |
| APPLICANT: | Catholic Church Endowment Society Incorporated |
| SUBJECT SITE: | 80-82 Payneham Road, Stepney (Certificate of Title Volume: 6135 Folio:202 and Volume: 5881 Folio:691) |
| DESCRIPTION OF DEVELOPMENT: | Change of use of a former parish house to supported accommodation (Non-complying) |
| ZONE: | Community Zone (Dunstone Grove - Linde Reserve Policy Area) Norwood Payneham and St Peters (City) Development Plan (dated 2 July 2015) |
| PUBLIC NOTIFICATION CATEGORY: | Category 3 |

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for a change of use of a former parish house to supported accommodation.

Staff do not have delegated authority to determine the Application, as the application is a non-complying and Category 3 form of development. As such, the Application is referred to the Panel for determination.

In making its determination, the Panel is required to consider whether, on balance, the proposal is firstly seriously at variance with the Development Plan as a whole. If so, the Application must be refused consent pursuant to Section 35(2) of the *Development Act 1993*. If not, the Panel must go on to consider whether the proposal sufficiently accords with the Development Plan to merit consent.

Being a non-complying form of development, if the Panel determines to grant consent, the Application will be referred to the Development Assessment Commission (DAC), which will subsequently determine whether or not to concur with the decision of the Panel. If the DAC does not concur with the decision of the Panel to grant consent to the Application, then the Application cannot proceed. If the Panel does not grant consent to the Application, then the concurrence of the DAC will not be required.

Subject Land Attributes

| | |
|----------------------|--|
| Shape: | irregular |
| Frontage width: | 57.3 metres |
| Depth: | 1117.37metres |
| Area: | 8489m ² |
| Topography: | primarily flat |
| Existing Structures: | Church, former parish house, two office buildings, two community halls |
| Existing Vegetation: | lawn, shrubs and some established trees |

The subject land is an irregular shaped site comprising two allotments located within the Community Zone. The property contains the Catholic Church of the Holy Name facing Payneham Road with an associated community hall at the rear of the site, a former parish house located behind the church, two office buildings currently occupied by the Maths Association and the Aboriginal Catholic Mission Community Centre which operates meetings, community events and Sunday morning worship services. Car parking is located throughout the site.

Locality Attributes

| | |
|-----------------------------|---|
| Land uses: | mixed use |
| Building heights (storeys): | several two storey |
| Streetscape amenity | low due to traffic volumes on Payneham Road and variation of building stock |

The locality contains a variety of land uses and zones. Properties directly abutting the site include a former bank (Local Heritage Place) at 78 Payneham Road, residential properties located on Stepney Street and Linde Reserve, which shares the whole of the north-eastern boundary and a majority of the south-eastern boundary. Land uses in the wider locality include the Coordinating Italian Committee, St Peters Library, the Eastern Health Authority, shops, offices and a petrol station on Payneham Road and a kindergarten and residential properties on Stepney Street. The subject land is located adjacent to the District Centre (St Peters) Zone, Mixed Use Historic (Conservation) Zone, and Mixed Use 'A' Zone.

A plan of the subject land and its surrounds is contained in **Attachment A**.

Proposal in Detail

The Applicant seeks consent for a change of use of the former parish house to supported accommodation. The Application is retrospective as the land use has been in operation for approximately three years.

The former parish house was constructed circa 1975 and was used to accommodate up to five priests and a housekeeper. Approximately three years ago the parish house was converted to supported accommodation operated by Centacare, a Catholic Church organisation, initially providing short term accommodation to refugees. No development authorisation was sought for this change of land use. The service provided by Centacare at this site is dependent on government funding and as such, the special needs group making use of the supported accommodation may change over time.

In July 2015, the focus of the supported accommodation changed to a youth substance misuse support programme. The Council became aware of the unauthorised change of land use, when an enquiry was received from a person concerned that the premises was being used in the manner that it was. The Church subsequently lodged the Development Application which is the subject of this report, seeking approval for the change of land use and therefore regularise the breach.

The supported accommodation centre operates 24 hours a day every day of the year to accommodate up to six (6) unrelated persons, supervised by between 2-4 staff members, with a minimum of 2 staff present at any time. The current programme at the centre provides support for the Integrated Youth Substance Misuse Specialist Service programme which provides care for young people seeking support and intervention for their misuse challenges. Admission to the centre is made by referral and appointment only, rather than 'walk-in' services. Four of the bedrooms are used for voluntary residential rehabilitation services operating for a six to eight week period. The remaining two rooms are used for emergency overnight accommodation for intoxicated young persons referred by ambulance or police officers. Further details of management practices have been provided by the Applicant in the response to representations outlined in the *Notification* section of this report.

The former parish house building has an area of 292m² and contains six (6) bedrooms, four (4) bathrooms, kitchen, dining and common room, two (2) office rooms, interview room, study, laundry and storage rooms. The largest office was originally constructed as a garage however the roller doors have been replaced with a single access door. An existing carport/verandah structure is attached to the north-eastern and south-eastern sides of the building and a private courtyard area is located to the south of the building.

A statement of effect, site plans and floor plans prepared by Masterplan on behalf of the applicant are contained in **Attachment B**.

Notification

The proposal has been identified and processed as a Category 3 form of development.

Four (4) representations were received (three (3) in favour, one (1) opposed) in response to this notification, copies of which are contained in **Attachment C**. The key issues raised by representors relate to the safety and security of surrounding residents.

None of the representors desire to be heard personally by the Development Assessment Panel.

The Applicant has responded to the representations received and a copy of their response is contained in **Attachment D**.

A summary of the response is provided below:

- the proposed supported accommodation is for people who have already gone through a withdrawal and detox program so have ceased using the primary drug of concern prior to entering the centre. (Report Author Note: Whilst the residents have ceased using the primary drug of concern prior to entering the centre, it should be noted that two rooms are proposed to be used for emergency overnight accommodation for intoxicated young persons referred by ambulance or police officers. In such cases, it is understood that the intoxicated persons remain under supervision on-site by appropriate qualified and trained staff, until they sober up.)
- residents undergo physical and mental health assessments to determine if the level of care provided is suitable; residents admitted are considered “low risk”;
- initially, residents are not permitted to have unsupervised outings. Further into the program, residents may be permitted pre-arranged unsupervised outings if considered appropriate;
- visitors are limited and by appointment;
- staff are appropriately trained and qualified and actively monitor the centre at all times; and
- the building has appropriate external lighting, all entry to the premises requires an access key, gates are locked at all times and there is no signage to indicate the program type.

State Agency Consultation

The *Development Regulations 2008* do not require consultation with State Government Agencies.

Discussion

The subject land is located within the Community Zone of the Norwood Payneham and St Peters (City) Development Plan and specifically within the Dunstone Grove – Linde Reserve Policy Area.

Supported accommodation is a non-complying form of development within the Community Zone. Following an initial review of the Application and the accompanying Statement of Support, Council staff determined under delegated authority that the proposed development displayed sufficient merit to proceed to a full assessment of the Application, pursuant to Regulation 17(3)(b) of the *Development Regulations 2008*.

The key issues, specific to this Development Application, are discussed in detail below.

Land Use and Density

The following Development Plan provisions provide guidance on the type and density of residential development that is envisaged within the Development Plan:

Dunstone Grove-Linde Reserve Policy Area Objectives: 1, 2, 4
Dunstone Grove-Linde Reserve Policy Area Desired Character Statement
Dunstone Grove-Linde Reserve Policy Area Principles of Development Control: 1

Community Zone Objectives: 1, 2
Community Zone Desired Character Statement
Community Zone Principles of Development Control: 1, 2, 3, 5

City Wide Objectives: 1, 2, 3, 4, 5, 7, 12, 13, 26, 27
City Wide Principles of Development Control: 1, 3, 4, 6, 80, 84, 247 – 251, 306 - 308

The Community Zone contains Dunstone Grove-Linde Reserve (including the Nelson Street Cottages), the Agnes Goode Kindergarten and the subject land. Desired types of development within the Community Zone include community, education, environmental, recreational and health care facilities for the general public's benefit and envisaged land uses include (but are not limited to) community centres, health facilities and consulting rooms. More specifically, within the Dunstone Grove-Linde Reserve Policy Area, land uses such as playgrounds, recreation areas and special events are desired. The zone policies list several commercial and residential non-complying uses, including supported accommodation and dwellings.

The policy area policies intend to preserve land for public open space, recreation and related community events and activities. Establishing private or commercial land uses within this policy area has the potential to compromise the availability and use of the public recreation area, if not appropriately located.

The proposed supported accommodation is located on privately owned land so the proposal will not limit or compromise any public recreation spaces. The proposal is considered to be an appropriate adaptive reuse of the building, notwithstanding the fact that it is non-complying, particularly as the building was originally used as a dwelling which is also a non-complying use. The proposed supported accommodation is akin to some of the anticipated land uses within the zone including community and health care facilities. Given the nature of the supported accommodation programme, the services provided are not available to the general public on a 'walk-in' basis, however, the service is intended to assist special needs groups within the community.

Principles of Development Control 306 – 308 seek community facilities which are coordinated with other services and conveniently located in relation to the population it serves. The proposed use is considered to be consistent with these provisions as the supported accommodation is integrated with the Church of the Holy Name complex, is in close proximity to the adjacent reserve, the Avenues Shopping Centre and other shops and facilities on Payneham Road.

Consideration has been given to the potential impacts the proposed use may have on the surrounding sensitive uses. The centre is considered to be a low scale facility accommodating up to six (6) unrelated persons. The level of noise and activity resulting from the centre is likely to be minimal, particularly as it is a managed and controlled environment and is not intended to accommodate "high care" residents. Additionally, the former parish house is located approximately 35 metres from the nearest residential property. No changes are proposed to the existing car park lighting.

With respect to potential safety and security risks raised by some of the representors, the response to representations provided by the Applicant is considered to sufficiently demonstrate that the centre will be appropriately managed to minimise potential risk for surrounding property occupants and users.

City Wide Principles of Development Control 247 through to 251 provide guidance for appropriate living conditions and facilities for supported accommodation. Many of these requirements are not directly applicable to the proposed supported accommodation facility given the accommodation is intended for short-term programmes rather than long-term/permanent residents and is not solely intended to accommodate senior or aged residents. Nevertheless, the facilities and location of the accommodation are considered to provide an adequate level of amenity, and safe and convenient access for residents and visitors, consistent with above provisions.

In light of the above, the proposed supported accommodation is considered to be an appropriate land use, notwithstanding the fact that it is listed as a non-complying form of development.

Carparking/access/manoeuvring

The following Development Plan provisions provide guidance with respect to car parking access and manoeuvring considerations:

City Wide Objectives: 32, 34

City Wide Principles of Development Control: 104, 112, 113, 115

Table NPSP/9

The subject land contains two driveways providing access from Payneham Road however inspections of the property have indicated that the northern entrance point is not currently in use. The southern entrance point provides dual access and egress and there is sufficient opportunity from all parking spaces on the site to enable cars to enter and exit in a forward direction.

The car parking area is sealed and line marked and a total of 68 formalised (i.e. linemarked) car parks are provided on the site. Some parks directly adjacent to the offices and community centres are marked as being allocated for use by these tenancies however the majority of the car parks are for shared use. The existing uses on the subject land have varying peak times for car parking demand due to the mix of office accommodation, community centres and places of worship.

Table NPSP/9 provides a car parking requirement for supported accommodation of 1 car parking space for every three (3) beds in any nursing home/rest home/hostel and a bedroom is to be taken as any room which could be used as a bedroom (e.g. study). The proposed floor plan includes six (6) bedrooms plus a study and an office which could be used as bedrooms; the larger office area converted from the garage is unlikely to be used as a bedroom. In total there are eight (8) rooms which could be used as bedrooms attracting a theoretical car parking demand of up to three (3) spaces.

The Applicant has confirmed that the residents participating in the supported accommodation programme will not have vehicles on site. Actual car parking demand associated with the use would therefore be limited to the 2-4 staff members on site and an occasional requirement for visitors which is likely to be minimal. The likely demand for 2-4 parking spaces associated with the proposed use is considered to be readily available on the site and is akin to the previous car parking demand associated with the occupation of the building as a parish house.

Summary

Whilst supported accommodation is a non-complying form of development, the proposed use is considered to have sufficient merit to warrant approval.

The location of the proposed use within a former parish house on privately owned land is not considered to compromise the availability of recreation space for the community. The proposal does not involve the construction of any new buildings and is of a limited scale accommodating up to six (6) persons only. The proposed management practices are considered to provide an acceptable level of security and risk prevention for surrounding property occupants or users. The likely car parking demand associated with the development is considered to be readily accommodated on the site.

Accordingly, it is considered that the proposal is not seriously at variance with the Development Plan, despite being non-complying within the Zone, and sufficiently accords with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/834/2015 by the Catholic Church Endowment Society Incorporated for the change of use of a former parish house to supported accommodation, on the land located at 80-82 Payneham Road Stepney, subject to the concurrence of the Development Assessment Commission and the following requirements, conditions and notes:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- Statement of Effect prepared by Masterplan received by the Council 24 December 2015
- Floor plan prepared by Masterplan received by the Council 18 November 2015

Conditions

1. The supported accommodation facility herein approved shall accommodate a maximum of six (6) unrelated persons (excluding staff) at any one time.
2. Staff shall be present at all times the supported accommodation is in operation to ensure the appropriate management of the facility.

Notes to Applicant

1. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.
2. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.

2. STAFF REPORTS

2.4 DEVELOPMENT APPLICATION 155/592/2015 – MR D CHWALISZ– 18 MORCOMB STREET, STEPNEY

| | |
|--------------------------------------|--|
| DEVELOPMENT APPLICATION: | 155/592/15 |
| APPLICANT: | Mr D Chwalisz |
| SUBJECT SITE: | 18 Morcomb Street, Stepney (Certificate of Title Volume: 5454 Folio: 142) |
| DESCRIPTION OF DEVELOPMENT: | Construction of a single-storey dwelling, fencing and demolition of a verandah attached to the rear of an existing dwelling |
| ZONE: | Residential Historic (Conservation) Zone (Maylands Policy Area) - Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015) |
| PUBLIC NOTIFICATION CATEGORY: | Category 1 |

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a single-storey detached dwelling, fencing and demolition of a verandah attached to the rear of an existing dwelling.

Staff do not have delegated authority to determine the Application, as it comprises the construction of a new dwelling in a Historic (Conservation) Zone.

As such, the Application is referred to the Panel for determination.

In making its determination, the Panel is required to consider whether, on balance, the proposal is firstly seriously at variance with the Development Plan as a whole. If so, the Application must be refused consent pursuant to Section 35(2) of the *Development Act 1993*. If not, the Panel must go on to consider whether the proposal sufficiently accords with the Development Plan to merit consent.

Subject Land Attributes

| | |
|----------------------|--------------------------------------|
| Shape: | regular |
| Frontage width: | 21.26 metres |
| Depth: | 32.17 – 32.25 metres |
| Area: | 662m ² |
| Topography: | slight from south-east to north-west |
| Existing Structures: | single storey bungalow |
| Existing Vegetation: | mix of trees and shrubs |

The subject land is located on the corner of Morcomb Street and Henry Street, Stepney. It contains a single storey inter-war bungalow with a rear lean-to and a verandah attached to the rear of the lean-to. The dwelling is a Contributory Item and faces Morcomb Street.

Vehicular access to the land is available via a crossover on Henry Street, adjacent to the rear boundary. Both the front and rear yards contain extensive plantings of trees and shrubs, including a Jacaranda tree in the rear yard. None of the vegetation is regulated. The land falls from the south-east to the north-west by approximately 500mm.

Locality Attributes

Land uses: entirely residential
 Building heights (storeys): Predominantly single-storey

The subject land is located within the Maylands Policy Area, at the boundary of the Maylands Policy Area. Morcomb Street is characterised by historic dwelling stock, comprising a mix of Victorian era villas and cottages and inter-war bungalows. Some examples of more recent 'infill' housing also exists in Morcomb Street.

Within the locality of the subject land, there are no dwellings fronting onto Henry Street. Instead, this section of Henry Street is characterised by the side of dwellings facing Morcomb Street and Wells Street and the rear of dwellings facing Laura Street.

A map of the subject land and its surrounds is contained in **Attachment A**.

Proposal in Detail

The Applicant seeks consent to construct a single-storey detached dwelling, together with boundary fencing and the demolition of the verandah attached to the rear of the existing dwelling.

The proposed dwelling is single storey and faces Henry Street. It has a modest floor area of 121m² including a carport and comprises two bedrooms, an open-plan living/dining/kitchen area, bathroom and laundry.

The new dwelling is contemporary in appearance, with a low – pitch gable facing the street, clad in flat-pan metal cladding above face brick. An open sided and open front carport is proposed to the side of the dwelling, under the main roof of the dwelling.

A 1.5m high timber picket front fence is proposed in front of the proposed dwelling, with a timber picket gate for vehicular access. A 1.8m high colorbond corrugated fence is proposed along the boundary between the existing and proposed dwelling.

The relevant details of the proposal in terms of areas, setbacks and the like are set out in Table 1 below.

TABLE 1: DEVELOPMENT DATA:

| Consideration | Existing Dwelling | Proposed Dwelling | Development Plan Merit Assessment Quantitative Guideline |
|---|--|--------------------------------------|--|
| Site Area | 387m ² (after corner cut-off) | 266m ² | 300m ² |
| Allotment Width | 21.3m | 13.35m | 15.0m |
| Allotment Depth | 18.8m | 19.8m | N/A |
| External Wall Height* | 2.3m – 3.0m | 2.5 – 4.1m | N/A |
| Maximum Overall Height (to roof apex)* | 5.3m | 4.3m | N/A |
| Floor Area (total including verandahs) | 156m ² | 152m ² | N/A |
| Site Coverage | 40% | 57% | 50% |
| Private Open Space | 77m ² 20% of site area | 38m ² 14% of site area | 20% of site area |
| Street Set-back | no change | 5.5m (facade) 3.8m (verandah) | N/A |

TABLE 1: DEVELOPMENT DATA *continued...*

| Consideration | Existing Dwelling | Proposed Dwelling | Development Plan Merit Assessment Quantitative Guideline |
|------------------------------|-------------------|--------------------------|---|
| Side Set-back | No change | Nil | N/A |
| Rear Set-back | 2.6 – 3.9m | 2.0m | N/A |
| Car Parking Provision | 1 undercover | 1 undercover & 1 visitor | 2 (1 covered) spaces per dwelling; whereby the covered space is set back no less than 5.5 metres from the primary street frontage, other than corner allotments, where it is to be set back no less than 1.0m from the secondary street frontage. |

** Heights are taken from the finished ground floor level and in the case of external wall heights, are measured to the under-side of the gutter or where there is no external gutter, to the top of the parapet wall. Where wall heights vary at different points of the dwelling, a range is given.*

Plans and details of the proposed development are contained in **Attachment B**.

Notification

The Development Application has been identified and processed as a Category 1 form of development for public notification purposes.

As such, no public notification was undertaken.

State Agency Consultation

The *Development Regulations 2008* do not require consultation with State Government Agencies.

Discussion

The subject land is located within the Maylands Policy Area of the Residential Historic (Conservation) Zone of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

The key issues, specific to this Development Application, are discussed in detail below.

Land Use and Density

The following Development Plan provisions provide guidance on the type and density of residential development that is envisaged within the Development Plan:

- Maylands Policy Area Desired Character Statement
- Maylands Policy Area Objectives: 1.
- Maylands Policy Area PDC's: 2, 3 5 & 7.

- RH(C)Z Desired Character Statement
- RH(C)Z Objectives: 1.
- RH(C)Z PDC's: 1, 2, 7 & 8.

- City Wide Objectives: 1, 2, 7, 8 & 10.
- City Wide PDC's: 1, 2, 3, 4, 16, 18 & 19.

Principle of Development Control 3 of the Maylands Policy Area states:

“A new dwelling should only be constructed where it replaces an existing building or feature, which does not contribute to the historic character of the Maylands Policy Area, with a more sympathetic style of development or at the rear of an allotment where it can be accommodated.”

The proposal is consistent with this principle of the Policy Area. Principle of Development Control 5 states that the site area per dwelling resulting from new development should be:

“consistent with the surrounding historic development pattern and should not be less than 300 square metres”

The proposed dwelling has a site area of less than 300m² (266m²) and a site frontage width of 13.35m, whereas Principle of Development Control 7 states that the site for a dwelling should have a minimum frontage width of 15m.

The Desired Character Statement for the Maylands Policy Area states:

“The Maylands Policy Area represents the residential character established in Maylands and the northern portion of Stepney and is an attractive example of early suburban development. In Maylands it is centred around Frederick Street, Augusta Street, Mayfair Street, Clifton Street, Dover Street, Janet Street, Wells Street, Bennett Street and Morcomb Street. In Stepney it is centred around the northern portion of Flora Street, Loch Street, and Wheaton Road.”

Of note, the Desired Character Statement does not reference Henry Street. This is likely due to the fact that dwellings within the Policy Area do not generally front Henry Street. Therefore, from the perspective of maintaining and enhancing the character of the Policy Area, the density and appearance of development visible from the streets referenced above is of greatest relevance. With specific reference to the subject proposal, the density and appearance of the proposed dwelling is therefore of lesser relevance than would be a new dwelling fronting Morcomb Street.

Henry Street is the boundary between the Maylands Policy Area to the south and the Stepney Policy Area to the north. The minimum site area and frontage width for the Stepney Policy Area are 200m² and 8m respectively. This is reflected in the density of development located adjacent to the subject land at 13 – 21 Laura Street, where the average site area per dwelling is 216m² and the average frontage width is 7m.

In the context of the surrounding dwelling density and having regard to the intent of the Maylands Policy Area to protect the character of Morcomb Street (rather than Henry Street), the proposed density of development is considered acceptable.

streetscape/bulk/scale/height/character/heritage

The following Development Plan provisions provide guidance with respect to considerations relating to appearance, streetscape, bulk, scale and character:

| | |
|--|-------------------------------|
| Maylands Policy Area Desired Character Statement | |
| Maylands Policy Area PDC's: | 1, 4 & 9. |
| Residential H(C)Z Desired Character Statement | |
| Residential H(C)Z Objectives: | 1 & 5. |
| Residential H(C)Z PDC's: | 1, 2, 13-19, 22, 23, 25 & 26. |
| City Wide Objectives: | 18, 19 & 20. |
| City Wide PDC's: | 29-35, 39, 41, 43, 48 & 196. |

Principle of Development Control 4 of the Maylands Policy Area states:

“Development in the Maylands Policy Area should not be more than one-storey above natural ground level.”

The proposal is consistent with this height policy and is also consistent in terms of wall height and overall height, with surrounding existing historic dwellings in Morcomb and Wells Streets.

The proposed dwelling would be the only dwelling to front Henry Street, which is characterised by residential outbuildings and the side elevation of dwellings fronting Morcomb Street and Wells Street.

The design of the proposed dwelling references buildings and outbuildings fronting Henry Street, particularly in relation to the low roof pitch and flat-pan metal cladding, while also referencing (without replicating) nearby original dwellings on Morcomb Street and Wells Street, through the use of face brick and a verandah element.

Residential Historic (Conservation) Zone Principle of Development Control states that:

Development within the Residential Historic (Conservation) Zone should be carried out, where applicable, in accordance with the Design Guidelines for Heritage Places and Development in Historic (Conservation) Zones contained in Table NPSP/4.

“Component or Aspect of Development 3.3, Windows and Doors” within Table NPSP/4 provides the most clear advice on what joinery materials are appropriate for new dwellings within a Residential Historic (Conservation) Zone. It states:

“Windows and Doors Openings in walls adjacent to a road frontage should generally have proportions similar to historic dwellings in the locality. Window frames fronting roads, other than lanes shown on Map NPSP/1 (Overlay 4), should be of timber construction. Simple rendered surrounds of windows are preferable to elaborate projecting quoins.”

The proposed dwelling incorporates timber windows and doors, consistent with this policy.

Overall, the proposed dwelling:

- has a bulk and scale, which is akin to the nearby buildings facing Morcomb and Wells Street;
- incorporates a design that, while obviously contemporary, includes elements such as a varied combination of sheet metal cladding and masonry construction materials, well-proportioned glazing, a horizontal entry pergola in lieu of a traditional verandah, all of which reflect (without replicating) traditional design; and
- has a relatively simple overall built form outcome, which does not compete with the surrounding historic building stock and incorporates materials and finishes which complement dwellings in the locality.

Given that the subject land is located within a Historic (Conservation) Zone, advice was sought from the Council’s Heritage Advisor regarding the heritage aspects of the proposal. The Heritage Advisor is generally supportive of the proposal, advising that:

“the general bulk and scale of the proposed dwelling is appropriate as it works well with the scale of the Contributory Item it is located next to. The material selections are generally acceptable, as the house faces a street that is mostly side fences and garages, so the requirements to be sympathetic to the streetscape are lessened in this case.”

A copy of this advice is contained in **Attachment C**.

In his advice, the Council’s Heritage Advisor stated that further information is required regarding front fencing and the dividing fence between the existing and proposed dwellings. That additional information has been provided, albeit that the Applicant has only shown a faint outline and description of the front fence on the proposed Henry Street elevation drawing. Despite the way the front fence has been illustrated, it is considered that the nature of what is proposed is adequately represented. However, in the event that the Panel determines to grant consent to the application, is recommended that a condition be imposed, requiring that the final details of the front fence be provided to the reasonable satisfaction of the Council, prior to Development Approval being granted.

Principle of Development Control 9 of the Maylands Policy Area states:

“Fencing along the front street boundary (including any secondary street frontage up to the alignment of the main face of the dwelling) should maintain the scale of existing historic development and should:

- (a) not detract from the character or restrict the visibility of the building;*
- (b) utilise original design and materials such as timber picket, timber dowelling, masonry and cast iron palisade, or corrugated iron or mini orb within timber framing; and*
- (c) not exceed 1.2 metres in height for materials such as masonry or a maximum of 1.5 metres in height for all other materials.”*

The proposal is consistent with Principle 9. The height of the front fence is 1.5m and it is to be constructed of timber pickets.

The proposed 1.8m high corrugated dividing fence is a complying form of development in its own right, pursuant to Principle of Development Control 39 of the Residential Historic (Conservation) Zone.

The Applicant has advised that they do not intend on providing a covered car parking space for the existing dwelling, as they have no need for one. However, in order to demonstrate that a future covered car parking space is able to be provided on the site of the existing dwelling, consistent with the Development Plan, a ‘future carport’ has been shown on the plans. The future carport is set back 1.0m from Henry Street, which is the secondary street frontage of the site.

The future carport location is consistent with City Wide Principle of Development Control 217, which states:

“Unless the desired character of an area provides otherwise, garages and carports fronting the secondary street on a corner allotment, should be set back a minimum of 0.9m from the secondary street frontage and should be sited so as to minimise the visual impact of the structure when viewed from the street or the neighbouring dwelling.”

It is considered that the future introduction of a carport in the location shown on the plans, would not unreasonably impact on the streetscape, having regard to the existing pattern of carports and garages located close to the Henry Street boundary in the locality.

Setbacks and Site Coverage

The following Development Plan provisions provide guidance with respect to set-backs and site coverage considerations:

| | |
|-----------------------------|-----------------|
| Maylands Policy Area PDC's: | 6 & 8. |
| RH(C)Z PDC's: | 10, 11 & 12. |
| City Wide PDC's: | 212, 216 & 221. |

Principle of Development Control 8 of the Maylands Policy Area states:

“The front and side setbacks of new dwellings should reflect the pattern established by the adjoining dwellings and should be sited at a distance equal to or greater than, the alignment of the main face of the adjacent heritage place or contributory item. Where a site is between two heritage places or contributory items the greater of the two set-backs should be applied.”

The proposed dwelling is set back 5.5 metres to the façade, with the projecting verandah coming to within 3.8 metres of the street. The side wall of the existing dwelling is set back 6.0 metres from Morcomb Street, however due to the angle of the Morcomb Street boundary, the setback of the proposed dwelling facade actually aligns with the secondary setback of the side of the existing dwelling. Similarly, the setback aligns with the setback of the side of the dwelling to the west at 41 Wells Street. The proposed front setback is therefore considered appropriate.

The proposed dwelling is sited on the boundary of the site of the existing dwelling. This is considered acceptable, as there is no significant outlook from the existing dwelling in the location of the proposed dwelling.

On the other (western) side of the proposed dwelling, the carport is proposed to be constructed on the side boundary, however this is proposed to be an open carport, such that there will be a sense of space provided on this side of the dwelling.

The proposed front and side setbacks are considered to be appropriate and consistent with Principle of Development Control 8 of the Policy Area.

In terms of the proposed rear setback, the proposed dwelling is set back between 2.0 – 4.6 metres. The proposed rear setback is considered to result in an adequate degree of visual separation for the adjacent property at 16 Morcomb Street. It is considered that the outlook from the private open space area of this neighbouring property would not be unreasonably compromised by the proposal.

With respect to site coverage, the proposed dwelling covers 57% of its site, while the existing dwelling covers 40% of its site. Overall, 47% of the subject land is proposed to be covered.

Maylands Policy Area Principle of Development Control 6 states that buildings should not cover more than 50 per cent of the total area of the site. Across the road in the Stepney Policy Area, the site coverage policy is 60%.

Given that the overall site coverage of the subject land is less than 50% and the subject land is in a locality where the character is influenced by the higher density Stepney Policy Area, the extent of site coverage for the proposed dwelling is considered to be acceptable.

Overshadowing/overlooking

The following Development Plan provisions provide guidance with respect to overshadowing and overlooking considerations:

City Wide PDC's: 11, 32, 37, 200 & 201.

The proposed built form will not create unreasonable overshadowing issues for the occupiers of adjacent properties, due to the orientation of the subject land, the single-storey nature of the dwelling and the proposed dwelling's siting and configuration.

No overlooking will result from the proposed development due to its single-storey nature and relatively low scale. As such, the proposal is considered to be consistent with City Wide Principles of Development Control 11 which states:

"Buildings should be designed so as not to unreasonably overlook or overshadow indoor or outdoor living areas of adjacent dwellings."

Private open space

The following Development Plan provisions provide guidance with respect to private open space considerations:

City Wide PDC's: 225, 241, 243, & 248.

City Wide Principle of Development Control 225 states the following (in part):

Dwellings (other than residential development in the form of apartments within a multi storey building) should have associated private open space of sufficient area, shape and gradient to be functional and capable of meeting the likely needs of the occupant(s) (taking into consideration the location of the dwelling and the dimensions and gradient of the site) and should be in accordance with the following:

- (a) *a dwelling with a site area of 250 square metres or greater, 20 per cent of the site area should be private open space, of which one portion should be equal to or greater than 10 per cent of the site area and have a minimum dimension of 4 metres; or*

- (b) *a dwelling with a site area of less than 250 square metres, a minimum of 35 square metres should be private open space, of which one portion should have an area of 16 square metres and a minimum dimension of 4 metres; and*

The proposed dwelling has access to 38m² of private open space at the rear, equating to 14% of the site area. As the site of the dwelling is greater than 250m² (being 266m²), it would require 20% to be available as private open space in order to accord with Principle 225. If the site area was slightly smaller (ie. reduced by 16m²), the allocated 38m² would accord with Principle 225.

The floor plan of the proposed dwelling is likely to result in the front yard being used by the occupants of the dwelling and will be able to be made reasonably private through plantings to supplement the proposed 1.5m high fence. Therefore, the front yard area will likely supplement the rear private open space area.

The Applicant has no intentions to remove any of the existing high front fencing along the primary and secondary street frontages of the site of the existing dwelling. However, the plans indicate that in the event that low, open style fencing was provided forward of the return verandah of the dwelling in the future, adequate private open space for the dwelling would be preserved. In particular, 77m² of private open space (equalling 20% of the site area) would be available in a combination of space behind the dwelling in the 2.5m setback and between the kitchen/dining/living and Henry Street, behind the return verandah.

Car parking/access/manoeuvring

The following Development Plan provisions provide guidance with respect to car parking access and manoeuvring considerations:

| | |
|-----------------------|--------------------------------|
| City Wide Objectives: | 34. |
| City Wide PDC's: | 101, 116, 123, 237, 238 & 265. |

Table NPSP/8.

The proposed dwelling incorporates a single-vehicle carport, set back 5.5 metres from the street, consistent with Table NPSP/8. As previously discussed, a future carport is able to be provided for the existing dwelling, consistent with the Development Plan policy of providing a 900mm setback from a secondary street boundary.

The proposed dwelling is able to use an existing vehicle crossover on Henry Street. There are no street trees or other infrastructure in the location of the possible future carport for the existing dwelling.

Finished floor levels/flooding/retaining/fencing

The following Development Plan provisions provide guidance with respect to considerations relating to floor levels, flooding and retaining:

| | |
|------------------|-----------------------------------|
| City Wide PDC's: | 60, 61, 140, 151, 165, 166 & 171. |
|------------------|-----------------------------------|

The subject land is not located within a 1 in 100 year Average Recurrence Interval (ARI) flood plain.

The finished floor level of the proposed dwelling is to be 460mm above the top of kerb level in Henry Street, such that all roof and ground surface stormwater will be able to drain by gravity to the street water table.

Trees (significant, mature & street) and landscaping

The following Development Plan provisions provide guidance with respect to considerations relating to significant trees, mature trees, street trees and landscaping:

| | |
|--------------------------|--------------------------|
| Residential H(C)Z PDC's: | 36 & 37. |
| City Wide Objectives: | 24, 117 & 119. |
| City Wide PDC's: | 76, 239, 240, 422 & 426. |

There are several small to medium sized tree on the subject land, none of which are identified as Regulated trees. No street trees are affected by the proposal.

No landscaping plan has been provided for the proposed dwelling, however adequate space is provided around the dwelling, including between the dwelling and the street to provide for a suitable landscaped setting for the dwelling. If the Panel determines to grant consent to the application, it is recommended that a condition be imposed, requiring that a landscaping plan be provided to the reasonable satisfaction of the Council.

Environmental Sustainability

The following Development Plan provisions provide guidance with respect to environmental sustainability considerations:

| | |
|-----------------------|---------------------------------|
| City Wide Objectives: | 23 & 42. |
| City Wide PDC's: | 70, 71, 72, 73, 149, 153 & 161. |

The proposed dwelling has been designed to maximise access to northern light as much as possible. In particular, the dwelling has been designed with the living area facing north, with a verandah overhang to protect from the summer sun angle. As such, the development proposal accords sufficiently with City Wide Principles of Development Control 70, 71 and 53.

As no rainwater tank has been shown on the plans, it is recommended that a condition be imposed requiring a 2000 litre rainwater tank, consistent with City Wide Principle of Development Control 159.

Overall, it is considered that the design of the dwelling has a strong focus on environmentally sustainable principles.

Summary

The proposal for a detached dwelling on the subject land is consistent with the land use objectives of the Residential Historic (Conservation) Zone and Maylands Policy Area.

The site area and frontage of the site of the proposed dwelling are inconsistent with the policy for the Maylands Policy Area, however compatible with the character of the locality in Henry Street. The density of the proposal is not considered to compromise the objectives of the Maylands Policy Area.

The outwardly contemporary design of the dwelling has been considered in the context of the existing built form character of the locality and is supported by the Council's Heritage Advisor.

On balance, it is considered that the proposal reflects a similar bulk and scale as buildings facing Henry Street by way of incorporating common architectural elements, and uses materials and finishes which complement the built form in the locality. It is considered that the design will not detract from the historic streetscape character in the immediate or broader locality.

The proposal is considered to be a good quality and functional design, with a strong focus on environmentally sustainable principles.

On balance, it is considered that the proposal is not seriously at variance with the Development Plan and sufficiently accords with the provisions of the Development Plan to warrant Development Plan Consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/592/15 by Mr D Chwalisz to construct a single-storey dwelling, fencing and demolition of a verandah attached to the rear of an existing dwelling, on the land located at 18 Morcomb Street, Stepney, subject to the following requirements, conditions and notes:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- plans prepared by Damien Chwalisz Architects, Amendments 4, issued 9 February 2016.

Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.
2. A rainwater tank with a storage capacity not less than 2 kilolitre (2000 litres) shall be installed for the dwelling herein approved, and plumbed into a toilet, water heater and/or laundry cold water outlet by a licenced plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with the application for Building Rules Consent.
3. A landscaping plan showing a suitable mix and density of trees, shrubs and groundcovers shall be provided to the reasonable satisfaction of the Council or its delegate, prior to Development Approval being granted.
4. All areas nominated as landscaping or garden areas on the approved plans shall be planted prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
5. All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.
6. The final details of the front fence for the provided to the reasonable satisfaction of the Council, prior to Development Approval being granted.

Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.
2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.
4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development is likely to be at the Applicant's cost.

5. The Applicant is advised that the property is located within an Historic (Conservation) Area and that Approval must be obtained for most works involving the construction, demolition, removal, conversion, alteration or addition to any building and/or structure (including fencing).
6. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
7. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

2. STAFF REPORTS

2.5 DEVELOPMENT APPLICATION 155/0694/2015 – OXFORD ARCHITECTS – 36 & 38 JOHN STREET, PAYNEHAM

| | |
|--------------------------------------|--|
| DEVELOPMENT APPLICATION: | 155/0694/2015 |
| APPLICANT: | Oxford Architects |
| SUBJECT SITE: | 36 & 38 John Street, Payneham (Certificate of Title - Volumes: 5521 & 5795, Folios: 861 & 540) |
| DESCRIPTION OF DEVELOPMENT: | Demolition of two (2) detached dwellings and the construction of a two storey residential flat building comprising four (4) dwellings with associated fencing and landscaping |
| ZONE: | Residential Zone Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015) |
| PUBLIC NOTIFICATION CATEGORY: | Category 2 |

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application to demolish two (2) detached dwelling and construct a two storey residential flat building comprising four (4) dwellings, associated fencing and landscaping.

Staff do not have delegated authority to determine the Application, as it comprises a development with more than two (2) dwellings. As such, the Application is referred to the Panel for determination.

In making its determination, the Panel is required to consider whether, on balance, the proposal is firstly seriously at variance with the Development Plan as a whole. If so, the Application must be refused consent pursuant to Section 35(2) of the *Development Act 1993*. If not, the Panel must go on to consider whether the proposal sufficiently accords with the Development Plan to merit consent.

Subject Land Attributes

| | |
|----------------------|-------------------------------------|
| Shape: | regular |
| Frontage width: | 32.0m |
| Depth: | 45.72m |
| Area: | 1463m ² |
| Topography: | essentially flat |
| Existing Structures: | detached dwellings and outbuildings |
| Existing Vegetation: | small trees and shrubs |

The subject land contains two single storey conventional hipped-roof dwellings likely to have been constructed circa 1950's, with associated outbuildings. There are no regulated trees on the subject land.

Locality Attributes

| | |
|-----------------------------|-------------------------------------|
| Land uses: | residential and public open space |
| Building heights (storeys): | mix of single storey and two storey |

The locality is characterised by residential development on the southern side of John Street, with Payneham Oval and its associated recreational structures occupying the northern side of John Street between Arthur Street and Ashbrook Avenue. Building heights are a mix of single and two storey. Sixteen (16) two storey dwellings within a residential flat building are located to the south of the subject land at 34 John Street, Payneham and a single storey detached dwelling and pair of two storey group dwellings located to the east at 40 John Street, Payneham. To the west of the subject land is the vehicular access point and visitor parking for the southern residential flat building. Further to the west is a pair of single storey semi-detached dwellings.

To the north, the Payneham Oval complex stretches the width of the block between Arthur Street and Ashbrook Avenue and contains club rooms, tennis courts, a recently redeveloped playground and oval. A large number of mature trees are located within the grounds.

A plan of the subject land and its surrounds is contained in **Attachment A**.

Proposal in Detail

The Applicant proposes to demolish two detached dwellings and associated outbuildings and to construct a partially two storey residential flat buildings comprising four (4) dwellings, with associated fencing and landscaping.

The proposed building is contemporary in its form, with hipped roofs, feature mouldings and a range of materials. The proposed residential flat building has a woodland grey roof with a pitch ranging from 22.5 degrees (single storey component) to 35 degrees (two storey component). The walls are to be constructed with a range of materials including off-white render, face brick and Margaret River Limestone. The windows are proposed to be white powder coated aluminium frames.

Dwellings 1 and 2 are two storey dwellings while dwellings 3 and 4 are single storey dwellings.. The Applicant has advised that they intend to lodge a community title land division in the event that the Panel grants consent to the proposal.

Dwellings 1 and 2 contain a combined kitchen/meals/family area, a master bedroom with walk in robe and ensuite, a study, a laundry, a toilet, covered alfresco and a garage at ground level; with two (2) bedrooms, a retreat and a bathroom at the first floor level. Dwellings 3 and 4 contain a combined kitchen/meals/family area, three (3) bedrooms (master with walk in robe and ensuite), a laundry, a toilet, a covered alfresco and a garage.

Each of the proposed dwellings have two (2) occupant car parking spaces within a garage. A visitor parking space is provided in front of dwelling 3.

The proposed development includes a landscaping scheme that proposes a range of small trees, shrubs and ground covers including Tall Magnolia 'Teddy Bear', Capital Pear, Common Boobialla, Japanese Box Hedge and Kikuyu Lawn.

A 2.0 metre high off-white rendered pillar and plinth with vertical iron infill front fence is proposed along the front boundary. A 1.8 metre high rendered masonry letter box wall is proposed to complement the proposed front fence.

The relevant details of the proposal in terms of areas, setbacks and the like are set out in Table 1 below.

TABLE 1: DEVELOPMENT DATA:

| Consideration | Dwelling 1 & 2 | Dwelling 3 | Dwelling 4 | Development Plan Merit Assessment Quantitative Guideline |
|--|---|-------------------------------------|--|---|
| Site Area | 325.9m ² – 326.3m ² | 269.1m ² | 278.4m ² | 250m ² average excluding common areas (Residential Zone PDC 6) |
| Site Width | 10.54m | 16.0m | 16.0m | N/A |
| Site Depth | 25.95m | 19.77m | 19.77m | N/A |
| External Wall Height* | 6.1m | 3.0m | 3.0m | N/A |
| Maximum Overall Height (to roof apex)* | 7.9m | 5.4m | 5.4m | Two-storey (Residential Zone PDC 8) |
| Floor Area (total) | 261.8m ² | 193.8m ² | 194.7 m ² | N/A |
| Floor Area (footprint) | 190.2m ² | N/A | N/A | N/A |
| Site Coverage | 58% | 72% | 72% | 60% overall (Residential Zone PDC 8) |
| Private Open Space | 74.1m ² 77% uncovered | 78.6m ² 82% uncovered | 78.6m ² 82% uncovered | 20% of allotment area & 50% uncovered (CW PDC's 225(a) & 229) |
| Street Set-back | 6.0m | N/A | N/A | 6.0m (Residential Zone PDC 8) |
| Side Set-back (ground level) | 1.0m | Nil – 1.0m | 1.0m | 2.5m (CW PDC 202) |
| Side Set-back (upper level) | 2.9m | N/A | N/A | 4.5m (CW PDC 203) |
| Rear Set-back | N/A | 2.9m (alfresco) – 4.0m (dwelling) | 2.9m (alfresco) – 4.0m (dwelling) | 2.5m – ground 4.5m - first floor (CW PDC's 202 & 203) |
| Car Parking Provision | 2 spaces | 3 spaces | 2 spaces | 2 spaces per dwelling plus 1 visitor space for every 2 dwellings (Table NPSP/8) |

* Heights are taken from the finished ground floor level and in the case of external wall heights, are measured to the under-side of the gutter or where there is no external gutter, to the top of the parapet wall. Where wall heights vary at different points of the dwelling, a range is given.

Plans and details of the proposed development are contained in **Attachment B**.

Notification

The proposal has been identified and processed as a Category 2 form of development pursuant to Schedule 9, Part 2, 18(b) of the *Development Regulations 2008* as the proposal involves construction of two or more dwellings on the same site where at least one of those dwellings is two-storey.

One (1) representation was received (opposing the development) in response to the notification, a copy of which is contained in **Attachment C**. The representor owns one of the adjoining properties at the rear of the subject land (11/34 John Street, Payneham) and is concerned that the proposal will result in a loss of vistas across the subject land to the oval, the loss of vegetation and the proposal will result in increased traffic demands on the local area.

As the Applicant, Mr Damien Jenke from Oxford Architects has responded to the representation. A copy of Mr Jenke's response is contained in **Attachment D**.

A summary of the response is provided below:

- The representor gains views to the oval as a result of non-screened windows and a balcony that also overlooks the rear yards of the current dwellings on the subject land; which under the current Development Plan provisions would be non-compliant.
- The majority of the vegetation on the common boundary is within the common area of the units. Screen planting will be provided along the southern boundary of the subject land to offset any future loss of trees from the adjoining common area.
- The character of the locality will not be unreasonably be impaired and is in keeping with other forms of development in the locality;
- Sufficient parking is provided, and through minimising the number of crossovers, on street parking can be retained. This should be considered in light of the fact that row dwellings could also be anticipated on the subject land, each of which would have a crossover, further reducing on street parking.

State Agency Consultation

The *Development Regulations 2008* do not require consultation with State Government Agencies.

Discussion

The subject land is located within the Residential Zone, as identified within the Norwood Payneham and St Peters (City) Development Plan. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

The key issues, specific to this Development Application, are discussed in detail below.

Land Use and Density

The following Development Plan provisions provide guidance on the type and density of residential development that is envisaged within the Development Plan:

Residential Zone Desired Character Statement

Residential Zone Objectives: 1, 2

Residential Zone PDC's: 1, 3, 7

City Wide Objectives: 1, 2, 7, 8, 10, 55-57

City Wide PDC's: 1-4

The Desired Character Statement for the Residential Zone states (in part):

"Most development within the zone will occur through the renovation of existing dwellings, the replacement of existing dwellings with one or two dwellings and to a lesser extent, new dwellings to the rear of existing dwellings. In locations where there are large allotments or where the amalgamation of allotments has occurred, there may be opportunity to develop low-rise (one or two-storey) group dwellings, row dwellings and residential flat buildings."

Residential Flat Buildings are an anticipated land use and built form within the Residential Zone.

Residential Zone Principle of Development Control 7 sets out the minimum site area and frontage requirements for new dwellings in the Policy Area. In relation to residential flat buildings, Principle 7 states that there is a minimum site area of 250m² per dwelling exclusive of common areas and that the development site should have a minimum frontage width of eighteen (18) metres.

In this instance, the subject land has an average site area, exclusive of common areas, in excess of 250m² and a frontage width of 32 metres, consistent with Principle of Development Control 7.

Having regard to the Desired Character Statement and the explicit provisions relating to allotment size and frontage and the amalgamation of two (2) allotments to form the subject land, the proposed land use and resulting dwelling density is considered to be consistent with the intent of the Residential Zone.

Streetscape/bulk/scale/height/character

The following Development Plan provisions provide guidance with respect to considerations relating to appearance, streetscape, bulk, scale and character:

Residential Zone Desired Character Statement

Residential Zone Objectives: 3

Residential Zone PDC's: 6, 8

City Wide Objectives: 18, 19 & 20

City Wide PDC's: 28-32, 37, 39, 197

The Desired Character Statement for the Residential Zone states (in part):

*“The existing character of the zone is varied and is derived from a number of factors, including built form, allotment size, road widths and natural features such as vegetation, topography and waterways. Although it is expected that residential densities will increase over time, resulting in more dense forms of development and smaller site and allotment sizes, it is intended that the overall character of the zone will maintain a ‘suburban’ feel with a high level of amenity. This will be achieved by generally maintaining a rhythm of buildings comprising one and two storeys, set back from the street so that front gardens can be established and also by requiring ‘space’ to be established between buildings...
and*

A variety of facade treatments will be permitted in the zone, allowing for individual preferences, however overall proportions of buildings as they present to the street, will be balanced and in accordance with good architectural practice, so as to provide a pleasant streetscape. Garages and carports will be located to the side or rear of dwellings and the placement of driveways will ensure minimal disruption to footpaths and street trees.”

Two storey dwellings are therefore part of the desired character for the Zone. Residential Zone Principle of Development Control 8 is consistent with this desired character, providing a maximum building height of 2 storeys for dwelling facing a public road. . The proposed building heights are therefore considered to be acceptable.

City Wide Principle of Development Control 201 states:

“The height of a dwelling/s sited behind a dwelling/s fronting a public road on a battleaxe, hammerhead or similar configuration allotment or site (including those accommodating group dwellings) should not exceed one storey, nor should the dwelling contain a second storey in the roof space, except where:

- (a) the predominant height of the surrounding existing dwellings is greater than one storey. In this instance the development should not be more than two storeys above the natural ground level; or
- (b) a height greater than one storey is envisaged in the zone or policy area for such dwellings.

In relation to part (a) of Principle 201, although there are some two storey dwellings in the locality, the predominant building height of surrounding existing dwellings is single storey. In relation to part (b), the Residential Zone allows for two storey dwellings facing a public street, however does not explicitly envisage two storey dwellings behind those dwellings. The proposed single storey dwellings at the rear of the subject land is therefore consistent with Principle 201.

The proposed residential flat building is proposed to be constructed and finished in a range of traditional building materials and a simple hipped roof form, which will complement other development within the locality. The design is of a contemporary architectural form with feature mouldings and a range of materials, finishes and articulation, which will provide visual interest consistent with City Wide Principle of Development Control 30.

Setbacks and Site Coverage

The following Development Plan provisions provide guidance with respect to set-backs and site coverage considerations:

Residential Zone PDC's: 8

City Wide PDC's: 202, 203, 208

Residential Zone Principle of Development Control 8 states that dwellings should be designed with a minimum setback from the primary road frontage of six (6) metres. The proposal accords with this Principle.

In terms of side and rear setbacks, City Wide Principle of Development Control 202 states that a single storey dwelling on a battleaxe, hammerhead or similar configuration allotment or site and a side or rear boundary of the parent development site, should be no less than 2.5 metres. City Wide Principle of Development Control 203 states that the two-storey component of a two-storey dwelling on a battleaxe, hammerhead or similar configuration allotment or site and a side or rear boundary of the parent development site, should be no less than 4.5 metres.

The proposed development does not accord with City Wide Principle of Development Control 202, as the side setbacks of the rear dwellings are less than 2.5m. It is considered that there is adequate justification for the proposed side setback of the rear dwellings (Nil to 1.0m), as they will not significantly impact on the amenity of adjacent dwelling occupiers, due to the specific circumstances of the site and locality. In particular, the common access driveway for the adjoining units to the south is located adjacent to the western boundary of the subject land, providing a good level of separation between Dwelling 3 and the adjacent dwelling. On the eastern side of the subject land is the service yard area of 3/40 John Street, Payneham with an undercover alfresco area with a southern outlook.

In terms of site coverage, Principle of Development Control 8 of the Residential Zone states that the site coverage of dwellings fronting a public road should not exceed 60%. There is no quantitative site coverage policy for dwellings located behind dwellings fronting a public road. Dwellings 1 and 2 fronting a public road result in a site coverage of 58% each, which is consistent with Principle of Development Control 8 of the Residential Zone.

Overshadowing/Overlooking/Views

The following Development Plan provisions provide guidance with respect to overshadowing and overlooking considerations:

City Wide PDC's: 11, 31, 71, 72, 195, 196, 235 & 236

City Wide Principle of Development Control 196 states:

“Unless otherwise specified in the relevant Zone and/or Policy Area, development should ensure that at least half of the ground level private open space of existing dwelling(s) receive direct sunlight for a minimum of two hours between 9.00am and 3.00pm on 21 June. Development should not increase the overshadowed area in cases where overshadowing already exceeds these requirements.”

The Applicant has provided shadowing diagrams, to demonstrate the extent of overshadowing that would result from the proposed development during the winter solstice. In relation to the two adjoining properties, the diagrams show:

- the adjacent driveway and parking area at 34 John Street Road would be overshadowed at 9.00am. By midday, overshadowing would be predominantly contained within the subject land. None of the dwellings t 34 John Street will be affected by shadowing from the proposed development, consistent with City Wide PDC 196;
- between midday and 3.00pm, overshadowing will only impact 1/40 John Street, but that the impact would be in accordance with City Wide PDC 196;

A copy of the shadow diagrams is contained in **Attachment B6**.

The extent of overshadowing is not likely to significantly detract from the amenity of the occupiers of adjacent properties and accords with City Wide Principle of Development Control 196.

In terms of privacy, no specific details relating to privacy treatments of the upper floor windows of dwellings 1 and 2 have been provided. If the Panel is of a mind to approve the proposed development, then it is considered that a condition of consent be incorporated in the approval requiring that all of the side and rear facing first floor windows either incorporate 1700mm sill levels or contain fixed obscure glazing to all portions of the windows below 1700mm above the internal floor level. The proposed condition would be consistent with City Wide Principle of Development Control 235, which seeks privacy treatment to a height of 1700mm.

With regard to the loss of views currently enjoyed by the representor, across the subject land towards the Payneham Oval, the Development Plan, unlike the Development Plans of some coastal or rural Councils, does not contain policies aimed at the protection of views. Therefore, the loss of views over the adjacent public open space reserve is not of high relevance to the assessment of the proposal against the Development Plan. It is also relevant to consider what can be achieved as of right on the subject land, which would include two (2) two storey detached dwellings of similar bulk and height, as complying forms of development pursuant to the Residential Development Code.. For these reasons, the loss of the borrowed views is considered acceptable, albeit an unfortunate outcome.

Private open space

The following Development Plan provisions provide guidance with respect to private open space considerations:

City Wide PDC's: 222-225, 227, 229 & 230

City Wide Principle of Development Control 225 states (in part):

“Dwellings (other than residential flat buildings in the form of apartments within a multi storey building) should have associated private open space of sufficient area, shape and gradient to be functional and capable of meeting the likely needs of the occupant(s) (taking into consideration the location of the dwelling and the dimensions and gradient of the site) and should be in accordance with the following:

(a) a dwelling with a site area of 250 square metres or greater, 20 per cent of the site area should be private open space, of which one portion should be equal to or greater than 10 per cent of the site area and have a minimum dimension of 4 metres;

All of the proposed dwellings have site areas greater than 250m² and, as such, should have a minimum area of private open space of at least 20% of the site areas. The proposed private open space areas range between 74.1m² (Dwellings 1 & 2) and 78.6m² (Dwellings 3 & 4). All of the dwellings are provided with areas of private open space consistent with City Wide Principle of Development Control 225(a).

The private open space areas of each dwelling are directly accessible from the main living areas of the respective dwellings. The private open space areas associated with Dwellings 1-2 have reasonable orientation for solar access during the afternoon, while the private open space of Dwellings 4 and 5 have poor access to northern sun throughout the day. This is difficult to avoid due to the north-south orientation of the subject land.

City Wide Principle of Development Control 229 states that fifty percent (50%) of the total private open space requirement provided at ground level should be open to the sky and developed in a manner to provide outdoor amenity, opportunities for landscaping and a reduction in stormwater runoff through the use of permeable surface treatments. The proposal accords with this.

Carparking/access/manoeuvring

The following Development Plan provisions provide guidance with respect to car parking access and manoeuvring considerations:

City Wide Objectives: 38
City Wide PDC's: 98, 101, 104, 118, 120, 122, 181, 198, 200 & 219

Table NPSP/8

City Wide Principle of Development Control 120 states that development should include on-site car parking in accordance with the rates prescribed in Table NPSP/8. In relation to dwellings within a residential flat building, Table NPSP/8 states that 2 on-site car parking spaces should be provided for each three (3) bedroom dwelling, of which at least 1 should be covered. In addition, one (1) visitor space should be provided for every two (2) such dwellings, resulting in a total demand of eight (8) occupant car parking spaces and two (2) visitor spaces.

Each of the proposed dwellings have two (2) covered occupant car parking spaces in a garage, with dwelling 3 also having a visitor space in front of the garage.

As such, the proposed development results in a shortfall of one (1) on-site visitor car parking space. The minor shortfall is not considered to be fatal to the overall merit of the proposed development, given that the proposed single access point will enable two (2) vehicles to park on the street, directly adjacent to the subject land, and for all intents and purposes, Dwellings 1 and 2 are akin to detached dwellings (ie. they front a public road), which only require two (2) vehicle spaces, with no additional requirement for visitor parking.

City Wide Principle of Development Control 189 provides guidelines for the configuration of driveway and manoeuvring areas for battleaxe style allotments, so as to achieve safe and convenient access arrangements. In relation to developments involving more than two (2) dwellings utilising a common driveway, Principle 189 states that the driveway should have a 6m x 6m paved carriageway at the front of the property, to enable safe and convenient access/egress for vehicles turning into and out of the site simultaneously. The proposal accords with this policy. The access and egress points are split in order to preserve street trees and on street parking and are considered to meet intentions of the provision.

Principle 189 also states that the paved carriageway width should be no less than 5.0 metres in width, with an additional 1.0m width provided for landscaping, resulting in a total width of paved carriageway and landscaping of 6.0 metres. The common driveway will have a width of 5.0m at the junction of the entry and exit points, before narrowing slightly to 4.5m for approximately 6.0m with a landscaping bed up to 1.5m in width. Whilst in accordance with Principle 189, given the relatively short length of the driveways non-conformance and the generous 1.5m wide landscaping bed the proposed carriageway width is considered acceptable. .

The 85th percentile vehicle turning templates within the Australian Standard for off-street car parking have been applied to the manoeuvring areas and it has been determined that vehicles are able to conveniently access and egress all car parking spaces.

Finished floor levels/flooding/retaining

The following Development Plan provisions provide guidance with respect to considerations relating to floor levels, flooding and retaining:

City Wide PDC's: 53-58, 79, 164, 167-171

The subject land falls approximately 300 millimetres from the rear boundary to the street. The Applicant has proposed finished floor levels between 300-600mm above the adjacent top of kerb levels of the residential flat buildings. The proposed finished floor levels for the dwellings and the adjacent finished driveway pavement levels will result in a gravity fed stormwater system able to be used.

The Applicant has indicated that side and rear fencing is not proposed to be changed as part of the Application. In any event, light weight fencing up to 2.1m in height can be constructed on the subject land without the need for Development Approval. .

The Applicant has proposed to direct roof runoff to rainwater tanks for each dwelling, which are to be plumbed back to each dwelling for reuse, with overflow directed to a main stormwater collection pipe located beneath the common driveway. Surface water collected from the ground surrounding each dwelling is also proposed to be directed to the main stormwater collection pipe and pumped to the street water table.

Given the relatively high percentage of land that will be covered with impervious surfaces compared with the existing condition, it is considered appropriate that on-site detention be provided to ensure that stormwater leaving the site in a high rainfall event does not exceed current levels, consistent with City Wide Principle of Development Control 160.

As such, if the Panel determines to approve the development proposal, it is recommended that a condition be imposed requiring a Stormwater Management Plan be submitted with the documentation for Building Rules Consent, which confirms that stormwater disposal will be maintained at pre-development levels.

Trees (significant, mature & street) and landscaping

The following Development Plan provisions provide guidance with respect to considerations relating to significant trees, mature trees, street trees and landscaping:

| | |
|-----------------------|--------------|
| City Wide Objectives: | 24 |
| City Wide PDC's: | 76, 220, 221 |

There are no regulated trees located on the subject land or adjacent land.

The proposed development includes a landscaping scheme that proposes a range of small trees, shrubs and ground covers including Manchurian Pears, English Box Hedge, 'Screen Master' Pittosporum and Lavender. The proposed landscaping will assist in softening the development when viewed from adjacent land and will provide for a reasonable level of amenity for future occupants.

City Wide Principle of Development Control 189 states that the paved carriageway width should be no less than 5.0 metres in width, with 1.0m of landscaping, resulting in a total width of paved carriageway and landscaping of 6.0 metres. The proposed development complies with this policy, insofar as the proposed landscaping adjacent to the driveway has a total width of 1.3 metres, with 800mm provided adjacent to the dwellings and a 500mm strip adjacent to the eastern side fence.

With regard to the existing street trees, that there are three (3) specimens in front of the subject land. It is proposed that a juvenile Ornamental Pear is able to be relocated in order to accommodate a crossover. The Council's Coordinator, Arboricultural and Horticultural Services, has confirmed that this is acceptable, subject to the Applicant paying for the removal and relocation costs, estimated to be \$1138.70.

Two mature eucalypts are located adjacent to the subject land, either side of the proposed crossovers. Mr Ashforth has recommended a crossover separation of at least 1.6m from the base of the trees in order to protect their health. The Applicant has confirmed that the proposal will be undertaken in accordance with Mr Ashforth's recommendations.

A copy of Mr Ashforth's report is contained in **Attachment E**.

Environmental Sustainability

The following Development Plan provisions provide guidance with respect to environmental sustainability considerations:

| | |
|-----------------------|----------------------------|
| City Wide Objectives: | 23 & 42 |
| City Wide PDC's: | 67-72, 147, 148, 151 & 159 |

The proposed dwellings and their private open space areas are well oriented for solar access. Dwellings 1 to 3 incorporate alfresco areas adjacent to the living areas of the dwelling, which will provide sun protection to the west facing living room windows during summer. Dwellings 4 and 5 do not include any covered outdoor areas, although it is likely that the future occupiers of the dwellings will seek to establish a covered

outdoor area adjacent to the living areas of the dwellings, which will assist in reducing the heat loading on those dwellings.

Dwellings 3 and 4 are to have skylights on the northern roof to allow greater levels of natural light into the main living areas of each dwelling. This is likely to improve the amenity for future occupants, rather than relying on borrowed light as a result of the north/south orientation of the allotment.

Dwellings 1 and 2 contain large expanses of north and west facing upper level windows, unprotected by eaves or canopies, which will result in significant heat-load on the dwellings in summer. Whilst ultimately the development will need to achieve the required energy rating in order to be granted Building Rules Consent, this is considered to be a negative aspect of the proposed development.

No details have been provided on the capacity of the proposed rainwater tanks, and it is recommended that if the Panel determines to Grant Development Plan Consent, a condition be imposed requiring the tanks to be at least 2 Kilolitres in size in accordance with City Wide Principle of Development Control 161.

Summary

The Residential Zone is intended to accommodate a greater range of dwelling types, such as residential flat buildings and group dwellings with a more contemporary design.

The proposed dwelling density is considered to be acceptable, as the proposed dwellings all meet the minimum dwelling floor area provisions and the dwellings generally meet the other relevant quantitative provisions of the Development Plan. The proposed two-storey built form is consistent with PDC 8 for the Residential Zone.

The proposed development meets the minimum quantitative provisions of the Development Plan, with the exception of a shortfall of one (1) on-site visitor car parking space.

This quantitative shortcoming is not considered to be fatal to the overall merit of the proposed development for the reasons described within the body of this report.

In terms of the qualitative provisions of the Development Plan, positive aspects of the proposal are the orientation additional northern light provided to the rear dwellings living areas, the replication characteristics of other dwellings in the locality, through the incorporation of pitched roofs and traditional building materials and the ready access to large areas of public open space (Payneham Oval).

A negative aspect of the proposal is the large unprotected west and north facing windows at the upper level

On balance, it is considered that the proposal is not seriously at variance with the Development Plan and the development sufficiently accords with the Development Plan to merit consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/0694/15 by Oxford Architects to demolish two (2) detached dwelling and construct a partial two storey residential flat building comprising four (4) dwellings associated fencing and landscaping, at 36 & 38 John Street, Payneham, subject to the following conditions:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- the site plan, floor plans, elevations and details prepared by Oxford Architects, received by the Council on 4 February 2016;

Conditions

1. The portion of all upper floor windows on the southern, eastern and western elevations of Dwellings 1 and 2 (front dwellings) less than 1.7 metres above the internal floor level shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
2. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.
3. A Stormwater Management Plan shall be prepared and provided to the Council with the documentation for Building Rules Consent, which illustrates stormwater discharge from the subject land at pre-development levels. On-site retention of stormwater may be required during high rainfall events. Sufficient storage (above or below ground) shall be provided to safely contain stormwater runoff from the contributing catchments for a 5 year ARI rainfall event.
4. A rainwater tank with a storage capacity not less than 2 kilolitre (2000 litres), shall be installed for each of the dwellings or alternatively, an 8 kilolitre communal rainwater tank shall be installed, with each dwelling contributing rainwater from at least 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.
5. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, herein approved, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.
6. Payment to the Council of \$1,138.70 for the relocation of the juvenile street tree (Ornamental Pear) is required to be made prior to the issuing of Development Approval.
7. The two (2) remaining street trees shall be provided with a clearance of at least 1.6m from the base of the tree for the proposed crossovers.

Notes to Applicant

1. The Applicant is reminded of its general environmental duty, as required by section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause harm.
2. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.
3. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.

The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.

4. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.
5. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513.

All works on Council owned land required as part of this development are likely to be at the Applicant's cost.

6. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
7. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

3. **OTHER BUSINESS**
(Of an urgent nature only)
4. **CONFIDENTIAL REPORTS**
Nil
5. **CLOSURE**