

# Development Assessment Panel Minutes

**16 May 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.*

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City of  
Norwood  
Payneham  
& St Peters

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**VENUE** Mayors Parlour, Norwood Town Hall

**HOUR** 7pm

**PRESENT**

**Panel Members** Mr Terry Mosel  
Mr Phil Smith  
Mr Carlo Dottore  
Mr Kevin Duke  
Ms Fleur Bowden  
Ms Jenny Newman  
Mr Don Donaldson  
Ms Evonne Moore  
Mr John Minney

**Staff** Mr Mark Thomson (Manager Development Assessment)  
Ms Emily Crook (Urban Planner)  
Mr Graeme Gibson (Acting Senior Urban Planner)

**APOLOGIES** Nil

**ABSENT** Nil

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE DEVELOPMENT ASSESSMENT PANEL HELD ON 18 APRIL 2016**

*Mr Dottore moved that the minutes of the Meeting of the Development Assessment Panel, held on 18 April 2016 be taken as read and confirmed,*

*Seconded by Ms Newman and carried.*

**2. STAFF REPORTS**

- Items to be starred (2.1, 2.2, 2.3)

## 2. STAFF REPORTS

### 2.1 DEVELOPMENT APPLICATION 155/0432/2015 – SPORTSMED SA – 26-36 PAYNEHAM ROAD, 24 & 21-23 GEORGE STREET AND 16-20 HENRY STREET, STEPNEY

<b>DEVELOPMENT APPLICATION:</b>	155/0432/15
<b>APPLICANT:</b>	Sportsmed SA
<b>SUBJECT LAND:</b>	26-36 Payneham Road, 24 & 21-23 George Street and 16-20 Henry Street, Stepney
<b>DESCRIPTION OF DEVELOPMENT:</b>	Demolition of a warehouse and the construction of consulting rooms and radiology suite with associated pathology and pharmacy at 26 Payneham Road and the change of use of a warehouse at 24 George Street to car parking, all of which is in association with an existing medical centre and hospital at 32-36 Payneham Road and 18-20 Henry Street.
<b>ZONE:</b>	Light Industry Zone (dated 31 October 2013)
<b>PUBLIC NOTIFICATION CATEGORY:</b>	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 the demolition of a warehouse and the construction of consulting rooms and radiology suite with associated pathology and pharmacy at 26 Payneham Road and the change of use of a warehouse at 24 George Street to car parking. Staff do not have delegated authority to determine the Application, as the Application is a Category 3 development for the purposes of public notification. 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**

The subject land is a large, irregular shaped allotment with a primary frontage to Payneham Road of 91 metres and secondary frontages to Henry Street of 120 metres, and George Street of 30 metres. It comprises a total area of 11,885m<sup>2</sup>. The subject land is currently occupied by:

- the Sportsmed SA consulting rooms fronting Payneham Road and associated hospital,
- an adjoining site at 16 Henry Street, used for car parking by Sportsmed SA staff (subject to an LMA).
- an adjacent site at 21-23 George Street, used for car parking by Sportsmed SA staff;
- an adjacent site at 24 George Street, used for car parking by Sportsmed SA staff (this is subject to the current Development Application for retrospective approval);
- an adjacent site at 26 Payneham Road, currently occupied by a warehouse.

There are currently two existing crossovers on Payneham Road. These access points consist of a two-way main entrance to the central car park and a single access point to the car parking for the warehouse building at 26 Payneham Road. There is also an access point from Henry Street which has access to a central basement car park. The site has been landscaped within the central shared car park and along the Henry Street and George Street boundaries.

### Subject Site Attributes – 24 George Street

Shape:	rectangular
Frontage width:	30.5m
Depth:	51.8m
Area:	1580m <sup>2</sup>
Topography:	essentially flat
Existing Structures:	two storey office building and warehouse
Existing Vegetation:	low hedges in garden beds

Whilst signed as Number 36 George Street, this part of the subject land is known to the Council as 24 George Street. It contains a two storey office building occupied by Sportsmed and a former warehouse which was converted by Sportsmed for car parking in the past 2-3 years without the necessary Development Approval. Forty five (45) car parking spaces are available in total, comprising 27 indoor spaces and an open-air car parking area in front of and adjacent to the office, for 18 cars.

### Subject Site Attributes – 26 Payneham Road

Shape:	irregular
Frontage width:	24.08m
Depth:	61.56-69.47m
Area:	1426m <sup>2</sup>
Topography:	essentially flat
Existing Structures:	partially two storey warehouse
Existing Vegetation:	one (1) regulated tree

This part of the subject land currently contains a large partially two storey building formerly used as a warehouse and associated administration. It currently appears to be occupied by Sportsmed, although the exact use and how long it has been used by Sportsmed is unknown. An open-air car parking area is provided between the building and Payneham Road, for approximately 20 cars. Landscape beds either side of the entrance driveway separates the car parking from Payneham Road. One of the beds contains a regulated tree adjacent to the Payneham Road boundary.

### Locality Attributes

Land uses:	Entirely commercial development adjoining and adjacent
Building heights (storeys):	mix of single-storey and two-storey development

The locality is characterised by a mix of land uses including shops, warehousing, offices and light industry. Although the locality is within a Light Industry Zone, many of the uses are not industrial in nature, but rather have a commercial/business character. The built form comprises a mix of building styles up to two-storeys including converted dwellings, purpose built offices and warehouses ranging from iron and besser brick structures to modern pre-cast concrete structures.

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

### Proposal in Detail

The Applicant proposes to demolish the existing warehouse building at 26 Payneham Road and replace it with additional consulting rooms, a radiology suite, pathology, pharmacy and cafe. The new facilities are additional to the existing hospital, consulting and clinical services and are proposed to be integrated into the overall site layout and service overing at Sportsmed SA.

The proposed new building is single storey and is more particularly proposed to comprise:

- a radiology facility of 500m<sup>2</sup>;
- ten (10) consulting rooms for sports doctors;
- a pathology facility of 45m<sup>2</sup>;
- a pharmacy of 117m<sup>2</sup>; and
- a waiting area of 130m<sup>2</sup> incorporating a small ancillary café.

Further information provided by the Applicant on the nature of each proposed use and the relationship of the use to the existing Sportsmed SA facilities is provided below.

*“Radiology – the radiologists already have imaging within the hospital (in the theatres area). The new radiology site will provide a service for outpatient scans not hospital patients.*

*Consulting Rooms – these will be utilised exclusively by Sportsmed SA Sports Doctors for consulting. None of these doctors have any admitting rights to the hospital so there is no direct link to the hospital. Any patient that requires hospital admission would need to be seen by an orthopaedic surgeon in the existing Sportsmed SA Clinic (the same as current).*

*Pathology – there will be no flow of patients between the hospital and the new facility for pathology. Any patient pathology required for hospital patients would be collected in the hospital and sent to the necessary pathology labs as currently happens. The on-site pathology collection centre is for providing pathology collection samples for ambulant outpatients consulted through the Sports Doctors consulting and the general public. I note that the pathology on site is a collection centre and not a lab as such.*

*Pharmacy – the pharmacy will be available to provide discharge medication to hospital patients post discharge, for prescriptions ordered by the Sports Doctors during consulting and possible prescriptions by orthopaedic surgeons from the main consulting (existing clinic). The Pharmacy licence for this locations will be a Community Pharmacy licence principally providing a service to the community. The Clinical Pharmacist on site may provide services to the hospital in conjunction with the hospital meeting its accreditation standards. This happens at present with an off-site pharmacist.*

*Café – provided for the convenience of outpatients and staff.*

*Nothing is being relocated from the existing hospital to the new site. The new site is a complimentary set of services for Sportsmed SA as a whole for outpatients. The hospital functions and will continue to function) without these new facilities as it has done so for almost 20 years. Pathology is currently collected in hospital and sent to external pathology labs, imaging is present in theatres already for inpatient radiology and outpatients are currently sent to other facilities with radiology capability and a clinical pharmacist provides pharmacy support to the hospital through an external provider.”*

An open-air car parking area for five (5) cars is proposed in front of the building, to be accessed from the existing driveway leading to the main Sportsmed car parking area. The existing driveway and crossover servicing 26 Payneham Road is proposed to be removed, providing greater opportunity for landscaping between the car parking spaces and Payneham Road.

The Applicant is also seeking retrospective approval for the change of use of the warehouse at 24 George Street to a 45 space car parking area for Sportsmed SA staff.

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

### **Notification**

The proposal has been identified and processed as a Category 3 form of development. Two representations were received in response to the notification, copies of which are contained in **Attachment C**. One representer is in favour of the Application and the other is opposed. Concerns raised in the representation include:

- concern that on-site parking is inadequate;
- concern that adjacent sites on which car parking is proposed, may not be owned by Sportsmed SA and therefore cannot be relied on in the long-term;
- concern that 26 Payneham Road could be divested, resulting in a stand-alone use with only 5 car parking spaces;

The following representors desire to be heard personally by the Panel, in support of their representation:

- *Andel Pty Ltd, representing Skyline Estates Pty Ltd*

The Applicant has provided a written response to the representations, making reference to a report by MFY Traffic Consultants, supporting the proposed amount of car parking. The response also explains that all sites which have been relied upon in the car parking assessment are owned by the Applicant or subject to a Land Management Agreement which ensures their ongoing use in association with Sportsmed SA.

A copy of the Applicant's response is contained in **Attachment D**.

### **State Agency Consultation**

No consultation with State Agencies is required for this Application.

### **Discussion**

The subject land is located within the Light Industry Zone, as identified within the Norwood, Payneham and St Peters (City) Development Plan. Hospitals and Health Centres are listed as non-complying land uses within the Light Industry Zone. Advice has been sought from Norman Waterhouse Lawyers as to whether the proposed development may constitute either a health centre or an expansion of the existing non-complying hospital use.

According to advice received, the proposed development is not 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 land use considerations envisaged within the Development Plan:

Light Industry Zone Objectives:	1
Light Industry Zone PDC's:	1
City Wide Objectives:	2, 3, 7, 10, 12, 13, 26, 27 & 77.
City Wide PDC's:	3-6, 12, 19, 83, 88 & 327.

A medical centre is not an explicitly anticipated land use within any zone contained in the Development Plan. That in itself does not mean that such a land use is not appropriate within the Council area. Rather, the proposed medical centre must be assessed on its individual merit, with consideration given to the general intent of the relevant zone. If the general intent of the relevant zone is not unreasonably compromised and the proposal can be supported following an assessment of other relevant provisions contained in the Development Plan, then the proposed land use may generally be appropriate.

Light Industry Zone Principle of Development Control (PDC) 1 states:

*"Development undertaken in the Light Industry Zone should be, primarily, industries which manufacture on a small scale and which:*

- (a) do not create any appreciable noise, smoke, smell, dust or other nuisance or generate heavy traffic; and*
- (b) without limiting the general application of (a) above, conform with the requirements of all the relevant Environment Protection Policies of the Environment Protection Authority."*

The subject land is located adjacent to an arterial road and is surrounded entirely by commercial development. The proposed land use is therefore not likely to have any unreasonable adverse impacts on the amenity of the local area.

The pharmacy (shop) component of the proposed development is considered to be a relatively minor land use given the overall scale. Although not specifically anticipated in the Zone, the ancillary shop use is considered appropriate within the context of the locality, which contains a range of commercial land uses.

The loss of land which is zoned for manufacturing and related purposes is not of significant concern in this instance. Unlike some other parts of Stepney, existing land uses within the locality of the subject land are predominantly non-manufacturing uses, with a particular focus on office/administration, as well as medical uses associated with the existing Sportsmed SA facility. Combined with the opportunities of an arterial road frontage, the site at 26 Payneham Road is not conducive to manufacturing activities.

As such, the proposed use of the subject land as proposed is considered to be acceptable.

Streetscape/bulk/scale/height/character

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

City Wide Objectives:	8, 18, 19 & 20.
City Wide PDC's:	29-31, 33-35, 39, 41, 42, 48 & 326.

The Light Industry Zone does not provide quantitative nor qualitative guidance in terms of recommended building heights. In lieu of this, City Wide PDC's 30 and 31 state respectively:

City Wide Principle of Development Control 30

*"Buildings and structures should have a visual bulk and architectural scale which is consistent with structures on adjoining or nearby land and should not visually dominate the surrounding locality, unless the Zone or Policy Area Objectives or Principles of Development Control provide otherwise."*

City Wide Principle of Development Control 31

*"New buildings should complement the urban context of existing buildings on adjoining and nearby land in terms of:*

- (a) maintenance of existing vertical and horizontal building alignments;*
- (b) architectural style, building shape and the use of common architectural elements and features;*  
*and*
- (c) consistent colours, material and finishes."*

The proposed building is single storey and has a bulk and scale that complements existing development within the locality.

The facade of the proposed single storey building is relatively contemporary and incorporates a concealed roof form and a simple palate of external finishes and materials which complement other buildings in the locality – particularly the existing Sportsmed building.

Whilst the primary white colour of the facade is relatively stark, it is reasonably complemented by expanses of glazing and expressed joints, and in any event is consistent with the colour of the adjacent existing Sportsmed SA building.

The proposed building and its surrounds are considered to result in a reasonable character and amenity, which will make a positive contribution to the character and amenity of this part of Payneham Road.

Setbacks

The following Development Plan provisions provide guidance with respect to setbacks and site coverage considerations:

City Wide PDC's:	51, 52, 53 & 326.
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City Wide PDC's 51 and 52 state respectively:

City Wide Principle of Development Control 51:

*"The setback of buildings from public roads should:*

- (a) be similar to, or compatible with, the setbacks of buildings on adjoining land and the predominant setback of buildings in the locality;*



- (b) *contribute positively to the streetscape character of the locality; and*
- (c) *not result in or contribute to a detrimental impact upon the function, appearance or character of the locality.”*

City Wide Principle of Development Control 52:

*“Except where specified in the particular Zone or Policy Area, development fronting the primary street (excluding verandahs, porches and similar) should be set back by either of the following distances:*

- (a) *not less than the average of the setbacks of the adjoining buildings, if the difference between the setbacks of the adjoining buildings is greater than 2 metres; or*
- (b) *the same distance as one or the other of the adjoining buildings, provided the difference between the setbacks of the two adjoining buildings is less than or equal to 2 metres.*

The front facade of the building is proposed to be set back between 9.6 metres and 20.0 metres from the Payneham Road property boundary. Front setbacks are varied within this portion of Payneham Road. The adjacent building to the west is set back between approximately 6 and 8 metres, while the adjacent existing Sportsmed SA building has a staggered facade with setbacks ranging from approximately 6 metres to approximately 15 metres.

City Wide PDC 326 states:

*“Industrial and commercial development should be of a high architectural standard and be setback from the road frontage to allow for landscaping.”*

The proposed medical centre building is set back such that a reasonable level of landscaping can be established at the front of the site, including the retention of a mature (non-regulated) tree adjacent to the front property boundary. As such, the proposed development is considered to be consistent with City Wide PDC 326, as it relates to front setbacks. Whilst the plans do not show how the front setback (between the car parking area and the street boundary) is to be landscaped, it is considered appropriate for a condition to be imposed, requiring that a landscape plan be submitted to the reasonable satisfaction of Council, which includes the retention of the mature tree.

Overall, the setbacks are considered to be acceptable within the context of the locality.

#### Car-parking/access/manoeuvring

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

City Wide Objectives:	31, 32 & 34
City Wide PDC's:	101, 104, 107, 112, 113, 116, 118, 120, 121-123, 126, 127 & 129-133.

#### Table NPSP/9

The Development Plan provides the following rates for the proposed land uses:

- Consulting room: 4 spaces per consulting room
- Medical Centre: 10 spaces per 100m<sup>2</sup> gross leasable area
- Shop with a floor area <250m<sup>2</sup>: 1 space per employee

Applying the Development Plan rates (and assuming 2 employees for each of the cafe and pharmacy), the proposed development generates a theoretical car parking demand of 95 spaces.

Based on the pure theoretical rates of the Development Plan alone, the proposed additional 50 car parking spaces (comprising 5 spaces at the front of the new building and 45 spaces in the converted warehouse at 24 George Street) represents a significant shortfall.

Traffic consultants engaged by the Applicant, MFY, have suggested that the car parking rates in the Development Plan are not suitable to apply to the proposed development and should be discounted because:

- the proposal is a mixed use facility;
- consulting rooms at mixed facilities do not operate with all uses at peak capacity simultaneously;
- some facilities (such as radiology) are ancillary to the consulting rooms, thus generate a shared parking demand;

Accordingly MFY have adopted rates of 4 spaces per consulting room (consistent with Development Plan rates) and 5 spaces per 100m<sup>2</sup> for medical centre (a 50% reduction of the Development Plan rate). Applying these rates to the proposed development, MFY calculate a demand of 54 spaces, which is relatively consistent with the proposed supply of 50 spaces.

A copy of the report by MFY dated 12 January 2016 is contained in **Attachment E**

The Council's Traffic Consultants, Tonkin Consulting, were initially concerned that the proposal did not provide sufficient car parking. The basis for this initial concern was twofold. Firstly, Tonkin did not initially accept that the parking within the warehouse at 24 George Street was 'new', since it is already being used for parking. Secondly, Tonkin did not consider that there was sufficient justification for a 50% discounting of the Development Plan rates for medical centres and preferred to apply a 30% discount, consistent with advice contained in a 2013 parking study by Aurecon for the LGA.

Because of the concerns that Tonkin had with the proposed parking, they undertook parking usage surveys of the entire Sportsmed facility. The surveys identified that there is a current peak parking demand of 195 spaces. Combined with a predicted new parking demand resulting from the proposed development of 71 spaces, Tonkin predicted a peak demand of 266 spaces. This compares with a total parking supply (existing and proposed) of 211 spaces, representing a 55 space shortfall.

The initial report which was prepared by Tonkin, presented both:

- a theoretical scenario, which acknowledged that parking at 24 George Street is 'new' for assessment purposes and using a 30% discount rate for medical centre, resulting in a 21 space shortfall; and
- a practical holistic scenario, reflecting the results of the parking usage survey and using a 30% discount rate for the new medical centre, resulting in a 55 space shortfall.

A copy of the initial report prepared by Tonkin Consulting dated 19 April 2016, is contained in **Attachment F**.

Subsequent further information was provided by MFY, providing further justification for their applied 50% discount rate to the medical centre, whilst also suggesting that it was not appropriate to apply the practical holistic approach to a parking assessment, as such an approach would penalise the applicant for any existing approved shortfall associated with the facility.

A copy of the further information provided by MFY is contained in **Attachment G**.

City Wide Principle of Development Control 124 states:

*"Development in the nature of additions to existing non-residential premises should provide onsite car parking in accordance with the principles of development control to serve new floor area while maintaining existing car parking numbers for the existing floor area."*

Principle 124 allows any existing shortfalls in car parking associated with a premises, to continue despite future development of the premises in the nature of additions, provided that the new additions are met with the appropriate amount of parking generated by the additions.

The complicating factor with the subject Development Application, is that the proposed 45 car parking spaces at 24 George Street are already being used without approval. Hypothetically, had Sportsmed SA purchased 24 George Street and not yet converted it for use as car parking, it would clearly be new proposed parking in the current Application. The fact that Sportsmed SA chose to start using the warehouse for car parking before lodging their Development Application to develop the land at 26 Payneham Road, should not affect the status of the parking as new parking for the purposes of the assessment.

After considering the further submission of MFY, Tonkin have agreed that parking at 24 George Street should be considered as new parking. In addition, Tonkin accepted the further justification provided by MFY for their 50% discounting of the medical centre parking rate. The following statements summarise the final opinion expressed by Tonkin Consulting:

*“the proposed development will require between 50-55 additional parking spaces and will provide 50 additional car parks made up of 45 within the Warehouse and 5 adjacent the proposed new building.*

*from a very practical view point, the development will result in the displacement of vehicles already using the warehouse and ancillary parks around the site. These vehicles will probably return to parking wherever they did once prior to the use of the warehouse.”*

A copy of the addendum by Tonkin to their initial report is contained in **Attachment H**.

Having regard to all of the expert parking advice received and the relevant Development Plan provisions, the extent of parking proposed is considered acceptable.

#### Finished floor levels/stormwater/retaining

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

City Wide Objectives:	9, 37, 42, 44 & 51.
City Wide PDC's:	10, 12, 60, 61, 138, 140, 143, 157, 163, 164 & 166.

The subject land is relatively flat and the extent of impervious surface is akin to the existing site conditions. Although the proposed building is larger in footprint than the one being demolished, the area being displaced by the larger building comprises existing bitumen car parking. As such, no significant change to stormwater runoff from the site is likely to occur.

That said, in light of the scale of the development, if the Panel determine to approve the Application, it is recommended that a condition be imposed requiring a Stormwater Management Plan to be provided to the Council prior to the granting of Development Approval, with details of stormwater reuse and irrigation.

#### Trees (regulated, mature & street) and landscaping

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

City Wide Objectives:	24
City Wide PDC's:	46, 76-79 & 81

The Applicant has advised, that it is their intention to retain the Regulated Tree located adjacent to the Payneham Road frontage of 26 Payneham Road. They have also advised that additional low level planting is proposed in the area between the five car parking spaces and the Payneham Road boundary.

A row of non-regulated mature trees located adjacent to the eastern boundary of 26 Payneham Road, is proposed to be removed to facilitate construction of the new building. Two existing trees in the area between the proposed building and the adjacent down ramp to the basement car parking area to the east, are proposed to be retained.

In the event that the Panel determines to grant consent to the Application, it is recommended that a condition be imposed, requiring that a detailed landscape plan be provided to the reasonable satisfaction of the Council, which includes but is not limited to:

- the retained Regulated tree adjacent to the Payneham Road frontage;
- the retained non-regulated trees adjacent to the down-ramp;
- low-level plantings between the new building and Payneham Road, surrounding the 5 car parking area.

### 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, 72, 73 & 149.

The Application does not demonstrate any particular ESD principles for the proposed building. The roof plan does show a series of solar tube skylights, which will reduce dependence on artificial lighting within the building, which is a positive measure.

### **Summary**

The proposed development is considered to be an appropriate land use for the subject site, considering its complementary nature to the existing Sportsmed SA facility and surrounding land uses.

The Council's consultant Traffic Engineer has advised that the provision of car parking is considered to be adequate to cater for the likely demands generated by the proposed development.

From a design perspective, the proposed building is of a form and scale that will complement adjacent buildings. The loss of a row of mature non-regulated trees to facilitate construction of the proposed building will result in some loss of amenity to the main car parking area and the locality generally, however it is considered that an adequate area is being retained for landscaping in front of the site, including the retention of a Regulated Tree.

On balance, it is considered that the proposed development 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 155/0432/15 by Sportsmed SA to demolish a warehouse and construct consulting rooms and radiology suite with associated pathology and pharmacy at 26 Payneham Road and the change of use of a warehouse at 24 George Street to car parking, 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 Hassell, Drawings 01\_Location Plan, 03\_Ground Floor Plan, 04\_Roof Plan, 06\_Payneham Road Elevation and 07\_Carpark Elevation, dated 3 June 2015 and Drawing SK-01 Site Plan, dated 23 July 2015.
- Plan of 24 George Street prepared by MFY, Drawing Number MFY\_15-0026\_03, dated 16 November 2015.

#### 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 final Stormwater Management Plan shall be submitted to the Council prior to the issuing of Development Approval. The final Stormwater Management Plan shall include detailed design for stormwater retention and reuse through either above-ground or underground rainwater tanks; the passive irrigation of landscaping areas; and the inclusion of suitable gross pollutant traps.
3. A detailed landscaping plan shall be provided to the reasonable satisfaction of the Council, prior to granting Development Approval, which includes but is not limited to showing:
  - the retained Regulated tree adjacent to the Payneham Road frontage;
  - the retained non-regulated trees adjacent to the down-ramp;
  - low-level plantings between the new building and Payneham Road, surrounding the 5 car parking area.
4. All landscaping and/or garden areas shall be established prior to occupation of the approved building and 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.
5. All of the car parking spaces, driveway and vehicle manoeuvring areas shall be constructed of concrete, paving bricks or bitumen; and drained in accordance with recognised engineering practices prior to occupation of the premises.
6. Wheel stopping devices (or kerbing with adequate clearance from the boundaries) constructed of concrete, metal or wood shall be placed at the end of all new parking bays so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council or its delegate.
7. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
8. Access to buildings and designated accessible car parking spaces shall be designed and provided in accordance with the provisions contained in *Australian Standard AS1428*.
9. 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.
10. All deliveries to and from the site shall occur outside of regular operating hours, to prevent conflict with customer vehicles. Loading and unloading shall occur entirely on the subject land.

#### 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 are likely to be at the Applicant's cost.
5. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
6. 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.

*Mr Mosel declared a conflict of interest in this item as he has previously been involved with a Development Application on this site. Mr Mosel left the meeting at 6:58pm.*

*Mr Smith chaired the meeting in Mr Mosel's absence.*

*Stavros Elia, representing Skyline Estates Pty Ltd addressed the Panel from 6:59pm until 7:05pm.*

*Mr David Bills and Jayne Lovell on behalf of the Applicant addressed the Panel from 7:05pm until 7:26pm.*

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*Mr Donaldson moved*

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan, Development Application 155/0432/15 by Sportsmed SA to demolish a warehouse and construct consulting rooms and radiology suite with associated pathology and pharmacy at 26 Payneham Road and the change of use of a warehouse at 24 George Street to car parking, the Application is **deferred**, to enable the Applicant the opportunity to clarify the following:*

- 1. The intended use of the office building at 24 George Street and associated parking provision;*
- 2. The circumstances of the sites used for comparison car parking rates;*
- 3. The viability of amalgamation of the sites forming part of the subject land;*
- 4. Safe and convenient pedestrian movement between the George Street car park and the existing site; and*
- 5. What will happen to the current users of the George Street car park in the event that the development is approved.*

*Seconded by Ms Bowden and carried.*

*Mr Mosel returned to the meeting at 7:59pm.*

## 2. STAFF REPORTS

### 2.2 DEVELOPMENT APPLICATION 155/0809/2015 – PROGETTO DESIGN – 86 GAGE STREET, FIRLE

<b>DEVELOPMENT APPLICATION:</b>	<b>155/0809/15</b>
<b>APPLICANT:</b>	<b>Progetto Design</b>
<b>SUBJECT SITE:</b>	<b>86 Gage Street, Firle (Certificate of Title - Volume: 5700, Folio: 257)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Construction of a two storey residential flat building containing three dwellings</b>
<b>ZONE:</b>	<b>Residential Zone Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 2</b>

#### **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 construct a two storey residential flat building containing three dwellings.

Staff do not have delegated authority to determine the Application, as it comprises a development with more than two dwellings on one allotment. 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:	17.3m
Depth:	59.4m
Area:	1028m <sup>2</sup>
Topography:	fall of approximately 1 metre from back to front
Existing Structures:	Nil
Existing Vegetation:	Nil

The subject land is currently vacant, having previously been occupied by St Barnabas Anglican Church, prior to its demolition in 2015. The church occupied the front half of the land, with the rear half having been used for car parking, with access from an adjacent private laneway, which bounds the northern side of the subject land.

The Applicant has provided a letter from a conveyancer, advising that it may be implied that there is an established right of way adjacent to the subject land given its continued use since the 1800s. It has been suggested by one of the representors that the church did not use the right of way, however annual aerial photography over the past ten years shows that it was used to service car parking at the rear of the property.

## Locality Attributes

Land uses: predominantly residential  
Building heights (storeys): predominantly single storey

The locality of the subject land is characterised by a range of single storey dwellings, generally constructed around the mid twentieth century and predominantly detached on individual allotments. Some medium density dwellings exist in the locality, including a group of four (4) dwellings located to the south of the subject land at units 1-4, 84 Gage Street, three dwellings within a residential flat building to the rear of the subject land at 3 Gage Street and a pair of semi-detached dwellings at 71-73 Gage Street. A group of local shops is located on the corner of Gage Street and Gwynne Street. With the exception of a recently constructed two storey detached dwelling at 90 Gage Street, all buildings in the locality are single storey. The former church building on the subject land was akin to a two storey dwelling in height.

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

## Proposal in Detail

The proposal is for the construction of a two storey residential flat building, containing three dwellings.

The dwelling to be located adjacent to Gage Street (Residence 1) has a floor area of 270m<sup>2</sup> and comprises open-plan living, a study and a garage at ground level and three bedrooms and a retreat at first floor level. The garage is accessed via the laneway on the northern side of the subject land. A separate pedestrian access point is proposed via a common pathway, adjacent to the southern boundary of the subject land. Private open space is proposed to comprise a combination of a services court at the rear of the site and private front and northern side yard areas.

The rear two dwellings have floor areas of between 200 and 215m<sup>2</sup> and have similar floor plans to Residence 1, minus studies at ground floor level and retreats at first floor level. Residences 2 and 3 also have vehicular access from the adjacent laneway, with Residence 2 having space in front of the garage for visitor car parking. Both dwellings also have a pedestrian access point via the common pathway adjacent the northern boundary.

A range of materials and finishes are proposed for the dwellings, including rendered hebel panels, face brick, stone veneer and colorbond custom orb roof sheeting.

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	Residence 1	Residence 2	Residence 3	Development Plan Merit Assessment Quantitative Guideline
Site Area (excluding common areas)	368m <sup>2</sup>	277m <sup>2</sup>	295m <sup>2</sup>	250m <sup>2</sup> average excluding common areas
Site Width	15.2mm	15.2m	17.3m	N/A
Total Development Site Frontage		17.3m		18.0m
Site Depth	24.2m	18.2m	17.0m	N/A
External Wall Height*	5.9m	4.9-5.6m	4.9-5.6m	N/A
Maximum Overall Height (to roof apex)*	8.3m	7.3m	7.3m	Two-storey



**TABLE 1: DEVELOPMENT DATA *continued...***

Consideration	Residence 1	Residence 2	Residence 3	Development Plan Merit Assessment Quantitative Guideline
<b>Floor Area (total)</b>	270m <sup>2</sup>	236m <sup>2</sup>	223m <sup>2</sup>	N/A
<b>Floor Area (footprint)</b>	167m <sup>2</sup>	141m <sup>2</sup>	123m <sup>2</sup>	N/A
<b>Site Coverage</b>	45%	51%	42%	60% overall
<b>Private Open Space</b>	114m <sup>2</sup> (31% of site area)	84m <sup>2</sup> (30% of site area)	85m <sup>2</sup> (29% of site area)	20% of allotment area & 50% uncovered
<b>Street Setback</b>	6.0m	N/A	N/A	6.0m
<b>Side Setbacks (ground level)</b>	2.9m and 4.5m	3.7m and 3.0m	2.5m and 3.0m	2.5m
<b>Side Setbacks (upper level)</b>	2.9m and 4.9m	5.5m and 4.6m	5.5m and 3.0m	4.5m for dwellings not facing a public road (ie. Residences 2 and 3)
<b>Rear Setback</b>	N/A	N/A	4.0m ground 5.0m first floor	2.5m – ground 4.5m - first floor
<b>Car Parking Provision</b>	2 spaces	2 spaces	2 spaces + 1 visitor	2 spaces per dwelling plus 1 visitor space for every 2 dwellings

*\* 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.

Six (6) representations were received in response to the notification, copies of which are contained in **Attachment C**. Five (5) of the representations expressed opposition to the Application, while one (1) was neither in favour nor opposed. A summary of the representor's concerns is set out below:

- overshadowing of living room windows
- overshadowing of private open space
- overshadowing of solar panels
- adverse impact on the character of Gage Street, due to being 2 storey
- density
- overlooking from upper level windows
- smell from rubbish bins
- boundary fencing between 84 and 86 Gage Street should be of sufficient height to provide privacy
- laneway is narrow and in poor condition, resulting in inconvenient access for the residents and emergency vehicles
- increased traffic in Gage Street
- increased parking in Gage Street
- the building process will block the right of way for months

The following representors desire to be heard personally by the Panel, in support of their representation:

- Ms Angela DeMarco
- Dr David Bates and Dr Edna Bates

The Applicant has provided a written response to the representations. A copy of the Applicant's response is contained in **Attachment D**.

### **State Agency Consultation**

No consultation with State Agencies is required for this Application.

### **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 requirements for new dwellings in the Policy Area. In relation to residential flat buildings, Principle 7 states that there should be an average site area of 250m<sup>2</sup> per dwelling, exclusive of common areas.

In this instance, the subject land has an average site area, exclusive of common areas, of 313m<sup>2</sup>, consistent with Residential Zone Principle 7.

In relation to the frontage width of the subject land, Residential Zone Principle 7 states that the development site should have a minimum frontage width of eighteen (18) metres, when catering for residential flat buildings. This minimum frontage width takes into account the usual requirement for a proportion of the frontage to be occupied by a vehicular driveway, which when serving residential flat buildings, would typically be 6 metres in width. In the case of the subject land, it has the advantage of the adjacent laneway for vehicular access, enabling the majority of the width of the subject land to be utilised for the siting of dwellings and surrounding open space. In this context, the 17.3 metre wide frontage of the subject land (representing a 700mm shortfall) is considered acceptable.

Having regard to the Desired Character Statement for the Residential Zone, the provisions relating to allotment size and frontage, 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.*

*“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.”*

Residential Zone Principle of Development Control 8 states that dwellings facing a public road may be up to two storeys in height. Unlike the Residential Character Zone, the policies applicable to the Residential Zone do not state that new dwellings should be designed to achieve a mostly single storey streetscape appearance in localities characterised by single storey development. Accordingly, the fact that Residence 1 would represent only the second ‘intrusion’ of an outwardly two storey form within the Gage Street streetscape, is not considered to be problematic. The Residential Zone was introduced on 2 July 2015 and over time the character streetscapes within the zone will evolve, consistent with the Residential Zone policies, which allow for outwardly two storey dwellings fronting the street.

Although two storey dwellings facing public roads are anticipated in the zone, the Desired Character Statement requires that development achieves a ‘suburban character’, through the provision of suitable space around dwellings and by ensuring that the overall proportions of buildings as they present to the street, are balanced and in accordance with good architectural practice. Residence 1 is considered to be consistent with these principles. Although taller than most dwellings in the street, the composition of the façade is otherwise similar, with a traditional roof form and pitch, a similar facade width and space to side boundaries, similar construction materials, and traditional vertical window proportions.

Consistent with the Desired Character Statement, the garage of Residence 1 is located to the rear of the dwelling and the use of the laneway, rather than introducing a new driveway and crossover, will ensure minimal disruption to footpaths and street trees. The streetscape elevation provided, is considered to demonstrate that Residence 1 will likely fit comfortably with the existing streetscape character.

In relation to Residences 2 and 3, 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, whilst there is a two storey dwelling in close proximity to the subject land, the predominant building height of surrounding existing dwellings is single storey. In relation to part (b), the Residential Zone sets a height limit for two-storey dwellings facing a public street, however does not do so for other forms of dwellings. Instead, the Residential Zone policies are silent on the height parameters for dwellings which do not face a public road. In contrast, the Medium Density Policy Area provisions set a height limit of two storeys for all dwellings, regardless of whether or not they face a public road, other than in some stated situations, where a greater height is permitted.

Accordingly, for the purposes of part (b) of City Wide Principle 201, it is considered that dwellings sited behind dwellings fronting a public road are not envisaged in the Residential Zone, other than within the Medium Density Policy Area, or on exceptionally large sites, such as those created through amalgamation of allotments, as stated in the Desired Character Statement. The subject land is not located in the Medium Density Policy Area and is not an exceptionally large allotment in the context of the zone, albeit that it is the largest allotment within the locality. That said, there are circumstances associated with the subject land which are considered to lend support to the establishment of two storey dwellings behind Residence 1.

The first such circumstance is that the subject land is located on the boundary of the Medium Density Policy Area. Specifically, the Medium Density Policy Area is located immediately east of the subject land. The rear of the subject land (where Residences 2 and 3 are proposed) is therefore in a transition area, between the Medium Density Policy Area, where the policies allow for two storey residential flat buildings with no minimum site area and the Residential Zone, where more moderate policies apply.

The second circumstance which is considered to lend support to two storey dwellings at the rear of the subject land, is the laneway located adjacent to the northern boundary of the subject land. It provides a buffer between development on the land and development to the north and allows buildings on the subject land to be sited further away from the southern boundary. Whilst discussed in greater detail in the section below on setbacks, the proposed setbacks from the southern boundary are greater than the minimum setbacks that apply to two storey dwellings sited behind dwellings fronting a public road, both at ground and upper floor levels.

Whilst the proposed dwellings are two-storey in form, they have been designed to reduce the prominence of the upper levels when viewed from adjacent land to the south. This has been achieved by continuing the roof of the upper level down below the ceiling level, so that the gutter height of the upper level roof is located just above the point at which the ground level roof meets the external wall. This leaves only a small portion of upper level wall exposed to view.

In this context, the proposed building heights are considered to be acceptable.

The proposed dwellings are proposed to be constructed and finished in a range of traditional building materials and a simple hipped roof form, which will reasonably complement other development within the locality. The proposed residential flat building is contemporary in its form, with hipped roofs, wide eaves and incorporate 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 the single 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 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.

Residence 1 is located at the front of the allotment and maintains traditional side setbacks of between 2.9m and 4.9m, which complement other dwellings fronting roads within the locality.

Residences 2 and 3 have varied side and rear setbacks, ranging from 2.5m to 4.0m at ground level and 3.0m to 5.5m at first floor level. The dwellings are inconsistent with the 4.5m upper level setback provision (PDC 203) on the northern side, adjacent to the vehicular lane. This is not considered problematic, as the laneway provides additional separation to the nearest residence on the northern side of the lane.

Concerns were raised by the owners of the adjoining dwellings to the south at Units 2 and 4, 84 Gage Street, regarding the two storey nature of the dwellings and resulting overshadowing impacts, overlooking and interruption of visual outlook. Whilst the former two issues are addressed in the section below, outlook is related to the setback distances proposed.

In this respect, Unit 2, 84 Gage Street is located adjacent to proposed Residence 1. Residence 1 is set back from the southern side boundary by between 2.9m and 4.4m at both ground and upper floor levels. Had a detached dwelling been proposed to be constructed on the subject land, Residential Zone Principle of Development Control 8 would have required a 900mm setback from the southern side boundary at ground level (other than a garage which may be constructed on the boundary) and a 2.9m setback at upper floor level. The proposed setbacks of Residence 1 are significantly greater than that and can therefore be reasonably anticipated.

Unit 4, 84 Gage Street is located adjacent to proposed Residences 2 and 3. Residence 2 is set back from the southern side boundary by between 3.7m and 5.5m at ground level and 5.5m at upper level, with the minor exception of a portion of the stair, which comes to within 4.4m of the boundary. Residence 3 is set back from the southern boundary by between 2.5m and 5.5m (mostly 2.5m) at ground level and 5.5m at upper level.

In combination with the design approach aimed at reducing the prominence of the upper level, these setbacks are considered to result in a reasonable outlook from the windows of Unit 4 to the south and its rear private open space area. In particular, the outlook would not be dissimilar in terms of scale and disruption of sky views, to that of single storey dwellings situated entirely 2.5m from the boundary, which could be reasonably anticipated in light of the policies for the Residential Zone. The proposal is considered to be consistent with City Wide Principle of Development Control 193, which states:

*“Dwellings should be designed and sited to minimise the impact of the building’s bulk when viewed from the private open space of adjacent sites by:*

- (a) increasing setbacks on upper levels of buildings in order to achieve greater separation from neighbouring private open space; and*
- (b) using articulation, colour, materials and detailing.”*

#### Overshadowing/Overlooking

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 Principles of Development Control 71, 195 and 196 provide quantitative guidance regarding overshadowing impacts and state:

City Wide Principle of Development Control 71:

*“Development should maintain solar access, for a minimum of 3 hours between 9am and 3pm on 21 June, to:*

- (a) any existing solar collectors (such as solar hot water systems and photovoltaic cells) on adjoining properties; or*
- (b) an area of at least 10m<sup>2</sup> on the north facing roof of the existing building/s, in the event that there are no existing solar panels and/or photovoltaic cells on the adjoining property; and in any case development should not increase the overshadowed area by more than 20 per cent in cases where overshadowing already exceeds these requirements.”*

City Wide Principle of Development Control 195:

*“Unless otherwise specified in the relevant Zone and/or Policy Area, development should ensure that the north-facing windows of habitable rooms of dwelling(s) on adjacent sites receive at least 3 hours of direct sunlight over a portion of their surface and in the case of the main living area windows, a minimum of 50% of their surface, between 9am and 5pm on the winter solstice (21 June). Development should not increase the overshadowed area in cases where overshadowing from existing structures, fences and non-deciduous vegetation already exceeds this requirement.”*

City Wide Principle of Development Control 196:

*“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.”*

Unit 2, 84 Gage Street has photovoltaic panels located on the northern side of its roof. The shadow diagrams provided by the applicant, show that the panels would be unaffected by the proposed development at 9:00am and 12:00pm on 21 June, with approximately 50% of their surface being shadowed at 3:00pm. Accordingly, a minimum of 3 hours access to sunlight would be maintained, consistent with Principle 71.

Unit 4, 84 Gage Street has no photovoltaic panels, however the owner has advised that they have been ordered to be installed. Principle 71 states that an area of at least 10m<sup>2</sup> on the north facing roof of an existing building should receive sunlight for a minimum of 3 hours on 21 June, to allow for the future installation of photovoltaic panels. The shadow diagrams show that the northern roof of Unit 4, 84 Gage Street is almost entirely unaffected by the proposed development and therefore Principle 71 is achieved.

In relation to the north facing windows of Unit 2, 84 Gage Street, the shadow diagrams show that the overshadowing from the recently demolished church exceeded the standard set in Principle 195 of 3 hours over a portion of window surface between 9am and 5pm on the winter solstice. Principle 195 requires that development does not increase the overshadowed areas in cases where overshadowing from existing structures already exceeds this requirement. The shadow diagrams show that overshadowing from the proposed development would be less than that caused by the church and as such, Principle 195 is achieved. Whilst the church is not an ‘existing structure’ (due to being demolished in the last 12 months), it is considered reasonable and consistent with the intent of the policy, for the same principle to apply.

In relation to the north facing windows of Unit 4, 84 Gage Street, shadow diagrams have been prepared in elevation form, to show how high shadows cast by proposed Residences 2 and 3, would extend up the windows of Unit 4. The diagrams show that at least 3 hours of direct sunlight over a portion of their surface between 9am and 5pm on the winter solstice. Neither of the windows are main living area windows and as such, Principle 195 requires that a *portion* of their surface receive sunlight, rather than 50% which would otherwise be the case. The main living area window is likely to face east, towards the private open space area at the rear of Unit 4.

In relation to overshadowing of the private open space areas of Units 2 and 4, 84 Gage Street, the shadow diagrams show that the amount of overshadowing to the private open space areas of both dwellings, is greater than the standard of at least half of the area receiving direct sunlight for a minimum of two hours between 9.00am and 3.00pm on 21 June. Consistent with Principle 196, the shadow diagrams show that the proposed development would not increase the overshadowed area.

The proposal is therefore consistent with Principles 71, 195 and 196 and as such, is not considered to cause excessive overshadowing of the adjacent units to the south.

Whilst not shown on the plans, the Applicant has verbally advised that they intend for the portion of any upper level windows located lower than 1.7m above floor level, to comprise fixed obscure glass, with the exception of those of Residence 1 facing over Gage Street. If the Panel determines to consent to the application, it is recommended that a condition be imposed to that effect.

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 250m<sup>2</sup> 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 accord with this, ranging from 29% to 31% of the site areas.

A large portion of the private open space of Residence 1 is proposed between the primary street boundary and the dwelling. City Wide Principle of Development Control 22 states (in part):

*“The space should not be located between the primary street frontage and the main face of an existing or proposed building unless high, solid front fences form part of the existing streetscape or the desired character of the locality”*

High, solid front fences do form part of the existing streetscape within the locality. High brush fencing is located in front of Units 1 and 2 at 84 Gage Street. Further south, a high painted bessa-block wall is situated on the front boundary of 82 Gage Street and beyond that, a former shop building is located on the street boundary, as is the group of shops on the opposite side of Gwynne Street. In this context, the high, solid front fencing proposed in front of Residence 1 to create private open space is considered acceptable.

The private open space areas of each dwelling are directly accessible from the main living areas of the respective dwellings and have good northern orientation for solar access. Separate service court areas are provided at the rear of the dwellings for clothes drying and bin storage. One of the representors has concerns that the bin storage will cause odour. The bin storage areas are located approximately 2.5m from the southern boundary within screened enclosures. This is considered to be a reasonable separation distance in a residential context.

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: 13, 21, 22, 98, 101, 104, 118, 120, 122, 179, 181, 187, 198, 200, 218 & 219

## Use and Maintenance of Laneway

The following Development Plan policies relate to the creation of allotments and construction of dwellings, with a frontage to a laneway.

City Wide Principle of Development Control 22:

*“Allotments with a primary frontage to a laneway (including a service lane), or other minor or unserviced street (not shown on Map NPSP/1 (Overlay 4)) should only be created where:*

- (a) the new allotment can access all necessary services directly from the laneway/other minor street/unserviced street and can accommodate all associated car parking, including visitor car parking, on the site of the development; or*
- (b) the new allotment includes provision for pedestrian access and services from a street frontage which has services and on street car parking, by way of appropriately dimensioned area(s) of land which form part of the new site.”*

City Wide Principle of Development Control 179:

*“All dwellings should have frontage to a road but not including a lane shown on Map NPSP/1 (Overlay 4).”*

Both of the policies above, speak against development fronting a laneway shown on Map NPSP/1 (Overlay 4). By implication, development fronting laneways other than those shown on Map NPSP/1 (Overlay 4), is acceptable subject to all other relevant considerations. The laneway adjacent to the subject land is not shown on Map NPSP/1 (Overlay 4).

The proposed development includes the provision for pedestrian and services access from Gage Street, to all three (3) proposed allotments/dwellings, consistent with Principle 22 part (b).

Advice has been sought from Norman Waterhouse Lawyers, as to the appropriateness of assessing and determining the Development Application, in light of the fact that there is currently no right of way over the adjacent laneway afforded to the subject land. A summary of the advice received is provided below:

- The following observations in *Davies v City of Holdfast Bay & Anor* [1999] SAERDC 78, the ERD Court are relevant:

*“I make no finding in regard to these matters because it is not for this Court to determine the legal rights between parties. Rather, the Court’s task is to make an administrative decision to allow or deny permission for a proposed development: Thorpe v Corporation of the City of Charles Sturt, Judgment No. (1999) SAS10, a decision of DeBelle J in the Land and Valuation Division of the Supreme Court of South Australia. In this case, I should, however, be satisfied that the development proposal is, or is reasonably be expected to be, capable of practical implementation. The particular question to be considered is whether it is reasonable to expect that the access relied on to develop the freestanding dwelling would be available over the private road.”*

- It is not the role of the planning authority to positively satisfy itself that a legal right of access exists.
- Our preliminary enquiries reveal that the relevant private roads both are contained within a single certificate of title (Volume 5483 Folio 334). These private roads date back to Deposited Plan 1108 in 1881. As at that time, the private roads were labelled “Right Of Way”. While the historical law in this area is complex, the likely legal effect of the notation on the plan is that the right of way would have been in favour of the relevant adjoining allotments. We agree that in all likelihood, the right of way would have functioned as a night cart lane.
- On this basis, our view is that the Council can have a reasonable expectation that the development is capable of practical implementation.

Some of the representors are concerned that the proposed development will lead to degradation of the laneway surface due to increased vehicular movement, particularly during winter months. The laneway has a compacted rubble surface and although such a surface is reasonably resilient in low vehicle speed and volume environments, the absence of drainage infrastructure would likely lead to degradation over time. The lane is used by vehicles accessing four properties and if the Application is approved, this will increase to seven.



This is a similar scenario to a Community Title development, whereby a number of Lots rely on access via a common driveway area. The main points of difference are that in a Community Title scenario, there is a formalised process of ensuring an equal contribution towards maintenance and repairs of the driveway and the starting point is typically a sealed driveway with drainage infrastructure. In the proposed scenario, the ongoing maintenance of the laneway is subject to the coordination and cooperation of those persons benefiting from its use. Whilst this is not an ideal scenario, it is considered to be an acceptable one in this instance.

### **Convenience of Access**

Concern has been expressed by some representors, that the 3.14 metre width of the laneway results in inconvenient access arrangements. A further suggestion has been made that the laneway ought to allow for two-way vehicle movements, given the number of vehicles that use the laneway.

In this respect, it is noted that City Wide Principle 189, states that a development creating residential allotments or sites in the form of a battleaxe, hammerhead or similar configuration accommodating involving three or more dwellings, should have a driveway carriageway width of 5 metres in width. Whilst this is not strictly applicable to the subject proposal (as the laneway is external to the subject land), it does provide some guidance on what might be an appropriate standard for access.

That said, there is an important point of difference between a development creating an internal driveway to serve dwellings and a development using an existing laneway. In the case of the former, an opportunity exists to put in place best practice two-way access, whereas in the latter, that opportunity does not exist due to the constraints in the legal width of the laneway. There are many laneways throughout the City of Norwood Payneham & St Peters with a width of less than 5 metres, thus preventing the ability for vehicles to pass. The laneways throughout the Avenues of St Peters are examples. This results in some inconvenience however does work. To prevent development from using laneways for access due to the inability for vehicles to pass in the laneway would result in a range of negative impacts related to garaging and access being transferred to main road frontages.

City Wide Principle of Development Control 218 states:

*“Unless otherwise stated in the relevant Zone or Policy Area, garages and carports fronting a laneway should be set back from the laneway the distance required to provide a width of 6 metres from the opposite side of the laneway to the opening of the garage/carport, to allow for appropriate vehicular manoeuvring in and out of the garage/carport. A lesser set back may be considered in circumstances where an alternative design (such as a wider opening to the garage/carport) demonstrates safe and efficient access.”*

The proposal achieves the six (6) metre criteria set out in Principle 218, ensuring that access to the proposed garages can be achieved in a convenient manner. The 85<sup>th</sup> 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.

### **Amount of On-site Parking**

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 residential flat buildings, Table NPSP/8 states that two (2) on-site car parking spaces should be provided for each dwelling, of which at least one (1) should be covered. In addition, one (1) visitor space should be provided for every two (2) dwellings (rounded up to the nearest whole number), which results in a total theoretical demand for eight (8) on-site car parking spaces.

Seven (7) on-site car parking spaces are proposed, comprising six (6) dedicated occupant car parking spaces within garages and one (1) visitor space associated with Residence 3. It would not be practical for two visitor cars to park in front of the garage of Residence 3, as there is less than 6m between the back of a car parked in the visitor space and the back of the lane. Therefore, much of the 6m wide space in front of the garage would be needed for manoeuvring, when exiting the space.

Accordingly, the proposal has a shortfall of one (1) on-site car parking space. Given that the adjacent laneway is proposed to be used for vehicular access, the entire 17.3m frontage of the property is able to be used for on-street visitor parking, including returning an existing driveway crossover to upright kerbing. This

would facilitate the parking of 3 vehicles. Convenient visitor access to all three dwellings from the street frontage is proposed via the pedestrian walkway adjacent to the southern boundary.

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 1.0 metre from the rear boundary to the street. The Applicant has proposed to step the finished floor levels of the dwellings to reduce the need for retaining walls. The finished floor level of Residence 1 is approximately 300mm above the adjacent top of kerb level. Residence 2 is 300mm higher than Residence 1 and Residence 3 is 300mm higher than Residence 2. The levels will result in minimal cut and fill and subsequent retaining at boundaries.

All boundary fences are proposed to be 'good neighbour' colourbond fences, to a height of 1.8 metres.

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 that would be affected by the proposed development.

The Applicant has provided a landscaping layout plan and a 'planting guide', providing a selection of small trees, grasses and tufting plants to be used. Whilst the general direction of the proposed landscaping is considered appropriate, if the Panel determines to consent to the application, it is recommended that a more detailed landscaping plan be provided to the reasonable satisfaction of the Council, prior to the granting of Development Approval.

A large mature Queensland Box street tree is unaffected by the proposal.

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

All three dwellings are well orientated for solar access to the dwellings and their private open space. The proposed dwellings have generous eaves which, when combined with the high level windows at first floor level, will reduce the heat loading on these windows in summer, while enabling solar access in winter.

The Applicant has proposed 1000 litre rainwater tanks for each dwelling, consistent with the BCA requirements. This is inconsistent with City Wide Principle 274 and it is recommended that if the Panel determines to approve the development proposal, a condition be imposed requiring 2000 litre rainwater retention per dwelling.

### Summary

The Residential Zone is intended to accommodate a wide range of dwelling types, including residential flat buildings. The density of the proposed development is consistent with the Residential Zone provisions. The proposed two-storey built form of Residence 1 is consistent with the Residential Zone, while Residences 2 and 3 is considered to be acceptable in a two storey form, despite the Residential Zone not encouraging two story dwellings behind dwellings fronting a public road, as the site is at the interface with the Medium Density Policy Area, adjacent a lane and the dwellings have been designed to reduce the prominence of the upper level.

The proposed setbacks largely comply with or exceed the minimum requirements prescribed in the Development Plan. Where the setbacks do not strictly comply, the shortfall relates to the northern side, adjacent to the lane, which is of little consequence. The provision of private open space and the resulting site coverage all exceed the minimum requirements contained in the Development Plan.

Access and egress is considered to be safe and convenient. The provision of on-site car parking is one space less than the rate prescribed by Table NPSP/8, however on-street parking is improved by the proposal.

The provision of landscaping is generally positive and a large mature street tree will assist in integrating the proposal with the established streetscape.

The proposed finished floor levels and bench levels have been well considered and will reduce the perceived bulk and scale of the development, when viewed from adjacent land, while enabling stormwater to be disposed of by gravity to the street.

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 155/0809/15 by Progetto Design, to construct a two storey residential flat building containing three dwellings; at 86 Gage Street, Firle, 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:

- Plans by Progetto Design, Drawing Numbers:
  - 1509-104-1150, Revision B
  - 1509-104-1100, Revision F
  - 1509-104-2100, Revision H
  - 1509-104-3000, Revision F
  - 1509-104-3001, Revision D

### Conditions

1. The portion of all first floor windows that directly face the side and rear boundaries of the subject land, which are 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 16 kilolitre communal rainwater tank shall be installed, with each dwelling contributing rainwater from at least 50m<sup>2</sup> 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. A landscaping plan providing greater detail in relation to the location of individual species shall be provided to the reasonable satisfaction of the Council prior to the issuing of Development Approval.
6. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.
7. The existing crossing point on Gage Street shall be returned to upright kerbing, prior to the occupation of the premises.

### 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 are likely to be at the Applicant's cost.
5. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
6. 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.

*Ms Angela DeMarco addressed the Panel from 8:02pm until 8:14pm.*

*Dr David Bates and Dr Edna Bates addressed the Panel from 8:14pm until 8:25pm.*

*Grazio Maiorano from URPS, on behalf of the Applicant addressed the Panel from 8:25pm until 8:38pm.*

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*Ms Moore moved*

*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 **refused** to Development Application No 155/809/15 by Progetto Design, for the construction of a two storey residential flat building containing three dwellings, at 86 Gage Street, Firlie, for the following reasons:*

1. *Vehicular access to the dwellings is not safe and convenient, contrary to City Wide Principle of Development Control 113 as the ongoing condition and resultant suitability of the laneway surface cannot be assured.*
2. *The development is contrary to City Wide Principle of Development Control 189, which states that allotments in the form of a battleaxe, hammerhead or similar configuration, such as community title land division that includes a shared driveway, should provide a vehicle carriageway width of 5 metres, when accommodating two or more dwellings.*
3. *The development is contrary to the Desired Character statement of the Residential Zone and the intent for a suburban feel.*
4. *The Development is contrary to City Wide Principle of Development Control 201 as it comprises two-storey dwellings behind a dwelling fronting a public road.*
5. *The development is contrary to City Wide Principle of Development Control 112 as the development does not provide direct access from an all-weather public road.*

*Seconded by Mr Minney and carried.*

## 2. STAFF REPORTS

### 2.3 DEVELOPMENT APPLICATION 155/0103/2016 – BUILDTEX PTY LTD – 50A LAMBERT ROAD, ROYSTON PARK

<b>DEVELOPMENT APPLICATION:</b>	155/0103/16
<b>APPLICANT:</b>	Buildtex Pty Ltd
<b>SUBJECT SITE:</b>	50A Lambert Road, Royston Park (Certificate of Title - Volume: 6063, Folio: 874)
<b>DESCRIPTION OF DEVELOPMENT:</b>	Construction of a two-storey detached dwelling with an associated swimming pool, fencing and landscaping
<b>ZONE:</b>	Residential Historic (Conservation) Zone (Joslin/Royston Park Policy Area) Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015)
<b>PUBLIC NOTIFICATION CATEGORY:</b>	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 construction of a two-storey detached dwelling with an associated swimming pool, fencing and landscaping.

Staff do not have delegated authority to determine the Application, as it comprises the construction of a new dwelling in a Residential 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.

#### **Background**

At its meeting held on 21 September 2015, the Panel considered a Development Application (155/0380/15) by Leighton Hall Design to construct a two-storey detached dwelling and front pillar fence with associated landscaping on the subject land. The Application was deferred by the Panel because the proposal was deemed to insufficiently accord with the Development Plan such that it did not warrant consent in its proposed form, to enable the Applicant to consider amending their proposal to overcome the following concerns:

- *to consider redesigning the upper level of the dwelling so that it is more compatible with the ground level design of the dwelling and the Residential Historic (Conservation) Zone provisions; and*
- *to consider incorporating design techniques to reduce the garage dominance.*

A copy of the relevant section of the Minutes from the Development Assessment Panel meeting held on 21 September 2015 is contained in **Attachment A**.

The Application was subsequently withdrawn as the owners of the land elected to proceed with a different Builder. This Development Application has been lodged by the new Builder, Buildtex Pty Ltd, on behalf of the owners, to address the previous concerns of the Panel.

### Subject Land Attributes

Shape:	irregular
Frontage width:	19.75 metres
Depth:	24.08 – 36.87 metres
Area:	641m <sup>2</sup>
Topography:	slightly sloping
Existing Structures:	nil
Existing Vegetation:	some small – medium vegetation

The subject land is currently vacant, contains some established vegetation and slopes approximately 500mm from the north eastern to south western corner. The subject land was originally part of the property at 50 Lambert Road, prior to a land division which was approved in 2007.

### Locality Attributes

Land uses:	predominantly residential
Building heights (storeys):	predominantly single storey
Streetscape amenity	high (due to quality of building stock)

The locality is characterised predominantly by single storey detached dwellings, with the exception of a two-storey Local Heritage Place located at 50 Lambert Road and commercial properties (former shops) on the corner of Lambert Road and Sixth Avenue. The locality displays a high level of streetscape amenity, due to the quality of the established dwellings and mature street trees.

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

### Proposal in Detail

The Applicant seeks consent to construct a two-storey detached dwelling with an associated swimming pool, fencing and landscaping.

The front section of the dwelling has a single storey form with a simple hipped roof, such that the proposed dwelling will present to the street as a single storey building with external wall heights and a roof pitch that will complement other development within the locality. The rear portion of the proposed dwelling is a conventional two-storey design. The proposed materials and colours complement the surrounding development and include Colorbond, sandstone and rendered masonry.

The dwelling contains four (4) bedrooms (the master contains a walk in robe and ensuite), a combined kitchen/meals/living area, a study, an upstairs retreat, a separate bathroom, a laundry, a double garage and an undercover terrace area.

The proposal also includes the construction of a swimming pool with associated safety fencing and landscaping in the front and rear yards.

The existing brush front fence is proposed to be removed and replaced with an open style, 1.67m high masonry pillar front fence, with contemporary upright steel 'pickets'.

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	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
Site Area	641m <sup>2</sup>	600m <sup>2</sup> - Joslin/Royston Park PA PDC 5)
Allotment Width	19.75m	18m - Joslin/Royston Park PA PDC 7)
Allotment Depth	24.08 – 36.87 m	N/A

**TABLE 1: DEVELOPMENT DATA *continued...***

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
External Wall Height*	3.62m lower 6.3m upper	N/A
Maximum Overall Height (to roof apex)*	8.0m	N/A
Floor Area (total)	352.5m <sup>2</sup>	N/A
Floor Area (footprint)	231.0m <sup>2</sup> (excl. terrace) 257.2m <sup>2</sup> (incl. terrace)	N/A
Site Coverage	40.1%	50% - Joslin/Royston Park PA PDC 6)
Private Open Space	171.0m <sup>2</sup> 27% of site area 84% uncovered	20% - City Wide PDC 244(a)
Street Set-back	10.1m – 12.0m	N/A
Side Set-back	1.16m & 1.44m (dwelling) nil (garage)	At least 1.0 metre on one side - City Wide PDC 215
Rear Set-back	5.7m (ground level) 6.3m (first floor)	N/A
Car Parking Provision	Two (2) undercover & one (1) visitor	Two (1 covered) parking spaces – 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 C**.

### Notification

The proposal has been identified and processed as a Category 1 form of development. 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 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:

Joslin/Royston Park Policy Area Desired Character Statement  
 Joslin/Royston Park PA Objectives: 1  
 Joslin/Royston Park PA PDC's: 1, 2, 3, 5, 7



RH(C) Zone Desired Character Statement	
RH(C) Zone Objectives:	4, 6
RH(C) Zone PDC's:	7, 8
City Wide Objectives:	1, 2, 5, 7, 55, 56
City Wide PDC's:	1, 2, 3, 4

Principles of Development Control 2 and 3 of the Joslin/Royston Park Policy Area state respectively:

*“Development should comprise the erection, construction, conversion, alteration of, or addition to a detached dwelling.”*

and

*“New dwellings should only be constructed where it replaces an existing building or feature, which does not contribute to the historic character of the Joslin/Royston Park Policy Area, with a more sympathetic style of development.”*

The proposal is for a detached dwelling, consistent with the Joslin/Royston Park Policy Area PDC 2. As the subject land is currently vacant, the proposal is also consistent with Joslin/Royston Park Policy Area PDC 3.

The proposal is for a detached dwelling, consistent with Principle of Development Control 2. Accordingly, the proposal is consistent with the Development Plan from the perspectives of land use and density.

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:

Joslin/Royston Park Policy Area Desired Character Statement	
Joslin/Royston Park PA Objectives:	1
Joslin/Royston Park PA PDC:	1, 3, 4
RH(C) Zone Desired Character Statement	
RH(C) Zone Objectives:	1, 2, 3, 5, 6, 8
RH(C) Zone PDC's:	1, 2, 14, 15, 16, 17, 18, 19, 22, 23
City Wide Objectives:	8, 18, 19, 55
City Wide PDC's:	28-33, 181, 198, 209

The proposed dwelling incorporates a simple contemporary design with a hipped roof, traditional building materials and vertically proportioned windows. Whilst the dwelling includes a two-storey section, the two-storey element is located at the rear of the dwelling and will have a reduced prominence when viewed from the street.

Joslin/Royston Park Policy Area Principle of Development Control 4 states that, *“development in the Joslin/Royston Park Policy Area should not be more than one (1) storey above natural ground level, except where the predominant height in the immediate locality is two-storey”*.

The locality is predominately characterised by single storey detached dwellings, with the exception of the adjacent two-storey Local Heritage Place at 50 Lambert Road.

The construction of a two-storey dwelling is at odds with Joslin/Royston Park Policy Area PDC 4, which is considered to be a negative aspect of the proposed development. However, the Applicant has made an effort to minimise the extent of the two-storey portion of the dwelling by increasing its setbacks from the front and side boundaries of the subject land.

Residential Historic (Conservation) Zone Principle of Development Control 17 states:

*“Development of a new building or building addition should result in dwellings that have a single storey appearance along the primary street frontage, where these are predominant in the locality, but may include:*

- (a) sympathetically designed two-storey additions that utilise or extend roof space to the rear of the dwelling, such as the use of attics with dormer windows; or*
- (b) second storey components located to the rear of a building; and*
- (c) in either of these instances:*
  - (i) should be of a building height, scale and form that is compatible with the existing single-storey development in the zone;*
  - (ii) should not overshadow or impact on the privacy of neighbouring properties;*
  - (iii) should not compromise the heritage value of the building or the view of the building from the street; and*
  - (iv) the total width of second storey windows should not exceed 30 percent of the total roof width along each elevation and be designed so as to not overlook the private open space of adjoining dwellings.”*

The proposed dwelling includes a second storey component that is located toward the rear of the building, consistent with part (b) of Residential Historic (Conservation) Zone PDC 17.

The proposed dwelling incorporates wall heights, an overall scale and roof form that is compatible with existing single storey development in the zone, when viewed from the street. The proposed dwelling will not unreasonably overshadow or overlook adjacent properties (this will be discussed in further detail under the relevant heading later in the report), the dwelling will retain a single storey appearance at the front of the dwelling (although it is noted that the two-storey element will still be visible from oblique angles between the dwellings) and the first floor windows do not exceed 30% of the total roof width. As such, the proposed dwelling design is also reasonably consistent with part (c) of Residential Historic (Conservation) Zone PDC 17.

The Applicant has prepared a streetscape diagram of the proposed dwelling, which provides a good illustration of the bulk and scale of the proposed dwelling and the relationship with adjacent dwellings. The streetscape diagram is contained in **Attachment C9**.

The proposed dwelling will reasonably complement the character of the streetscape, without replicating the historic building stock. In terms of visual outlook from adjacent land, the proposed dwelling has been sited such that there will be minimal impact on the outlook from the private open space areas of adjacent dwellings. The impact of the proposed second storey on the amenity of adjacent property occupiers will be discussed in greater detail under the heading *Overshadowing/overlooking* later in the report.

In terms of architectural style, the Application was referred to the Council's Heritage Advisor, David Brown, as the subject land is located within the Residential Historic (Conservation) Zone. A summary of Mr Brown's comments is set out below:

- *the locality is characterised by Interwar dwellings, including Bungalows, Tudors and other designs without a great deal of consistency in the streetscape;*
- *the proposed dwelling is a contemporary designed house which is typical of contemporary designs in the area with a hipped roof, vertically proportioned windows and doors, a stone clad verandah form and a well set back two-storey portion to the house;*
- *the revised design is a significant improvement on the earlier proposal;*
- *whilst the dwelling is relatively wide, the proposed outer garage is set well back and the ensuite on the other side of the house balances this (providing a sense of space around the dwelling);*
- *the proposed garaging is a far better solution (from the previous design) from a heritage perspective;*
- *overall, the proposed design is a good infill development for this site and is acceptable in terms of its impact on the historic character of the area.*

A full copy of Mr Brown's response is contained in **Attachment D**.

It is considered that the proposed development reasonably accords with relevant provisions of the Development Plan that relate to bulk, scale and character. In this context, the proposed dwelling is considered to be acceptable from a heritage and character perspective.

### Setbacks and Site Coverage

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

Joslin/Royston Park Policy Area Desired Character Statement	
Joslin/Royston Park PA Objective:	1
Joslin/Royston Park PA PDC's:	8
RH(C) Zone Objectives:	1, 6,
RH(C) Zone PDC's:	9, 10, 11, 12
City Wide PDC's:	50, 204, 206, 207

Joslin/Royston Park Policy Area Principle of Development Control 8 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 adjacent dwelling at 48 Lambert Road is set back approximately 11.5 metres from the street and the adjacent Local Heritage Place at 50 Lambert Road is set back approximately 30 metres from Lambert Road. The proposed dwelling has a front setback of 10.1 metres to the facade and 12.0 metres to the garage. As such, the dwelling will project forward of the adjacent Local Heritage Place, which is inconsistent with Principle of Development Control 8.

However, given the depth of the subject land, it is not considered practical to develop the site in strict accordance with the quantitative setback policy. Given the siting and separation of the adjacent Local Heritage Place, the impact of the proposed dwelling is lessened, insofar as the visibility of the Heritage Place in the streetscape will be maintained.

The adjacent dwelling at 48 Lambert Road is not heritage listed and as this dwelling is located behind a high solid fence with limited visibility in the street, the projection of the proposed dwelling is not considered to compromise the streetscape.

City Wide Principle of Development Control 206 states that the set-back of dwellings from their side and rear boundaries should be progressively increased as the height of the building increases, in order to minimise the visual impact of the building from adjoining properties; to minimise the overshadowing of adjoining properties; and to ensure adequate natural light and winter sunlight is available to the main activity areas and private open space of adjacent dwellings. The proposed first floor side and rear setbacks are consistent with this Principle. The impact of overshadowing will be discussed in greater detail later in the report.

The proposed garage abuts the south-eastern side boundary, with an external wall height of 3.27 metres and a length of 6.47 metres. City Wide Principle of Development Control 207 states:

*“A wall or structure on a side or rear boundary should generally be limited to a height of 3 metres above natural ground level and a length of 8 metres. A greater height or length may be considered where:*

- (a) there is an existing abutting boundary wall or structure on the adjacent land; or*
- (b) there will be no unreasonable visual outlook impact or overshadowing impact on the occupants of the adjoining property.”*

Whilst the height of the proposed boundary wall is 270mm higher than that prescribed by City Wide PDC 207, the proposed boundary wall will not result in an unreasonable visual outlook impact, nor will it result in any unreasonable overshadowing. The proposed boundary wall is located adjacent to a well maintained courtyard area at the front of the adjacent dwelling. The proposed boundary wall will not compromise the visual outlook of that area to an unreasonable degree. The adjacent dwelling's primary area of private open space is maintained at the rear of the dwelling.

The side setbacks are considered to reflect the pattern established by adjoining dwellings, in accordance with Joslin/Royston Park Policy Area PDC 8.

In terms of site coverage, Joslin/Royston Park Policy Area Principle of Development Control 6 states that “buildings should not cover more than 50 percent of the total area of the site.” The proposed dwelling results in an overall site coverage of 40.1%, which is consistent with Joslin/Royston Park Policy Area PDC 6.

One of the benefits of including a second storey at the rear of the dwelling is the reduced building footprint and the ability to have larger areas for landscaping and space around the dwelling.

The resulting site coverage is considered to be a positive aspect of the proposed development.

#### Overshadowing/overlooking

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

City Wide PDC's: 11, 31, 71, 72, 194-196, 235 & 236

The Applicant has provided shadow diagrams that illustrate the level of overshadowing at 9.00am, 12.00pm and 3.00pm on 21 June (the winter solstice). A copy of the shadow diagrams is contained in **Attachment E**.

The shadow diagrams illustrate that overshadowing will be predominantly contained to the front yard of the proposed dwelling and Lambert Road until midday, with overshadowing extending into the front yard of the adjacent dwelling at 48 Lambert Road to varying degrees throughout the afternoon. Later in the afternoon (i.e. after 2.00pm) the proposed two-storey portion of the dwelling will cause some minor overshadowing of the adjacent dwelling's north-west facing windows.

City Wide Principle of Development Control 195 states:

*“Unless otherwise specified in the relevant Zone and/or Policy Area, development should ensure that the north-facing windows of habitable rooms of dwelling(s) on adjacent sites receive at least 3 hours of direct sunlight over a portion of their surface and in the case of the main living area windows, a minimum of 50% of their surface, between 9am and 5pm on the winter solstice (21 June). Development should not increase the overshadowed area in cases where overshadowing from existing structures, fences and non-deciduous vegetation already exceeds this requirement.”*

The resulting level of overshadowing is consistent with City Wide PDC 195.

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 buildings receives 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 private open space areas of the adjacent dwellings will not be affected by overshadowing as a result of the proposed development.

In terms of overlooking, the Applicant has proposed either high level windows (with a sill height of 1.7 metres above the internal floor level) or fixed obscure glazing in all portions of windows with a sill level of less than 1.7 metres above the internal floor level, which is consistent with City Wide Principle of Development Control 235.

As such, no unreasonable overshadowing or overlooking will be caused by the proposed development.

#### Private open space

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

City Wide PDC's: 222-225, 229

City Wide Principle of Development Control 225 states (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;”*

The proposed development includes 171.0m<sup>2</sup> of private open space, which equates to 27% of the site area, which significantly exceeds the quantitative provision of private open space prescribed by City Wide PDC 225.

The private open space area includes a swimming pool and an undercover terrace area, which is suitable for entertaining and the enjoyment of occupiers of the dwelling. A large portion of the private open space area will be landscaped with a lawn area and a range of plants. The Applicant has configured the proposal such that the majority of the private open space and internal living areas of the dwellings will benefit from a northerly orientation. Access to sunlight is a positive aspect of the development.

A smaller service courtyard is also proposed on the south-eastern side of the dwelling, which allow for a clothes-line, rainwater tanks and rubbish bins to be located away from the main area of private open space.

The provision of private open space is considered to be a positive aspect of the proposed development and is consistent with City Wide PDC's 222-225 and 229.

#### Carparking/access/manoeuvring

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

RH(C) Zone PDC's:	32
City Wide Objectives:	34
City Wide PDC's:	101, 113, 118, 212

#### Table NPSP/8

Table NPSP/8 prescribes that detached dwellings should be provided with two (2) on-site car parking spaces per dwelling, of which at least one (1) is covered. The proposed garaging will provide two (2) undercover car parking spaces and sufficient space for one (1) visitor space within the tapered driveway, consistent with Table NPSP/8.

The proposed driveway has been tapered significantly in order to utilise an existing driveway crossover and to provide adequate separation from two (2) adjacent mature street trees.

Council staff have applied vehicle manoeuvring templates for an 85<sup>th</sup> percentile sized vehicle to the proposed plans. Whilst vehicles can access and egress both garage doors in a single movement in accordance with the relevant Australian Standard, access to the south-eastern garage door is considered to be somewhat inconvenient, as a driver would need to utilise full-lock in both directions while reversing in order to egress the garage in a single movement).

Access to the internal garage door is considered to be safe and convenient, in accordance with City Wide Principle of Development Control 113. Given that only one (1) covered space is required by Table NPSP/8, the additional covered space is therefore considered to be acceptable, despite access to it being somewhat inconvenient for an 85<sup>th</sup> percentile size vehicle. In practice, the additional car parking space may be utilised by a smaller vehicle with greater convenience, or to house a trailer or boat.

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: 10, 58, 164

The subject land is not within a recognised flood plain.

The subject land falls approximately 500mm from the north-eastern (rear) corner to the south-western (front) corner. The proposed finished floor level (40.9mAHD) will range between 130mm and 330mm above the adjacent top of kerb level. The proposed finished floor levels are considered appropriate for the site, no substantial retaining is required and stormwater can be disposed to the street via a gravity fed system.

The proposed finished floor levels will provide a good fit in the context of the streetscape. No substantial retaining will be required and both surface and roof stormwater can be disposed of to the street water table via gravity.

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:

RH(C) Zone PDC's: 36, 37

City Wide Objectives: 24, 98

City Wide PDC's: 73, 74, 75, 220, 221

There are no regulated trees on the subject land or adjacent land which are likely to be affected by the proposed development. There is a large pine tree located at 50 Lambert Road which is not regulated due to its proximity to the adjacent swimming pool but in any case, the proposed development is located outside of the structural root zone of this tree.

Three (3) street trees are located adjacent to the subject land. The central tree is a Regulated Tree, pursuant to the *Development Regulations 2008*. The development proposes to utilise the existing driveway crossover such that there will not be any impact on the adjacent street trees.

A portion of the proposed masonry pillar front fence (approximately 7.5 metres) encroaches within the structural root zone of the adjacent street trees. As such, if the Panel determines to approve the proposed development, it is recommended that a condition be imposed requiring the portion of front fence extending 7.5 metres from the south-eastern side boundary, to incorporate a pier and beam footing construction to prevent damage to the adjacent street trees.

The Desired Character Statement for the Joslin/Royston Park Policy Area states (in part):

*"Landscaping around a dwelling, particularly in the front garden, is an important design element in this Policy Area as it enhances the dwelling and adds to the appearance and quality of the streetscape. Both new and existing dwellings will incorporate an appropriate garden setting. The streets will continue to be lined with mature street trees in situations where they can be practically grown."*

The Applicant has provided a landscaping plan and schedule with the Application. The proposed landscaping includes small and medium trees and shrubs, including screening Leyton Green Conifers, Hop Bush, Honey Myrtles and a selection of plant species and lawn. A copy of the landscaping plan and schedule is contained in **Attachment C8**.

The proposed landscaping will complement the dwelling and the landscaped garden settings of other development within the locality, consistent with Residential Historic (Conservation) Zone Principle of Development Control 37.

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, 149, 150, 159, 161

The proposed dwelling is well orientated on the subject land to provide solar access to the private open space area and to the living areas of the dwelling.

The proposed terrace area provides shade to the north-west facing living room windows at ground level. At the first floor level, the dwelling has 900mm wide eaves which will assist in providing shade to the windows in summer and solar access to the first floor windows in winter.

City Wide Principle of Development Control 159 prescribes that new dwellings should be provided with a 2000 litre rain water tank in order to maximise the use of stormwater collected from roof areas. The Applicant has indicated that they will install a 1000 litre rain water tank, in accordance with the requirements of the Building Code of Australia.

In this instance, given the size of the proposed dwelling and the substantial roofed area, resulting in a significant amount of impervious surfaces on the land, it is considered to be reasonable to impose a condition requiring the Applicant to install a rain water tank (or tanks) with a minimum capacity of 2000 litres, in accordance with City Wide Principle of Development Control 159. If the Panel determine to approve the development, it is recommended that this condition be imposed.

The proposed swimming pool is sited adjacent to the north-western side boundary of the subject land. The associated plant and equipment will be enclosed within a pool equipment shelter abutting the north-eastern corner of the subject land. If the Panel determines to approve the development, it is recommended that a condition be imposed to ensure that the associated filter pump be enclosed in such a way that noise levels do not exceed 45db(a), when measured at adjoining property boundaries (the relevant Environment Protection Act requirement).

**Summary**

The construction of a two-storey detached dwelling with an ancillary swimming pool, fencing and landscaping, is consistent with the land use and density provisions contained within the Residential Historic (Conservation) Zone and The Avenues Policy Area.

The two-storey portion of the proposed dwelling is set back behind a single storey portion of the dwelling, to reduce its prominence when viewed from the street. The architectural style of the dwelling and the proposed design is considered to be acceptable from a heritage perspective.

The proposed setbacks will complement other development in the locality and, when combined with the proposed landscaping, will result in a reasonable visual outlook from adjacent land. The proposed development will not result in any unreasonable overshadowing and overlooking has been address through the design of the dwelling.

The overall site coverage and the provision of private open space are consistent with the relevant provisions of the Development Plan. The development is well oriented for solar access and will provide shade to north facing windows in summer. Vehicular access and car parking are considered to be acceptable.

On balance, the proposed dwelling will fit comfortably into the existing streetscape, will not compromise the rhythm of front setbacks in the locality and will not adversely impact on adjacent residential properties to such an extent so as to warrant refusal. The shortfall in stormwater collection and re-use can be adequately addressed via the imposition of an appropriate condition, should the Panel determine to approve the development.

In this context, 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 155/0103/16 by Buildtex Pty Ltd, to construct a two-storey detached dwelling with an associated swimming pool, fencing and landscaping; on the land located at 50A Lambert Road, Royston Park, 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:

- the site plan, floor plans, elevations and details prepared by Samuel James Homes, dated 10 February 2016, received by the Council 26 February 2016;
- the External Colour Selections prepared by Samuel James Homes, received by the Council on 29 April 2016; and
- the Landscaping Plan prepared by Samuel James Homes, received by the Council on 29 April 2016.

### Conditions

1. The portion of the upper floor windows less than 1.7 m 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 m above the internal floor level or a window sill height of 1.7 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. 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. The portion of front fence extending 7.5 metres from the south-eastern boundary shall incorporate a pier and beam footing construction to prevent damage to the adjacent street trees. Details of the pier and beam construction at to be provided to the Council and are to be to the reasonable satisfaction of the Council or its delegate, prior to granting Development Approval. Excavation for this portion of the fence shall be undertaken by hand digging and any structural roots, that is, roots with a diameter greater than 25 millimetres, encountered should be retained.
4. A rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres) shall be installed and plumbed into 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 with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.



### 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 are likely to be at the Applicant's cost.
5. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.

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Mr Minney moved

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window below 1.7 m above the internal floor level or a window sill height of 1.7 above the internal floor level.)

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5. *This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.*

*Seconded by Mr Dottore and carried.*

**3. OTHER BUSINESS**

Nil

**4. CONFIDENTIAL REPORTS**

Nil

**5. CLOSURE**

The Presiding Member declared the meeting closed at 9:29pm.

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**Terry Mosel**  
**Presiding Member**