

# Development Assessment Panel Minutes

**19 September 2016**

## **Our Vision**

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

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

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City of  
Norwood  
Payneham  
& St Peters

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<b>VENUE</b>	Mayors Parlour, Norwood Town Hall
<b>HOUR</b>	7:00pm
<b>Panel Members</b>	Mr Terry Mosel Mr Phil Smith Mr Carlo Dottore Mr Kevin Duke Ms Fleur Bowden Mr John Minney Ms Evonne Moore Ms Jenny Newman
<b>Staff</b>	Mr Carlos Buzzetti (General Manager Urban Planning and Environment) Mr Mark Thomson (Manager Development Assessment) Mr Nenad Milasinovic (Acting Senior Urban Planner) Mr Graeme Gibson (Urban Planner) Ms Emily Crook (Urban Planner)
<b>APOLOGIES</b>	Mr Don Donaldson
<b>ABSENT</b>	Nil

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE DEVELOPMENT ASSESSMENT PANEL HELD ON 15 AUGUST 2016**

*Mr Minney moved that the minutes of the Meeting of the Development Assessment Panel, held on 15 August 2016 be taken as read and confirmed,*

*Seconded by Mr Duke and carried.*

**2. STAFF REPORTS**

- Items to be starred (2.1, 2.2, 2.3, 2.4, 2.5, 2.6)

## 2. STAFF REPORTS

### 2.1 DEVELOPMENT APPLICATION 155/0399/2016 – MARIO & JOSIE COVINO – 22 ANN STREET, STEPNEY

<b>DEVELOPMENT APPLICATION:</b>	<b>155/0399/16</b>
<b>APPLICANT:</b>	<b>Mario &amp; Josie Covino</b>
<b>SUBJECT SITE:</b>	<b>22 Ann Street, Stepney (Certificate of Title: Volume: 5382, Folio: 155)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Demolition of a detached dwelling (Contributory Item) and construction of two (2) single storey semi-detached dwellings with associated freestanding garages, fencing and landscaping</b>
<b>ZONE:</b>	<b>Residential Historic (Conservation) Zone – Stepney Policy Area – Norwood Payneham and St Peters (City) Development Plan (dated 28 April 2016)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 2</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the demolition of a detached dwelling (Contributory Item) and construction of two (2) single storey semi-detached dwellings with associated freestanding garages, 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:	11.16 metres
Depth:	41.89 metres
Area:	468.0m <sup>2</sup>
Topography:	gentle fall to the rear of the allotment
Existing Structures:	dwelling, outbuildings
Existing Vegetation:	ground covers

The subject land contains a detached dwelling which is identified in the Council's Development Plan as a Contributory Item. The existing dwelling is an early (circa 1870-1880) hipped roof two room cottage with a lean-to addition at the rear. The dwelling is in a poor state of repair, with structurally compromised footings and walls.

An outbuilding and other ancillary structures are located at the rear of the allotment. The subject land has a gentle fall of approximately 200mm from the front to the rear of the allotment.

## Locality Attributes

Land uses: predominately residential in Ann Street (shops and commercial uses to the west of the subject land)  
 Building heights (storeys): predominantly single storey  
 Streetscape amenity: moderate to high due to the quality of building stock

Ann Street is characterised by predominantly detached and semi-detached dwellings on relatively compact allotments. The majority of dwellings located on the western side of Ann Street obtain vehicular access from a rear lane, which also provides access to the rear of commercial buildings along Nelson Street.

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

## Proposal in Detail

The Applicant seeks consent to demolish a detached dwelling (Contributory Item) and to construct two (2) single storey semi-detached dwellings with associated freestanding garages, fencing and landscaping.

The proposed semi-detached dwellings each contain two (2) bedrooms, a separate bathroom and a combined kitchen/dining/lounge room with direct links to a covered outdoor area. Each of the dwellings include a freestanding garage at the rear of the allotment, with vehicular access from the rear lane.

The proposed semi-detached dwellings are reflective in their general form, scale and composition, of a pair of Victorian era maisonettes, with a shared corrugated iron hipped roof, vertically proportioned windows and a simple front verandah. Building materials include a painted render front facade, face brick side and rear walls, "Woodland Grey" pre-coloured roof sheeting, powder coated commercial aluminium windows and a timber front door.

The freestanding garages at the rear of the allotment are a flat roof design, with face brick external walls and "Woodland Grey" pre-coloured roller doors.

The proposed development includes a contemporary front fence, with face brick piers and timber slatted infill 'pickets'. The height of the proposed front fence ranges between 1.3 metres and 1.45 metres, as a result of the existing pavement levels in Ann Street. 1.8 metre high "Colorbond Good Neighbour" fencing is proposed along the external side boundaries and the proposed internal boundary. The side fences are proposed to taper from 1.8 metres in height adjacent to the front alignment of the proposed dwellings, down to match the proposed front fence.

Landscaping includes the planting of strap leaf plants between the front fence and the Ann Street property boundary and lawn within the front and rear yards of the dwellings.

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

**TABLE 1: DEVELOPMENT DATA:**

Consideration	Dwelling 1	Dwelling 2	Development Plan Merit Assessment Quantitative Guideline
Site Area	233m <sup>2</sup>	235m <sup>2</sup>	200m <sup>2</sup> - Stepney Policy Area PDC 6
Allotment Width	5.58m	5.58m	6.0m - Stepney Policy Area PDC 8
Allotment Depth	41.89m	41.77m	N/A
External Wall Height*	3.0m	3.0m	N/A
Maximum Overall Height (to roof apex)*	4.7m	4.7m	N/A

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

Consideration	Dwelling 1	Dwelling 2	Development Plan Merit Assessment Quantitative Guideline
<b>Floor Areas</b>	106m <sup>2</sup> (dwelling) 32m <sup>2</sup> (garage)	106m <sup>2</sup> (dwelling) 32m <sup>2</sup> (garage)	N/A
<b>Site Coverage</b>	59%	59%	60% - Stepney Policy Area PDC 7
<b>Private Open Space</b>	38m <sup>2</sup> (excluding car parking space) 82% uncovered	39m <sup>2</sup> (excluding car parking space) 83% uncovered	35m <sup>2</sup> - City Wide PDC 225(b)
<b>Street Set-back</b>	3.95m-4.18m (dwelling) 2.4m-2.64m (verandah)	3.7m-3.95m (dwelling) 2.2m-2.4m (verandah)	N/A
<b>Side Set-back</b>	1.0m (dwelling) nil (garage)	1.0m (dwelling) nil (garage)	N/A
<b>Rear Set-back</b>	15.7m (dwelling) 1.68m-1.85m (garage)	15.9m (dwelling) 1.85m-2.0m (garage)	N/A
<b>Car Parking Provision</b>	1 undercover & 1 uncovered	1 undercover & 1 uncovered	2 spaces (1 covered) - 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**

The Applicant has submitted a Planning report in support of the proposed development. A copy of the Planning report, prepared by MasterPlan SA Pty Ltd, is contained in **Attachment C**.

### Notification

The proposal has been identified and processed as a Category 2 form of development.

Four (4) representations were received (three (3) were in favour and one (1) did not indicate whether they support or oppose the development) in response to this notification, copies of which are contained in **Attachment D**. The key issues raised by representors are, in summary:

- the car parking spaces shown on the plans adjacent to the rear lane behind the subject land are on private land, which forms part of the commercial property facing Nelson Street. The public lane is limited to the carriageway only;
- there does not appear to be sufficient vehicle manoeuvring areas to enable access to the proposed garages;
- the site areas do not appear to be large enough to accommodate the proposed dwellings;
- the appearance of the proposed dwellings is spoiled by the modern design elements. The design should be amended to a modest heritage/cottage character that would instil greater charm and attractiveness, while maintaining the efficiencies of modern design; and
- off-street car parking should be provided at the front of the allotment.

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

- *William Russell;*
- *Richard Clark; and*
- *Brenton Grimes and Sarah Baker.*

Mr Bryn Adams, of MasterPlan SA Pty Ltd, has responded to the representations on behalf of the Applicant. A summary of Mr Adams' response is set out below:

- the dwellings have been designed in accordance with preliminary advice from the Council's Heritage Advisor, to adopt the traditional scale and form of dwellings within the locality, without reproducing the finer architectural details of the historic building stock;
- access to the rear garages has been considered in the context of the adjacent parallel car parking spaces. The vehicle turning templates overlayed on the proposed plans are correct for a B85 vehicle (85<sup>th</sup> percentile sized vehicle) and demonstrate that vehicles can access the garages independently of the private car parking spaces adjacent to the rear lane;
- the provision of off-street car parking is consistent with the rates prescribed within Table NPSP/8. The addition of a visitor car parking space at the front of each dwelling and the required new driveway crossovers would result in the removal of two (2) on-street car parking spaces adjacent to the subject land; and
- the proposed site areas per dwelling are greater than the minimum prescribed within the Stepney Policy Area and the proposed dwellings demonstrate that the allotments can be developed with dwellings that will make a positive contribution to the streetscape.

A copy of Mr Adams' response is contained in **Attachment E**.

### State Agency Consultation

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

### Discussion

The subject land is located within the Stepney 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.

#### Demolition

The following Development Plan provisions are relevant to the demolition of a dwelling, which is listed as a Contributory Item within the Development Plan:

Stepney Policy Area Desired Character Statement

Residential H(C) Zone Desired Character Statement

Residential H(C) Zone Objectives:           1 & 3

Residential H(C) Zone PDC's:                3, 4, 27 & 28

The proposed development includes the demolition of a dwelling that is listed as a Contributory Item within Table NPSP/7 of the Development Plan. The Desired Character Statements for the Stepney Policy Area and the Residential Historic (Conservation) Zone encourage the retention and conservation of Contributory Items. This is reinforced by Objectives 1 and 3; and Principles of Development Control 3 and 4; of the Residential Historic (Conservation) Zone.

However, the Development Plan also recognises that there may be circumstances where the demolition of a Contributory Item is acceptable. Residential Historic (Conservation) Zone Principle of Development Control 27 sets out criteria for the demolition of a Contributory Item as follows:

*"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."*

Two Structural Engineers have assessed the structural condition of the dwelling; Mr Steven Duffield, of TMK Consulting Engineers, on behalf of the Applicant and Mr Warwick Graham, of Mountford Prider and Associates, on behalf of the Council. A summary of Mr Duffield's report is provided below:

- significant cracking is present in both internal and external masonry walls;
- the current degree of crack damage is classified as damage category 4 'severe' in accordance with *AS2870 Residential slabs and footings*;
- extensive repair work including replacing sections of walls would be required;
- *AS2870 Residential slabs and footings* indicates that severe category 4 damage to masonry walls is beyond the normal maintenance of buildings on reactive clay soils and would require underpinning or other structural augmentation to stabilise the external masonry walls before remedial repairs can be undertaken;
- the existing dwelling's footings and walls are considered to be structurally inadequate to manage the degree of stresses due to soil movement in this region;
- the presence of trees beyond the property boundary but within the zone of influence of the dwelling's footing system contributes to abnormal soil moisture changes and subsequent damage due to movement;
- it is considered that any effective remedial repairs will likely result in high capital costs and may be of limited benefit to long term performance; and
- the restoration of the dwelling is therefore not practical or justifiable.

A copy of Mr Duffield's report is contained in **Attachments C31-C38**.

A summary of Mr Graham's report is provided below:

- the original portion of the dwelling is in a structurally deteriorated condition due to inadequate attention to maintenance and soil moisture management on the site;
- the walls have been weakened by cracking and lateral rotation. They require structural improvement by local re-building and re-bonding of the masonry along major crack lines, together with expanded steel mesh reinforcement of the render for additional strength;
- whilst improved management of water around the house will reduce footing movements, it will not eliminate them. Underpinning would benefit the dwelling, but does not guarantee complete stability;
- the cost to repair and strengthen the walls, measures to improve their stability, the likely repairs and strengthening to roof framing and floor support will be substantial and future building stability is not guaranteed; and
- whether or not the extent and cost of rehabilitation work is unreasonable is subjective. However, having weighed up the structural characteristics of the dwelling and the risks of future problems, it is considered that the dwelling should not be retained.

A copy of Mr Graham's report is contained in **Attachment G**.

In light of the engineering advice detailed above, it is considered that the condition of the dwelling warrants its demolition, consistent with Residential Historic (Conservation) Zone Principle of Development Control 27, as the dwelling is structurally unsound and substantial rehabilitation work is required to an extent that is considered unreasonable, particularly given that the Structural Engineers agree that even if the extensive repair work is undertaken, the future building stability cannot be guaranteed.

#### 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:



Stepney Policy Area Desired Character Statement  
Stepney Policy Area PDC's: 2, 4, 6 & 8

Residential H(C) Zone Desired Character Statement  
Residential H(C) Zone Objectives: 2, 4 & 6  
Residential H(C) Zone PDC's: 7 & 8

City Wide Objectives: 7, 26, 56 & 57  
City Wide PDC's: 3, 4, 81 & 186

Stepney Policy Area Principle of Development Control 2 specifically nominates semi-detached dwellings as an anticipated land use and built form within the Policy Area. Similarly, Stepney Policy Area Principle of Development Control 4 anticipates small cottage dwellings on narrow fronted allotments, both in attached and detached form.

The above-stated Development Plan provisions are consistent with the existing built form in the locality, which is characterised by a relatively equal mix of detached and semi-detached dwellings. The Applicant's Planning report includes a locality plan (Attachment C28), which provides an illustrative view of the proportion of semi-detached dwellings in the locality.

The proposed semi-detached dwellings are considered to be an appropriate type of residential land use for the subject land.

In terms of density, the following Principles of Development Control are considered to be the most relevant to this proposal.

Stepney Policy Area Principle of Development Control 6:

*"The site area per dwelling resulting from new development should be consistent with the surrounding historic development pattern and should not be less than 200 square metres."*

Stepney Policy Area Principle of Development Control 8 (in part):

*"The site for a dwelling should have a primary street frontage of not less than the following:  
(b) Semi-detached dwelling (with rear lane access): 6 metres"*

The proposed semi-detached dwellings would be sited on allotments with areas of 233m<sup>2</sup> and 235m<sup>2</sup>, with each of the allotments having a frontage width of 5.58 metres.

The proposed allotment areas exceed the minimum area per dwelling prescribed by Stepney Policy Area Principle of Development Control 6 and complement other allotments within the locality.

The proposed allotment frontages are each 420mm less than the allotment frontages prescribed by Stepney Policy Area Principle of Development Control 8, which equates to a departure of approximately 7%. In this instance, the reduced allotment frontages are considered to be acceptable for the following reasons:

- the proposed dwellings each maintain a 1.0 metre setback from the side boundaries of the parent allotment, consistent with other dwellings in the locality;
- the dwellings present to the street as a single building, akin to the form of a detached dwelling, such that the resulting allotment frontages will be less discernible;
- each of the dwellings have rear access to a public laneway, which enables the front yards to maintain a garden setting without the need for driveways, which often compromise the character of narrow allotments; and
- up to ten (10) semi-detached dwellings within the locality have allotment frontages of less than 6.0 metres. The resulting allotment frontages will complement other development in the locality and are consistent with the existing allotment pattern within the locality.

In addition, the Desired Character Statement for the Stepney Policy Area states (in part):

*“Development in this Policy Area will conserve and enhance the historic streetscape character established through its intricate pattern of development involving a diverse range of housing types set around narrow streets and built on small, narrow-fronted allotments, close to the street frontage with minimal setbacks and separation.”*

The proposed dwellings and resulting allotment pattern is consistent with the Desired Character Statement for the Stepney Policy Area, insofar as the proposed dwellings would result in narrow-fronted allotments with minimal separation. Within the context of the locality, the proposed allotment frontage widths are considered to be acceptable, despite the minor departure from the quantitative frontage widths prescribed by Stepney Policy Area Principle of Development Control 6.

Accordingly, the proposal is considered acceptable 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:

Stepney Policy Area Desired Character Statement	
Stepney Policy Area Objective:	1
Stepney Policy Area PDC's:	1, 4, 5 & 10

Residential H(C) Zone Desired Character Statement	
Residential H(C) Zone Objectives:	1, 5 & 6
Residential H(C) Zone PDC's:	1, 2, 9, 14-19, 22, 23, 26 & 31

City Wide Objectives:	8, 18, 19 & 20
City Wide PDC's:	28-30, 32, 37, 39, 190, 191, 209, 210, 213 & 214

The proposed semi-detached dwellings are single storey in form and incorporate a single integrated roof form, consistent with Stepney Policy Area Principle of Development Control 5 and City Wide Principle of Development Control 190.

As the subject land is located in the Residential Historic (Conservation) Zone, comments were sought from the Council's Heritage Advisor, David Brown, regarding the design of the proposed semi-detached dwellings. A summary of Mr Brown's response is provided below:

- *the proposed single level maisonettes attempt to mimic a traditional Victorian pair of single fronted houses in terms of form, scale and layout;*
- *the proposed change from a single dwelling to maisonettes is acceptable in Ann Street, given the large variety of housing types in the street;*
- *the dwellings are designed in a simple contemporary and complementary manner to sit well in the streetscape. The dwellings share a corrugated iron hipped roof, vertically proportioned windows, a simple lean front verandah design and an elegant modern front fence;*
- *the building materials include a painted render facade, face brick side and rear walls, a “Woodland Grey” pre-coloured iron roof, powder-coated commercial aluminium windows and timber front doors. The proposed building materials and colours are appropriate;*
- *the proposed front fence is a simple masonry pillar and timber slat infill design, which is a good example of a modern front fence design with an appropriate height and materials;*
- *the proposed side fences are considered to be acceptable, provided that corrugated profile fence sheeting is utilised; and*
- *overall, the proposal is a good replacement for the existing cottage, with appropriate size, scale, design and materials.*

A copy of Mr Brown's report is contained in **Attachment F**.

The proposed semi-detached dwellings will complement other dwellings within the locality and will provide a good fit in the context of the streetscape. The overall bulk and scale of the dwellings, the external wall heights and the proposed roof pitch also complement other development within the locality. The proposed front fence will complement the proposed dwellings and other fencing within Ann Street.

The proposed development also includes the construction of freestanding garages at the rear of the dwellings, with access from the rear lane. The proposed garages are a simple flat roof design with face brick external walls to complement the proposed dwellings. The proposed garages each have a floor area of 32m<sup>2</sup> and an external wall height of 3.0 metres, consistent with City Wide Principles of Development 213 and 214.

The bulk, scale and character of the proposed built form are considered to be acceptable, within the context of the locality and the relevant provisions of the Development Plan.

### Setbacks and Site Coverage

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

Stepney Policy Area Desired Character Statement	
Stepney Policy Area PDC's:	4, 7 & 9
Residential H(C) Zone PDC's:	9, 10, 11 & 12
City Wide PDC's:	204, 206, 207, 208

The front facades of the proposed dwellings are set back between 3.7 metres and 4.18 metres from the Ann Street property boundary, with verandahs extending to between 2.2 metres and 2.64 metres from the front boundary. The proposed front setbacks replicate those of the existing building on the subject land.

Stepney Policy Area Principle of Development Control 9 states:

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

The adjacent dwelling at 24 Ann Street is listed as a Contributory Item within Table NPSP/7 of the Development Plan. The adjacent dwelling at 20 Ann Street is a conventional cream brick dwelling, built circa 1970, which does not contribute to the historic character of the locality.

As such, Stepney Policy Area Principle of Development Control 9 prescribes that the new dwellings should align with the adjacent Contributory Item at 24 Ann Street, which is set back 7.6 metres from the Ann Street property boundary. The proposed development fails to meet this criterion.

The proposed dwellings have been sited to replicate the existing Contributory Item on the subject land, which is proposed to be demolished to make way for the proposed dwellings. As such, in a streetscape sense, the proposed front setback will remain unchanged.

However, more importantly, the front setbacks of the immediately adjacent dwellings are considered to be an anomaly within the locality. Generally, most of the Contributory Items and Local Heritage Places within the locality are situated on compact allotments with minimal front setbacks, consistent with the Desired Character Statement for the Stepney Policy Area.

The proposed front setbacks are considered to be consistent with the Desired Character Statement for the Stepney Policy Area and most of the existing character dwellings within the locality. As such, the failure to meet the quantitative front setback criterion contained within Stepney Policy Area Principle of Development Control 9 is not considered to be a significant shortcoming of the proposed development.

In terms of side setbacks, the proposed semi-detached dwellings are set back 1.0 metre from the side boundaries of the parent allotment, which complements other development within the locality.

The proposed freestanding garages at the rear of the allotment are proposed to be built from boundary to boundary. Boundary to boundary development is common for garages and/or carports adjacent to the rear lane, with other examples located between 32 and 42 Ann Street. There are also several other garages and carports with very minimal side setbacks within the locality (20, 24, 26 and 30 Ann Street).

In relation to boundary development, City Wide Principle of Development Control 207 states:

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

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

The proposed boundary walls have a length of 5.8 metres and an overall height of 3.0 metres, consistent with City Wide Principle of Development Control 207. In addition, the siting of the proposed garages will not result in a compromised amenity for the occupants of adjacent land.

The proposed garages are set back between 1.68 metres and 2.0 metres from the public rear lane, consistent with structures on adjacent and nearby land. Issues associated with vehicle manoeuvring to access the proposed garages will be discussed later in the report, under the heading *Carparking/access/manoeuvring*.

The proposed front, side and rear setbacks are considered to reflect the predominant setback pattern established by the adjoining dwellings, consistent with Stepney Policy Area Principle of Development Control 9.

In terms of site coverage, Stepney Policy Area Principle of Development Control 7 states that buildings should not cover more than 60% of the site area. The proposed development would result in 59% site coverage, which is consistent with this provision and allows for sufficient area for landscaping and private open space.

#### *Overshadowing/overlooking*

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

City Wide PDC's: 11, 195, 196, 206 & 235

The proposed semi-detached dwellings are single storey in form with modest external wall heights (3.0 metres), which area set back 1.0 metre from the southern side property boundary. As such, no unreasonable overshadowing will be caused by the proposed development.

In terms of overlooking, the proposed dwellings each have a finished floor level of up to 538mm above the adjacent natural ground level, as a result of the need to raise the floor levels to achieve a 300mm freeboard above the 100 year flood level. However, the site will be filled to accommodate the raised floor levels and the Applicant has proposed 1.8 metre high side fencing, which will ensure reasonable privacy for the occupiers of both the subject land and adjacent dwellings.

#### *Private open space*

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

City Wide PDC's: 222-225 & 229

Each of the proposed dwellings includes 38m<sup>2</sup> of private open space, exclusive of the areas nominated as car parking spaces (the private open space areas increase to 54m<sup>2</sup> if the open car parking spaces are included).

City Wide Principle of Development Control 225 states:

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

- (a) a dwelling with a site area of 250 square metres or greater, 20 per cent of the site area should be private open space, of which one portion should be equal to or greater than 10 per cent of the site area and have a minimum dimension of 4 metres; or*
- (b) a dwelling with a site area of less than 250 square metres, a minimum of 35 square metres should be private open space, of which one portion should have an area of 16 square metres and a minimum dimension of 4 metres; and*
- (c) in either of the circumstances described above, have a maximum gradient of 1 in 10.”*

Both of the proposed dwellings have site areas of less than 250m<sup>2</sup>. As such, each of the dwellings should have at least 35m<sup>2</sup> of private open space, with one portion incorporating an area of 16m<sup>2</sup> with a minimum dimension of 4 metres. The proposed dwellings are consistent with the quantitative provision of private open space, as prescribed by City Wide Principle of Development Control 225.

The private open space areas for each dwelling have reasonable orientation and good links to the internal living areas of the dwellings, consistent with Principle of Development Control 224.

Overall, the provision of private open space is consistent with both the qualitative and quantitative provisions of the Development Plan, is considered to be a functional outdoor space and will enhance the amenity for future occupants.

#### Carparking/access/manoeuvring

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

Residential H(C) Zone PDC's:	32
City Wide Objective:	34
City Wide PDC's:	120, 123, 212 & 218

#### Table NPSP/8

Table NPSP/8 prescribes that semi-detached dwellings should each be provided with two (2) on-site car parking spaces, one of which is covered. Each of the proposed dwellings includes garages which are accessed via a rear lane and an open-air car parking space within the rear yard, which can be accessed by driving through the garage.

Despite having an internal width of 5.35-5.55 metres, which could accommodate 2 cars parked side-by-side, the garages are proposed to accommodate one (1) vehicle, with additional width for manoeuvring and general household storage. The provision of on-site car parking is consistent with Table NPSP/8.

Whilst it would be possible for two (2) cars to be parked within the garage, that arrangement would result in the need for multiple-point turns to access and egress the garage, without trespassing on private land on the western side of the laneway or colliding with cars parked on that private land.

The proposed garages are set back between 1.68 metres and 2.0 metres from the rear lane, consistent with structures on adjacent and nearby land. The unnamed public lane at the rear of the subject land has a width of 3.0 metres.

City Wide Principle of Development Control 218 states:

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

The proposed garages are set back between 4.68 metres and 5.0 metres from the opposite side of the lane, independent of the private parallel car parking spaces on the opposite side of the lane.

The proposed garages are significantly wider than a typical single vehicle garage (they have an internal width of 5.35 metres and 5.45 metres respectively), and they each have access doors that are 4.7 metres wide. The vehicle manoeuvring templates that are overlayed on the site plan provided at **Attachment B** show one vehicle accessing the garages and have been checked by staff and comply with the Australian Standards for a B85 (85<sup>th</sup> percentile) vehicle.

As such, staff are satisfied that the wider than usual openings in the garages can facilitate safe and convenient vehicular access and egress, independent of the adjacent private parallel car parking spaces, consistent with City Wide Principle of Development Control 218.

That said, it is considered likely that, over time, the future occupants of the proposed dwellings may seek to park two cars within the garages. This arrangement would cause conflict with the lawful parking of vehicles on private land on the western side of the laneway. It is conceivable that a future owner of the proposed dwellings could seek that the Council resolves that conflict in some way, due to granting Development Approval to the garages, thus creating the conflict. Therefore, it is considered appropriate that a condition of approval be imposed, reinforcing that the garages are for the parking of one car only.

This could be done in one of two ways. The first would be to literally condition that the garages shall be used for the parking of one car only. The second would be to condition that the width of the garage door be reduced to a width of 3.8 metres, making it impossible for a second car to park within the garage, whilst enabling a smaller, more manoeuvrable vehicle such as a trailer or motorcycle, to access the storage space within the garage (provided, in the case of a trailer, that the car is not parked in the garage at the time that the trailer is entering or exiting the garage).

In order to maximise the flexibility of use of the ‘storage’ side of the garages, it is considered most appropriate to impose a condition that simply reinforces what the applicant has proposed, ie. that no more than one car shall be parked in the garage of each dwelling at any time. If, at any time in the future, following construction, it is able to be demonstrated that two cars can conveniently access and egress the garages without relying on the private land on the other side of the laneway, an application could be made to delete the condition at that time.

#### 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: 57, 58, 79, 163, 169 & 171

The subject land is situated within a 100 year flood plain. As such, the Application was referred to the Council's Project Officer – Civil, for advice. The Council's Project Officer – Civil, provided the following comments regarding the proposal:

- whilst the subject land is affected by flooding in a 100 year event, the site is not located within a primary flow path; and
- as such, the finished floor level of the proposed dwelling should be a minimum of 50.53mAHD, in order to achieve a 300mm freeboard above the 1:100 year flood level.

The above comments were relayed to the Applicant and the finished floor levels have been amended in accordance with the Council's engineering advice. The dwelling now achieves a clearance of 300mm above the 100 year flood level in accordance with City Wide Principle of Development Control 171.

Given that the subject land is not located within a primary flow path, no overland flow path is required through the site. As such, the site can be filled to accommodate the raised floor levels. The level of fill required would range between nil and 340mm to bring the level of the land up to the proposed base level of 50.33mAHD. Some minor retaining walls may be required up to 340mm, which would result in a combined height of retaining and fencing of up to 2.14 metres, which is less than the maximum combined height of 2.4 metres prescribed by City Wide Principle of Development Control 58.

The finished floor levels of the proposed garages are set at 50.2mAHD, which will provide for a reasonable transition grade to the adjacent lane for vehicular access. Given that the garages are not habitable rooms, they do not need to achieve the minimum floor levels for flood attenuation. In any event, the proposed garages are sited outside the 50 year flood affected area.

Given that the site will need to be filled by up to 340mm, all stormwater will be able to drain to the Ann Street water table via gravity.

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

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

Residential H(C) Zone PDC's:	36 & 37
City Wide Objectives:	24
City Wide PDC's:	220 & 221

The subject land is devoid of any regulated or mature trees and there are no regulated trees on adjacent land that would be affected by the proposed development. A mature street tree is located within the Council verge, adjacent to the subject land.

The Applicant has proposed to plant *Daniella Tasmanica* (Tasmanian Flax-lily) at the front of the subject land, between the proposed front fence and the Council verge. The proposed plants will complement the proposed front fence and will make a positive contribution to the character of the streetscape.

The non-paved areas of the front and rear yards are proposed to be planted with lawn (*Kikuyu* Grass). *Kikuyu* is a relative drought resistant lawn which is well suited to the South Australian climate.

The proposed front fence includes masonry pillars, which will require suitable footings. The proposed front fence is set back 600mm from the front property boundary, adjacent to the street tree. As such, the fence will be situated outside of the adjacent street tree's structural root zone, such that standard fence footings can be utilised without any adverse impact on the health of the street tree.

Overall, the provision of landscaping is considered to be acceptable, consistent with Residential Historic (Conservation) Zone Principle of Development Control 37 and City Wide Principles of Development Control 220 and 221.

#### 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, 147-149, 151 & 159

The proposed dwellings have been designed with a rear projecting canopy that will provide shade to the large west facing rear windows during summer, while allowing solar access to the living areas of the dwelling during winter, when the sun angle is lower.

The proposed semi-detached dwellings incorporate a party wall that extends through the entire length of both dwellings. All of the habitable rooms include external windows, which will enable natural light and ventilation throughout the dwellings. This is considered to be a positive aspect of the proposed design. Skylights are proposed within the hallways, which are the only portions of each dwelling that do not have direct access to sunlight.

City Wide Principle of Development Control 159 states:

*“All new dwellings and additions to existing dwellings (including dependent accommodation units) greater than 50 square metres (where the addition incorporates a water closet, water heater or a laundry cold water outlet) with direct access to the ground level, should be provided with a 2000 litre rainwater tank/s connected to the roof water outlets and plumbed to at least a water closet, a water heater and/or all laundry cold water outlets.”*

The Applicant has proposed 1000 litre rainwater tanks for each dwelling, which will be plumbed back to the dwelling for re-use. If the Panel determine to approved the development, it is recommended that a condition be imposed requiring the installation of 2000 litre rainwater tanks, in accordance with City Wide Principle of Development Control 159.

### **Summary**

The proposed development requires the demolition of a Contributory Item. Given the poor structural condition of the building, the extent of repairs and restoration that would be required and the attributes of the proposed replacement dwelling, the demolition of the dwelling is considered acceptable.

The proposed semi-detached dwellings are an appropriate land use at a suitable density within the Residential Historic (Conservation) Zone. The built form, when viewed from the street, will complement the historic dwellings within the locality, in terms of bulk, scale, architectural style and materials.

The proposed frontage widths are marginally less than those prescribed with the Stepney Policy Area. However, the semi-detached form of the dwellings and the one (1) metre external side setbacks of the dwellings will result in a built form that will complement adjacent and nearby development.

Similarly, whilst the proposed front setback is less than that of the adjacent dwellings, the primary setback of the adjacent dwellings is considered to be an anomaly within the locality, with the majority of Contributory Items and Local Heritage Places sited close to the street. The front setbacks of the proposed dwellings are consistent with the predominant pattern of development within the locality.

The overall site coverage, the provision of private open space and off-street car parking are all considered to be acceptable. The proposed dwellings incorporate finished floor levels that will provide adequate protection from flooding in a 100 year event and will enable all stormwater to drain to the Ann Street water table via gravity.

Access and egress from the garages to the rear lane is considered to be safe and convenient, however it is considered prudent to impose a condition, reinforcing that no more than one car can park in each garage.

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 155/0399/16 by Mario and Josie Covino, to demolish a detached dwelling (Contributory Item) and to construct two (2) single-storey semi-detached dwellings with associated freestanding garages, fencing and landscaping, on the land located at 22 Ann Street, Stepney, subject to the following requirements, conditions and notes:



### Relevant Plans

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

- the plans, elevations and details prepared by Paradigm Designs Pty Ltd, Job No. 015037, received by the Council on 26 August 2016; and
- the levels and drainage plan prepared by TMK Consulting Engineers, Drawing No. 1602187, received by the Council on 26 August 2016.

### Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.
2. 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.
3. A rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres) shall be installed to each dwelling 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.
4. The garages at the rear of each dwelling will accommodate a maximum of one (1) vehicle, to ensure safe and convenient access independent of the adjacent parallel car parking space on the opposite side of the rear lane.

### Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.
2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.
4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development are likely to be at the Applicant's cost.
5. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.

6. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

*Mr David Bills (Masterplan) on behalf of the Applicant addressed the Panel from 7:10pm until 7:27pm.*

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*Mr Dottore moved*

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/0399/16 by Mario and Josie Covino, to demolish a detached dwelling (Contributory Item) and to construct two (2) single-storey semi-detached dwellings with associated freestanding garages, fencing and landscaping, on the land located at 22 Ann Street, Stepney, subject to the following requirements, conditions and notes:*

#### Relevant Plans

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

- *the plans, elevations and details prepared by Paradigm Designs Pty Ltd, Job No. 015037, received by the Council on 26 August 2016; and*
- *the levels and drainage plan prepared by TMK Consulting Engineers, Drawing No. 1602187, received by the Council on 26 August 2016.*

#### Conditions

1. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.*
2. *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.*
3. *A rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres) shall be installed to each dwelling 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.*
4. *The garages at the rear of each dwelling will accommodate a maximum of one (1) vehicle, to ensure safe and convenient access independent of the adjacent parallel car parking space on the opposite side of the rear lane.*
5. *That a more comprehensive landscaping plan including a suitable mix of trees and shrubs for the front yards of the dwellings herein approved, shall be provided to the reasonable satisfaction of the Council or its delegate.*

#### Notes to Applicant

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

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

*Seconded by Mr Duke and carried.*

## 2. STAFF REPORTS

### 2.2 DEVELOPMENT APPLICATION 155/488/2016 – CITY OF NORWOOD PAYNEHAM & ST PETERS – ROAD RESERVE ADJACENT TO 3 HAMPDEN STREET, FIRLE

<b>DEVELOPMENT APPLICATION:</b>	<b>155/488/2016</b>
<b>APPLICANT:</b>	<b>City of Norwood Payneham &amp; St Peters</b>
<b>SUBJECT SITE:</b>	<b>Road reserve adjacent to 3 Hampden Street, Firle</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Removal of a Regulated Street Tree (Swamp Mallet - Eucalyptus Spathulata)</b>
<b>ZONE:</b>	<b>Residential – Medium Density Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 2</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the removal of a regulated street tree (Swamp Mallet – Eucalyptus Spathulata).

Staff do not have delegated authority to determine the Application, as it comprises a Category 2 form of development where there are unresolved representations. 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.

#### **Locality Attributes**

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

The locality contains a variety of street trees ranging in species and size. South of Ryan Avenue, the street tree plantings in Hampden Street are particularly irregular however in the broader locality adjacent to Adey Reserve, the street trees are more densely and regularly planted and the trees are better established. Landscaping on private land in the immediate locality is varied but typically does not contain large mature trees.

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

#### **Proposal in Detail**

The Applicant (Council) seeks consent to remove a regulated Swamp Mallet street tree. The tree was inspected by the Council's Coordinator, Horticultural & Arboricultural Services following a request from an adjacent resident, who has concerns regarding the safety of the tree, due to a number of previous limb failures. The Council's Coordinator, Horticultural & Arboricultural Services determined that the tree has poor form/structure and a history of white ant infestation and treatment.

The Applicant has advised that, two replacement trees (*Angophora Costata*) will be planted in the Council verge adjacent to 3 and 5 Hampden Street, if approval is granted for the tree removal.

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

### **Notification**

The proposal has been identified and processed as a Category 2 form of development.

Three (3) representations were received (1 in favour, 2 opposed) in response to this notification, copies of which are contained in **Attachment C**. The key issues raised by representors are, in summary:

- Queries regarding the motivation and necessity for the tree removal; and
- The tree provides habitat for birds

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

- *B Tapp*

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 Council was requested to inspect the tree and it was found to be approaching the end of its useful life expectancy;
- No arboricultural management techniques are available to reverse the poor structure and health of the tree;
- The tree is not considered to meet the qualitative test for the retention of a regulated tree; and
- Replacement trees will be planted.

### **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.

#### *Trees (significant, mature & street) and landscaping*

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

City Wide Objectives:	117, 118
City Wide Principles of Development Control:	395, 396, 397

The following Development Plan policies are considered particularly relevant for this assessment:

### **City Wide Objective 118**

*“Development in balance with preserving regulated trees that demonstrate one or more of the following attributes:*

- (a) *significantly contributes to the character or visual amenity of the locality;*
- (b) *indigenous to the locality;*
- (c) *a rare or endangered species;*
- (d) *an important habitat for native fauna.”*

#### **City Wide Principle of Development Control 396**

*“A regulated tree should not be removed or damaged other than where it can be demonstrated that one or more of the following apply:*

- (a) *the tree is diseased and its life expectancy is short;*
- (b) *the tree represents a material risk to public or private safety;*
- (c) *the tree is causing damage to a building;*
- (d) *development that is reasonable and expected would not otherwise be possible;*
- (e) *the work is required for the removal of dead wood, treatment of disease, or is in the general interests of the health of the tree.”*

When assessing the removal of a regulated tree it is appropriate to first determine if the tree has attributes worthy of preservation as outlined in City Wide Objective 118. The subject tree is not indigenous to the locality (it is indigenous to Western Australia), is not a rare or endangered species and it is not considered to be an important habitat for native fauna given there are a number of trees within the immediate locality which could provide alternative sources of habitat. An example of a tree that might provide an important habitat for native fauna would be a very mature eucalyptus camaldulensis (River Red Gum) with hollows which provide nesting sites for native fauna.

The final test in Objective 118 relates to the contribution that the tree makes to the character or visual amenity of the locality. It is worth noting that the Development Plan provisions apply a stronger test for determining the amenity value of regulated trees (i.e. 2-3 metre circumference), which must make a *significant* contribution, compared to significant trees (i.e. over 3 metre circumference) which must make an *important* contribution. Street tree plantings along Hampden Street comprise a range of Queensland Box trees, Swamp Mallet trees, Weeping Wattles (Acacia), Tuckeroos, Angophoras, and Lemon Scented Gums in the northern portion of the street.

The subject tree is the first street tree south of Ryan Avenue on the eastern side of Hampden Street. The nearest street tree to the north on the same side of the road is located approximately 50 metres away. For this reason, the subject tree is quite prominent in the streetscape, when approaching from the north, or west from Ryan Avenue. Conversely, when approaching from the south, the subject tree is less prominent, due to more closely spaced street trees south of the subject tree.

The size of the subject tree also contributes to its prominence in the streetscape. Swamp Mallets are generally considered to be a high amenity tree, due to their distinctive fine grey 'soft foliage' and smooth grey brown bark. In this instance, the subject tree has an uneven canopy distribution due to past pruning and thinning of foliage. Accordingly, the contribution that the tree makes to the character or visual amenity of the locality is not clearly, or unquestionably, significant. .  
Consideration has also been given to the potential reasons for removal outlined in Principle of Development Control 396, in particular parts (a) and (b).

The assessment included in **Attachment B** indicates that the tree has poor health, very poor structure and very poor shape and form. The Council's Coordinator, Horticultural & Arboricultural Services has also indicated that although not diseased, and therefore not strictly consistent with Principle of Development Control 396 (a), the tree is approaching the end of its useful life expectancy and is showing advanced symptoms of decline. Although a Quantified Tree Risk Assessment has found that currently the risk posed by the tree is within the limits of tolerability, a tree in this condition would pose some level of risk (as all trees do) and this risk is likely to increase in the future.

It is again, worth noting that the Development Plan provisions apply a different test for the tolerability of risk of significant trees which must present an unacceptable risk, whereas a regulated tree must only present a material risk to justify removal. The Council's Coordinator, Horticultural & Arboricultural Services determined to seek approval for removal now, rather than waiting until the tree poses an unacceptable level of risk to users of the footpath, road and adjacent property.

## Summary

Whilst it is acknowledged that the subject tree provides some contribution to the amenity of the area, the extent of the contribution is considered to be compromised by the shape and form of the tree and the limited visibility of the tree when viewed from the south.

Given the finely balanced assessment of the streetscape/amenity contribution of the tree, it is considered appropriate to also consider the structural condition of the tree, which poses some level of risk, likely to increase over time. In this context, and given the short life expectancy of the tree, it is considered that the tree removal is warranted, albeit finely balanced, as it is not seriously at variance with the Development Plan and does 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 Approval be **granted** to Development Application No 155/488/2016 by the City of Norwood Payneham and St Peters for the removal of a regulated street tree (*Eucalyptus Spathulata*) on the land located at the road reserve adjacent to 3 Hampden Street Firlie subject to the following requirements 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:

- Regulated Tree Removal Form prepared by Joel Ashforth dated 19 July 2016

### 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.

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

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

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*Mr Minney moved*

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Approval be **granted** to Development Application No 155/488/2016 by the City of Norwood Payneham and St Peters for the removal of a regulated street tree (*Eucalyptus Spathulata*) on the land located at the road reserve adjacent to 3 Hampden Street Firlie subject to the following requirements 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:*

- *Regulated Tree Removal Form prepared by Joel Ashforth dated 19 July 2016*

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.*

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

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

*Seconded by Mr Smith and carried.*



**2. STAFF REPORTS**

**2.3 DEVELOPMENT APPLICATION 155/0332/2016 – DC ARCHITECTURE – 13 SALTER STREET, KENSINGTON**

<b>DEVELOPMENT APPLICATION:</b>	<b>155/0332/16</b>
<b>APPLICANT:</b>	<b>DC Architecture</b>
<b>SUBJECT SITE:</b>	<b>13 Salter Street, Kensington (Certificate of Title; Volume: 6160, Folio: 528)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Construction of a two-storey dwelling, with an associated cellar, swimming pool and fencing</b>
<b>ZONE:</b>	<b>Residential Historic (Conservation) Zone – Kensington 1 Policy Area – Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 2</b>

**Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a two-storey dwelling, with an associated cellar, swimming pool and fencing.

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:	9.4 metres
Depth:	20.8 metres
Area:	195.5m <sup>2</sup>
Topography:	slight fall to the rear
Existing Structures:	nil
Existing Vegetation:	nil

The subject land is a regular shaped Community Title allotment on the north-western side of Bridge Street. The Community allotment is serviced by a common driveway, which abuts the south-western side and the rear of the subject land. The common driveway also services two (2) other Community allotments, which front onto Bridge Street (12 and 14 Bridge Street).

The subject land is currently vacant and slopes gently from the south-east to the north-west, falling approximately 600mm from the Salter Street boundary to the rear.

## Locality Attributes

Land uses: predominantly residential, although a sign manufacturing business and woodwork workshop are located adjacent to the subject land

Building heights (storeys): mix of single storey and two-storey development

The locality is not characterised by any specific building type. Whilst the subject land is located within the Residential Historic (Conservation) Zone, many of the adjacent and nearby dwellings do not contribute to the historic character of the locality.

A two-storey sign manufacturing business abuts the north-eastern side of the subject land at 9 Salter Street and a woodworking workshop is located at 5 Salter Street. A modern single storey dwelling abuts the south-western side of the subject land, which is separated by the common driveway. A group of eight (8) two-storey town-houses are located opposite the subject land at 18-20 Salter Street.

The nearest Contributory Items within the locality are located at 14 and 17 Salter Street, approximately 30 metres from the subject land.

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 dwelling with an associated cellar, swimming pool and fencing.

The proposed dwelling has a bespoke design, with a flat roof that curves into the front and rear first floor facade. The first floor and roof is clad with 'matt stealth' (dark grey) standing seam look metal sheeting, with aluminium louvre infill panels screening floor to ceiling windows along the south-western side walls. The ground level floor area is much smaller than that of the first floor, such that the first floor is cantilevered out beyond the front and rear of the ground floor. The ground floor is predominantly comprised of full height glazing, with the exception of the north-eastern side wall, which abuts the adjacent two-storey building and is to be constructed with tilt-up concrete.

The proposed dwelling includes a cellar; a combined kitchen/dining/living room at ground level; and three (3) bedrooms, two (2) bathrooms and a second living area at first floor level. A swimming pool is proposed within the front yard of the dwelling, which is to include sub-surface windows to the cellar.

A two (2) vehicle carport is proposed beneath the cantilevered first floor at the rear of the dwelling, with access via the common driveway.

The proposed front fence has an overall height of 1.8 metres, with a 1.5 metre high rendered masonry base, which includes circular openings to the street, and 300mm high galvanised iron vertical flat bars above. The proposed front pedestrian gate and the rear vehicular gate are to utilise the galvanised iron flat bar design for the full height of the fence. The side and rear fencing includes 1.7 metre high rendered masonry with regular recesses.

A small area of landscaping is proposed between the swimming pool and the front fence, adjacent to Salter Street.

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	195.5m <sup>2</sup>	N/A
Allotment Width	9.4m	N/A
Allotment Depth	20.8m	N/A

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

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
External Wall Height*	3.0m-4.8m	N/A
Maximum Overall Height (to roof apex)*	5.6m-6.5m	Two-storey – Kensington 1 Policy Area PDC 3
Floor Areas	161m <sup>2</sup> (covered area) 235m <sup>2</sup> (overall)	N/A
Site Coverage	82%	N/A
Private Open Space	59.2m <sup>2</sup> 40% uncovered	35m <sup>2</sup> - City Wide PDC 225(b)
Street Set-back	6.3m (ground level) 1.7m (first floor)	N/A
Side Set-back	nil & 1.4m (ground level) nil & nil (first floor)	N/A
Rear Set-back	6.3m (ground floor) 400mm (first floor)	N/A
Car Parking Provision	2 undercover	2 on-site parking spaces per dwelling + 1 visitor (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 proposed development has been identified and processed as a Category 2 form of development, as the proposed dwelling is two-storey in form and is located on a Community Title allotment which relies on a common driveway for access.

Ten (10) valid representations were received (all in support of the proposed development) in response to this notification, copies of which are contained in **Attachment C**. The representors did not raise any issues and none of the representors indicated a desire to be heard by the Panel.

Given that there were no issues arising from the notification period, the Applicant was not required to respond.

A further thirty-one (31) invalid representations were received in favour of the development. These representations were invalid because they were received from persons that were not entitled to receive notice and, pursuant to Section 38 (17) of the *Development Act 1993*, have not been attached for the Panel's consideration.

### State Agency Consultation

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

### Discussion

The subject land is located within the Kensington 1 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:

Kensington 1 Policy Area Desired Character Statement  
Kensington 1 Policy Area PDC's: 2 & 4

Residential Historic (Conservation) Zone Desired Character Statement  
RH(C)Z Objectives: 2, 4 & 6  
RH(C)Z PDC's: 7 & 8

City Wide Objectives: 7 & 55-57  
City Wide PDC's: 3, 4 & 186

Kensington 1 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.”*

The proposed dwelling is effectively a group dwelling, as it forms part of a Community Title with the two (2) original dwellings at 12 and 14 Bridge Street. The Kensington 1 Policy Area encourages a range of types and forms of residential accommodation and, as such, the proposed development is consistent with Kensington 1 Policy Area Principle of Development Control 2, from a land use perspective.

Given that the subject land already exists, the resulting dwelling density and allotment pattern will remain unchanged.

Streetscape/bulk/scale/height/character

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

Kensington 1 Policy Area Desired Character Statement  
Kensington 1 Policy Area Objectives: 1  
Kensington 1 Policy Area PDC's: 1 & 3

Residential Historic (Conservation) Zone Desired Character Statement  
Residential H(C)Z Objectives: 1, 3 & 5  
Residential H(C)Z PDC's: 1, 2, 3, 13-19, 22, 23, 25 & 26

City Wide Objectives: 18, 19 & 20  
City Wide PDC's: 28-32, 37, 39 & 41

There are several two-storey buildings within the locality, including the adjacent commercial building at 9 Salter Street, which has a two-storey wall abutting the north-eastern boundary of the subject land. Opposite the subject land is a group of eight (8) two-storey townhouses.

Kensington 1 Policy Area Principle of Development Control 3 states:

*“Development in the Kensington 1 Policy Area should not exceed two storeys in height above natural ground level.”*

The proposed building height is considered to be acceptable; given that two-storey development is envisaged within the Kensington 1 Policy Area and that the proposed building is consistent with the predominant height of buildings within the locality.

The Applicant has prepared a streetscape diagram and perspectives of the proposed dwelling, which provide a good illustration of the bulk, scale and architectural form of the proposed dwelling and its relationship with adjacent dwellings. The streetscape diagram and the perspectives are contained in **Attachments B5 and B6**.

To assist with assessing the compatibility of the building with the Residential Historic (Conservation) Zone policies, the Application was referred to the Council's Heritage Advisor, David Brown. A summary of Mr Brown's comments is set out below:

- *the character of Salter Street is very mixed and the immediate streetscape character is not typical of the Policy Area;*
- *the site is relatively compromised by the adjacent commercial building and its abutting two-storey boundary wall;*
- *the proposed design is an extremely modern house with a larger first floor than ground floor, cantilevering over both the front and rear of the property;*
- *the proposed design adopts a form that is not typically seen in this area, or generally in Historic (Conservation) Zones;*
- *the surrounding buildings are not typical of the H(C)Z either and do not contribute to the historic character of the locality;*
- *the proposed design has a minimal palette of materials, albeit that the colour scheme is acceptable;*
- *the proposed front fence is an interesting design that will work quite well in the context of the locality;*
- *whilst the proposed building is a very clever and elegant design that works well with the site constraints, it completely ignores the fact that it is in a Historic (Conservation) Zone, so in many respects the development fails to satisfy the heritage provisions in the Development Plan.*

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

Whilst it is considered that the proposed dwelling makes good use of the compact site, in terms of siting of the dwelling, the proposed architectural style of the dwelling is not considered to be acceptable within the Residential Historic (Conservation) Zone. The following Desired Character Statement and Principles of Development Control provide the most guidance regarding the proposed built form.

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

*"New buildings and additions to buildings within this zone will reinforce the existing streetscape and historic building stock. New dwellings will be of a complementary nature which do not compete or stand out against the historic elements for streetscape prominence. They will take into careful consideration the scale of the surrounding dwellings. The roof pitch and basic roof form of surrounding houses will be repeated..... New development will complement and reinforce the traditional colours and materials such as stone, brick and rendered masonry. It will be set in a sympathetic landscaped setting and will emulate the general scale and form of traditional building elements such as fences, verandahs and hipped and gabled roofs, instead of attempting to reproduce the finer architectural detail of the historic building stock."*

Residential Historic (Conservation) Zone Principle of Development Control 16 states:

*"Development of a new building or building addition should demonstrate a compatible visual relationship with the buildings that contribute to the historic character of the relevant policy area through consideration of the following:*

- (a) bulk and scale;*
- (b) width of site frontage, front and side boundary setback patterns, wall height and window placement;*
- (c) the proportions (vertical and horizontal) of additions visible from the street that complement the existing building façade and other elevations facing a public road;*
- (d) the form and level of visual interest present in a building (as determined by the height of eaves, the length and size of unbroken walling, treatment of openings and depths of reveals, roof form and pitch, external colour and texture of materials used, as well as detailing, landscaping and fencing); and*
- (e) design elements such as verandahs, balconies and eaves where appropriate."*

Residential Historic (Conservation) Zone Principle of Development Control 18 states:

*“Dwelling roof pitches should match the principal roof pitches of buildings within the policy area. Roofs for rear additions extending less than four metres from the main building may be of a lean-to nature.”*

Residential Historic (Conservation) Zone Principle of Development Control 22 states:

*“New buildings should utilise stone, brick, natural coloured bagged render and/or brick as the main external finish to walls to complement the historic built form.”*

The form of the proposed dwelling is not considered to complement the historic building stock in the locality and the design will compete against the historic elements for streetscape prominence. The proposed proportions of the building, the flat roof form and the lack of traditional materials are all considered to be negative aspects of the proposed development.

The proposed front fence is also a very contemporary design. However, given the variety of heights, materials and form of front fences within the locality, the proposed front fence is considered to be acceptable in this instance.

However, ultimately the proposed dwelling design is considered to be too inconsistent with the Desired Character Statement for the Residential Historic (Conservation) Zone and Principles of Development Control 16, 18 and 22, which provide very clear policy guidelines for new dwellings in the Zone.

#### Setbacks and Site Coverage

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

Residential H(C)Z PDC's:	10, 11 & 12
City Wide PDC's:	50, 204-207 & 208

Given the unusual design of the proposed dwelling, with the first floor cantilevered beyond the ground floor on three sides, the building setbacks are significantly less at the first floor level than they are at ground floor level. The first floor of the proposed dwelling has a primary setback of 1.7 metres from the Salter Street property boundary and is set back 400mm from the rear boundary, which abuts the common driveway area.

The first floor of the dwelling is proposed to be built from boundary to boundary, with the north-eastern side abutting the adjacent commercial building two-storey wall and the south-western side abutting the common driveway, which provides a separation of 4.0 metres from the adjacent land at 15 Salter Street.

The Kensington 1 Policy Area does not contain any quantitative provisions relating to front, side or rear setbacks.

Front setbacks are varied within the locality, with buildings abutting the street boundary at 5, 9, 10, 12 and 21 Salter Street; and buildings within three (3) metres of the street boundary at 2, 3, 4, 6, 8, 14, 23, 24, 25, 26, 28, 29 and 30 Salter Street. The remainder of buildings within Salter Street are set back between four (4) metres and eleven (11) metres.

Given that the locality does not display a consistent building setback, Residential Historic (Conservation) Zone Principle of Development Control 11 is considered to be the most relevant provision relating to front and side setbacks. Residential Historic (Conservation) Zone Principle of Development Control 11 states:

*“Where a consistent building set-back is not evident in a particular locality, development should incorporate front and side setbacks that complement the predominant pattern established by the surrounding heritage places and contributory items, but in any case should not project forward of an adjacent heritage place or contributory item.”*

The subject land is not located adjacent to a Heritage Place or a Contributory Item. In addition, there is no predominant pattern established by Heritage Places and Contributory Items within the locality. The nearby Contributory Items have varying front setbacks, including 2.3 metres at 3 Salter Street, 2.1 metres at 14 Salter Street, 4.2 metres at 17 Salter Street and nil at 21 Salter Street.

In this instance, the siting of the proposed dwelling is considered to be appropriate. Whilst it is proposed that the building be closer to the street than the adjacent single storey dwelling at 15 Salter Street, it is well separated by the common driveway and abuts the adjacent two-storey building at 9 Salter Street. The proposed front setback reasonably complements the front setback of other buildings within the locality.

In terms of the side setbacks, the siting of the proposed dwelling abutting the adjacent two-storey boundary wall effectively negates any adverse outlook and overshadowing issues.

City Wide Principle of Development Control 207 states:

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

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

The siting of the dwelling on the north-eastern side boundary is consistent with City Wide Principle of Development Control 207, as the proposed boundary wall will abut an existing boundary wall on the adjoining land and there will be no unreasonable visual outlook impact or overshadowing impact on the occupants of the adjoining property.

Whilst the proposed dwelling also abuts the south-western side boundary of the allotment, the site of the dwelling is separated from the adjacent land by the 4.0 metre wide common driveway, which provides for adequate separation from the adjacent dwelling.

Similarly, the proposed rear setback of 400mm at the first floor level is separated from the dwellings at the rear by the common driveway, which varies in width from 4.0 metres to 5.6 metres. The proposed separation from the adjacent dwellings at the rear of the site is considered to be reasonable.

In terms of site coverage, the proposed dwelling will cover 82% of the site area, excluding the common driveway area.

There are no quantitative site coverage guidelines within the Kensington 1 Policy Area or the Residential Historic (Conservation) Zone. In terms of qualitative guidance, Residential Historic (Conservation) Zone Principle of Development Control 12 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 existing Contributory Items within the locality (located at 3, 14, 17, 21 and 26 Salter Street, and 12 and 14 Bridge Street) have an average site coverage of approximately 55%, excluding any common land. The other buildings within the locality have a similar extent of average site coverage.

As such, the site coverage of the proposed dwelling is considered to be incompatible with the site coverage of other buildings in the locality, contrary to Residential Historic (Conservation) Zone Principle of Development Control 12.

#### Overshadowing/overlooking

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

City Wide PDC's:

11, 31, 71, 195, 196, 235 & 236

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

At 9.00am, the proposed dwelling would cast a shadow over the north-east facing side windows of the adjacent dwelling at 15 Salter Street. By midday, overshadowing would be limited to the adjacent common driveway and would only extend marginally higher than the shadow cast by the existing boundary fence. In the afternoon, no adjacent land would be affected by overshadowing.

City Wide Principle of Development Control 195 states:

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

The proposed development will ensure that the adjacent dwelling at 15 Salter Street will maintain direct sunlight for at least five (5) hours between 9am and 5pm on the winter solstice, consistent with City Wide Principle of Development Control 195.

City Wide Principle of Development Control 196 states:

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

None of the adjacent dwellings’ private open space or existing solar collectors will be affected by overshadowing as a result of the proposed development.

In terms of overlooking, the proposed dwelling has no rear facing first floor windows and the north-east facing first floor windows have an outlook that is restricted to the adjacent two-storey boundary wall.

The south-west facing first floor elevation includes floor to ceiling windows, which are proposed to be set back 1.0 metre behind external aluminium louvres.

City Wide Principle of Development Control 235 states (in part):

*“Except where buildings of three or more storeys are contemplated within the Urban Corridor Zone and the District Centre (Norwood) Zone, in all other circumstances upper level windows, balconies, terraces and decks should:*

- (c) *be permanently screened to a height of not less than 1.7 metres above the finished floor level, through the use of external screening devices, such as planter boxes and angled louvres (Refer to Figure 10);”*

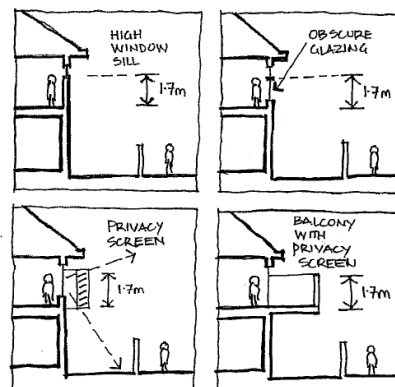


Figure 10



The proposed external louvres are set at 90 degrees to the windows, which would only restrict oblique angle views from the first floor windows. The 90 degree louvres would restrict overlooking of all adjacent private open space areas, but would enable views directly toward the north-east facing windows of the adjacent dwelling at 15 Salter Street.

The design of the proposed external louvres is not considered to be acceptable in their current form. If the Panel determines to approve the proposed development, it is recommended that a condition be imposed to adequately address overlooking of the adjacent dwelling's windows from the south-west facing first floor windows.

#### 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 59.2m<sup>2</sup> of private open space. The private open space area is situated between the dwelling and the front property boundary and includes a covered alfresco area beneath the cantilevered first floor, an in-ground swimming pool and a modest garden area. The private open space area has good links with the living areas of the dwelling.

City Wide Principle of Development Control 222 states that private open space should be screened to achieve privacy from adjoining properties and public areas by a suitable fence of at least 1.8 metres in height. Whilst the proposed front fence is 1.8 metres high, it contains large circular cut-outs, which could result in privacy issues if they are not appropriately screened. If the Panel determines to approve the development, it is recommended that a condition be imposed requiring the circular cut-outs within the front fence to contain adequate privacy screening.

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

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

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

The proposed provision of private open space exceeds the minimum provision of 35m<sup>2</sup>, prescribed by City Wide Principle of Development Control 225(b).

City Wide Principle of Development Control 224 prescribes qualitative attributes for areas of private open space. City Wide Principle of Development Control 224 states:

*"Private open space should be located and designed:*

- (a) to be accessed directly from the internal living areas of the dwelling;*
- (b) generally at ground level to the side or rear of a dwelling and screened for privacy;*
- (c) to take advantage of but not adversely affect natural features of the site;*
- (d) to minimise overlooking from adjacent buildings;*
- (e) to achieve where possible, separation from adjoining sites;*
- (f) where possible, to have a northerly aspect to provide for comfortable year-round use;*
- (g) to not be significantly shaded during winter by the associated dwelling or adjacent development;*
- (h) to be shaded in summer, where possible; and*
- (i) to retain any significant vegetation."*

The proposed private open space area is located forward of the dwelling, has poor orientation and will be significantly shaded by the proposed dwelling, which is contrary to City Wide Principle of Development Control 224, specifically parts (b), (f) and (g).

Therefore, whilst the quantitative provision of private open space is considered to be acceptable, the qualitative aspects of the private open space are considered to be a negative aspect of the proposed development.

Car-parking/access/manoeuvring

RH(C)Z PDC's:	32, 33
City Wide Objectives:	34
City Wide PDC's:	98, 104, 120, 122 & 181

Table NPSP/8

Table NPSP/8 prescribes that three (3) bedroom group dwellings should be provided with two (2) on-site car parking spaces per dwelling, of which at least one (1) is covered, plus one (1) visitor space for every two (2) dwellings in the group.

The subject land is one (1) of three (3) Community Title allotments, which share a common driveway. The other two (2) dwellings are character dwellings that face Bridge Street. In 2013, the Council approved a land division application (155/C037/13), which created the subject land by effectively cutting off the rear yards of the original dwellings at 12 and 14 Bridge Street. The Plan of Division included a common driveway to provide vehicular access to all three (3) resulting allotments. No space was allocated for visitor car parking at that time.

Aside from the common driveway access, the proposed dwelling has all of the other attributes of a detached dwelling, including an exclusive frontage to a public road. Detached dwellings do not require any additional visitor car parking space, beyond the two (2) spaces that are prescribed for the dwelling by Table NPSP/8.

The proposed dwelling includes two (2) at-grade on-site car parking spaces beneath the cantilevered first floor at rear of the dwelling, with access provided via the common driveway. The provision of two (2) on-site car parking spaces is considered to be acceptable in this instance, given the context of the existing allotments.

However, vehicle manoeuvring is considered to be very tight. The common driveway at the rear of the allotment has a width that varies from 4.0 metres to 5.6 metres, which will make vehicle manoeuvring into and out of the proposed car parking spaces difficult. Whilst it is noted that the vehicular access gate is relatively wide (6.0 metres), staff have applied vehicle manoeuvring templates for a B85 (85<sup>th</sup> percentile sized) vehicle and have determined that all access and egress would require more than one movement (i.e. generally 3-point turns).

Therefore, vehicle manoeuvring is not considered to be convenient, contrary to City Wide Principle of Development Control 98.

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
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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 (78.5mAHD) ranges between 20mm below and 80mm above the adjacent top of kerb level in Salter Street. Stormwater collected from the roof will be directed to a 3000 litre rainwater tank, which is to be plumbed back to the dwelling, with overflow to be discharged to the street water table via a sealed system.

Given that the proposed dwelling will cover 82% of the subject land, surface runoff from the subject land will be minimal. The proposed finished floor level is similar to adjacent development and will provide a good fit in the context of the streetscape.

No retaining walls are proposed.

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 on the subject land or adjacent land that would be affected by the proposed development. Similarly, there are no street trees that would be affected by the proposed development.

In terms of landscaping, the Applicant has illustrated a narrow strip of landscaping adjacent to the Salter Street property boundary. Other opportunities will exist for potted plants within the paved areas surrounding the dwelling.

If the Panel determines to approve the development, it is recommended that a condition be imposed requiring the illustrated landscaping area to be planted with a suitable mix of small trees, shrubs and groundcovers; and that the landscaping area be maintained.

Overall, whilst the provision of landscaping is considered to be minimal, it is acceptable given the relatively small site area.

Environmental Sustainability

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

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

The proposed dwelling does not have any north-west facing windows at the first floor level and the north-east facing windows are shaded by the adjacent two-storey boundary wall. Whilst this will reduce the heat burden during summer, it will result in a dwelling that does not have any access to northern light during winter.

Similarly, given that the first floor is substantially cantilevered over the ground level, solar access to the living areas of the dwelling will be poor. The orientation of the private open space is also poor, as it will be shaded either by the adjacent two-storey building or the proposed dwelling.

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 proposed a 3000 litre rainwater tank to collect stormwater from the roofed areas. The proposed rainwater tank is proposed to be plumbed back to the dwelling for re-use within the toilets and water heaters, in accordance with City Wide Principle of Development Control 159.

**Summary**

The proposed dwelling is an anticipated land use and type of development within the Residential Historic (Conservation) Zone. The proposed building setbacks, the provision of private open space and on-site vehicle car parking, the level of overshadowing and stormwater disposal are all considered to be acceptable.

However, the proposed built form does not complement adjacent development and is not consistent with the Desired Character Statement for the Residential Historic (Conservation) Zone or Zone Principles of Development Control 16, 18 and 22.

The resulting site coverage (82%) is considered to be incompatible with the site coverage of other buildings in the locality, contrary to Residential Historic (Conservation) Zone Principle of Development Control 12.

The proposed development, in its proposed form, is considered to unreasonably overlook the north-east facing windows of the adjacent dwelling at 15 Salter Street, which is at odds with City Wide Principle of Development Control 235.

The location of the private open space forward of the dwelling results in a compromised amenity due to its location adjacent to the street, its orientation to the south of the dwelling and the resulting lack of direct sunlight during winter. The proposed development is therefore contrary to City Wide Principle of Development Control 224, parts (b), (f) and (g).

Similarly, the proposed dwelling has poor orientation and minimal access to northern light, albeit that most designs will have this shortcoming due to the location of the existing two-storey boundary wall along the north-eastern side of the allotment.

Finally, vehicular access to the proposed allotment is considered to be very tight, with minimal manoeuvring areas. It is likely that vehicles will need to make multiple movements when accessing and egressing the proposed car parking spaces at the rear of the dwelling.

Whilst some of the issues described above could be rectified by way of a condition or minor alterations, the appearance of the building is considered to be a fundamental shortcoming of the proposed development in its own right. The Applicant has indicated that he is not willing to amend the architectural style of the proposed dwelling.

As such, it is considered that whilst the proposal is not seriously at variance with the Development Plan, it 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 155/0332/16 by DC Architecture, to construct a two-storey dwelling, with an associated cellar, swimming pool and fencing; on the land located at 13 Salter Street, Kensington, for the following reasons:

1. The proposed built form is considered to be too bold, does not complement adjacent development and is not consistent with the Desired Character Statement for the Residential Historic (Conservation) Zone or Zone Principles of Development Control 16, 18 and 22.
2. The resulting site coverage (82%) is considered to be incompatible with the site coverage of other buildings in the locality, contrary to Residential Historic (Conservation) Zone Principle of Development Control 12.
3. The proposed external privacy louvres are not considered to provide adequate privacy to the north-east facing windows of the adjacent dwelling at 15 Salter Street, at odds with City Wide Principle of Development Control 235.
4. The location of the private open space forward of the dwelling results in a compromised amenity due to its location adjacent to the street, its orientation to the south of the dwelling and the resulting lack of direct sunlight during winter. The proposed development is therefore contrary to City Wide Principle of Development Control 224, parts (b), (f) and (g).
5. The proposed dwelling has poor orientation and minimal access to northern light within the living areas of the dwelling, contrary to City Wide Principles of Development Control 67 and 68.

6. Vehicular access to the proposed allotment is considered to be very tight, with minimal manoeuvring areas. It is likely that vehicles will need to make multiple movements when accessing and egressing the proposed car parking spaces at the rear of the dwelling. Vehicle manoeuvring is therefore not considered to be convenient, contrary to City Wide Principle of Development Control 98.
- 

*Mr Smith moved*

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **refused** to Development Application No 155/0332/16 by DC Architecture, to construct a two-storey dwelling, with an associated cellar, swimming pool and fencing; on the land located at 13 Salter Street, Kensington, for the following reasons:*

- 1. The proposed built form is considered to be too bold, does not complement adjacent development and is not consistent with the Desired Character Statement for the Residential Historic (Conservation) Zone or Zone Principles of Development Control 16, 18 and 22.*
- 2. The resulting site coverage (82%) is considered to be incompatible with the site coverage of other buildings in the locality, contrary to Residential Historic (Conservation) Zone Principle of Development Control 12.*
- 3. The proposed external privacy louvres are not considered to provide adequate privacy to the north-east facing windows of the adjacent dwelling at 15 Salter Street, at odds with City Wide Principle of Development Control 235.*
- 4. The location of the private open space forward of the dwelling results in a compromised amenity due to its location adjacent to the street, its orientation to the south of the dwelling and the resulting lack of direct sunlight during winter. The proposed development is therefore contrary to City Wide Principle of Development Control 224, parts (b), (f) and (g).*
- 5. The proposed dwelling has poor orientation and minimal access to northern light within the living areas of the dwelling, contrary to City Wide Principles of Development Control 67 and 68.*
- 6. Vehicular access to the proposed allotment is considered to be very tight, with minimal manoeuvring areas. It is likely that vehicles will need to make multiple movements when accessing and egressing the proposed car parking spaces at the rear of the dwelling. Vehicle manoeuvring is therefore not considered to be convenient, contrary to City Wide Principle of Development Control 98.*

*Seconded by Mr Dottore and carried.*

## 2. STAFF REPORTS

### 2.4 DEVELOPMENT APPLICATION 155/C057/2016 – RAPID PROPERTY DEVELOPMENTS – LOT 200 BRIAR ROAD, FELIXSTOW

<b>DEVELOPMENT APPLICATION:</b>	155/C057/2016
<b>APPLICANT:</b>	Rapid Property Developments
<b>SUBJECT SITE:</b>	Lot 200 Briar Road, Felixstow (Certificate of Title - Volume: 6176, Folio: 199)
<b>DESCRIPTION OF DEVELOPMENT:</b>	Community title land division creating eleven (11) Community Lots and associated common areas
<b>ZONE:</b>	Residential Zone – Medium Density Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)
<b>PUBLIC NOTIFICATION CATEGORY:</b>	Category 1

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application to divide a parcel of land into eleven (11) Community Lots and common areas.

Staff do not have delegated authority to determine the Application, as it comprises the division of one allotment into more than two (2) allotments. 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:	20.2 metres
Depth:	90.3-91.5 metres
Area:	2029m <sup>2</sup>
Topography:	2.0m fall from front to rear
Existing Structures:	car parking area
Existing Vegetation:	trees and shrubs, including three (3) regulated trees

The subject land comprises a bitumen car parking area that was previously used by the state government in association with the adjoining Department of Education buildings. Council staff have reviewed the site history and there are no formal links between the subject land and the adjoining sites, requiring the car parking to be maintained.

The site has gentle fall from east to west (front to back) of approximately 2.0m.

There are three (3) regulated trees on the subject land. One of the regulated trees, an Iron Bark, has received Development Approval to be removed via a separate Development Application. The remaining two (2) regulated trees are located at the front of the allotment, within close proximity to the footpath and the adjacent dwelling at 25 Briar Road, Felixstow.

### Locality Attributes

Land uses: Mix of residential development and institutional buildings  
 Building heights (storeys): predominantly single storey  
 Streetscape amenity: High, resulting from the mature stand of Ironbark street trees

To the east of the subject land is the former Brain Injury Rehabilitation Centre. To the south of the subject land is the regional office of the Department of Education, with Felixstow Community School further to the south. To the north of the subject land is a single storey detached dwelling and the Payneham Youth Centre. To the west of the subject land is Patterson Reserve.

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

### Proposal in Detail

The Applicant is seeking consent to create eleven (11) Community Lots with an associated common driveway area. The Applicant has provided indicative floor plans in order to demonstrate that two (2) residential flat buildings can be constructed on the site.

The relevant details of the proposal in terms of allotment areas and dimensions are set out in Table 1 below.

**TABLE 1: DEVELOPMENT DATA:**

Consideration	Lots 1-8	Lots 9-11	Development Plan Merit Assessment Quantitative Guideline
Site Area	117m <sup>2</sup> – 144m <sup>2</sup>	119m <sup>2</sup> - 152m <sup>2</sup>	No Minimum
Total Development site Frontage	20.48m		18m
Allotment Depth	90.27m – 91.47m		N/A

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

### Notification

Pursuant to Schedule 9 Part 1, 2(f) of the *Development Regulations 2008*, the proposal has been identified and processed as a Category 1 form of development. As such, no public notification was undertaken.

### State Agency Consultation

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

### Discussion

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

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

#### Land Use and Density

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

Residential Zone Desired Character Statement  
 Medium Density Policy Area Desired Character Statement  
 Residential Zone Objectives: 1, 2 & 3.  
 Medium Density Policy Area Objectives: 1, 2 & 4  
 Residential Zone PDC's: 1, 2 & 3  
 Medium Density Policy Area 1 & 5  
 City Wide Objectives: 1, 2, 7, 10, 15, 16, 17 & 55-57  
 City Wide PDC's: 20, 21, 22 & 185 -189.

City Wide Objective 15 sets out that land divisions should create allotments appropriate for the intended use of the land. The proposed land division is intended to cater for two (2) residential flat buildings containing eleven (11) dwellings. Plans showing the design of the intended buildings, upon which the land division has been derived, are contained in Attachment B.

In order to determine whether the proposed allotments are suitable for their intended use, it is appropriate to consider:

1. whether the resulting dwelling types (which the land division caters for) are envisaged in the Residential Zone, specifically the Medium Density Policy Area; and
2. if the site areas and frontage widths proposed are in accordance with the relevant policies for the Medium Density Policy Area.

City Wide Principle of Development Control 188 states that 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. In this respect, the Desired Character Statement for the Medium Density Policy Area (in part) states:

*“Whilst detached and semi-detached dwellings will continue to be developed within the Medium Density Policy Area, more flexible development parameters for other forms of housing (including group dwellings, row dwellings and residential flat buildings) are included and will provide additional opportunities for increasing residential densities in these locations. While a minimum site area has not been allocated for dwellings within a residential flat building, a minimum floor area requirement for dwellings has been included and will, along with other policies relating to private open space, communal space, car parking and the design of the built form, ensure an acceptable level of amenity for occupants, as well residents in the locality.”*

Given the desired character statement explicitly states that residential flat buildings are an envisaged form of development, it is therefore considered to be an appropriate site for a hammerhead or battle-axe allotment.

Medium Density Policy Area Principle of Development Control 5 sets out the minimum quantitative criteria for new dwellings in the zone, including site area and frontage requirements for residential flat buildings. It states:

*“A dwelling should have a minimum site area (and in the case of group dwellings an average site area per dwelling) and a frontage to a public road not less than that shown in the following table:*

<b>Dwelling Type</b>	<b>Site Area (square metres)</b>	<b>Minimum Frontage (metres)</b>
Row dwelling	200	5
Group dwelling	200 average (exclusive of all common areas)	18 (total development site frontage)
Residential flat building	No minimum	18 (total development site frontage)



Having regard to the quantitative provisions relating to allotment size and frontage widths, the proposed density is considered to be acceptable within the Residential Zone, specifically the Medium Density Policy Area. Specific analysis relating to the provision of vehicle parking, private open space, setbacks and potential built form as discussed later 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 insofar as they are relevant to the proposed land division:

Residential Zone Desired Character Statement	
Medium Density Policy Area Desired Character Statement	
Residential Zone Objectives:	3
Medium Density Policy Area Objectives	2
Residential Zone PDC's:	6 & 8.
Medium Density Policy Area PDC's	7
City Wide Objectives:	18, 19 & 20
City Wide PDC's:	28-32, 37, 39, 197 & 201

The proposed land division, if approved, would allow for the construction of two (2) residential flat buildings with party wall rights and a common driveway servicing all dwellings.

The Medium Density Policy Area Desired Character Statement (in part) states:

*“Built form within the Medium Density Policy Area will be carefully managed to ensure that it provides an appropriate transition down in scale and mass to residential development outside of the Policy Area.”*

All of the adjoining allotments are located within the Medium Density Policy Area and, as such, a conventional two-storey built form is considered appropriate, in accordance with the above statement.

Having regard to the indicative plans which have been provided in support of the Application, the proposed land division is considered to provide sufficient scope for a future development outcome that makes a positive contribution to the Briar Road streetscape.

The proposed land division is considered to be conducive to the construction of two-storey residential flat buildings, as demonstrated in the indicative plans. Although the construction of a two-storey building facing Briar Road would be inconsistent with the predominant height of existing development in the locality, the Medium Density Policy Area clearly anticipates two-storey dwellings fronting public roads, as set out in Medium Density Principle of Development Control 7. The division of land in a manner that is likely to result in two-storey form facing the street is therefore considered appropriate.

Setbacks and Site Coverage

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

Medium Density Policy Area PDC:	7
City Wide PDC's:	203 & 208.

Medium Density Policy Area Principle of Development Control 7 states that dwellings should have a minimum setback from the primary road frontage of 4.0 metres. The indicative plans show that dwellings are able to be constructed on the subject and consistent with this setback policy.

City Wide Principle of Development Control 203 states:

*“The distance between any two-storey component of a dwelling on a battleaxe, hammerhead or similar configuration allotment, and the side or rear boundary of the parent development site, should be no less than 4.5 metres.”*

The indicative plans illustrate that dwellings are able to be constructed on the subject land, which satisfy the side and rear setback criteria.

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.

As previously stated, the land division is conducive to two-storey dwellings being constructed on the subject land. Any overshadowing from future dwellings on those allotments would fall over the subject land and the adjacent commercial car parking area to the south. Overlooking will be able to be addressed through appropriate design of future dwellings.

Private open space

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

City Wide PDC's: 222, 223, 224, 225, 229 & 230

Each Community lot has an area of less than 250m<sup>2</sup> and, as such, City Wide Principle of Development Control 225 prescribes a minimum of 35m<sup>2</sup> of private open space per dwelling. The indicative plans demonstrate that each Community lot is able to accommodate a dwelling, whilst retaining an area of private open space in line with Principle of Development Control 225, if the balconies are included in the calculation, which the Development Plan allows for subject to a range of criteria.

The proposed land division pattern is likely to result in dwellings with north facing living areas and private open space areas, as per the indicative dwelling designs, resulting in good access to northern sunlight.

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 in a recognised flood plain.

The topography of the subject land falls from the east (front) to the west (rear) by approximately 2.0m. The subject land is connected to a Council owned stormwater easement adjoining the north-western rear corner of the subject land. The easement traverses Patterson Reserve before discharging stormwater into Third Creek.

Stormwater from the proposed development is proposed to drain via gravity through a portion of Community Lot 9 to the rear easement. In this respect, Section 24 of the *Community Titles Act 1996* states: (my underlining)

**24—Easements for support, shelter, services and projections**

- (1) The following easements exist between the lots and between the lots and common property, to the extent required by the nature of the community scheme or by the nature of the buildings or other improvements erected on, or made to, the community parcel (whether before or after deposit of the community plan)—
  - (b) easements for the establishment, maintenance and repair of the service infrastructure;
  - (c) easements for the provision of the following services by means of the service infrastructure—
    - (i) the supply of water, gas, electricity, heating oil or air-conditioned air; and
    - (iv) the removal of sewage and the drainage and water; and
    - (vi) the provision of any other similar service;

As a result of the above section, no formal easement is required in order for the internal pipework to pass through Community Lot 9. It should be noted that in addition to any authorisations required by the *Development Act 1993* for ancillary buildings (sheds, verandahs, etc.) authorisation will also be required from the Community Corporation to ensure unrestricted access for maintenance is readily available.

City Wide Principle of Development Control 58 states the following:

*“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).”*

The Applicant has provided an indicative plan demonstrating finished floor levels of Dwellings 1-8 dropping by 100mm each as the development progresses from east to west. Dwellings 9-11 are a further 200mm below Dwelling 8. As such, any future development of the dwellings will likely follow the natural contours of the land, resulting in fencing and retaining wall heights being consistent with City Wide Principle of Development Control 58.

#### Car parking/access/manoeuvring

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

City Wide Objectives:	38
City Wide PDC's:	98, 101, 104, 118, 120, 122, 181, 189, 200 & 219
Table NPSP/8	

A Stobie pole will need to be re-located as a result of the modified driveway crossover, which is required for access to the site. The Applicant has advised that they are aware of this requirement and have given an undertaking that the re-location of the Stobie pole will be at their expense and will most likely be shifted slightly further to the north, whilst maintaining appropriate clearances for access and egress.

With reference to the indicative dwellings, the proposed land division is able to facilitate two occupant car parking spaces per dwelling, one of which is covered. This is consistent with Table NPSP/8. The common area facilitates the provision of four (4) shared visitor car-parking spaces. Table NPSP/8 states that a development containing eleven (11) dwellings should provide one (1) visitor space for every two (2) dwellings, resulting in a theoretical demand for 5.25 visitor car-parking spaces.

City Wide Principle of Development Control 122 (in part) states

*A lesser on-site car parking rate may be applied to applicable elements of a development in any of the following circumstances:*

*(b) sites are located within 200 metres walking distance of a convenient and frequent service fixed public transport stop;*

A bus stop is located on Turner Street, approximately 120m from the subject land, which provides services approximately every thirty minutes from Monday to Friday, with services running hourly on the weekends. As such, it is considered the site has access to frequent service public transport, in accordance with City Wide Principle of Development Control 122(b).

Having regard to the relevant provisions of the Development Plan, it is considered that the resulting theoretical shortfall in visitor car-parking (1.25 spaces) is considered to be acceptable.

City Wide Principle of Development Control 189 provides guidelines for the configuration of driveway and manoeuvring areas for residential flat buildings, so as to achieve safe and convenient access arrangements. In relation to developments involving more than two (2) dwellings utilising a common driveway, City Wide Principle of Development Control 194 states that the driveway should have a 6.0 metre x 6.0 metre paved carriageway at the front of the property, to enable safe and convenient access/egress for vehicles turning into and out of the site simultaneously. The indicative plans accord with this guideline.

Principle 189 also states that the paved carriageway width should be no less than 5.0 metres, with landscaping on either side. The landscaping varies in width from 600mm to 2.45 metres, resulting in a total combined width of paved carriageway and landscaping of at least 6.0 metres, consistent with Principle 189.

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

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

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

City Wide Objectives:	24, 117, 118
City Wide PDC's:	73, 74, 184, 189(e), 220 & 221, 395, 396

There are three (3) regulated trees on the subject land, one of which (an Ironbark) has already been granted Development Authorisation for removal via a separate Application (DA 155/0697/15).

The Applicant has identified in the indicative plans that a Willow Myrtle will be required to be removed in order to facilitate the construction of the dwellings. It is considered that subject tree has minimal positive aesthetic characteristics and does not meet the qualitative criteria outlined for retention by City Wide Objective 118 as a result of being pollarded.

A second regulated tree is located within the private yard of Lot 1 and has been noted for possible retention. Whilst it is considered that the tree does not meet the qualitative criteria outlined in Objective 118, it is nevertheless a mature specimen which may be able to be retained as part of the land use application.

A juvenile street tree is located within the nature strip adjacent the proposed driveway crossover. The relocation of this tree further to the north in front of proposed Allotment 1 has been discussed with the Council's Coordinator, Horticultural & Arboricultural Services, who has advised that there are no impediments to this occurring.

The indicative Landscaping Plan demonstrates that there is reasonable opportunity for landscaping at the front of each of the proposed allotments and the street, which will enhance the amenity of the locality, in accordance with City Wide Principle of Development Control 221(a).

#### 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.

Having regard to both the orientation of the subject land and the indicative floor plans on the proposed lots, access to northern light in the winter months for both the internal living areas and the private open space areas for allotments 1-8 and the area of private open space for allotments 9-11 can be maximised in accordance with City Wide Principle of Development Control 68, which states:

*"Buildings should be sited and designed to ensure:*

- (a) that the main living areas and the private open space associated with the main living areas, face north to maximise exposure to winter sun; and*
- (b) adequate natural light and winter sunlight is available to the main internal living areas and principal private open spaces of adjacent properties."*

## Summary

The proposed land division will result in the creation of new allotments that satisfy the quantitative requirements for site areas, and where specified, frontage widths in the Medium Density Policy Area.

The example plans provided indicate that the proposed allotments can be developed with dwellings that are consistent with the Development Plan's City Wide provisions, in terms of an acceptable future built form outcome within the locality. The proposed Community Title land division will not result in any unreasonable impacts on the amenity of adjacent land.

Accordingly, it is considered that the proposed Community Title Land Division 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 Number 155/C057/16 by Rapid Property Developments to undertake a Community Title Land Division in order to create ten (10) additional allotments, on the land located at Lot 200 Briar Road, Felixstow, subject to the imposition of the following conditions and notes:

### Relevant Plans

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

- Community Land Division (Reference Number R16037RPD-02A) prepared by Richard Retallack Licensed Surveyor, received by the Council on 25 August 2016.

### Notes to Applicant

1. The postal addresses of the newly created allotments are:
  - Lot 1 = 1/23 Briar Road
  - Lot 2 = 2/23 Briar Road
  - Lot 3 = 3/23 Briar Road
  - Lot 4 = 4/23 Briar Road
  - Lot 5 = 5/23 Briar Road
  - Lot 6 = 6/23 Briar Road
  - Lot 7 = 7/23 Briar Road
  - Lot 8 = 8/23 Briar Road
  - Lot 9 = 9/23 Briar Road
  - Lot 10 = 10/23 Briar Road
  - Lot 11 = 11/23 Briar Road
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. This Development Plan Consent will lapse within 12 months of the date of this notice unless Land Division Consent and Development Approval have been obtained.
4. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Mr Garth Heynen, on behalf of the Applicant, addressed the Panel from 8:08pm until 8:21pm.

Mr Minney moved

*That Development Application Number 155/C057/16 by Rapid Property Developments to undertake a Community Title Land Division in order to create ten (10) additional allotments, on the land located at Lot 200 Briar Road, Felixstow, contains insufficient information to enable a suitably informed decision to be made and is deemed to insufficiently accord with the Development Plan such that it does not warrant consent in its current form and as such, consideration of the Application is **deferred**, to enable the Applicant to provide further information and consider amending their proposal to overcome the following concerns:*

- 1. The adequate disposal of stormwater through the existing Council infrastructure located at the rear of the subject land;*
- 2. The orientation of the front allotments to enable a dwelling(s) to be sited in such a way so as to be orientated to face Briar Road; and*
- 3. The configuration and depth of the rear allotments to ensure future dwellings can achieve a reasonable level of amenity for occupants given the close proximity and use of Patterson Reserve.*

*Seconded by Mr Duke and carried.*

## 2. STAFF REPORTS

### 2.5 DEVELOPMENT APPLICATION 155/0510/2016 – MR BJ MINNEY – 138 SECOND AVENUE, ROYSTON PARK

<b>DEVELOPMENT APPLICATION:</b>	<b>155/0510/2016</b>
<b>APPLICANT:</b>	<b>Mr BJ Minney</b>
<b>SUBJECT SITE:</b>	<b>138 Second Avenue, Royston Park (Certificate of Title, Volume: 1052, Folio: 8)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Alterations and additions to a detached dwelling and the construction of an outbuilding and verandah.</b>
<b>ZONE:</b>	<b>Residential Historic (Conservation) Zone - Joslin/Royston Park Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for alterations and additions to a detached dwelling and the construction of an outbuilding and verandah.

In September 2010, the Council considered and endorsed an amendment to the Panel's Terms of Reference, such that in circumstances where a Development Application is lodged by a Council Employee or an Elected Member, or a member of their immediate family, the Panel must determine the Application.

In this instance, one of the owners of the subject land is an Elected Member. 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:	18.29m
Depth:	58.52m
Area:	1,070.33m <sup>2</sup>
Topography:	essentially flat
Existing Structures:	detached dwelling and freestanding garage
Existing Vegetation:	a mix of trees and shrubs exist on site

#### **Locality Attributes**

Land uses:	entirely residential
Building heights (storeys):	predominantly single storey
Streetscape amenity	high as a result of the character homes, landscaped front yards and mature street trees

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

### Proposal in Detail

The Applicant proposes to construct alterations and additions to a verandah at the rear of the dwelling, involving an extension of the verandah by 1.0m and enclosing it with glass panels, creating a small sunroom. The total addition is 4.6m<sup>2</sup> in floor area.

The applicant also proposes to construct a verandah in front of the existing freestanding garage, to replace an existing pergola. The roof form of the verandah is to match the roof pitches of the existing dwelling and garage.

Finally, a small outbuilding is proposed within the rear yard. The proposed outbuilding has a maximum height of 5.0 metres, and is to be located on the northern boundary adjacent an existing boundary wall of an outbuilding located on the adjacent property at 140 Second Avenue. The proposed outbuilding is to incorporate a small mezzanine storage space. It is proposed to be clad in hardiplank.

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 Development	Development Plan Merit Assessment Quantitative Guideline
Site Area	1070.33m <sup>2</sup>	600m <sup>2</sup> (Policy Area PDC 5)
Allotment Width	18.29m	18m (Policy Area PDC 7)
Allotment Depth	58.52m	N/A
Floor Area (total footprint)	476.2m <sup>2</sup>	N/A
Site Coverage	44.49%	50% (Policy Area PDC 6)
Private Open Space	424.83m <sup>2</sup> 39.69%	214.07m <sup>2</sup> – 20% (City Wide PDC 225)
Street Set-back	7.8m	2m difference or average setback (RHCZ PDC 10)
Side Set-back	Nil & 1m	N/A
Rear Set-back	23.72m	N/A
Car Parking Provision	3 undercover & 1 visitor	1 undercover & 1 visitor (Table NPSP/8)
<b>Verandah</b>		
Coverage	29.45m <sup>2</sup>	60m <sup>2</sup> or 10% of site (City Wide PDC 213)
Post Height	2.4m	3m (City Wide PDC 214)
Roof Height	4m	5m (City Wide PDC 214)
<b>Outbuilding</b>		
Coverage	9m <sup>2</sup>	60m <sup>2</sup> or 10% of site (City Wide PDC 213)
Roof Height	5m	5m (City Wide PDC 214)
Mezzanine Level	2.4m	N/A
<b>Sunroom</b>		
Building Area	4.8m <sup>2</sup>	N/A
Post/Wall Height	2.6m	N/A



*\* 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 the Development Regulations 2008. Schedule 9, Part 1, 2 (b) and (d) describe alterations and additions and the combination of ancillary structures such as a verandah and outbuilding as category 1 development.

As such, no public notification was required.

### **State Agency Consultation**

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

### **Discussion**

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

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

#### Land Use and Density

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

City Wide Objectives:	55
Residential Historic Conservation Zone Objectives:	5
Residential Historic Conservation Zone PDC:	7

Residential Historic Character Zone PDC 7 states:

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

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

The proposed sunroom addition is consistent with Principle of Development Control 7(b), while the verandah and outbuilding are consistent with and Principle of Development Control 7(c) The proposal is therefore appropriate from a land use 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:

City Wide Objectives:	58
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City Wide PDC's: 209, 213, 214,  
Residential Historic Conservation Zone PDC: 31

City Wide Principle of Development Control 209 states:

*"Garages, carports and outbuildings should:*

- (a) be domestic in size and nature;*
- (b) be ancillary to and in association with a dwelling or dwellings;*
- (c) not dominate the appearance of the dwelling from the street;*
- (d) not detract from the visual appearance of the site as viewed from neighbouring properties due to their size and location relative to property boundaries and the siting of adjacent dwellings; and*
- (e) not project forward of the main face of the associated dwelling.*
- (f) not result in unreasonable overshadowing of, or visual impact from, habitable room windows of adjacent dwellings; and*
- (g) not result in a significant loss of private open space."*

The outbuilding and the verandah are consistent with all elements of City Wide Principle of Development Control 209. In particular, the proposed structures:

- are domestic in size and nature,
- are ancillary to the dwelling..
- are located at the rear of the property, so as to not dominate the appearance of the dwelling from the street;
- are not likely to detract from the visual appearance of the site as viewed from neighbouring properties. In relation to the proposed outbuilding on the side boundary, the existing structure on the adjoining property will prevent the occupants of the adjoining property from viewing the outbuilding;
- will not project forward of the main face of the dwelling;
- will not result in excessive overshadowing (refer to the relevant preceding section of this report for more details); and
- will not result in a significant loss of private open space.

City Wide Principle of Development Control 213 states:

*"The floor area of a garage, carport or outbuilding should generally not exceed 60 square metres. A greater floor area may be considered where it does not exceed 10% of the total site area on which the associated dwellings is situated."*

The verandah and outbuilding are both well under the 60m<sup>2</sup> of floor area stated in City Wide Principle of Development Control 213, with areas of 29.45m<sup>2</sup> and 9m<sup>2</sup> respectively.

City Wide Principle of Development Control 214 states:

*"The external wall height of a garage, carport or outbuilding should generally not exceed 3 metres and the overall height should not exceed 5 metres."*

The proposed verandah post height is dimensioned as 2.4m and the roof is set to match the existing garage and dwelling in pitch, which has an overall height of less than 5 metres.

The proposed outbuilding has an overall height of 5 metres, with a wall height of 3.1 metres. Whilst this is slightly greater than the 3.0m wall height prescribed by City Wide Principle of Development Control 207, it is located adjacent to the wall of the outbuilding on the neighbouring property and therefore of little consequence.

Residential Historic Character Zone Principle of Development Control 31 states:

*"Development of carports and garages or other outbuildings should, without necessarily replicating the historic detailing of the surrounding Heritage Places or Contributory Items:*

- (a) be set behind the main face of the dwelling and may be freestanding;*
- (b) be designed and sited to ensure garage doors do not visually dominate the primary or secondary street frontage of the dwelling;*
- (c) not extend design elements such as verandahs, roof forms or historic detailing at the same alignment as the main face of the principal building;*

- (d) *exhibit architectural and roof form designs, and exterior finishes to enhance and not diminish the historic character of the locality; and*
- (e) *not incorporate undercroft parking or other parking or access arrangements that are not in keeping with the historic character of the area.*

The proposed building works are to be located behind the main face of the dwelling and comprise roof pitches and materials that are complementary to surrounding development within the locality.

#### Setbacks and Site Coverage

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

City Wide PDC:	208
Residential Historic Conservation Zone PDC:	12
Joslin/Royston Park Policy Area PDC:	6

City Wide PDC 208 states:

*“Site coverage should ensure that sufficient space is provided for:*

- (a) front, side and rear boundary setbacks that contribute to the desired character of the area;*
- (b) the required level of private open space and landscaping;*
- (c) pedestrian and vehicle access and vehicle parking;*
- (d) domestic storage;*
- (e) outdoor clothes drying;*
- (f) rainwater tank; and*
- (g) convenient storage of household waste and recycling receptacles.”*

Joslin/Royston Park Policy Area PDC 6 states:

*“Buildings should not cover more than 50 per cent of the total area of the site.”*

Residential Historic Conservation PDC 12 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 proposed works result in a site coverage of 44.49% and are therefore in accordance with City Wide Principle of Development Control 208(a). The resultant extent of site coverage is also compatible with the site coverage of buildings in the locality, consistent with Principle of Development Control 12.

#### Overshadowing/overlooking

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

City Wide PDC's:	207, 235
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All aspects of the proposed development are single storey, with overshadowing contained within the subject land. With respect to the carport, the level of overshadowing experienced by the adjoining dwelling will not be exacerbated as a result of the new building as it replaces a shade cloth structure in a similar location.

#### Private open space

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

City Wide PDC's:	222, 223, 224, 225.
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In regard to City Wide Principles of Development Control 222, 223 and 224 the current level of private open space is only slightly decreased.

City Wide PDC 225 states:

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

- (a) a dwelling with a site area of 250 square metres or greater, 20 per cent of the site area should be private open space, of which one portion should be equal to or greater than 10 per cent of the site area and have a minimum dimension of 4 metres; or*
- (b) a dwelling with a site area of less than 250 square metres, a minimum of 35 square metres should be private open space, of which one portion should have an area of 16 square metres and a minimum dimension of 4 metres; and*
- (c) in either of the circumstances described above, have a maximum gradient of 1 in 10.”*

The subject land has 424.83m<sup>2</sup> of private open space, which equates to 39.7% of the total site area, which is well in excess of the minimum stated in City Wide Principle of Development Control 225.

#### 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 Objectives:	51
City Wide PDC's:	169, 170, 171

The subject land is not within a recognised flood affected area.

The proposed outbuilding and verandah will not alter the existing ground level. The proposed sunroom addition has a finished floor level the same as the existing dwelling, which is slightly elevated from natural ground level and is considered appropriate.

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

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

City Wide PDC:	220
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There are no regulated or significant trees on the subject land or adjacent land. Mature trees within the subject property and adjacent properties are all located at the front of the dwellings well away from the proposed developments.

City Wide PDC 220 states:

*“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.”*

The proposed development is considered to be consistent with City Wide Principle of Development Control 220. The verandah is being developed on land which is currently impermeable, so is not taking away from a permeable landscaped area. One (1) mature non-regulated tree is proposed to be removed to facilitate the proposal.

#### Environmental Sustainability

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

City Wide Objectives:	23,
City Wide PDC's:	67, 68

City Wide Principle of Development Control 67 states:

*“Development should provide for efficient solar access to buildings and open space all year round.”*

City Wide Principle of Development Control 68 states:

*“Buildings should be sited and designed to ensure:*

- (a) that the main living areas and the private open space associated with the main living areas, face north to maximise exposure to winter sun; and*
- (b) adequate natural light and winter sunlight is available to the main internal living areas and principal private open spaces of adjacent properties.”*

The proposed development will not impede solar access to the existing or adjacent dwellings, or their private open space. The proposed development is therefore consistent with City Wide Principle of Development Control 67. The proposed glass sunroom, provides for an increased level of sunlight to the dwelling, and provides a space for use during winter that will provide increased warmth and reduce artificial heating needs. Shading of the sunroom in summer is proposed via external blinds, to provide some relief from the summer sun, reducing the need for artificial cooling, consistent with City Wide Principle of Development Control 68.

### **Summary**

The proposed verandah and outbuilding are ancillary to the existing dwelling and will improve the amenity for the dwelling's occupants. The proposed sunroom addition is small in scale and will also improve the amenity of the property, especially during the winter months. The bulk and scale of the structures complements the existing dwelling and other structures within the locality.

The resulting site coverage and private open space are considered to be acceptable and the provision of on-site car parking is maintained and potential for an additional undercover park is created.

Whilst the proposed verandah and outbuilding are sited on the neighbouring property boundaries, they are located abutting neighbouring structures, which reduce any potential impact. The proposed structures will not have any adverse impact on the character of the streetscape.

The development is compatible with the heritage character of the contributory item. The verandah roof is the same pitch as the garage and dwelling. The sunroom is small in scale and the outbuilding is freestanding and at the rear of the property.

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

### **RECOMMENDATION**

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/0510/16 by Mr B J Minney to construct a verandah attached to the existing dwelling and garage, freestanding outbuilding and sunroom addition located at 138 Second Ave, Royston Park, subject to the following requirements, conditions and notes:

#### Relevant Plans

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

- Plans, elevations and details, prepared by B J & M J Minney, received by the Council on 22 August 2016.

### Conditions

1. All stormwater from the verandah and additions 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 and water table or a Council underground pipe drainage system.

### 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.
7. The verandah, herein approved, shall not be enclosed on any side with any solid material, unless the further development approval of the Council is obtained.

Mr Minney declared a conflict of interest in this matter as he is the Applicant. Mr Minney left the meeting at 8:36pm.

*Mr Duke moved*

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/0510/16 by Mr B J Minney to construct a verandah attached to the existing dwelling and garage, freestanding outbuilding and sunroom addition located at 138 Second Ave, Royston Park, subject to the following requirements, conditions and notes:*

### Relevant Plans

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

- *Plans, elevations and details, prepared by B J & M J Minney, received by the Council on 22 August 2016.*

### Conditions

1. *All stormwater from the verandah and additions 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 and water table or a Council underground pipe drainage system.*

### 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.*
7. *The verandah, herein approved, shall not be enclosed on any side with any solid material, unless the further development approval of the Council is obtained.*

*Seconded by Ms Moore and carried.*

*Mr Minney returned to the meeting at 8:36pm.*

**2. STAFF REPORTS**

**2.6 DEVELOPMENT APPLICATION 155/0372/2016 – MR J SEMETS – 74A FIFTH AVENUE, ST PETERS**

<b>DEVELOPMENT APPLICATION:</b>	<b>155/0372/16</b>
<b>APPLICANT:</b>	<b>Mr J Semets</b>
<b>SUBJECT SITE:</b>	<b>74A Fifth Avenue, St Peters (Certificate of Title - Volume: 5804, Folio: 868)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Demolition of an existing dwelling and the construction of a single storey detached dwelling with an associated outbuilding (games room), swimming pool, retaining walls, fencing and landscaping</b>
<b>ZONE:</b>	<b>Residential Historic (Conservation) Zone – The Avenues Policy Area - Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

**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 that was refused by the Panel at its meeting held on 18 July 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. 155/0372/16) was lodged on 31 May 2016 for the demolition of an existing dwelling and the construction of a single storey detached dwelling with an associated outbuilding (games room), swimming pool, retaining walls, fencing and landscaping at 74A Fifth Avenue, St Peters.

The Panel considered the Application at its meeting held on 18 July 2016 and determined to refuse the Application for the following reasons:

1. *The proposal is at odds with the Desired Character Statement for the Residential Historic (Conservation) Zone, as the proposed dwelling is a replica of historic buildings in the Zone.*

*The Desired Character Statement for the Residential Historic (Conservation) Zone encourages development that will emulate the general scale and form of traditional building elements such as fences, verandahs and hipped and gabled roofs, instead of attempting to reproduce the finer architectural detail of the historic building stock.*

*The proposed dwelling replicates the general form, roof forms, verandah and fence detail and all of the applied decorative detail of original East Adelaide Return Verandah Villas, which are typically located further south in the Zone, rather than within the locality of the subject land.*



*The proposed design approach deceives the casual observer to the true period of construction, particularly given that the rear portion of the dwelling has been designed to appear as a contemporary addition to an original home.*

A copy of the relevant section of the Minutes of the Panel meeting held on 18 July 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**.

A summary of the proposed amendments is provided below:

- the applied replica architectural detail has been removed from the design, including the finials, the ornate lacework and the verandah post mouldings;
- the quoin detail and the mouldings around the windows have been simplified; and
- the proposed ornate detailed front fence has been deleted from the Application (the Applicant is exploring options for a simplified front fence and will lodge a separate Application subject to the support of the Council's Heritage Advisor).

## **Discussion**

The Applicant advised Council staff that the preference was for a replica dwelling with all of the applied detail, which is why the Application was not amended prior to the original DAP meeting. However, having presented the applied detail version to the Panel and receiving refusal, the Applicant has agreed to remove all of the ornate detail in order to obtain Consent for the dwelling.

The Application has now been amended in accordance with the Council Heritage Advisor's original comments by removing the overt detail and applied decoration, whilst maintaining the proposed form.

The amended plans have been reviewed by the Council's Heritage Advisor and are considered to be acceptable within the context of the locality.

The proposed dwelling is now considered to complement the original character homes within the locality, without attempting to reproduce the finer architectural detail of the historic building stock, as stated within the Desired Character Statement for the Residential Historic (Conservation) Zone.

It remains the Applicant's intention to construct a front fence that complements the dwelling and other fencing within the locality. The front fence has been removed from the proposed development on the basis that a separate Application will be submitted once a design has been agreed with the Council's Heritage Advisor.

All of the other aspects of the proposed development remain unchanged.

## **Summary**

The proposed amendments are considered to satisfy the Development Assessment Panel's original reasons for refusal.

The simplified version of the dwelling will continue to provide a good fit in the context of the streetscape and the locality, in terms of its overall form, while the removal of the applied detail will assist in distinguishing the proposed dwelling from the original versions that are located further south within the Zone.

It is considered that the amended proposal now sufficiently accords 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. 155/0372/16, by Mr J Semets, to demolish an existing dwelling and to construct a single storey detached dwelling with an associated outbuilding (games room), swimming pool, retaining walls, fencing and landscaping on the land located at 74A Fifth Avenue, St Peters, 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:

- the plans, elevations and details prepared by Janis Semets Design, Project No. 12.035, Issue A, received by the Council on 16 August 2016; and
- the site layout plan detailing finished floor levels, stormwater disposal and retaining walls, prepared by Intrax Engineers, Reference No. 75069, Revision A, received by the Council on 31 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. In all instances, the stormwater drainage system shall be directly connected into either the Fifth Avenue kerb & water table or a Council underground pipe drainage system.
2. Surface water from the paved areas shall be collected and discharged to Fifth Avenue via pump and sump arrangements in accordance with the following requirements:

#### Pump and Sump Configuration

- a) the 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;
  - b) where the pump system relies on surface storage for flood peaks, ponding of water shall only occur for events having a 1 in 5 year ARI or greater;
  - c) sufficient storage (above or below ground) shall be provided to safely contain runoff from the contributing catchments for a 10 year, 30 minute duration rainfall event in the event of power failure; and
  - d) pump systems shall incorporate two pumps each capable of discharging the design flow (to cater for the failure of one of the pumps).
3. The existing crossover invert that is located adjacent to the north-eastern side property boundary shall be reinstated to kerb and gutter prior to the occupation of the dwelling, to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the owner/applicant.
  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 plants located 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.

Mr Minney moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, the Environment Resources & Development Court be advised that Development Application No. 155/0372/16, by Mr J Semets, to demolish an existing dwelling and to construct a single storey detached dwelling with an associated outbuilding (games room), swimming pool, retaining walls, fencing and landscaping on the land located at 74A Fifth Avenue, St Peters, 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:*

- *the plans, elevations and details prepared by Janis Semets Design, Project No. 12.035, Issue A, received by the Council on 16 August 2016; and*
- *the site layout plan detailing finished floor levels, stormwater disposal and retaining walls, prepared by Intrax Engineers, Reference No. 75069, Revision A, received by the Council on 31 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. In all instances, the stormwater drainage system shall be directly connected into either the Fifth Avenue kerb & water table or a Council underground pipe drainage system.*
2. *Surface water from the paved areas shall be collected and discharged to Fifth Avenue via pump and sump arrangements in accordance with the following requirements:*

Pump and Sump Configuration

- a) *the 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;*
  - b) *where the pump system relies on surface storage for flood peaks, ponding of water shall only occur for events having a 1 in 5 year ARI or greater;*
  - c) *sufficient storage (above or below ground) shall be provided to safely contain runoff from the contributing catchments for a 10 year, 30 minute duration rainfall event in the event of power failure; and*
  - d) *pump systems shall incorporate two pumps each capable of discharging the design flow (to cater for the failure of one of the pumps).*
3. *The existing crossover invert that is located adjacent to the north-eastern side property boundary shall be reinstated to kerb and gutter prior to the occupation of the dwelling, to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the owner/applicant.*
  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 plants located 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.*

*Seconded by Mr Dottore and carried.*

**3. OTHER BUSINESS**

Nil

**4. CONFIDENTIAL REPORTS**

Nil

**5. CLOSURE**

The Presiding Member declared the meeting closed at 8:45pm.

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