

Development Assessment Panel Agenda & Reports

20 June 2016

Our Vision

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

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

City of Norwood Payneham & St Peters
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City of
Norwood
Payneham
& St Peters

15 June 2016

To all Members of the Development Assessment Panel:

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

NOTICE OF MEETING

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

Monday 20 June 2016, commencing at 7.00pm.

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

Yours faithfully

Mario Barone
CHIEF EXECUTIVE OFFICER

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City of
**Norwood
Payneham
& St Peters**

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VENUE Mayors Parlour, Norwood Town Hall

HOUR

PRESENT

Panel Members

Staff

APOLOGIES Mr John Minney

ABSENT

1. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE DEVELOPMENT ASSESSMENT PANEL HELD ON 16 MAY 2016**
2. **STAFF REPORTS**
 - Items to be starred (.....)
 - All unstarred items to be adopted (.....)

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/278/2015 – MS J MCMAHON – 111 KENSINGTON ROAD, NORWOOD

DEVELOPMENT APPLICATION:	155/278/15
APPLICANT:	Ms J McMahon
SUBJECT SITE:	111 Kensington Road, Norwood (Certificate of Title Volume: 5241 Folio: 119)
DESCRIPTION OF DEVELOPMENT:	Addition of a second dance studio
ZONE:	Residential Zone, Norwood, Payneham and St Peters (City) Development Plan (dated 31 October 2013)
PUBLIC NOTIFICATION CATEGORY:	Category 3

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the addition of a second dance studio.

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

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

Background

A Ballet School has operated from the subject land since around 1973. The original Ballet School was operated by a Mrs Gitsham and was sold to Ms J McMahon in 1976.

In responding to complaints received in 1989, 1991 and 1993 regarding the operation of the Ballet School, Council staff undertook reviews of Council files and concluded on each occasion, that the Ballet School had begun operation prior to the introduction of planning controls and therefore enjoyed existing use rights.

Complaints continued to be received by the Council and in 2005 and 2006 a further review of records was undertaken, including by the Council's Lawyers, Norman Waterhouse. In particular, consideration was given to whether the use had intensified to such an extent since the introduction of planning controls, that the use was fundamentally different, such that Development Approval was required for a change of land use. It was concluded that there was insufficient evidence to determine that the intensity of use had changed to an extent that would constitute a change of land use.

During the 2005/2006 review, the Ms McMahon advised the Council that May 2004, she enclosed a double garage adjoining the Ballet School, without obtaining Development Approval. This involved cladding the walls and ceiling, installing a Masonite floor and creating a multi-purpose room for use as a warm-up area, costume room, props making area and occasional use for small classes of 4-5 people. On learning of the unapproved building work, Council staff instructed Mrs Thompson to lodge a Development Application.

A Development Application (DA 155/505/06) was lodged in June 2006 by Ms McMahon, seeking Development Plan Consent and Building Rules Consent. Development Plan Consent was granted, however the Mrs Thompson did not respond to requests made by the Council for information necessary to complete an assessment against the Building Rules. As such, the Development Plan Consent lapsed.

In September 2008, Ms McMahon applied to the Council again for Development Plan Consent and Building Rules Consent for the conversion of the garage to a multi-purpose room. Again, Development Plan Consent was issued, however Building Rules Consent was refused due to a failure of Ms McMahon to provide information necessary to complete an assessment. The Development Plan Consent subsequently lapsed.

In October 2009, Ms McMahon wrote to the following in a letter to Council:

"What I really want to do, is extend the enclosed garage area the full length of the current studio, but am reluctant to spend thousands on full plans, if I cannot get Council approval for the development"

In response, Matt Atkinson, Senior Urban Planner, responded to Ms McMahon on 22 October 2009 as follows:

"Please be advised that it is unlikely that the Council will support any additions to the existing Ballet Centre. As you are aware, your property is located within the Residential Zone, as identified within the Council's Development Plan.

Whilst your property has existing use rights to operate as a dwelling and ballet centre, it is considered that any additions or intensification of the ballet centre would not be consistent with the primary objectives of the Residential Zone."

In November 2013, Mr Tim Butler lodged a Development Application (DA 155/736/13) on behalf of Ms McMahon, for an enclosed verandah and deck in the location where Ms McMahon had previously expressed a desire to extend the enclosed garage. Upon receipt of the Application, Matt Atkinson sought advice from the Applicant on the intended use of the proposed structure. Ms McMahon responded by way of an email dated 19 December 2013 as follows:

"We have lived at this address since 1976 and have never used this area for anything other than growing weeds and a toilet for our succession of dogs. We no longer have a dog and after the weeds got up to shoulder height, decided to clear it. Last year we renovated our old gothic laundry area, putting in an outdoor kitchen and new laundry. This gave us the idea to use this previously unused area as an outdoor/indoor room where we can eat alfresco as well as put in storage units for our accumulation of artefacts collected over the nearly 40 years of living at the same address. We intend to use it as an informal dining area, as although our house is big, it only has one very formal eating area. It will also enable us to find a home for the 'stuff' that has accumulated on our front verandah and mad our 'spare' bedroom useable."

During the assessment of the Development Application, Matt Atkinson wrote to the Applicant, advising that he had concerns with a number of aspects of the proposal, including bulk, scale, setbacks, amount of remaining private open space and site coverage. In response to those concerns, the Application was amended by reducing the height of the structure, increasing the side boundary setback and leaving the verandah open-sided on one side. The Application was subsequently granted Development Plan Consent on 23 January 2014 and was certified by a Private Certifier on 5 March 2014.

On 27 November 2014, upon investigating a complaint in relation to the operation of the Ballet School, Matt Atkinson and Mark Thomson, Manager, Development Assessment, observed that a fully enclosed structure had been constructed in the location where an open-sided verandah and deck had been approved to be constructed. It has subsequently been determined that the eastern wall of the previously enclosed garage (ie. the wall separating the enclosed garage from the new enclosed structure) has been removed, such that the enclosed garage has effectively been extended the full length of the original studio. The new structure is being used as a second dance studio.

On 28 November 2014, an enforcement notice pursuant to Section 84 of the Development Act was issued to Ms McMahon, directing that the enclosed Structure be demolished. Ms McMahon subsequently lodged an appeal against the enforcement notice with the Environment Resources and Development Court (ERD Court).

On 1 May 2015, Ms McMahon lodged a Development Application, seeking retrospective approval for the structure, as constructed and used. The appeal with the ERD Court has been put on hold, pending the outcome of the Development application. Over the course of the past thirteen (13) months since the Development Application was lodged, acoustic testing and monitoring has been undertaken by Sonus Acoustic Engineers, resulting in amendments to the proposal, aimed at ensuring noise outputs from the Ballet School accord with the Environment Protection (Noise) Policy.

If the Panel determines to grant Development Plan Consent to the Application, the appeal with the ERD Court will remain afoot, until such time that Building Rules Consent and Development Approval has been granted.

Subject Land Attributes

Shape:	irregular
Frontage width:	15 metres
Depth:	48.36 metres
Area:	906m ²
Topography:	essentially flat
Existing Structures:	Two storey dwelling with an attached ballet school. Freestanding carport in front yard.
Existing Vegetation:	mature trees in front yard

A crossover to Kensington Road provides vehicular access to the subject land. This is used to access a carport and separate uncovered car parking space associated with the dwelling. Vehicular access is also available via Boswell Place at the rear of the property, however since the garage was enclosed, this access point is no longer used. An access door provides pedestrian access to Boswell Place from the enclosed garage.

Students and parents accessing the Ballet School do so via a walkway 'alley' which has been created adjacent to the western side boundary of the subject land. This leads to a passageway which provides access to each of the two dance studios, toilets and costume room.

Locality Attributes

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

The subject land is located mid-way between Brown Street to the west and Edward Street to the east. All three properties located between the subject land and Brown Street contain single storey Federation era detached dwellings. The three properties located between the subject land and Edward Street contain single storey dwellings constructed between 1920 and 2000.

Two properties containing single storey detached dwellings at 1 and 2 Boswell Place, back onto the subject land. Properties on the southern side of Kensington Road within the Burnside Council area, adjacent to the subject land, contain single storey detached dwellings.

A plan of the subject land and its surrounds is attached (**Attachment A**).

Proposal in Detail

The Applicant is seeking retrospective consent for the constructed second dance studio. As explained in the background section of the report, the second dance studio was constructed by extending the previously enclosed (without approval) double garage at the rear of the subject land, the length of the pre-existing dance studio. The resultant size of the new studio is 83m². It is accessed by students via a passageway and walkway from Kensington Road. Sliding doors are located at the eastern end of the studio, which may

be used for ventilation, however do not appear to be used for student access. Similarly, a personal access door at the western end of the studio adjacent to Boswell Place, does not appear to be used for access.

The studio has light-weight cladding, a flat roof and is approximately 3.3 metres high. Roof water is collected in two rainwater tanks, located between the rear of the studio and the rear (northern) property boundary.

The Applicant has advised that if the Council grants approval to the Application, she would be prepared to accept conditions that:

- limit the total number of students in class at any time, within both studios, to 24 students;
- limit the number of teachers per class to one (ie. a maximum of 2 teachers at any one time);
- restrict class times in both studios to:
 - between 9:00am and 8:30pm Monday to Friday;
 - between 9:00am and 6:00pm Saturday; and
 - intermittent classes only between 10:00am and 5:00pm on Sunday.
- Restrict all tap classes and senior hip hop classes to be held in Studio 1 only;
- Require an acoustic evaluation of any new class type prior to its commencement;
- Require the following acoustic treatments to Studio 1:
 - Installation of 100mm thick insulation with a minimum density of 60kg/m³ such as “CSR Bradford Febretex 350” over the full extent of the existing tile ceiling;
 - Installation of new windows and frames in the existing window openings on the eastern side of the building to form double glazing. The new windows to be located at the maximum distance from the existing window frame (and at least 50mm) and incorporate 6.38mm thick glass with an airtight seal when closed. Alternatively, new glazing and frames to be installed to replace the existing glass provided the glass is at least 12.5mm “VLam Hush” or its acoustic equivalent; and
 - Ensure all gaps on the eastern façade of studio 1 (such as between the external wall and roof flashing) are filled and sealed airtight.
- Require that music and dance impacts in Studio 1 not exceed a level of 82 dB(A); and
- Require that music and dance impacts in Studio 2 not exceed a level of 76 dB(A).

Plans and details of the proposed development, including supporting reports from Traffic and Acoustic Engineers, are contained in **Attachment B**.

Notification

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

Seven (7) representations were received (1 in favour, 6 opposed) in response to this notification, copies of which are contained in **Attachment C**. The key issues raised by representors are, in summary:

- Noise impacts resulting from the new dance studio, including music, shouting and feet stamping;
- Assurances regarding the number of attendees will be difficult to monitor;
- Traffic and parking has caused more congestion and unsafe traffic conditions, particularly at the junctions of Brown Street and Edward Street with Kensington Road, since the operation of the new studio;
- Cars parked across driveways;
- Inadequate private open space on site;
- The development alters the character of the area;
- Potential for access/egress from Boswell Place (implied inconvenience for other users of Boswell Place); and
- There is insufficient evidence of fire/emergency management and bathroom facilities.

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

- *Dr. Emero Barone*

The Applicant has responded to the representations received and a copy of their response is attached (**Attachment D**).

In responding to the representations, the Applicant has suggested that the second dance studio, if granted conditional approval, will not result in any additional impacts on nearby residential properties or traffic conditions. The basis of this suggestion, is that the Ballet School is a long-standing use with unconditional existing use rights. Therefore, granting a Development Approval for the new dance studio with conditions limiting class times and sizes, will ensure that impacts that could result from the Ballet School 'as of right' will not be exceeded.

State Agency Consultation

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

Discussion

The subject land is located within the Residential Zone 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 land uses which are envisaged for the land and managing land use conflict:

Residential Zone Objective:	1
Residential Zone PDC's:	1
City Wide Objectives:	1, 7, 10, 26, 27
City Wide PDC's:	1, 3, 4, 12, 82, 83, 84, 86, 89

Objective 1 and Principle of Development Control 1 of the Residential Zone state respectively:

"Development providing a variety of housing types and density which do not adversely affect the established character of the relevant locality."

and

"Development in the Residential Zone should be for residential use only with the exception of local community uses and buildings originally constructed for use as shops, which may be re-used in appropriate locations for local shop or gallery purposes."

The buildings on the subject land were not originally constructed for use as shops.

To gain an understanding of what might constitute a community use for the purposes of Principle 1, consideration has been given to the following complying forms of development within the Community Uses Zone, on the basis that it can be reasonably implied that a complying form of development within a Community Uses Zone would constitute a type of community use:

- *Community Centre*
- *Educational Establishment*
- *Indoor Recreation Centre*
- *Meeting Hall*
- *Non-residential Club*
- *Parking Area*
- *Primary School*

- *Recreation Area*
- *Stadium*

Most of the complying uses within the Community Uses Zone have a teaching/instructional aspect and/or a recreational aspect. The Ballet School at 111 Kensington Road has both a teaching/instruction aspect and a recreation aspect. It is therefore considered reasonable to describe the Ballet School as a type of community use.

In view of the scale of the dance school and its likely catchment, it is also considered reasonable to describe it as a *local* community use. In comparison to many ballet schools across metropolitan Adelaide, Norwood Ballet School is small and doesn't operate from a purpose built facility, such that it is more likely to service a local community, rather than students from a wider catchment. Accordingly, the proposal is considered to be consistent with Principle of Development Control 1 of the Residential Zone.

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

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

A common concern amongst the representors is that the proposed use of the rear hall will cause excessive noise as a result of dance lessons within the hall.

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

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

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

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

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

The Applicant engaged Acoustic Engineers, Sonus, to assess whether the proposed use will achieve the criteria in Principle 89. Noise transfer testing was conducted on 30 September 2015 to determine the current transfer of noise from each studio to the adjacent sensitive receivers.

Subsequently, continuous noise measurements were made in both studios between 12 and 22 February, 2016 to determine the internal noise levels from all classes proposed to occur within the Norwood Ballet Centre. In addition, noise measurements were made of tap classes on 11 April, 2016 to determine the contribution of tap and music noise.

The tap classes generate the highest internal noise levels of the range of classes held within the studios and exceeded the required criterion below which no building upgrades would be required. The noise measurements provided the basis for the environmental noise assessment and the recommendations provided by Sonus.

To achieve the "goal noise levels" of the Policy for all activity measured within the studios, Sonus have advised that there will need to be both operational controls and building modifications to Studio 1. Due to the manner in which it has been constructed, it was determined by Sonus that it would be impractical to upgrade Studio 2.

The following operational controls and building modifications are proposed:

Operational

1. all windows and doors to be closed during classes;
2. classes to be restricted to the following times in accordance with current operation:
 - between 9:00am and 8:30pm Monday through Friday;
 - between 9:00am and 6:00pm on Saturday, and;
 - intermittent classes only between 10:00am and 5:00pm on Sunday.
3. music and dance impacts in Studio 1 should not exceed a level of 82 dB(A);
4. music and dance impacts in Studio 2 should not exceed a level of 76 dB(A);
5. all tap classes and the senior hip hop class to be held in Studio 1 only;
6. only classes that are equivalent to the classes listed in Appendix B are to be held in Studio 1 or 2 as relevant with reference to operational condition 5 above. Any introduction of classes not listed should be assessed to ensure compliance with operational conditions 3 and 4 above.

Studio 1 Acoustic Treatment

- install 100mm thick insulation with a minimum density of 60kg/m³ such as "CSR Bradford Fibretex 350" over the full extent of the existing tile ceiling;
- install new windows and frames in the existing window openings on the eastern side of building to form double glazing. The new windows should be located at the maximum distance from the existing window frame (and at least 50mm) and incorporate 6.38mm thick glass with an airtight seal when closed. Both sets of windows should be closed during classes. Alternatively, new glazing and frames to be installed to replace the existing glass provided the glass is at least 12.5mm "VLam Hush" or its acoustic equivalent; and
- ensure all gaps on the eastern facade of studio 1 (such as between the external wall and roof flashing) are filled and sealed airtight.

Subject to each of the above conditions being adhered to, Sonus have advised that the Ballet School will achieve the relevant Environment Protection (Noise) Policy, as reflected in the Development Plan. In order to ensure that the acoustic treatments have been undertaken and that the music volumes are in accordance with the levels set out in operational conditions 3 and 4, a further condition is recommended as follows:

- Once the system is in place, the music level is to be confirmed and the operating settings (volume control and other settings on the system) are to be photographed. A summary report is to be sent to Council.

Subject to the imposition of all of the above conditions, it is considered that the proposal would not adversely affect the established character of the relevant locality, consistent with Objective 1 of the Residential Zone.

Carparking/access/manoeuvring

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

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

The Applicant has provided the Council with historic attendance records for the Ballet School dating back to 1977. The records show the number of children registered per class, as well as actual attendances. The information shows that typical class sizes with only one studio operating, were around 18-20 students. The introduction of the second studio in 2014 has effectively halved the individual class sizes to 6-10 students. The Applicant is proposing a maximum class size of 12 students.

As both studios operate concurrently, the overall number of students on site any one time has effectively remained constant. The Applicant proposes to 'overlap' classes in each studio, so that the changeover period between classes in each studio, do not correspond. Therefore, whereas when the Ballet school operated with only one studio there were 18-20 students leaving and another 18-20 students arriving during a changeover period, now there are 6-12 students leaving and another 6-12 students arriving during a changeover period. Whilst there are more change-over periods, the total number of students arriving and leaving has remained constant and the peak traffic and parking impacts have reduced.

The Development Plan does not provide a car parking rate for a use in the nature of that which is proposed. It is therefore necessary to consider the likely car parking demand, based on class size. As there is no on-site car parking, all car parking occurs predominantly along Edward Street and Brown Street, with parents walking their children to/from the School. Outside of peak hours (when Kensington Road is a clearway), vehicles also park along the northern side of Kensington Road, in front of the school.

The Application, together with a report from the Applicant's Traffic Consultant, Mr Phil Weaver, was referred to Mr Paul Simons from Tonkin Engineers for review and comment. Mr Simons has advised that from a traffic and parking perspective, there is merit in enabling two smaller classes with staggered start/finish times, noting that this will 'flatten out' the peak parking and movement demands, compared with the 'as of right' use of Studio 1 alone.

Mr Simons considers that the proposal should reduce the extent to which parking extends along Brown Street and Edward Street, due to the reduction in peak parking demand. Subject to the imposition of conditions addressing the following matters, Mr Simons is supportive of the proposal from a traffic and parking perspective:

- Limiting class sizes to 12 students as proposed; and
- Ensuring staggered operating times between the two studios of 10-15 minutes.

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

Accordingly, subject to the imposition of conditions addressing the above points, the proposal is considered to accord with the relevant Development Plan provisions regarding traffic and parking.

Streetscape/bulk/scale/character

The unauthorised enclosure of the approved verandah results in no visual impact on adjoining properties and no impact to the streetscape. The ground levels at 111 Kensington Road are substantially lower than those of the adjoining properties at 113 Kensington Road and 1 and 2 Boswell Place, such that the roof of the studio is approximately the same height as the top of the boundary fences.

Private Open Space

The unauthorised enclosure of the verandah has resulted in there being no private open space available on the subject land, other than within the front yard. The front yard is used for parking the applicant's car and although there is area remaining between the car parking space and a high front fence, it is not conducive to being used as private open space.

City Wide Principle of Development Control 243 states, amongst other things, that private open space should be located and designed to be accessed directly from the internal living areas of the dwelling and generally at ground level to the side or rear of a dwelling. The front yard area is not able to be accessed directly from the internal living areas and is not to the side or rear of the dwelling.

Accordingly, the replacement of the only remaining suitable private open space area for the dwelling with a dance studio, is contrary to the private open space provisions of the Development Plan. Despite the apparent lack of concern with the absence of private open space from the current occupier of the dwelling, this is considered to be a negative aspect of the proposal.

Summary

The Applicant is retrospectively seeking consent to construct a second dance studio on the land, by converting and extending an enclosed garage and enclosing a verandah. The pre-existing dance studio has existing use rights, without any limitations on hours of operation, class size, class type etc.

The Applicant proposes to operate the Ballet School with approximately the same number of students at any given time, as was the case prior to the construction of the second studio. With class times staggered between the two studios, this means that the peak traffic and parking impacts are reduced.

The Applicant also proposes to implement a range of acoustic control measures, comprising a combination of operational measures and building modifications, to ensure that noise impacts associated with the School do not exceed the Environment Protection (Noise) Policy.

Whilst there is little doubt that the addition of a second dance studio has the potential to result in an increase in intensity of use and impacts on neighbouring and nearby properties, the proposed range of conditions are considered appropriate to prevent that from occurring. Extensive acoustic testing has taken place, to inform the set of acoustic conditions and the Applicant has advised that the operational constraints are viable.

Subject to class sizes remaining at a maximum of 12 students as proposed, the peak parking and traffic impacts of the proposal are likely to be less than those which resulted from when all classes were held in one studio. Whilst it is noted that the total number of traffic movements have not lessened, the 'peaks' have lessened.

The lack of private open space associated with the dwelling on the land is a negative aspect of the Application.

On balance, 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 155/278/15 by Ms J McMahon for the addition of a second dance studio on the land located at 111 Kensington Road, Norwood, subject to the following requirements, conditions and notes:

Relevant Plans

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

- Site plan, floor plan and elevations by TIA Consulting, Drawing Numbers 15009-PL1 Revision B and 15009-PL2 Revision D.

Conditions

1. The total number of students in class at any time, within both studios, shall not exceed 24 students;
2. The number of teachers per class shall not exceed one (1) (ie. a maximum of 2 teachers at any one time);
3. Class times in both studios shall be restricted to:
 - between 9:00am and 8:30pm Monday to Friday;
 - between 9:00am and 6:00pm Saturday; and
 - intermittent classes only between 10:00am and 5:00pm on Sunday.
4. All tap classes and senior hip hop classes shall be held in Studio 1 only;
5. Any new class type, not contained in the list of classes contained in Appendix B of the Environmental Noise Assessment Report by Sonus, Reference S4718C6, dated 26 May 2016, be subject to an assessment by an appropriately qualified Acoustic Engineer prior to its commencement, to ensure compliance with conditions 7 and 8.
6. The following acoustic treatments shall be undertaken to Studio 1:
 - a. Installation of 100mm thick insulation with a minimum density of 60kg/m³ such as “CSR Bradford Febretex 350” over the full extent of the existing tile ceiling;
 - b. Installation of new windows and frames in the existing window openings on the eastern side of the building to form double glazing. The new windows to be located at the maximum distance from the existing window frame (and at least 50mm) and incorporate 6.38mm thick glass with an airtight seal when closed. Alternatively, new glazing and frames to be installed to replace the existing glass provided the glass is at least 12.5mm “VLam Hush” or its acoustic equivalent; and
 - c. Ensure all gaps on the eastern façade of studio 1 (such as between the external wall and roof flashing) are filled and sealed airtight.
7. Noise levels resulting from music and dance in Studio 1 shall not exceed a level of 82 dB(A) at any time.
8. Noise levels resulting from music and dance in Studio 2 shall not exceed a level of 76 dB(A) at any time.
9. Operating times between Studio 1 and Studio 2 shall be staggered, so as to ensure that there is a minimum break of 10 minutes between the start or finish of a class in one studio and the start or finish of a class in the other studio.

Notes to Applicant

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

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/125/2016 – ALAN SHEPPARD CONSTRUCTIONS – 98 FREDERICK STREET, MAYLANDS

DEVELOPMENT APPLICATION:	155/125/16
APPLICANT:	Alan Sheppard Constructions
SUBJECT SITE:	98 Frederick Street, Maylands (Certificate of Title Volume: 5477 Folio: 40)
DESCRIPTION OF DEVELOPMENT:	Demolition of a detached dwelling (Contributory Item) and outbuildings and the construction of a single-storey detached dwelling (including a basement) with an integrated garage, front and side fencing and an inground swimming pool
ZONE:	Residential Historic (Conservation) Zone (Maylands Policy Area) - Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015)
PUBLIC NOTIFICATION CATEGORY:	Category 2

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application involving the demolition of a detached dwelling (Contributory Item) and outbuildings and the construction of a single-storey detached dwelling (including a basement) with an integrated garage, front and side fencing and an inground swimming pool

The Council's planning staff do not have delegated authority to determine the Application, as it comprises the construction of a new dwelling in a Historic (Conservation) Zone and is a Category 2 Application which received an opposing representation.

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:	24.4 metres
Depth:	54 metres (average)
Area:	1317.6m ²
Topography:	sloping from east to west (ie. on average 1.0 metre over the length of the land)
Existing Structures:	single-storey return verandah villa and four outbuildings (comprising a freestanding carport and three sheds)
Existing Vegetation:	mix of trees, shrubs and lawned areas

The subject land is located on the corner of Frederick Street and Olive Road, Maylands. It contains a single-storey return verandah villa that is situated close to the Olive Road secondary frontage. A small rear (western) lean-to addition and a verandah are attached to the rear of the villa. The dwelling is identified as a Contributory Item and makes a positive contribution to the Frederick Street and Olive Road streetscapes.

Vehicular access to the existing carport on the land is available via a crossover on Frederick Street. An additional crossover is located on Olive Road that provides access to the rear of the land. Both the front and rear yards are predominantly lawned with the front yard area containing a mix of plants and shrubs. None of the vegetation on the land is regulated. Three well-established street trees are located along the Olive Road frontage of the property. The land falls from the east to the west in the order of 1.0 metre over a distance of 54 metres.

Locality Attributes

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

The subject land is located within the Maylands Policy Area, and more specifically at the interface (ie. running through the rear western property) of the Maylands Policy Area and the Residential Character Zone. Frederick Street is characterised by historic dwelling stock, comprising a mix of Victorian era villas and cottages. Some examples of recently constructed dwellings (ie. within the last 10 years) also exist in Frederick Street – eg. 79A Frederick Street (directly across the road from the subject land, a conservative interpretation of a double-fronted cottage) and at 57 Frederick Street (a flamboyant contemporary part two-storey dwelling).

The residential architectural character along Olive Road is more mixed comprising bungalows, residential flat buildings (from the 1970's/80's) and an outwardly two-storey modern dwelling that was constructed in approximately 2011.

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

Proposal in Detail

The Applicant seeks consent to demolish the existing dwelling (Contributory Item), all ancillary structures (ie. sheds and carport) and remove the existing front (east facing) and northern side fencing. The proposal also comprises the construction of a large new replacement single-storey detached dwelling as well as the construction of masonry fencing along the front (east facing) and portions of both northern and southern side boundaries.

The proposed dwelling is an extensive single-storey building that incorporates a basement and is intended to face Frederick Street. The new dwelling has a total floor area (including a double garage) of 639m² and comprises an open plan/combined living/meals/kitchen area, laundry, separate bathroom, five bedrooms (three of which include ensuites and/or walk-in-robos), separate bathroom, laundry, study and playroom. The proposed basement area contains a theatre room, gym and a storage area. An uncovered inground swimming pool is to be centrally located and surrounding within the proposed dwelling's footprint. A covered alfresco area adjacent to the swimming pool is proposed as is a "pool house" along with a bathroom area and separate laundry.

The new dwelling is traditional in appearance and displays overall proportions to that of existing villas within the area with generous floor to underside of eave heights of 4.0 metres and 35 degree pitched custom orb profile roof sheeting (colour dark grey). The front facade incorporates two gable walls, clad in stone above a rendered plinth. A suspended contemporary verandah/canopy (clad in aluminium) is attached to the front facade and continues along the length of the northern side elevation. A double car width garage is proposed facing Frederick Street and vehicular access is to be via the existing crossover.

An open style 1.5 metre high masonry and metal infill fence is proposed along the Frederick Street property boundary (including a recessed pedestrian gate and driveway gates) with the fence returning along the northern and southern side boundaries for a length of 17.65 metres and 8.0 metres respectively. For the remainder of the length of the northern side boundary, a 1.8 metre high modulated rendered fence is proposed so as to incorporate exposed landscaping beds adjacent to the Olive Road frontage. In addition to

landscaping within these sections, the Applicant is proposing to landscape the remaining perimeter areas of the land as well as introduce a traditional front yard landscape setting.

An inground swimming pool is to be internally located (ie. bound by the new dwelling's footprint to the north, east and south as well as the covered alfresco area to the west). The rear (western) and side (northern) yard areas are to be used as combination of private open space and service yard areas.

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

TABLE 1: DEVELOPMENT DATA:

Consideration	Existing Dwelling	Development Plan Merit Assessment Quantitative Guideline
Site Area	1317.6m ²	300m ²
Allotment Width	24.4m	15.0m
Allotment Depth	54m (average)	N/A
External Wall Height*	4.0m	N/A
Maximum Overall Height (to roof apex)*	6.6m	N/A
Floor Area (total including verandahs)	639m ²	N/A
Floor Area (footprint)	567m ²	N/A
Site Coverage	43%	50%
Private Open Space	375m ² (approximately) 28% of site area	20% of site area
Street Set-back	8.0m	N/A
Side Set-back	2.8m northern side and 2.1m southern side	N/A
Rear Set-back	6.3 – 8.9m	N/A
Car Parking Provision	2 undercover and in excess of 4 visitor spaces within the driveway area	2 (1 covered) spaces per dwelling; whereby the covered space is set back no less than 5.5 metres from the primary street frontage, other than corner allotments, where it is to be set back no less than 1.0m from the secondary street frontage.

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

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

Notification

Pursuant to Residential Historic (Conservation) Zone Principle of Development Control 41, the Development Application has been identified and processed as a Category 2 form of development for public notification purposes.

Two representations (one in opposition and one in support) were received in response to this notification, copies of which are contained in **Attachment C**. The key issues raised by the representors are as follows:

- the existing dwelling has deteriorated and is an “eye sore”;
- the proposed new dwelling has been designed to fit well within the context of the existing streetscape;
- the existing dwelling is a notable landmark within the local area;
- The demolition of the dwelling would adversely affect the streetscape of Frederick Street; and
- The building should be retained.

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

- *Mr John David Jerome.*

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

- the contribution that the existing dwelling makes to the historic character to the locality is not disputed, however, the building is structurally unsound and substantial, costly rehabilitation work would be required;
- the proposed replacement dwelling will not diminish the historic value of the zone nor the character of the locality; and
- the proposed design and appearance of the new dwelling is consistent with both the zone and policy area provisions.

State Agency Consultation

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

Discussion

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

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

Land Use and Density

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

Maylands Policy Area Desired Character Statement

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

RH(C)Z Desired Character Statement

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

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

Residential Historic (Conservation) Zone Principles of Development Control 27 and 28 state respectively:

“A Contributory Item (listed in Table NPSP/7) should not be demolished or removed, in total or in part unless:

- (a) the part of the item to be demolished or removed does not contribute to the heritage value, historic character or desired character of the zone; or*
- (b) the condition of the item is structurally unsound and substantial rehabilitation work is required to an extent that is unreasonable; and*

(c) *in either of the circumstances described above, the demolition of that building, or that part of a building, is part of a development involving erection of a substitute building, or part of a building, or addition to that building, in a manner which does not diminish the level of contribution to the historic character of the zone made by the building on the site of the demolition.*"

and

"The poor appearance of a contributory item should not serve as justification for its demolition or significant modification."

Part (a) of Principle 27 is not relevant to the assessment of applications for the total demolition of a Contributory Item. Part (b) is therefore of greatest relevance when considering whether or not there is adequate justification for a Contributory Item to be demolished, while part (c) seeks to ensure that a replacement development of equal or greater contribution to the historic character of the zone is constructed in instances where there is adequate justification for the Contributory Item to be demolished.

The Applicant has submitted two engineering reports – the first report, dated 26 June 2013 and prepared by a Senior Forensic Engineer, Mr Bassam Deek, from FMG Engineering and the second report, dated 2 March 2015, from Mr Panayioti Kokkinakis, of TMK Consulting Engineers. Both reports detail the condition of the existing dwelling.

Mr Deek's comments primarily highlight a number of issues where cracking of the internal and external walls of the building has occurred. In addition, Mr Deek also states that the existing dwelling would require underpinning to the perimeter footings of the building. A copy Mr Deek's comments are contained in **Attachment B47 - B64**.

Whilst Mr Deek has concluded that the building has sustained cracking damage, he has not concluded that the structural condition of the building is structurally unsound.

With respect to Mr Kokkinakis' report, the main aspects of his comments are summarised as follows:

- the dwelling in its current condition represents an unacceptable risk to the safety of the occupiers;
- reconstruction of sections of internal and external walls is required;
- remedial work is required to structural components of the dwelling including roof framing, masonry walls, floor areas and footings; and
- any remedial work would be at considerable cost.

A copy of Mr Kokkinakis' comments are contained in **Attachment B22-B45**.

As with Mr Deek's report, Mr Kokkinakis' has also concluded that the building is in poor condition and that any remedial work would be costly. Mr Kokkinakis has also not concluded that the condition of the building is structurally unsound.

The Council engaged Mr Phil Prider of Mountford Prider Engineers to provide an assessment of the structural condition of the existing dwelling. It should be noted that Mr Prider inspected the property on 17 September 2014 as part of a preliminary enquiry undertaken by the owners of the property. Mr Prider's report describes similar issues with the dwelling as those discussed by Mr Deek and Mr Kokkinakis. Mr Prider identified that the principle source of damage to the dwelling is footing movements caused by seasonal movements of the reactive clay soil foundation.

Having regard to the extent and size of cracking which has occurred, Mr Prider has classified the damage as Damage Category 3 "moderate". The damage rating system used by Mr Prider is contained in *Australian Standard AS2870-2011, Classification of damage with reference to walls*. In that document, Category 3 "moderate" damage is described as:

"cracks can be repaired and possibly a small amount of wall will need to be replaced. Doors and windows stick. Service pipes can fracture. Weather tightness often impaired"

Mr Prider has advised that damage of this magnitude is not uncommon for solid masonry homes with stone footings in this part of Adelaide.

Mr Prider has advised that due to the stone slab footings of the dwelling, a large number of underpins would be required to form an almost continuous curtain around the dwelling. Mr Prider estimates the cost of this to be “possibly approaching or exceeding \$200,000” and warns that some movement and cracking could occur following the underpinning.

Aside from underpinning, Mr Prider has also advised that the maintenance burden of crack repairs, repointing, ceiling/cornice repairs and the like, could also be improved through improved soil moisture management (eg. addressing any sewer leaks and installing sub-soil irrigation), however it would not be possible to guarantee that the house would remain crack free.

A copy of the report prepared by Mr Prider is contained in **Attachment E**.

It is important at this point to consider the relevant wording contained in principle 27, as set out below:

“..the condition of the item is structurally unsound and substantial rehabilitation work is required to an extent that is unreasonable..”

Whilst not entirely mutually exclusive, the question of whether repair work is “unreasonable” is different to the question of whether it is “beyond economically justifiable restoration”. The latter question is one which an owner of any property, whether or not heritage listed, would typically consider when determining whether to restore/renovate a property or demolish and rebuild. However, when a property is heritage listed, the heritage value of the property must also be factored into the consideration of whether or not the cost of rehabilitation is ‘reasonable’.

Having regard to Residential Historic (Conservation) Zone Principles of Development Control 27 and 28, it is clear that these two provisions are intended to prevent owners of heritage properties demolishing their properties on the basis of that the extent of rehabilitation is uneconomical. In the decision of the Full Court of the Supreme Court in *IKKAJ PTY LTD v DISTRICT COUNCIL OF THE COPPER COAST [2010] SASC 38*, Justice White stated (in part):

“The evaluation of whether a structurally unsound building can be economically repaired for the purposes of Principle 4 will also usually require an evaluation of a number of other matters. Those matters include the nature and extent of contribution which the structure makes to the value (including the heritage value) of the property on which it is located, or to its neighbouring properties, or to the heritage character of the Zone generally. If the structure in question is of particular historical significance, or is, for example, of iconic status in its street or in the Zone generally, the conclusion may more readily be reached that its renovation, despite the expense, can be reasonably expected.”

Furthermore, in the decision of the Full Court of the Supreme Court in *LAKSHMANAN & ANOR v CITY OF NORWOOD, PAYNEHAM AND ST PETERS & ANOR [2010] SASCFC 15*, the Court stated (in part):

“..In the case of a Local Heritage Place, an assessment of its relative heritage importance is necessary to determine whether to depart from the principles which protect it...”

Whilst in this instance the Application involves the demolition of a Contributory Item and not a Local Heritage Place, the same assessment rationale is considered appropriate to apply.

In this respect, the Council’s Heritage Advisor, Mr David Brown, has advised that the dwelling is a very prominent return verandah villa in the streetscape, being on a very visible corner and set on a generous block. As such, the threshold of what constitutes a unreasonable extent of rehabilitation work is higher than it might be for a less prominent dwelling which makes a lesser contribution to the historic character of the locality.

Mr Brown has also discussed his experience with rehabilitating historic buildings and opined that there are more economical ways of dealing with movement and cracking than underpinning, which may provide better or equal long term outcomes, including through improved soil moisture management as suggested by Mr Prider.

Having had regard to all of the engineering advice and the advice of the Council’s Heritage Advisor, it is considered that the extent of rehabilitation work required is not unreasonable in this instance.

streetscape/bulk/scale/height/character/heritage

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

Maylands Policy Area Desired Character Statement

Maylands Policy Area PDC's: 1, 4 & 9.

Residential H(C)Z Desired Character Statement

Residential H(C)Z Objectives: 1 & 5.

Residential H(C)Z PDC's: 1, 2, 13-19, 22, 23, 25 & 26.

City Wide Objectives: 18, 19 & 20.

City Wide PDC's: 29-35, 39, 41, 43, 48 & 196.

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

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

The proposal is consistent with this height policy and is also consistent in terms of wall height and overall height, with surrounding existing historic villas within Frederick Street.

The Desired Character Statement of the Maylands Policy Area states (in part):

"...Old and new development will be combined in a way that shows an understanding of historic design patterns, avoids poor imitation and improves the overall visual amenity of streetscapes... New dwellings will reflect the scale of the existing dwellings and will maintain similar roof profiles as well as respect the detailing of the original buildings..."

The proposed dwelling is considered to be complementary in scale and appearance to the historic building stock and will maintain the predominant pitched roof profile that is characteristic of dwellings along Frederick Street in the locality. The facade and external walls of the proposed dwelling comprise feature stone walls sitting above a rendered base plinth, vertically proportioned windows that are consistent with traditional character dwellings and a contemporary aluminium clad return verandah/canopy. A panel-lift door is proposed to the garage.

Overall, it is considered that the proposed dwelling form and appearance is complementary to the established streetscape and consistent with the Desired Character Statement (ie. the section referenced above) of the Maylands Policy Area and Principles of Development Control 1 and 2, which state respectively:

"Development should not be undertaken unless it is consistent with the desired character for the Maylands Policy Area;

and

Development should comprise the erection, construction, conversion, alteration of, or addition to, buildings of the following kinds:

*Detached Dwelling
Semi-detached Dwelling;"*

Given that the subject land is located within a Historic (Conservation) Zone, advice was sought from the Council's Heritage Advisor regarding the heritage aspects of the proposal. The Heritage Advisor has stated that the replacement dwelling is acceptable in terms of its contribution to the historic character of Frederick Street.

However, Residential Historic Conservation Zone Principle 27(c), states:

“in either of the circumstances described above, the demolition of that building, or that part of a building, is part of a development involving erection of a substitute building, or part of a building, or addition to that building, in a manner which does not diminish the level of contribution to the historic character of the zone made by the building on the site of the demolition.”

In terms of whether the proposed dwelling diminishes the level of contribution to the historic character of the zone, Mr Brown has advised that *“it would not provide an equal or greater contribution to the historic streetscape of Frederick Street than the current return verandah Villa due to the visual dominance and character of the existing house.”*

Therefore in this context, the new dwelling fails to satisfy Residential Historic (Conservation) Zone Principles of Development Control 27(c).

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

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

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

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

The proposal is consistent with Principle 9. The height of the front fence is 1.5 metres and it is to be constructed of rendered masonry and metal infill panels. In addition to the proposed front fence spanning the length of the front property boundary, the fence is intended to return along the northern and southern side boundaries for a length of 17.65 metres and 8.0 metres respectively. Accordingly, the design of the proposed front fence is considered to be consistent with the design criteria detailed in Table 4 - Design Guidelines for Heritage Places and Development in Historic (Conservation) Zones, which states in part:

“Relatively low and open fencing is appropriate to enable visually attractive detailing of the design of a dwelling to remain visible from a road.”

The proposed 1.8 metre high modulated rendered fence that is to span the remainder of the northern side boundary (ie. secondary street frontage) is considered to result in an acceptable visual appearance to Olive Road. Furthermore, the overall height of the fence and the solid nature is typical of fencing along secondary frontages.

Setbacks and Site Coverage

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

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

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

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

As is the existing dwelling on the land, the proposed dwelling is to be set back 8.0 metres to the facade, with the projecting verandah/canopy coming to within 6.5 metres of the street. The dwelling directly to the south at 2/96 Frederick Street is set back 8.0 metres. On this basis, the proposed front setback of the new dwelling is considered appropriate.

In terms of the side setbacks, the proposed dwelling is set back between 2.8 – 4.8 from the northern boundary and 2.1 metres from the southern boundary. The garage (integrated into the southern side of the dwelling) follows the alignment of the southern wall of the dwelling and also has a 2.1 metre side setback from the southern boundary. The proposed side setbacks are considered to be a positive aspect of the proposal in that they provide a sense of reasonable spaciousness around the new dwelling when viewed within a streetscape context that is characteristic of original dwellings in the locality that did not incorporate any boundary development.

With respect to the southern side setback, the visual outlook and living amenity for the occupiers at 2/96, 4/96 and 6/96 Frederick Street is not considered to be unreasonably compromised from their rear private yard areas given the proposed 2.1 metre setback.

The proposed rear set back, varies between 6.3 – 8.9 metres. The proposed rear setback is considered to result in an adequate degree of visual separation for the directly adjacent property at 2 Olive Road. It is considered that the outlook for the existing occupiers from the private open space area of this neighbouring property, which is located in the southeast portion of 2 Olive Road, would not be unreasonably compromised by the proposal given the extent of visual separation from the proposed rear elevation of the new dwelling.

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

The resulting site coverage of the proposed development is in the order of 43%. As such, the proposal satisfies the Maylands Policy Area Principle of Development Control 6, which prescribes that site coverage should not exceed 50%.

Overshadowing/overlooking

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

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

The overall height of the proposed dwelling ranges from is 6.3 metres when measured from the ground level to the ridge line of the roof. The external wall heights of the dwelling when measured from ground level to the underside of the fascia is 4.0 metres.

The proposed built form is not anticipated to create unreasonable overshadowing issues for the occupiers of the directly adjacent properties at 2/96, 4/96 and 6/96 Frederick Street, due to the orientation of the subject land, the single-storey nature of the dwelling, the pitched roof (ie. pitching away from these three properties) and the proposed dwelling's siting and configuration.

The finished floor level of the portion of the new dwelling that is set back 1.5 metres from the southern side boundary is between 300mm to 900mm above adjacent ground level. Although no fencing details have been proposed for the southern side boundary, no unreasonable overlooking is anticipated from within the new dwelling for these three adjacent properties directly to the south given that only one vertically proportioned 450mm wide ensuite window is proposed on this elevation.

As such, the proposal is considered to be consistent with City Wide Principles of Development Control 11 which states:

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

Private open space

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

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

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

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

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

The overall private open space provision associated with the proposed dwelling equates to approximately 375m². Accordingly, the proposed development satisfies the quantitative criteria specified in this provision. The proposed private open space areas are accessible through the internal living areas of the dwelling. Overall, the private open space areas achieve reasonable access to northern sunlight, given the design of the dwelling and the orientation of the subject land.

Car parking/access/manoeuvring

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

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

Table NPSP/8.

The proposed dwelling is to use the existing vehicle crossover on Frederick Street and therefore there is no impact upon nearby street trees and/or other infrastructure (ie. adjacent stobie pole).

Table 8 prescribes that a detached dwelling be provided with two spaces of which one space is covered and is set back at least 5.5 metres from the primary street frontage in order to enable a visitor car park within the driveway area. The proposed garage can accommodate two cars and in excess of four visitor cars within the driveway area which is in the order of 23 metres in length. In terms of the visitor parking spaces, they are likely to be made available to visitors by way of the automated driveway gate being opened by the occupiers at such a time when they are expecting visitors to arrive.

Accordingly, the proposed onsite car parking provision satisfies the quantitative requirements prescribed in Table NPSP/8.

Finished floor levels/flooding/retaining/fencing

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

City Wide PDC's:	58, 140, 151, 165, 166 & 171.
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The subject land is not located within a recognised flood plain.

The Applicant has nominated a finished floor level of RL100.1, which is 150mm above the midpoint top of kerb level in Frederick Street. In this regard, it is considered that the resulting finished floor level will not result in the proposed dwelling being unreasonably built up in comparison to other dwellings fronting Frederick Street.

As discussed, the land slopes in the order of 1.0 metre over the length of the property from the front (east) to rear (west). As such, it is likely that roof and ground surface stormwater will be drained by gravity to both the Frederick Street and Olive Road water tables.

It is likely that the proposed development will require retaining walls to be constructed along each of the side boundaries of the subject land. The height of the retaining wall along the side boundaries land will range from 300mm up to 1.0 metre.

The Applicant has not proposed any side fencing details along the southern side boundary as part of the development proposal. Development Approval for fencing within a Historic (Conservation) Zone is a mandatory requirement and as such, a separate Application will need to be lodged for any future fencing. However, assuming the Applicant elects to propose typical 1.8 metre high fencing at a later stage, the combined height of retaining wall and new fencing will increase in height and range from 2.1 – 2.8 metres. Although it is acknowledged that combined larger retaining/ fencing heights that can be found within residential areas where the topography is undulating, the likely maximum 2.8 metre combined height of retaining wall and fencing would result, in an unreasonable outlook for the occupiers at 4/96 and 6/96 Frederick Street. Furthermore, the maximum anticipated combined height of fencing and retaining is at odds with City Wide Principle of Development Control 58, which states:

“The combined height of a fence and a retaining wall should not exceed 2.4 metres (measured from the lower of the two adjoining natural ground 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:

Residential H(C)Z PDC's:	36 & 37.
City Wide Objectives:	24, 117 & 119.
City Wide PDC's:	76, 220, 221, 422 & 426.

There are several small to medium sized tree on the subject land, none of which are identified as Regulated trees.

The Applicant has provided a detailed landscaping scheme that seeks to introduce specific plantings adjacent the external perimeter boundaries of the land as well as the front yard area.

The overall landscaping scheme is considered to accord with City Wide Principles of Development Control 220 and 221 state the following respectively:

Residential development should incorporate soft landscaping of a scale and intensity to offset built form and to reinforce the established garden and mature tree lined character of the City.

And

The landscaping of development in residential zones should:

- (a) enhance residential amenity;*
- (b) screen storage, service and parking areas;*
- (c) provide protection from sun and wind;*
- (d) not unreasonably affect adjacent land by shadow; and*
- (e) preferably incorporate the use of local indigenous plant species.*

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, 68, 69, 149, 153 & 161.

The proposed dwelling has been designed to enable access to northern light to the combined kitchen/meals/living area. The verandah/canopy overhang enables protection to the two horizontally proportioned windows to the kitchen/meals/living area from the summer sun angle. As such, the development proposal accords sufficiently with City Wide Principles of Development Control 68.

Notwithstanding the substantial roof catchment area of the proposed dwelling, the Applicant has not provided details of how water is to be managed on site, such as with the provision of rainwater tanks. This is considered to be a negative aspect of the proposal given that this Application seeks to introduce a replacement dwelling that is substantially larger than the existing dwelling and therefore would result in a substantial increase in stormwater collection on the proposed roofed areas. That said, if the Panel was of a collective view to approve the proposed development, this matter could be easily resolved via the imposition of a condition regarding the provision of rainwater tanks.

Summary

The existing dwelling has sustained cracking damage to its external and internal walls, largely due to the reactive clay soil foundation on which it has been constructed upon. Whilst it has been established that the building is not structurally unsound, it is acknowledged that the financial cost of any rehabilitation work associated with restoring the dwelling would not be insignificant. Notwithstanding this, it is considered reasonable (albeit a finely balanced argument) that the existing dwelling should be retained and rehabilitated in this instance given the heritage value of the building and its contribution to the heritage character of both Frederick Street and the Residential Historic (Conservation) Zone and given that more cost effective options than underpinning are available to reasonably manage soil moisture and its impact on the existing dwelling.

In terms of the proposed replacement dwelling, whilst the overall design appearance is considered acceptable in the context of the historic streetscape character of Frederick Street, it is however considered that the replacement dwelling would diminish the level of contribution to the historic character of the zone.

Accordingly, it is considered that the proposal is not seriously at variance with the Development Plan, however does not sufficiently accord 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 **refused** to Development Application No 155/125/16 by Alan Sheppard Constructions to demolish a detached dwelling (Contributory Item), four outbuildings and the removal of existing fencing; and the construction of a single-storey detached dwelling (including a basement) with an integrated garage, front and side fencing and an in-ground swimming pool, on the land located at 98 Frederick Street, Maylands, for the following reasons:

Reasons for Refusal

1. The existing dwelling proposed for demolition makes a positive contribution to the Frederick Street streetscape and whilst it has some structural deficiencies, the extent of rehabilitation work required to address the damage is reasonable, such that demolition is not justified.
2. The proposed dwelling would result in a lower level of contribution to the historic character of the zone, than that being made by the building to be demolished.

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/0088/2016 – PRECISION HOMES (AUSTRALIA) PTY LTD – 72 SIXTH AVENUE, ST PETERS

DEVELOPMENT APPLICATION:	155/0088/16
APPLICANT:	Precision Homes (Australia) Pty Ltd
SUBJECT SITE:	72 Sixth Avenue, St Peters (Certificate of Title; Volume: 5221, Folio: 691)
DESCRIPTION OF DEVELOPMENT:	Construction of a two-storey detached dwelling with associated retaining walls, fencing and landscaping
ZONE:	Residential Historic (Conservation) Zone (The Avenues Policy Area) – Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a two-storey detached dwelling with associated retaining walls, 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.

Subject Land Attributes

Shape:	regular
Frontage width:	22.86 metres
Depth:	45.72 metres
Area:	1045.2m ²
Topography:	2.0m fall from east to west
Existing Structures:	nil
Existing Vegetation:	nil

The subject land has been cleared and the land falls approximately 2.0 metres from the Sixth Avenue property boundary to the Seventh Lane property boundary at the rear of the site.

Locality Attributes

Land uses:	mixed including residential, consulting rooms, offices and shops
Building heights (storeys):	predominantly single storey, with some two-storey buildings at the rear of dwellings or in the roof space
Streetscape amenity	high - due to quality of building stock, wide streets and mature street trees

The locality has a high level of residential amenity, characterised by single-storey detached dwellings with spacious garden settings. Dwelling construction generally reflects a period of construction from 1890 through to 1915, with design characteristics including hipped and gabled corrugated iron roofs, roughcast sandstone and face brick walls, front verandahs and timber joinery and trim.

The most notable exceptions to this historic character are a single-storey residential flat building, which is located directly adjacent to the northern boundary of the subject land and a shop building which is located adjacent the southern boundary of the subject land. Neither of the adjacent buildings are identified as a Contributory Item or a Local Heritage Place within the Development Plan.

The southern side boundary of the subject land abuts the Local Centre (St Peters) Zone. The Local Centre (St Peters) Zone includes a range of land uses including shops, consulting rooms and offices.

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

Proposal in Detail

The Applicant seeks consent to construct a two-storey detached dwelling with associated retaining walls, fencing and landscaping. The proposed dwelling presents to the street as a single storey building, with the first floor set back behind the single storey portion of the dwelling.

The proposed dwelling includes five (5) bedrooms, three (3) bathrooms, a combined kitchen/dining/living area, a home theatre room, a study and a laundry. An undercover alfresco area is proposed at the rear of the dwelling, with direct links from the kitchen/dining room.

A two (2) vehicle garage is proposed with access from Sixth Avenue. Two (2) courtyards are proposed, with the norther courtyard containing a water feature and the southern courtyard to be utilised as a service area.

A rendered masonry 'Grey Pebble' pillar and plinth front fence is proposed, with black steel pickets and gates. The pillars vary in height from 1.3 metres to 1.8 metres, while the steel pickets vary in height from 1.0 metre to 1.5 metres. Side and rear fencing will be replaced with S-rib (corrugated) profile 'Good Neighbour' fencing with retaining walls where required. The combined height of retaining walls and side or rear fencing will vary up to 2.4 metres.

The external walls of the proposed dwelling are to be constructed with rendered masonry 'Grey Pebble', with the facade of the dwelling to incorporate feature sandstone. A simple hipped roof form is proposed with 'Colorbond - Wallaby' custom-orb sheeting. A 30 degree pitch is proposed for the roof over the single storey portion of the dwelling, whereas the two-storey portion of the dwelling will comprise a 17 degree pitch.

The dwelling has been designed with vertically proportioned front windows and a horizontal rendered verandah element that runs across the front of the building. The Applicant has proposed the use of commercial grade aluminium windows, powder coated with 'Matte Finish Electra Black'. The front door is solid timber finished with 'Western Red Cedar'.

The proposed development includes generous landscaped gardens at the front and rear of the dwelling with a range of trees, shrubs and ground covers.

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	1045.2m ²	600m ² (The Avenues Policy Area PDC 5)
Allotment Width	22.86m	18m (The Avenues Policy Area PDC 7)
Allotment Depth	45.72m	N/A

TABLE 1: DEVELOPMENT DATA *continued...*

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
External Wall Height*	3.3m - 3.6m (single storey) 6.1m (two-storey)	N/A
Maximum Overall Height (to roof apex)*	8.4m	N/A
Floor Area (overall) (building footprint)	515m ² 337m ²	N/A
Site Coverage	32.2%	50% (The Avenues Policy Area PDC 6)
Private Open Space	465.0m ² 44.5% of site area 95% uncovered	20% site area (City Wide PDC 225)
Street Set-back	8.0m (dwelling) 9.89m (garage)	(reflect the pattern established by adjoining dwellings - The Avenues Policy Area PDC 8)
Side Set-backs	2.8m & 4.42m (single storey) 3.35m & 4.42m (first floor) 1.61m to garage	(reflect the pattern established by adjoining dwellings - The Avenues Policy Area PDC 8)
Rear Set-back	16.1m (dwelling) 12.1m (alfresco)	N/A
Car Parking Provision	2 undercover + 2 visitor	2 (1 undercover) – Table NPSP/8

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

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

Notification

The proposal has been identified and processed as a Category 1 form of development, pursuant to Schedule 9, Part 1, 2 (a) & (d). 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 Avenues Policy Area of the Residential Historic (Conservation) 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:

The Avenues Policy Area (PA) Desired Character Statement
 The Avenues PA Objectives: 1
 The Avenues PA PDC's: 1, 3, 7, 8

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 Avenues 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 Avenues Policy Area, with a more sympathetic style of development.”

The proposal to construct a detached dwelling on the subject land is in accordance with the above provisions, as it retains the existing subdivision pattern, reflects the low density nature of the locality and will not adversely impact on the established amenity and the historic character of The Avenues Policy Area. A more detailed discussion on the merits of the proposal from a character perspective will be included further on in the report.

Streetscape/bulk/scale/height/character

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

The Avenues PA Desired Character Statement

The Avenues PA Objectives: 1

The Avenues PA PDC's: 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, simple projecting flat verandah canopy, 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.

The Avenues Policy Area Principle of Development Control 4 states that, *“development in the Avenues 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”*.

Both of the adjacent buildings in Sixth Avenue are single-storey. The adjacent residential flat building at 74 Sixth Avenue was constructed circa 1970 and contains seven (7) units, with the common driveway area abutting the subject land.

The adjacent building at 70 Sixth Avenue (also known as 45 Stephen Terrace) was originally constructed as a corner shop and is currently used as a Veterinary Clinic. The Clinic's car parking area is located at the rear of the building, adjacent to the common boundary with the subject land. Neither of the adjacent buildings are listed as Contributory Items or Local Heritage Places.

The predominant height of buildings within the locality is single storey. The construction of a two-storey dwelling is at odds with The Avenues Policy Area PDC 4, which is a negative aspect of the proposed development. However, the extent to which the two-storey portion of the dwelling is visible from the street, has been lessened through its setback from the front of the dwelling and through stepping the dwelling down to follow the natural contours of the land, such that the first floor will be less prominent when viewed from the street.

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 reasonably 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). As such, the proposed dwelling design is also reasonably consistent with part (c) of Residential Historic (Conservation) Zone PDC 17.

The proposed dwelling complements the character of the streetscape, without replicating the historic building stock. In terms of visual outlook from adjacent land, the proposed dwelling has been set back a generous distance from both side boundaries to reduce the impact of the building. 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 bulk and scale of the proposed dwelling is too large with the second level not being set back enough such that it will be too prominent when viewed from the street. The first floor setback should be increased and the dwelling should be stepped down to the rear to reduce the prominence of the first floor; (this suggested amendment has been made)*
- *the proposed double garage at the front of the house is not ideal, given that the property has rear access;*
- *the proposed roof form and style at the front of the dwelling is acceptable;*
- *whilst the roof pitch for the two-storey portion of the dwelling is lower, it will still be visible from the street; (the two-storey portion of the dwelling has been amended to be set further back and lowered such that the two-storey portion will be less prominent when viewed from the street)*
- *the proposed ‘verandah’ canopy form is generally acceptable, however the proposed aluminium cladding is not considered to be appropriate; (the Applicant has amended the material of the verandah canopy to a light-weight ‘Champignon’ render)*

- *the front elevation includes large floor to ceiling windows which are not considered appropriate in the Historic (Conservation) Zone. Smaller more appropriate windows would be preferred; (the Applicant has amended the front window design to utilise more appropriate vertically proportioned windows) and*
- *the proposed front facade includes feature porcelain tiles, which is not an acceptable surface finish in a HCZ. Thought should be given to using real stone or a stone veneer of an appropriate colour; (the Applicant has amended the front facade to utilise sandstone in lieu of porcelain tiles).*

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

As noted above, the Applicant has provided further amendments to the design to address the Heritage Advisor's concerns. Whilst the Council's Heritage Advisor has not provided a written report regarding the further amendments, he has advised verbally that he is far more comfortable with the amended design from a heritage perspective, albeit that his concerns regarding the double width garage being accessed from Sixth Avenue remain.

The Council's Heritage Advisor's concerns regarding vehicular access from Sixth Avenue is reiterated by Residential Historic (Conservation) Zone Principle of Development Control 32, which states:

"Vehicle access to sites should be via minor streets and/or existing crossovers where possible. Where rear lanes exist, vehicle access and garaging should be located at the rear of the allotment."

The primary purpose for this Principle is to maintain the character of the locality, with garaging generally located at the rear of sites, which enables the front yards of dwellings to maintain garden settings and spacious siting characteristics.

In this instance, vehicular access is proposed via an existing driveway crossover in accordance with the first part of Residential Historic (Conservation) Zone PDC 32, however given that a rear lane exists, the access arrangement is contrary to the policy. That said, the location of the garage adjacent to the southern side of the dwelling will not significantly detract from the streetscape or historic character of the area, as the dwelling is located adjacent to the car parking area of the Veterinary Clinic on the corner of Stephen Terrace. If the dwelling (with its integrated garaging under the main roof fronting the street) was proposed on an allotment surrounded by traditional dwellings, it would have a more marked impact on the character of its locality and would likely not be considered appropriate.

In terms of the proposed front fence, The Avenues Principle of Development Control 9 states (in part):

"Fencing along the front street boundary... should maintain the scale of existing historic development and should:

- (a) not detract from the character or restrict the visibility of the building;*
- (b) not exceed 1.2 metres in height if masonry or a maximum of 1.5 metres in height if wrought iron, brush, timber and or wire or woven mesh, with masonry pillars able to be constructed up to a height of 2 metres;..."*

The proposed front fence varies in height as a result of the existing cross-fall at the front of the allotment. The fence pillars range in height from 1.3 metres to 1.8 metres, with the steel picket infill ranging in height from 1.0 metre to 1.5 metres, consistent with The Avenues Policy Area PDC 9.

The proposed front fence design is contemporary and will complement the proposed dwelling and other fences in the locality, without replicating the original design. The predominantly open nature of the fence will provide views of the front garden and the dwelling, which will assist in maintaining a garden setting, which is a characteristic of the Policy Area.

'Good Neighbour' corrugated fencing in a 'Woodland Grey' finish is proposed to the side and rear boundaries, which when combined with existing and proposed retaining walls, will range in height up to 2.4 metres. The subject land is lower than the adjacent residential flat buildings at 74 Sixth Avenue, such that the boundary fence height will not exceed 1.8 metres when viewed from that land. Conversely, the subject land is higher than the adjacent land at 70 Sixth Avenue, such that the full 2.4 metre retaining wall and fence height will be visible from the car parking area at the rear of the Veterinary Clinic.

The Applicant has noted that the side fences will taper between the dwelling alignment and the front fence, which will complement other fencing within the streetscape.

It is considered that the proposed development now 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:

The Avenues PA PDC's:	6, 8
RH(C) Zone Objectives:	1, 6,
RH(C) Zone PDC's:	10
City Wide PDC's:	50, 204, 207

The adjacent residential flat building at 74 Sixth Avenue is set back approximately 5.0 metres from the street. The adjacent Veterinary Clinic building at 70 Sixth Avenue abuts the Sixth Avenue property boundary and incorporates a verandah that encroaches over the Sixth Avenue verge. Neither of the adjacent buildings are listed as Contributory Items or Local Heritage Places.

The Avenues 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.”

Given that the proposed dwelling is not located adjacent to a heritage place or contributory item, the only guidance that can be taken from The Avenues Policy Area PDC 8 is that the front and side setbacks should reflect the pattern established by the adjoining dwellings.

The proposed dwelling has a front setback of 8.0 metres to the dwelling facade and 9.9 metres to the garage, which is greater than the front setbacks of the adjacent buildings. The additional proposed front setback will assist in reducing the prominence of the dwelling when viewed from the street, particularly the two-storey portion of the dwelling and the garaging. In this context, the proposed front setback is considered to be acceptable.

The proposed dwelling is set back 2.8 metres from the northern side boundary at ground level and 3.35 metres at the first floor level, which will provide reasonable space around the dwelling for landscaping and will maintain the pattern of side setbacks and space between dwellings, consistent with The Avenues Policy Area PDC 8.

The proposed garage is set back 1.6 metres from the southern side boundary, with the remaining ground level and first floor of the dwelling set back 4.4 metres from the southern side boundary. The proposed southern side boundary setbacks are relatively generous in the context of the locality.

The proposed dwelling is set back 16.1 metres from the Seventh Lane property boundary at the rear of the allotment, with the proposed alfresco area extending to within 12.1 metres of the rear boundary.

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 is considered to be negligible and will be discussed in greater detail later in the report.

If the Panel determines to approve the proposed development, it is recommended that a condition be imposed requiring the disused portion of driveway crossover to be reinstated to upright kerb and gutter in accordance with Council specifications.

The Applicant has proposed to include a vehicle gate in the rear fence, to provide secondary vehicular access to the rear yard from Seventh Lane.

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 has a fall from the easternmost front corner of the allotment to the westernmost rear corner in the order of 2.5 metres over a length of approximately 50 metres.

The Applicant has nominated a finished floor level for the single-storey front section of the dwelling which ranges between 274mm above and 778mm below the adjacent top-of-kerb levels, which will provide for a reasonable fit in the streetscape. The garage and the rear two-storey portion of the dwelling has been 'stepped' down to follow the natural contours of the land and has a finished floor level of 760mm below the front portion of the dwelling.

The Applicant has proposed to collect surface water from paved areas surrounding the dwelling in a series of sumps, which are to be connected to a pump chamber system and pumped back to the Sixth Avenue water table, as there is no stormwater infrastructure within Seventh Lane adjacent the rear of the allotment.

In terms of roof catchment areas, the Applicant has proposed to direct all runoff to a rainwater tank with a capacity of 1,000 litres, with overflow to be directed to the street water table via the proposed pump chamber system. Given the size of the proposed dwelling, the capacity of the proposed rainwater tank is considered to be a negative aspect of the proposed development. This will be discussed in greater detail under the heading *Environmental Sustainability*.

The proposed development will utilise an existing retaining wall along the northern side common boundary with 74 Sixth Avenue. New corrugated 'Colorbond' fencing is proposed above the existing retaining wall.

A new retaining wall which will vary in height up to 800mm is proposed along a large portion of the southern side boundary. The fence above this retaining wall will generally be 1.8 metres in height, although a small section will be limited to 1.6 metres in height to limit the overall height of the retaining wall and fence to 2.4 metres, when viewed from the adjacent car parking area, in accordance with City Wide PDC 58.

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:

RH(C) Zone PDC's: 36, 37
City Wide Objectives: 24, 98
City Wide PDC's: 73, 74, 75, 220, 221

The subject land has been cleared of all vegetation and there are no significant or regulated trees on adjacent land, which would be affected by the proposed development. Two (2) mature street trees are located adjacent to the subject land, within the Sixth Avenue verge. Neither of the trees will be affected by the proposed development.

The desired character statement for The Avenues 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 Murraya Hedges with a mature height of 1.8 metres adjacent to the side and rear boundary fences and Japanese Box Hedge with a mature height of 1.2 metres to border the front yard. Lawn is proposed to be planted within both the front and rear yard. A copy of the landscaping plan and photographic examples of the species are contained in **Attachment B2**.

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 alfresco area will provide shade to the ground level dining room window, however the other large north-west facing windows and ground and first floor level will remain largely unprotected from the sun. This is considered to be a negative aspect of the proposed development and as a result the dwelling will likely require significant artificial cooling in summer months.

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 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 Applicant has indicated that provision will be made for the future establishment of solar collection panels on the roof of the dwelling, as illustrated on the roof plan contained in Attachment B8. This is considered to be a positive aspect of the proposed development and, if implemented, will significantly reduce the energy consumption required from the power grid.

Summary

The construction of a two-storey detached dwelling with associated retaining walls, 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 Applicant has made several amendments to the design to reduce the prominence of the two-storey portion of the dwelling by increasing the front setback and lowering the floor level of the two-storey portion of the dwelling. Notwithstanding, the proposed dwelling

remains of a substantial scale and the two-storey portion of the dwelling will be visible from Sixth Avenue, albeit that it will not be a prominent feature.

The Applicant has also made several alterations to the architectural style of the dwelling and the proposed design is now considered to be acceptable from a heritage perspective. The proposed colour scheme and the design of the front fence are also considered to be acceptable.

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.

Negative aspects of the proposed development include the two storey nature of the dwelling, the extent of glazing on the north-western rear elevation, the minimal proposed rainwater collection and the use of Sixth Avenue as the primary vehicle access point.

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. 155/0088/16 by Precision Homes (Australia) Pty Ltd to construct a two-storey detached dwelling with associated retaining walls, fencing and landscaping; on the land located at 72 Sixth Avenue, St Peters, 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, elevations and details prepared by Precision Homes, Project Number N241, Revision 6, received by the Council 9 June 2016; and
- the Site & Drainage Plan prepared by Lelio Bibbo Consulting Engineers Pty Ltd, Reference No. 160267, Revision B, received by the Council on 3 May 2016.

Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent Sixth Avenue kerb & water table or a Council underground pipe drainage system. No stormwater shall be discharged to Seventh Lane at the rear of the site.

2. The stormwater pump system shall be designed to ensure that at a minimum the 1 in 20 year ARI event is safely discharged to the street water table without overflowing onto neighbouring properties. This can be achieved by pumping the peak rainfall intensity duration in full to the street water table or utilising onsite storage (above or below ground) and pumping a smaller flow rate;
3. The pump system shall incorporate two pumps each capable of discharging the design flow (to cater for the failure of one of the pumps).
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. Landscaping shall be planted in accordance with the landscaping plan, herein approved, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.
6. The portion of the existing driveway crossover within Sixth Avenue that will be discontinued from use, shall be reinstated to kerb and gutter in accordance with the Council's specifications, prior to the occupation of the dwelling.
7. The portion of all 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.)

Notes to Applicant

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

2. STAFF REPORTS

2.4 DEVELOPMENT APPLICATION 155/0209/2016 – MY ROY ZITO – 20 EDWARD STREET, NORWOOD

DEVELOPMENT APPLICATION:	155/0209/16
APPLICANT:	Mr Roy Zito
SUBJECT SITE:	20 Edward Street, Norwood (Certificate of Title; Volume: 5798, Folio: 609)
DESCRIPTION OF DEVELOPMENT:	Construction of a single storey detached dwelling with an associated swimming pool, fencing and landscaping
ZONE:	Residential Historic (Conservation) Zone – Norwood 4 Policy Area – Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a single storey detached dwelling 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 the 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.

Subject Land Attributes

Shape:	regular
Frontage width:	22.02m
Depth:	54.56 metres
Area:	1201.4m ²
Topography:	gently sloping from the rear (east) to the front (west)
Existing Structures:	detached dwelling (partially demolished)
Existing Vegetation:	two (2) fruit trees within the front yard

The subject land is a regular shaped allotment on the eastern side of Edward Street. Vehicular access to the site is provided from the northern end of the allotment for the existing dwelling via an existing crossover.

The allotment slopes from back to front, falling approximately 1.1m over the 54.56 metre depth of the site, resulting in a relatively gentle gradient. A partially demolished single storey detached dwelling occupies the subject land. Alterations and additions to the detached dwelling have been granted Development Plan Consent via a separate Development Application.

TABLE 1: DEVELOPMENT DATA *continued...*

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
Private Open Space	96.5m ² 17.23% of site area 72% uncovered	20% of site area 50% uncovered
Side Set-back	1.0m	2.5m (CWPDC 202)
Rear Set-back	2.5m – 4.8m	2.5m (CWPDC 202)
Car Parking Provision	2 undercover + visitor	2 (one of which is covered)

** 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 proposed development has been identified and processed as a Category 1 form of development. The single storey detached dwelling is Category 1, pursuant to Schedule 9, Part 1, 2 (a) of the *Development Regulations 2008*. The other ancillary structures such as the swimming pool, fencing and carport are all Category 1 development pursuant to Schedule 9, Part 1, 2 (d) of the *Development Regulations 2008*.

Accordingly, 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 Avenues Policy Area of the Residential Historic (Conservation) 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:

- Norwood 4 Policy Area Desired Character Statement
- Norwood 4 Policy Area Objective: 1.
- Norwood 4 Policy Area PDC's: 1, 2, & 5.

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

- City Wide Objectives: 1, 2, 7, 8, 10 & 55-57.
- City Wide PDC's: 1, 2, 3 & 4.

City Wide Principle of Development Control 188 states:

“Residential allotments or sites in the form of a battleaxe, hammerhead or similar configuration should only be created if they are envisaged in the relevant part of the zone or policy area.”

Norwood 4 Policy Area Principle of Development Control 2 states:

Development should provide a range of types and forms of residential accommodation, offering a wide range of housing choice.

Residential Historic (Conservation) Zone Principle of Development Control 8 states (amongst other things):

“The introduction of new dwellings in the zone should only occur where:

(a) land is vacant or under-utilised and the development can be achieved without adverse impact on the established residential amenity and the historic character of the relevant policy area;”

Having regard to City Wide Principle 188, neither the zone, nor the policy area policies actively envisage dwellings on hammerhead or ‘battle-axe’ sites. However, Norwood 4 Policy Area Principle 2 encourages a range of types and forms of residential accommodation and Residential Historic (Conservation) Zone Principle 8 encourages new dwellings on under-utilised land. In this respect, the subject land is substantially larger than other allotments in the locality and comprises a vast rear yard area of approximately 550m² measured from the back of existing additions. This rear yard area is approximately the same size as the allotments of the dwellings fronting Edward Street at 10, 12, 14 and 16 Edward Street and much larger than the allotments of other dwellings in the locality, such as those of the many units at 21, 22 and 24 Edward Street and the dwellings at 19, 21 and 23 Moulden Street.

In this context, the occupation of the existing 1200m² allotment by one dwelling is considered to represent an underutilisation of the site and an opportunity for the introduction of a new dwelling to be established at the rear, where it will have little impact on the established residential or historic character of the policy area.

The existence of group dwellings and residential flat buildings, involving dwellings located behind dwellings fronting the street, at 24, 22, 21 and 17 Edward Street, influence the established character of the immediate locality of the subject land. The proposed development is considered to be compatible with this established character.

The proposed detached dwelling is to be constructed on an allotment of 560.46m² accords with Norwood 4 Policy Area Principle of Development Control 5, which requires a 300m² site area. Accordingly, the proposal is considered appropriate from a land use and density perspective.

Streetscape/bulk/scale/height/character

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

Norwood 4 Policy Area Desired Character Statement

Norwood 4 Policy Area Objective: 1.

Norwood 4 Policy Area PDC’s: 1, 2, & 4.

Residential H(C)Z Desired Character Statement

Residential H(C)Z Objectives: 1 & 5.

Residential H(C)Z PDC’s: 1, 2, 13-19, 22, 23, 25 & 26.

City Wide Objectives: 18, 19 & 20.

City Wide PDC’s: 28-32, 37, 39, 41, 191 & 209-216.

The proposed dwelling has conventional construction features, with a hipped roof, rendered walling, verandah’s and vertically proportioned timber windows.

Norwood 4 Policy Area Principle of Development Control 4 states that, *“Development in the Norwood 4 Policy Area should not exceed two storeys in height above natural ground level”*.

The proposed dwelling is single storey with an external wall height and roof pitch that complements the adjacent built form, particularly the dwellings to the south. The scale of the proposed dwelling is consistent with Policy Area PDC 4, being single storey, and will provide for an appropriate fit in the context of the locality given the adjacent hammerhead style development at 22 Edward Street. In any event, the dwelling will not be readily visible from the street or adjacent properties.

The Application was referred to the Council's Heritage Advisor, David Brown, as the subject land is located within the Residential Historic (Conservation) Zone. As the property is located on a battle-axe allotment and will not be highly visible from the street, Mr Brown is generally supportive of the proposed dwelling.

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

It is considered that the proposed development accords with relevant provisions of the Development Plan that relate to bulk, scale and character. Accordingly, the proposal 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:

Norwood 4 Policy Area Desired Character Statement	
Norwood 4 Policy Area Objective:	1.
Norwood 4 Policy Area PDC:	1
RH(C)Z PDC's:	10, 11 & 12.
City Wide PDC's:	50, 202, 204, 206, 208.

City Wide Principle of Development Control 202 states:

"The distance between any portion of a single-storey dwelling or any single-storey component of a two storey dwelling (including a verandah, garage or carport, which is an integrated part of the development) on a battleaxe, hammerhead or similar configuration allotment or site (including those accommodating group dwellings), and a side or rear boundary of the parent development site, should be no less than 2.5 metres."

The adjacent dwelling to the north at 17A Moulden Street, Norwood is a conventional two storey dwelling and has a setback of 1.0m to the northern boundary of the subject land. The ground floor windows of 17A Moulden Street are bathroom and kitchen windows along with a glazed personal access door from the laundry. The dwelling located to the south of the subject land at 22B Edward Street, is also a two storey dwelling, but has a single storey appearance as it has a 'room in the roof space' design. It also has a 1.0m setback from the boundary of the subject land, with a bathroom and bedroom located along this elevation.

The north eastern neighbour has a relatively substantial garage built on the eastern boundary and as such, views of the proposed dwelling will be unlikely. The south eastern dwelling has a more open outlook to the west (subject land) and the setback ranges from 2.5m to 4.8m.

The proposed dwelling does not accord with City Wide Principle 202, in that it is not set back 2.5 metres from the side boundaries. Given that the proposed dwelling will have similar side setbacks to the adjoining northern and southern dwellings, the non-conformance with Principle 202 is not considered to be fatal to the application as those persons living either side can reasonably anticipate development following the same pattern of setbacks and those affected dwellings do not have an outlook towards the subject land from a main living area. The proposed rear setback is in accordance with Principle of Development Control 202.

The Norwood 4 Policy Area does not provide a quantitative figure for the maximum site coverage of a development. Instead, a more qualitative assessment is required against Principle of Development Control 12 of the Residential Historic (Conservation) Zone, which states:

"The site coverage of buildings resulting from the erection or alteration of, or addition to, a building, should be compatible with the site coverage of those buildings in the locality which contribute significantly to the historic character."

The adjacent and nearby character dwellings at 10 to 18 Edward Street range between 40% and 53%, with an average site coverage of approximately 45%. The adjacent dwellings to the south of the subject land have a greater average site area; however these dwellings are predominantly townhouses which do not make a significant contribution to the historic character.

Notwithstanding, the proposed site coverage of 43.6% is consistent with those buildings which contribute significantly to the historic character of the locality and is therefore considered to be appropriate.

Accordingly, the setbacks and site coverage of the proposed development are considered to be acceptable.

Overshadowing/overlooking

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

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

The proposed dwelling will not cause excessive overshadowing, due to the modest height single storey form, the varying side setbacks of the dwelling, the orientation of the subject land and the fact that the most affected adjacent dwelling at 17A Moulden Street, Norwood has its main living areas and open space sited with a northern orientation, well removed from the subject land.

Similarly, the subject land is relatively flat and the proposed finished floor levels are such that there will be no unreasonable overlooking of adjacent dwellings or their private open space as a result of the proposed development.

As such, the proposed development is considered to be consistent with City Wide Principle of Development Control 11, in that no unreasonable overlooking or overshadowing will result from the development.

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.

The proposed dwelling includes approximately 96.5m² of private open space in along the eastern boundary. The private open space area includes the alfresco area, the swimming pool area and a lawned area toward the south eastern corner of the allotment. The private open space is well oriented and will have good solar access.

The proposed area of private open space equates to 17.23% of the overall site area, which does not accord with the minimum provision of 20%, stated in City Wide Principle of Development Control 244(a). However given the dwelling is to be located on a hammerhead allotment, it is considered that other areas (i.e. adjacent the entrance portico) have a reasonable prospect of being utilised for recreational purposes. The provision of private open space is considered to be acceptable in the circumstances.

Car-parking/access/manoeuvring

RH(C)Z PDC's: 32.

City Wide Objectives: 34.

City Wide PDC's: 98, 101, 104, 118, 120, 181, 189, 198 & 219.

Table NPSP/8.

City Wide Principle of Development Control 198 States:

“Residential allotments or sites in the form of a battleaxe, hammerhead or similar configuration, (including those accommodating group dwellings), should:

- (a) *contain sufficient area on the development site, excluding area/s designated as covered and uncovered car parking spaces, for a vehicle to turn around and enable it to egress the allotment in a forward direction;*
- (b) *be capable of draining stormwater efficiently, without the need to excessively raise the floor or bench level of the development;*
- (c) *in the case of a battleaxe allotment, have the driveway ‘handle’ located adjacent to the site boundary; and*
- (d) *in relation to the driveway servicing dwellings to the rear of the allotment or site:*
 - (i) *have a driveway ‘handle’ length of no more than 35 metres and a width of no less than 4 metres and not more than 6 metres;*
 - (ii) *the driveway ‘handle’ should have a vehicle carriageway of no less than 3 metres in width for a site that accommodates up to two dwellings and no less than 6 metres in width for at least the first 6 metres and 5 metres in width thereafter, for a site that accommodates three or more dwellings(Refer to Figure 4). A reduced paved area width of not less than 2.8 metres may be considered if any existing dwelling is retained; and*
 - (iii) *the driveway ‘handle’ should incorporate a combined total width of 1 metre of landscaping along the length of the driveway ‘handle’ unless the driveway abuts unfenced areas of landscaping;*

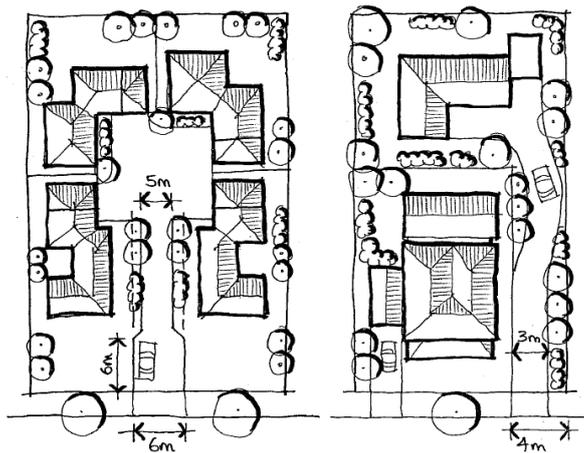


Figure 4

The proposed driveway is consistent with parts (a) and (c) and (d) (part b does not affect the assessment of car parking and manoeuvring). With respect to part (d) of the above provision, the driveway does not accommodate a landscaping strip. It is considered that landscaping forms an important part of the locality and it is considered that there is sufficient room to accommodate a 1.0m wide landscaping strip along the driveway handle. If the panel determines to grant the Application Development plan Consent, it is considered appropriate that a condition of consent be included to this effect.

Table NPSP/8 states that detached dwellings should be provided with two (2) on-site car parking spaces per dwelling, of which at least one (1) space should be covered. The proposed development will enable two (2) vehicles to be parked undercover within the double garage.

The provision of on-site car parking is therefore considered to be acceptable.

In terms of access, Residential Historic (Conservation) Zone PDC 32 states:

“Vehicle access to sites should be via minor streets and/or existing crossovers where possible. Where rear lanes exist, vehicle access and garaging should be located at the rear of the allotment.”

The proposed dwelling will gain vehicular access via a new crossover. The council verge is free from impediments and access is considered to be safe and convenient. Whilst an additional crossover can restrict on street vehicle parking, there is still the opportunity for two (2) vehicles to be parked on the street adjacent the subject land.

Staff have applied vehicle manoeuvring templates for an 85th percentile vehicle and the proposed 5.1 metre wide panel lift door will enable vehicles to enter and exit the garage in a safe and convenient manner and exit the subject land in a forward direction.

The provision of on-site car parking, vehicle access and manoeuvring are considered to be acceptable.

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

The finished floor level of the proposed dwelling is approximately 1.4m above the top of kerb level in Edward, such that all stormwater from the dwelling will be able to drain by gravity to the street water table.

The rear yard is not proposed to be built up, with the existing levels being akin to that of the proposed finished floor level of the dwelling.

The Applicant has advised that they will be replacing all fencing with 1.8m colorbond fencing in 's rib' corrugated profile.

The combined height of fencing and any potential retaining walls will not exceed 2.1 metres in any location, consistent with City Wide PDC 58 which prescribes that the combined height of a retaining wall and fence should not exceed 2.4 metres.

The proposed swimming pool will not impact on existing levels, as the proposed bench level for the dwelling (and therefore swimming pool) is essentially the same as the existing ground levels on the subject land.

Trees (regulated, mature & street) and landscaping

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

Residential H(C)Z PDC's: 36 & 37.

City Wide Objectives: 24, 98, 117, 118 & 119.

City Wide PDC's: 220, 221, 396, 398- 400.

There are no regulated or mature trees at the rear of the subject land. Two (2) mature lemon trees are located within the front yard of the existing dwelling, but are not afforded any protection under the *Development Act 1993*.

The Desired Character Statement for the Residential Historic (Conservation) Zone states that new development will be set in a sympathetic landscaped setting. This is reiterated by the Desired Character Statement for the Norwood 4 Policy Area, which promotes landscaped frontages.

In terms of landscaping, the Applicant has provided a landscaping plan and schedule, which identifies a range of small trees, shrubs and ground covers. Subject to some of the hard paved area being replaced with landscaping as previously discussed, the proposed landscaping will enhance the amenity of the proposed dwelling, which is a characteristic of the locality. A copy of the landscaping plan and schedule is contained in **Attachment B**.

Overall, the provision of landscaping is considered to be acceptable (subject to the additional landscaping bed along the driveway) and will complement the dwelling and achieve a 'landscaped setting' in accordance with the Desired Character Statement for the Residential Historic (Conservation) Zone.

Environmental Sustainability

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

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

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

No windows are proposed in the western elevation. The Applicant has provided shade to the north facing living room windows/openings by including an alfresco area under the main roof, which will minimise direct sunlight (i.e. summer heat loading) to the internal living areas, though this will also be achieved as a result of the adjacent two storey dwelling. This is considered to be a positive and practical design approach with regard to reducing the need for artificial cooling during the summer months within the proposed dwelling.

The Applicant has not provided details of a rainwater tank, though it is considered there are a number of suitable locations available. City Wide Principle of Development Control 161 states 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. As such, if the Panel determines to approve the development, it is recommended that a condition be imposed requiring the Applicant to install a rainwater tank with a minimum capacity of 2000 litres.

It is also recommended that a condition be imposed to ensure that the filter pump associated with the swimming pool be enclosed in such a way that noise levels do not exceed 45db(a), when measured at adjoining property boundaries (i.e. to accord with the relevant Environment Protection Act requirement).

Summary

The proposed development is consistent with the land use provisions contained within the Residential Historic (Conservation) Zone and the Norwood 4 Policy Area.

The general architectural design of the proposed dwelling is considered to be acceptable and will complement the building stock within the locality, and given the hammerhead nature of the development will have a minimal impact on the character of the Residential Historic (Conservation) Zone in terms of the streetscape. The environmental aspects of the dwelling design, including shading of north-facing windows and minimal no facing windows, are positive aspects of the development.

The proposed built form will not result in any unreasonable impacts such as compromised visual outlook for adjoining occupiers, nor shadowing of adjoining land. The proposed setbacks, and the overall site coverage are considered to be acceptable in the context of the locality.

The slight shortfall in the quantum of private open space is considered to be a negative aspect of the proposal.

On balance, the proposed dwelling will fit comfortably into the area, will not compromise the rhythm of allotment patterns in the locality and will not unreasonably impact on adjacent residential properties.

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 155/0563/15 by Mr Roy Zito, to construct a single storey detached dwelling with an associated swimming pool, fencing and landscaping, on the land located at 20 Edward Street, Norwood, subject to the following requirements, conditions and notes:

Relevant Plans

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

- plans, elevations and details prepared by D'Andrea & Associates Pty Ltd, received by the Council on 8 June 2016;
- emails from Roy Zito dated 7 & 8 June 2016 confirming the materials and finishes for the dwelling and the fencing details.

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 and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.
2. The swimming pool filter pump shall be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.
3. 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 licenced plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with the application for Building Rules Consent.
4. A landscaping strip with a minimum width of 1.0m shall be installed along the length of the driveway handle and planted with a suitable mix of trees and shrubs to the reasonable satisfaction of the Council or its delegate.
5. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, herein approved, prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
6. All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.

Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.

2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.
4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development is likely to be at the Applicant's cost.
5. The Applicant is advised that the property is located within an Historic (Conservation) Area and that Approval must be obtained for most works involving the construction, demolition, removal, conversion, alteration or addition to any building and/or structure (including fencing).
6. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
7. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

2. STAFF REPORTS

2.5 DEVELOPMENT APPLICATION 155/684/2015 – GABRIEL STRACCI – 12 GWYNNE STREET, FIRLE

DEVELOPMENT APPLICATION:	155/684/2015
APPLICANT:	Gabriel Stracci
SUBJECT SITE:	12 Gwynne Street, Firle (Certificate of Title Volume: 5719 Folio:3)
DESCRIPTION OF DEVELOPMENT:	Construction of a pair of two-storey semi-detached dwellings with freestanding garages
ZONE:	Residential Zone – Medium Density Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide details to the Panel on a compromise proposal which has been submitted in relation to a Development Application which was refused by the Panel at its meeting held on 20 January 2016 and which is the subject of an Appeal to the Environment Resources and Development (ERD) Court. The Panel is required to consider the amended plans and advise the ERD Court as to whether or not the amended plans satisfactorily address the concerns identified with the Application, such that consent would now be warranted.

Background

A Development Application (Development Application No. 155/684/2015) was lodged in September 2015 for the construction of a pair of two storey semi-detached dwellings with freestanding garages accessed from the rear lane.

The Panel considered the Application at its meeting held on 20 January 2016 and determined to refuse the Application for the following reasons:

- 1. The development does not provide safe and convenient vehicle access to the dwellings via the rear laneway*
- 2. The development does not meet Residential Zone Principle of Development Control 10 as the development does not present as a single dwelling from the street.*

A copy of the relevant section of the Minutes of the Panel meeting held on 20 January 2016, including the refused plans, is contained in **Attachment A**.

Following the refusal of the Application by the Panel, the Applicant lodged an appeal with the ERD Court. The Applicant has prepared a compromise proposal, which is the subject of this report.

A copy of the amended plans is contained in **Attachment B**.

The proposed amendments to the dwelling design to address the second reason for refusal comprise:

- an alteration to the roof form to provide a common roof over the front portion of the dwellings;
- a reduction in the height and depth of the blade wall; and
- deletion of the front portico gates.

Discussion

Safe and convenient access from the lane

Advice has been sought from Norman Waterhouse Lawyers, as to the appropriateness of assessing and determining the Development Application which proposes access via the rear laneway, in light of the fact that there is currently no right of way over the 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) SASC10, 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 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.*

In relation to the condition of the lane and the proposed paving:

- *As we read the plans, the proposal includes paving the relevant section of the right of way. As such... we are of the view that these works form part of the development application. We suggest a condition of development plan consent also be imposed for the avoidance of any doubt. The Courts have previously held that conditions involving work on external land are valid when the work is necessary solely, or almost solely, because of the proposed development (see for example *Roche Bros Pty Ltd v Burnside CC* (1988) 34 APA 361).*
- *On this basis, our view is that the Council can have a reasonable expectation that the development is capable of practical implementation.*

In light of the above advice and with the proposed paving forming part of the development, it is considered that the proposed development does provide safe and convenient access to the site consistent with City Wide Principle of Development Control 98.

Presentation of the dwellings as a single dwelling

Relatively minor changes have been made to the roof form and blade wall compared to the previously considered plans. The roof form has been altered to provide a common roof over the front of the dwellings, rather than separate hipped roof forms. The blade wall has been reduced in height so that it now sits below the upper level eave and the depth of the blade wall at the upper level has been reduced from 1 metre to 0.5 metres. The Applicant has also removed the gates at the front of the portico.

Council staff suggested that the Applicant consider increasing the proposed roof pitch so that the common roof form is more visible from the street. However the Applicant does not wish to alter this aspect of the design. Notwithstanding that the changes are not significant, the alterations are considered to improve the presentation of the dwellings within the streetscape and result in the proposal being more consistent with

City Wide Principle of Development Control 190 and Residential Zone Principle of Development Control 10, which seeks to achieve semi-detached dwellings having the form of a single integrated building.

Summary

Although only minor changes have been made to the dwelling design, the proposed changes and the legal advice obtained are considered sufficient to address the Panel's reasons for refusal. Accordingly, it is considered that the amended proposal does sufficiently accord with the relevant provisions of the development plan to warrant development plan consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, the Environment Resources & Development Court be advised that Development Application No. 155/684/2015, by Gabriel Stracci to construct a pair of two-storey semi-detached dwellings with garages accessed from the rear lane on the land located at 12 Gwynne Street, Firle, is acceptable subject to the following conditions, or similar conditions as deemed suitable by the Court:

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:

- Lower floor and site plan, Upper floor plan and elevations, and Locality plan prepared by Alby's Designs for G & T Stracci, received by the Council 7 June 2016
- Site works and drainage plan prepared by Combe Pearson Reynolds, Drawing No. 150530-C01, received by the Council 13 January 2016

Conditions

1. The paving of the portion of the rear laneway, as indicated on the locality prepared by Alby's Designs, shall be completed prior to occupation of the dwelling and maintained thereafter to the reasonable satisfaction of the Council or its delegate, to ensure safe and convenient access remains available for occupants of the subject land.
2. The portion of the upper floor windows on the eastern and western (side) elevations, other than to Bedroom 2, 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.)
3. All stormwater from buildings, paved areas and the paved area of the rear lane, 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 Gwynne Street kerb & water table or a Council underground pipe drainage system.
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 of each dwelling 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 to the reasonable satisfaction of the Council or its delegate.

6. The roof material of the proposed dwellings and garages herein approved shall be galvanized iron or a pre-colour treated sheet metal, rather than zincalume to minimise the effects of glare on adjacent property occupants.
7. The existing crossover adjacent to the north western corner of the site shall be reinstated to kerb and gutter prior to the occupation of the dwellings to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the owner/applicant.
8. New fencing dividing the front yards of the dwellings herein approved shall be no higher than 1.2 metres. Side boundary fencing forward of the dwelling should taper down such that it is a maximum of 1.2 metres high at the front boundary.

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.

2. STAFF REPORTS

2.6 DEVELOPMENT APPLICATION 155/432/2015 – SPORTSMED SA – 26-36 PAYNEHAM ROAD, 24 & 21-23 GEORGE STREET AND 16-20 HENRY STREET, STEPNEY

DEVELOPMENT APPLICATION:	155/0432/15
APPLICANT:	Sportsmed SA
SUBJECT LAND:	26-36 Payneham Road, 24 & 21-23 George Street and 16-20 Henry Street, Stepney
DESCRIPTION OF DEVELOPMENT:	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 for 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.
ZONE:	Light Industry Zone (dated 31 October 2013)
PUBLIC NOTIFICATION CATEGORY:	Category 3

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application previously considered and deferred by the Panel, at its meeting held on 16 May 2016. The Applicant has submitted further information in relation to the Application and it is necessary for the Panel to determine whether or not the proposal sufficiently accords with the Development Plan to warrant consent.

Background

At its meeting held on 16 May 2016, the Panel determined:

*“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.”*

A copy of the relevant section of the Minutes of the Panel meeting held on 16 May 2016, including attachments, is contained in **Attachment A**.

The Applicant has submitted further information in response to the Panel’s concerns. A copy of a letter from the Applicant and supporting reports is contained in **Attachment B**.

Discussion

The following discussion is based on the Panel's reasons for deferral:

The intended use of the office building at 24 George Street

The Panel asked the Applicant to consider amending the Application to clarify what the intended use of the office building at 24 George Street is and the associated parking provision for that use.

The Applicant has subsequently provided a floor plan for the building, showing its intended use. The plan shows that approximately 345m² of the building's floor area, is proposed to be used for storage, while the remaining 375m² of the floor area is proposed to be used as office space.

An analysis of the car parking implications of the change of use of 24 George Street from an office and warehouse to an office, storage facility and car parking, has been undertaken by MFY Pty Ltd on behalf of the Applicant. The analysis can be summarised in Table 1 below.

Table 1: Existing (Approved) Conditions at 24 George Street

Use	Area	Car Park Generation Rate	Car Parking Demand
Office component of Warehouse	720m ²	3/100m ²	21.5 spaces
Non-office component of Warehouse	850m ²	1/100m ²	8.5 spaces
Total parking demand			30 spaces
Car parking supply			18 spaces
Car parking deficit			12 spaces

Table 2: Proposed Conditions at 24 George Street

Use	Area	Car Park Generation Rate	Car Parking Demand
Office	375m ²	4/100m ²	15 spaces
Storage	345m ²	0/100m ²	0 spaces
Total parking demand			15 spaces
Car parking supply			47 spaces
Car parking surplus (actual)			32 spaces
Surplus using previously approved conditions as the starting point			44 spaces

The car parking assessment that was undertaken in relation to the proposed new medical centre at 26 Payneham Road, attributed a 'new' parking supply of 45 spaces to the change of use of the land at 24 George Street. Tables 1 and 2 demonstrate that the changes to the use of the land at 24 George Street, result in a surplus of 44 car parking spaces, compared to the previously approved use of the land as an office and warehouse.

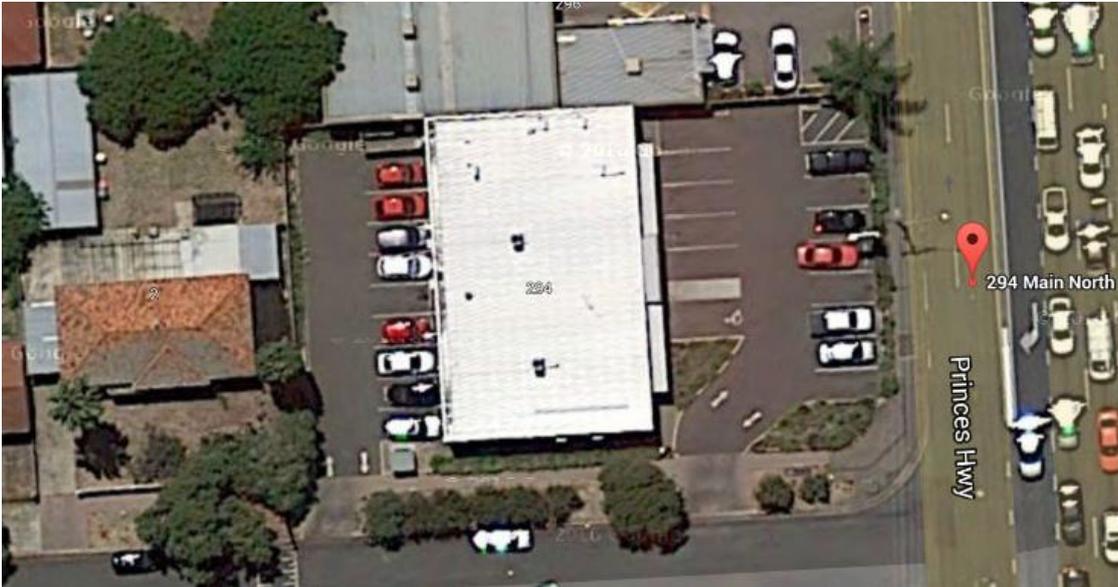
Accordingly, the figures used in the car parking assessment which was presented to the Development Assessment Panel on 16 May 2016, are essentially unchanged (there is one less car parking space available) as a result of considering in more detail the implications of the change of use of the building at 24 George Street.

Comparison car parking rates

The Panel asked the Applicant to clarify the circumstances of the sites used for comparison car parking rates.

Ms Melissa Mellen of MFY has explained that initial findings in relation to the car parking generation rate of the radiology clinic component of the proposal, were based on previous surveys undertaken by MFY, of Benson Radiology at Elizabeth. Following concern raised by Tonkin consultants that the surveys of Benson were too old (approximately 10 years old), new surveys were undertaken by MFY of a radiology clinic on Main North Road in Prospect.

The clinic which was surveyed at Prospect is Dr Jones & Partners at 294 Main North Road. It is a stand-alone facility of approximately the same size as the radiology component of the proposal, with associated car parking at the front and back of the building. An aerial photo showing the property is provided below.



Dr Jones & Partners, 294 Main North Road, Prospect

The clinic at Prospect was selected because it is similar in size to the proposed radiology facility, it is operated by the same company (Dr Jones & Partners) that is intended to operate the proposed facility and being a stand-alone use, vehicles associated with the use can be readily identified in a survey. Ms Mellen has advised verbally following the preparation of her report dated 30 May 2016, that there would have been some advantage in selecting a site where a radiology clinic is associated with other uses (such as at Burnside Hospital), however it simply isn't possible to identify in a survey, which cars are associated with which use on the site.

The viability of amalgamation of the sites forming part of the subject land

The Panel requested that the Applicant clarify the viability of amalgamation of the sites forming part of the subject land. The Panel was concerned that the new medical centre at 26 Payneham Road could be divested and lose any relationship, including car park sharing, with the remainder of the subject land.

The Applicant has responded, pointing out that the any such divestment of the land at 26 Payneham Road would constitute a clear breach of the *Development Act 1993*. In particular, pursuant to Section 44:

“A person who has the benefit of a development must ensure that the development is used, maintained and operated in accordance with—

- (a) any development authorisation under this Division; and*
- (b) any plans, drawings, specifications or other documents submitted to a relevant authority for the purposes of this Division that are relevant to any such approval.”*

In relation to part (a) of Section 44, it is recommended that the authorisation be granted to:

“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”

In relation to part (b) of Section 44, the plans and supporting documents, including planning reports and traffic reports, all clearly state that the proposed facility is to operate in association with the existing medical centre at hospital.

The Applicant has advised that the owner of the land, Vital Healthcare, are not opposed to amalgamating the titles, however consider it to be unnecessary and without basis. In this respect, Council's Planning staff agree that the fact that the subject land comprises more than one title is not a relevant consideration in the assessment. It follows that it would not be appropriate for the Panel to make any approval of the development conditional upon the amalgamation of titles. It is established case law that a planning condition is only valid if it has a proper Planning purpose. Since there are already controls within the Act to ensure that the land is not divested, a condition which seeks to achieve the same through the amalgamation of titles would have no work to do. In addition, such a condition would seek to pre-determine a future Development Application which would be necessary to amalgamate the titles; which would also likely render the condition invalid.

Pedestrian movement between the George Street car park and the existing site

The Panel has asked the Panel to clarify the safety and convenience of pedestrian movements between the George Street car parking area and the existing site.

The Applicant has confirmed that a pedestrian access door provides access between the car parking area (ie. the former warehouse) and the main car parking area of the existing site. The access is facilitated with a ramp and is proposed to be retained.

What will happen to the current users of the George Street car park in the event that the development is approved?

The Panel asked the Applicant to clarify what will happen to the current users of the George Street car park in the event that the development is approved. This question was asked in light of the fact that the car parking analysis places reliance on the use of the 47 car parking spaces at 24 George Street, to cater for the car parking demand of the new medical centre at 26 Payneham Road. Those 47 car parking spaces are currently at or close to capacity during peak times.

These 47 car parking spaces represent additional car parking for Sportsmed, above and beyond the car parking required for previous approvals. After taking into account the change of use of the land at 24 George Street, 44 of the 47 spaces are surplus, compared to the previously approved use of the land as an office and warehouse.

In response to the Panel's question, the Applicant has suggested that the current extensive use of 24 George Street for car parking (prior to approval being granted), has resulted in vacancies being available in the main car park. In particular, hospital staff who previously parked in the main car park, now park at 24 George Street, resulting in increased spaces in the main car park being available for visitors. In this respect, the surveys undertaken by Tonkin on behalf of Council, identified 12 vacant clientele spaces on Thursday 31 March at 4:00pm, 17 vacant clientele spaces on Thursday 31 March at 11:00am and 33 vacant spaces on Wednesday 30 March at 12:30pm. Tonkin also observed spare capacity within the various staff parking areas totalling between 26 and 79 vacant spaces at the same times.

Accordingly, the projected demand of approximately 50 car parking spaces associated with the new medical centre, will in practice likely be catered for by the new parking adjacent Payneham Road (5 spaces), the varying spare capacity within the clientele car parking areas (12-33 spaces) and the varying spare capacity within the staff car parking areas (26-79 spaces). Applying the peak demand observed by Tonkin, this would result in an on-site shortfall of 7 spaces in practice.

It is important to recognise however, that the practical implications expressed above, take into account any mismatch between car parking supply and demand, resulting from previous development approvals. The task of the Development Assessment Panel is to assess the impacts of the current proposal, not retrospectively address the impacts of previously approved proposals.

Summary

The Applicant has clarified each of the points raised by the Development Assessment Panel at the meeting held on 16 May 2016. In summary:

- the use of the building at 24 George Street is proposed to change to approximately 50% office and 50% storage;
- the site used for comparison car parking rates for the radiology is a site on North East Road, Prospect, which is operated by the same operator as is intended to occupy the proposed facility, at a similar scale;
- amalgamating the sites is viable, however should not be a requirement of the current assessment;
- an access door provides safe and convenient pedestrian access between the George Street car park and the existing site; and
- current users of the George Street car park will continue to use it. Staff and visitors to the new facility will park in the spare capacity within the various existing staff and clientele parking areas. In peak times, some overspill to the street (in the order of 7 cars based on surveys undertaken by Tonkin) will likely occur.

Having regard to the further information provided, it remains the opinion of Council's planning staff, that the Application is not seriously at variance with the Development Plan and 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. 155/0432/15 by Sportsmed SA to demolish a warehouse and construct consulting rooms and a 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, 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, Drawing SK-01 Site Plan, dated 23 July 2015 and Drawings SK-13 & SK-14 being the floor plans of 24 George Street.

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 maneuvering 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.

2. STAFF REPORTS

2.7 DEVELOPMENT APPLICATION 155/809/2015 – PROGETTO DESIGN – 86 GAGE STREET, FIRLE

DEVELOPMENT APPLICATION:	155/809/2015
APPLICANT:	Progetto Design
SUBJECT SITE:	86 Gage Street, Firle (Certificate of Title - Volume: 5700, Folio: 257)
DESCRIPTION OF DEVELOPMENT:	Construction of a two storey residential flat building containing three dwellings
ZONE:	Residential Zone Norwood, Payneham and St Peters (City) Development Plan (dated 2 July 2015)
PUBLIC NOTIFICATION CATEGORY:	Category 2

Purpose of Report

The purpose of this report is to provide details to the Panel on a compromise proposal which has been submitted in relation to a Development Application which was refused by the Panel at its meeting held on 16 May 2016 and which is the subject of an Appeal to the Environment Resources and Development (ERD) Court. The Panel is required to consider the amended plans and advise the ERD Court as to whether or not the amended plans satisfactorily address the concerns identified with the Application, such that consent would now be warranted.

Background

Development Application Number 155/809/15 was lodged in November 2015 for the construction of a two storey residential flat building containing three dwellings.

The Panel considered the Application at its meeting held on 16 May 2016 and determined to refuse the Application 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.*

A copy of the relevant section of the Minutes of the Panel meeting held on 16 May 2016, including the refused plans, is contained in **Attachment A**.

Following the refusal of the Application by the Panel, the Applicant lodged an appeal with the ERD Court. The Applicant has prepared a compromise proposal, which is the subject of this report.

A copy of the amended plans is contained in **Attachment B**.

Discussion

Use of the Laneway

The Panel was concerned that vehicular access to the proposed dwellings is not safe and convenient, as the ongoing condition and resultant suitability of the laneway surface cannot be assured. Contrary to City Wide Principle of Development Control 112, the laneway is not an all-weather public road. As the laneway is in private ownership and the owner is deceased, the ongoing maintenance of the laneway is subject to the cooperation of those persons who benefit from it for access to their properties.

The Applicant has sought to address this concern, by paving the laneway for the entire length of the subject land with brick paving and installing stormwater infrastructure. These measures, subject to being constructed to appropriate engineering standards, will significantly reduce the maintenance requirements of the relevant section of the laneway.

Driveway Width

The Panel was concerned that the width of the laneway (3.14 metres) was inadequate to enable cars to pass.

The Applicant has sought to address this concern, by increasing the width of the laneway to 5.3 metres for a length of approximately 9 metres from Gage Street. Thereafter, the laneway has been increased to 3.5 metres in width.

In a strict legal sense, the vehicle passing opportunities that will exist within the first 9 metres from Gage Street and also adjacent to the garages of residences 2 and 3, will only be available to users of the proposed dwellings. In practice, those opportunities would likely be taken advantage of by other users of the laneway, as occurs in other laneways throughout the Council area where garages and other structures are set back from the laneway.

Along the southern edge of the widened and paved laneway, a 600mm wide landscaping strip is proposed, followed by a 1.2 metre wide pedestrian walkway. Previously, the walkway was located on the southern side of the dwellings, adjacent to the southern boundary. As a result of the amendments, the fence enclosing the private open space of Dwellings 1 and 2, is located 5.3 metres away from the northern side of the laneway.

This reduces the amount of private open space on the northern side of the dwellings and increases the amount of private open space on the southern side of the dwellings. Both the southern and northern private open space areas are of usable dimensions and the total amount remains greater than the minimum requirement of the Development Plan.

Height and Density

The Development Assessment Panel was concerned that the proposed development did not achieve the desired character for the Residential Zone of a 'suburban feel' and that the two storey nature of Dwellings 2 and 3 was inconsistent with the Development Plan.

The Residential Zone Desired Character Statement states:

"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."

The proposed development is two storeys in height, consistent with the Desired Character Statement and the development is set back from the street 6 metres consistent with the minimum setback for the Residential Zone, enabling a front garden to be established. When considering the extent of 'space' between buildings which is envisaged by the Desired Character Statement, reference should be made to the various dwelling types and densities envisaged for the Zone. In this regard, in some parts of the Residential Zone (remembering that the Desired Character Statement applies across the entire zone), there is no minimum site area for dwellings in a residential flat building, nor minimum site coverage.

In the part of the zone where the subject land is located, the minimum site area per dwelling in a residential flat building is 250m² per dwelling exclusive of common areas and the proposal achieves this, providing an average site area per dwelling exclusive of common areas of 313m². The proposal also achieves the relevant front, side and rear setbacks for the Residential Zone. Therefore, it is considered reasonable to conclude that the proposal achieves what is intended by a 'suburban feel' in the Desired Character Statement.

The issue of whether or not the Development Plan anticipates two storey dwellings located behind dwellings fronting a public road in the Residential Zone and outside of the Medium Density Policy Area is somewhat vexed. 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. Notwithstanding, the staff report to the Development Assessment Panel in 16 May 2016 (refer **Attachment A**) contained reasons why the two storey nature of Dwellings 2 and 3 was considered acceptable. Most notably, the dwellings have been designed so that the upper levels are set well away from adjacent properties.

The Applicant has amended the proposal to further reduce the impact of the upper level components of Dwellings 2 and 3, by reducing the overall height from 7.9 metres to 7.0 metres, through a reduction in roof pitch. Changes to the floor plan have also meant that the staircase of each dwelling no longer protrudes within the 5.5 metre upper level setback from the southern side boundary. The ground level setback of Dwelling 2 has also increased from 3.0-3.7 metres to 5.0 metres. In combination, these changes are considered to substantially reduce visual and shadowing impacts on the unit to the south.

Dwelling 1

Whilst not addressing any specific reason given by the Panel for refusing the Application, the Applicant has amended the facade of Dwelling 1. In particular, the fenestration has altered and the roof pitch has been reduced, giving the dwelling a slightly more horizontal appearance. This change appears to have been made in response to a concern raised by a Panel Member during the meeting held on 16 May 2016, that Dwelling 1 appeared overly vertically proportioned.

Summary

The amendments to the proposal address each of the reasons that were given by the Panel for refusing the Application at the meeting held on 16 June 2016. The vehicular access laneway is now proposed to be hard paved and widened, enabling vehicles to pass at the entrance from Gage Street and providing a more 'comfortable' width for the remainder of the length. The setbacks of Dwellings 2 and 3 from the southern boundary have improved, reducing any impacts on the adjacent unit to the south. All dwellings have reduced in overall height, through a reduced roof pitch.

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*, the Environment Resources & Development Court be advised that Development Application No. 155/809/2015, by Progetto Design to construct a two storey residential flat building containing three dwellings and upgrade a section of an adjacent laneway on the land located at 86 Gage Street, Firle, is acceptable subject to the following conditions, or similar conditions as deemed suitable by the Court:

Relevant Plans

- Plans by Progetto Design, Drawing Numbers:
 - 1509-104-1150, Revision C
 - 1509-104-1100, Revision G
 - 1509-104-2100, Revision I
 - 1509-104-3000, Revision G
 - 1509-104-3001, Revision E

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 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.
5. 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.

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