

Development Assessment Panel Minutes

19 December 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
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VENUE Mayors Parlour, Norwood Town Hall

HOUR 7.00 PM

PRESENT

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

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

APOLOGIES Nil

ABSENT Nil

1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE DEVELOPMENT ASSESSMENT PANEL HELD ON 21 NOVEMBER 2016

Mr Dottore moved that the minutes of the Meeting of the Development Assessment Panel, held on 21 November 2016 be taken as read and confirmed,

Seconded by Mr Minney and carried.

2. STAFF REPORTS

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

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/573/2016 – DIMENSION DESIGN STUDIO – 183 O G ROAD, MARDEN

DEVELOPMENT APPLICATION:	155/573/16
APPLICANT:	Dimension Design Studio
SUBJECT SITE:	183 O G Road, Marden (Certificate of Title - Volume: 5806, Folio: 798)
DESCRIPTION OF DEVELOPMENT:	Demolition of a single-storey detached dwelling and associated outbuildings, and the construction of a two-storey residential flat building comprising five (5) dwellings and an office (at upper level only) with associated car parking and landscaping
ZONE:	Residential Zone – Medium Density Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)
PUBLIC NOTIFICATION CATEGORY:	Category 3

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application to demolish a single-storey detached dwelling and associated outbuildings, and to construct a two-storey residential flat building comprising five (5) dwellings and an office (at upper level only) with associated car parking and landscaping.

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

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

Background

The Applicant lodged Community Title Land Division Application Numbers 155/C063/16 and 155/C062/16. These two (2) Community Title Land Division Applications were determined by Council staff under delegated authority, pursuant to Clause 9.1 of the Panel's Terms of Reference, as the land divisions met the relevant quantitative Development Plan criteria with respect to site area and site frontage. The land division applications were determined to be sufficiently in accordance with the Development Plan to merit consent and were granted Development Plan Consent on 13 December 2016. Development Approval has not yet been issued for the land divisions.

If the Panel was to determine that Development Application 155/573/16 does not merit consent in its current form and subsequent changes to the built form were proposed to overcome the Panel's concerns, which in turn necessitated amendments to the land division, it would be necessary for the Applicant to first seek a variation to the Development Plan Consent which has been issued to the land division.

Copies of the land division plans which have been granted Development Plan Consent are contained in **Attachment A**.

Subject Land Attributes

Shape:	regular
Frontage width:	21.26 metres
Depth:	57.15 – 57.28 metres
Area:	1216m ²
Topography:	620mm average fall from front to rear
Existing Structures:	detached dwelling and outbuildings
Existing Vegetation:	a number of mature trees and shrubs within both the front and rear yard areas

The subject land contains a single storey Federation style dwelling, likely to have been constructed circa 1900's. There are no regulated trees on the subject land. The land is serviced by two (2) crossovers.

Locality Attributes

Land uses:	predominantly residential
Building heights (storeys):	both single-storey and two-storey

The south-western side of OG Road is characterised by residential development predominantly in the form of residential flat buildings, the majority of which were constructed in the 1960's - 1970's.

The north-eastern side of O G Road is characterised by a mix of residential development (up until the junction of Turner Street and O G Road), a public swimming pool complex (ie. Payneham Swimming Centre) and a two-storey office complex located at the intersection of O G Road and Payneham Road.

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

Proposal in Detail

The Applicant proposes to demolish the existing single-storey detached dwelling and associated outbuildings, and construct a two-storey residential flat building comprising five (5) dwellings and an office (at upper level only) with associated car parking and landscaping. The proposed office component of the development is to front O G Road, with car parking below and the five (5) dwellings situated behind.

The proposed two-storey form of the building is distinctly contemporary, with the office incorporating framed-out Alucabond cladding (grey colour) and the dwellings also incorporate framed-out feature facade elements along with more traditional pitched roofs and a range of materials. The proposed dwellings have grey coloured colorbond roofs, rendered hebel wall cladding (colour light grey), exposed brickwork and Scyon Matrix cladding (painted time finish) to the facades, Scyon Axon cladding (dark grey) to the rear elevations and black aluminium windows. The garages for each dwelling are to incorporate panel lift doors with a dark grey colour finish.

The proposed office area is serviced by both stair and lift entry from the at-grade car parking area below. The overall open-plan office area is 155m² in floor area. Five (5) car parking spaces, along with bicycle/motorcycle parking provision is also proposed underneath the office area at ground level.

All of the dwellings contain a combined kitchen/meals/family area, a laundry, a toilet and a garage at ground level, with a secondary living area, three (3) bedrooms and two (2) bathrooms at the first floor level. All of the five (5) dwellings have covered verandah/alfresco areas within their private open space, along with clothes drying facilities and the provision of a 2,000 litre rainwater tanks.

Each of the proposed dwellings have two (2) exclusive car parking spaces, including one (1) secure space within a garage and one (1) covered unsecure space beneath the first floor overhang. The Applicant has proposed that three (3) of the five (5) car parking office spaces are to be accessible for residential visitor car parking "after hours" when the office is not operating. The approved land division caters for this arrangement, with those car parking spaces being designated as common property. More specifically, clause 7.3 of the Community Scheme Description of Land Division 155/C062/16 states that *"the three (3) southernmost parking spaces within Primary Community Lot 100 shall be designated for use outside of business hours by the Secondary Community Lot owners and their visitors"*.

The proposed development includes a landscaping scheme that proposes small trees, shrubs and ground covers including Manchurian Pears, Box Hedging/'Screen Master' Pittosporum and grass covers.

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

TABLE 1 (part a): DEVELOPMENT DATA:

Consideration	Office	Dwelling 1 - 4	Dwelling 5	Development Plan Merit Assessment Quantitative Guideline
Site Area	236m ²	119m ²	197m ²	No minimum
Site Width	15.3m	7.8m	11.5 -12.1m	18m (total development site frontage)
Site Depth	13.7 – 14.7m	15.2m	15.2 – 17.3m	N/A
External Wall Height*	6.9m (of which 4.2m is "void" area)	5.8m	6.0-6.5m	N/A
Maximum Overall Height (to roof apex)*	6.9m	7.3m	7.3m	Three-storey
Floor Area (total)	155m ²	170m ²	181m ²	Dwellings - 100m ² minimum internal living
Floor Area (footprint)	N/A	83m ²	98m ²	N/A
Site Coverage	N/A	64%		70% overall residential
Private Open Space	N/A	33.2m ² 61% uncovered	80m ² 83% uncovered	35m ² per dwelling 50% uncovered
Street Set-back	4.0 – 4.1m	N/A	N/A	4.0m
Side Set-back (ground level)	2.5m & 6.0m	2.5m & 6.0m	2.5m & 6.0m	2.5m
Side Set-back (upper level)	4.5m – 6.0m	4.5m – 6.0m	4.5m – 6.0m	4.5m
Rear Set-back	N/A	N/A	N/A	2.5m – ground 4.5m - first floor
Car Parking Provision	5 spaces	2 spaces	2 spaces	Residential - 2 spaces per dwelling plus 1 visitor space for every 2 dwellings. Office – 4 spaces per 100m ² (ie. 6 spaces)

* 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 3 form of development.

Four (4) representations were received (opposing the development) in response to this notification, a copy of which is contained in **Attachment C**. All of the four (4) representors live and/or own a dwelling unit within the residential flat building located directly to the south at 185 OG Road. The key issues raised by representors are, in summary:

- the proposed building will unreasonably shadow and preclude solar access to both the rear yard and internal living areas of the units at 185 O G Road.
- the overall height and proximity of the proposed building will compromise the living amenity of the occupiers of the existing units at 185 O G Road.

Mr Garth Heynen, of Heynen Planning Consultants, has responded to the representations on behalf of the Applicant. A copy of M Heynen response is contained in **Attachment D**.

A summary of the response is provided below:

- the north facing windows of Units 1/185 and 2/185 O G Road will receive a majority of direct sunlight between 9:00am – midday.
- the larger windows associated with these two (2) units are situated on the southern and eastern elevations and not the northern elevations.
- the extent of shadowing that is likely to be generated by the proposed development in relation to 1/185 O G Road, when compared to the existing situation is essentially unchanged.
- the location of the proposed common driveway area has also assisted in creating greater separation of the proposed building from the neighbouring units at 185 O G Road.
- the overall proposed setbacks provide a more than adequate sense of space from neighbouring properties.

State Agency Consultation

The Application was referred to the Commissioner of Highways pursuant to Schedule 8 of the *Development Regulations 2008*, as the proposed development includes the alteration of an access point to an arterial road (Payneham Road). The Commissioner of Highway's response is discussed in detail under the heading *Car parking/access/manoeuvring* later in the report.

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:

Medium Density Policy Area (PA) Desired Character Statement

Medium Density PA Objectives: 1
Medium Density PA PDC's: 5, 6

Residential Zone Desired Character Statement

Residential Zone Objectives: 1, 2
Residential Zone PDC's: 1, 3

City Wide Objectives: 1, 2, 7, 8, 10, 26, 55-57
City Wide PDC's: 1-4, 80, 82

With respect to the residential component of the proposed development, the Desired Character Statement for the Medium Density Policy Area states (in part):

“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.”

The five dwellings form a residential flat building, which is an anticipated land use and built form within the Medium Density Policy Area of the Residential Zone.

Medium Density Policy Area Principle of Development Control 5 sets out the minimum site area and frontage requirements for new dwellings in the Policy Area. In relation to residential flat buildings, Principle 5 states that there is no minimum site area per dwelling, provided that the development site has a minimum frontage of 18.0 metres.

In this instance, the subject land has an allotment frontage width of 21.26 metres, consistent with Medium Density Policy Area Principle of Development Control 5.

Medium Density Policy Area Principle of Development Control 6 states that dwellings contained within a residential flat building with three (3) bedrooms should have a minimum floor area per dwelling of 100m². The proposed floor areas range between 170m² (for Dwellings 1 – 4) and 181m² (for Dwelling 5), which is consistent with Medium Density Policy Area PDC 6.

The other considerations referred to in the Desired Character Statement (private open space, communal space, car parking and the design of the built form) are discussed in greater detail under their relative headings later in the report. However, in summary, those considerations are considered to be consistent with the relevant Development Plan policies.

In terms of the office component, the Desired Character Statement for the Residential Zone states:

“along arterial roads, some opportunity for the establishment of non-residential uses will be provided through the conversion of existing dwellings, small-scale purpose built buildings and on the ground floor of mixed-use buildings in close proximity to centres”

Residential Zone Principle of Development Control 15 further defines the opportunities outlined in the Desired Character Statement, by designating offices as non-complying in the zone other than:

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

Accordingly, in relation to the subject land, which is located within the Medium Density Policy Area, the Development Plan anticipates either an office up to 250m² with no caveat that it be on the ground level of a mixed use building, or between 250m² and 500m², provided that it is on the ground level of a mixed use

building. The proposed 155m² upper level office is therefore consistent with the Residential Zone policies from a land use perspective.

The proposed office is consistent with City Wide Principle of Development Control 82 which states that non-residential development in residential zones should not compromise the living amenity of adjacent and nearby residential occupiers. The office is relatively small in scale and activities within the office are unlikely to result in significant noise or other impacts on the occupants of adjacent dwellings. The proposed office also provides for a “buffer” between the traffic noise on OG Road and the proposed dwellings behind.

From a land use perspective, both the dwellings (in the form of a residential flat building) and the office are considered to be acceptable within the Medium Density Policy Area of the Residential Zone.

Streetscape/bulk/scale/height/character

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

Medium Density PA Desired Character Statement

Medium Density PA Objectives: 2, 4
Medium Density PA PDC's: 1, 3, 7

Residential Zone Desired Character Statement

Residential Zone Objectives: 3
Residential Zone PDC's: 6, 8

City Wide Objectives: 18, 19 & 20
City Wide PDC's: 28-32, 37, 39, 197

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

“Building heights within this part of the Policy Area (ie. Marden District Centre) will be up to two (2) storeys, however, along arterial road frontages and on sites fronting Broad Street, Marden and Marden Road (south of Kent Street), development of up to three (3) storeys will be considered where an appropriate built form transition can be provided to adjacent residential land outside of the Policy Area and in the case of arterial roads, where it comprises a mix of residential and non-residential land uses..”

Medium Density Policy Area Principle of Development Control 7 states that three-storey development is envisaged within the Policy Area where a site fronts an arterial road. The proposed overall building height of two-stories is therefore consistent with the anticipated height and less than the maximum height specified in both the Desired Character Statement and Medium Density Policy Area PDC 7.

The proposed building form is larger than adjacent and nearby residential development located on the south-western side of O G Road within the locality, which is predominantly single storey.

The current Medium Density Policy Area provisions were introduced on 2 July 2015 to provide opportunities for a higher density of development, facilitated by two and three storey development. In this policy context, the proposed scale of the development is considered to be appropriate, notwithstanding that it will constitute a ‘first intrusion’ within the locality.

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

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

An exception to this 'suburban' character will be found along arterial roads, especially in close proximity to centres, where the introduction of commercial development in small-scale purpose built buildings and mixed-use buildings will develop a more 'urban' character. The front set-back of buildings along these roads will be closer to the street edge, while still allowing sufficient room for landscaping.

A variety of facade treatments will be permitted in the zone, allowing for individual preferences, however overall proportions of buildings as they present to the street, will be balanced and in accordance with good architectural practice, so as to provide a pleasant streetscape."

The character of the locality along O G Road differs with one side of the road to the other comprising a mix of building styles including detached dwellings and residential flat buildings on the western side and predominantly contemporary buildings in the form of the Payneham Swimming Centre complex and the two-storey Hewlett Packard office building (both of which are separated by large sections of open space) on the eastern side.

The outwardly rectilinear design appearance of the two-storey building is distinctly contemporary in its form and finishes, contributing to an 'urban' character, as is promoted in the Desired Character statement for arterial road frontages. The finishes and articulation to the overall built form are considered to provide visual interest consistent with City Wide Principle of Development Control 30 and the proposed building materials (ie. face brickwork, rendered walls and simple colorbond hipped roof forms), complement the existing residential urban character of within the immediate area as called for by City Wide Principle of Development Control 29.

The presentation of the development to O G Road is, however, somewhat compromised by virtue of having car parking at ground level. A ground-level dwelling or office in this location, fronting OG Road, would have resulted in greater activation/connectivity with the street frontage. This is a negative aspect of the proposal. That said, the proposed front fence and landscaping across the front boundary, are considered to result in a reasonable street interface at ground level.

On balance, the proposed development is considered to be acceptable from a bulk, scale and streetscape perspective.

Setbacks and Site Coverage

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

Medium Density PA PDC's: 7

City Wide PDC's: 50, 202, 203, 208

Medium Density Policy Area Principle of Development Control 7 states that development fronting an arterial road within the Medium Density Policy Area should be designed with a minimum setback of 6.0 metres, however, a closer set-back may be provided for mixed- use buildings on arterial roads that comprise non-residential uses at ground level.

In addition to this provision, City Wide Principle of Development Control 50 states:

The setback of buildings should:

- (a) be similar to, or compatible with, the setbacks of buildings on adjoining land and the predominant setback of buildings in the locality, unless otherwise specified in the relevant Zone and/or Policy Area;*
- (b) contribute positively to the existing or desired streetscape character of the locality; and*
- (c) not result in or contribute to a detrimental impact upon the function, appearance or character of the locality.*

The proposed office component (located at upper level) of the development is set back 4.0 metres from the O G Road frontage. The adjacent detached dwelling at 181 O G Road is set back in the order of 35 metres from O G Road. The single-storey residential flat building is set back 7.7 metres to the eastern elevation of Unit 1/185 O G Road and an attached open-sided carport associated with Unit 1 is set back 2.5 metres from O G Road.

Front setbacks of existing buildings within this portion of O G Road vary considerably as shown on **Attachment A1**. Beyond the two (2) previously mentioned directly neighbouring properties facing OG Road, the detached dwelling at 179 O G Road is setback approximately 4.5 metres and the residential flat building at 187 O G Road is setback approximately 6.5 metres. On the other side of O G Road, the building associated with the Payneham Swimming Centre located at the intersection of Turner Street and O G Road, is setback in the order of 2.5 metres.

Notwithstanding that the office component is not located at ground level, the proposed development is considered to be relatively consistent with Medium Density Policy Area Principle of Development Control 7, in that a lesser front setback of 6.0 metres is anticipated and is also consistent with City Wide Principle of Development Control 50, which anticipates buildings being set back from public roads at a lesser distance if the policy area specifies this and does not compromise the appearance and character of the locality.

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

In terms of the northern rear elevations of the five (5) dwellings, the ground floor setback satisfies Principle 202 as rear walls are setback between 2.5 metres (ie. Dwelling 5) and 3.5 metres (ie. Dwellings 1 – 4). The covered alfresco/verandah areas are closer than 2.5 metres however, this is not at odds with Principle 202, as they are not integrated into the dwellings.

The upper level setbacks of Dwellings 1 – 5, when measured to their rear elevations is 4.5 metres to the external walls and 3.7 metres to the eaves. The upper level setback of Dwelling 5, when measured from the external walls, from the existing rear western boundary ranges between 4.0 – 4.7 metres (or an average of 4.4 metres) and between 3.4 – 4.0 metres (or an average of 3.7 metres).

Whilst the upper level setbacks for the five (5) proposed dwellings does not accord with Principle 203, the visual outlook for the occupiers at 181 O G Road and 30 Wear Avenue is not considered to be unreasonably compromised. In the case of 181 O G Road, the dwelling on this property is set well back on the land with the rear portion of the dwelling and its primary private open space situated further back than the western elevation of Dwelling 5. As such, the occupiers of 181 O G Road do not have a direct outlook from the living areas of the dwelling nor the rear private open space area onto the proposed development.

In addition to this, a stand of mature trees and well-established landscaping is situated along the southern side boundary of 181 O G Road (ie. between the detached dwelling and the front property boundary) which in turn, is considered to soften the visual appearance of the proposed two-storey development when viewed from the large front yard area of this property. With respect to the occupiers at 30 Wear Avenue, approximately in the order of 34 metres of separation currently exists from the rear verandah area of the detached dwelling to the rear western property boundary of the subject land. In this context, the level of separation is considered sufficient to ensure that the visual outlook for the occupiers of 30 Wear Avenue will not be unreasonably impaired.

In terms of the upper level setbacks of the dwellings from the southern side boundary, the proposed development accords with City Wide Principles of Development Control 203, with the minor exception of the facade feature of Dwellings 5, which is only setback 4.1 metres. That said, this portion of wall only extends for a width of 4.0 metres and incorporates a dark grey muted colour, such that its impact upon the occupiers at Unit 6/185 O G Road will be minimised.

In terms of site coverage, Medium Density Policy Area Principle of Development Control 7 states that the site coverage for dwellings other than detached and semi-detached dwellings (and ancillary structures) within the Policy Area should not exceed 70%. The site coverage of the proposed dwellings varies between 49.7% for Dwelling 5 and 69.78% for Dwellings 1 – 4. Conversely, the overall site coverage for the residential flat building equates to 64%. Accordingly, the proposal satisfies Policy Area Principle of Development Control 7.

Overshadowing/Overlooking

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

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

City Wide Principle of Development Control 196 states:

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

The Applicant has provided shadowing diagrams, to demonstrate the extent of overshadowing that would result from the proposed development during the winter solstice. In relation to the two directly adjacent properties at 30 Wear Avenue and the existing residential flat building containing five (5) units/dwellings at 185 O G Road, the diagrams show:

- the rear private open space area at 30 Wear Avenue would be predominantly overshadowed at 9.00am whereas from midday onwards, negligible to no shadowing would occur.
- with respect to the units, between 9:00am and midday, overshadowing would occur to the rear yard areas of 3/185 and 4/185 O G Road and to a lesser extent 5/185 O G Road.
- between midday and 3.00pm, overshadowing would occur to the rear yard areas of all five (5) units.

The Applicant has also provided shadow diagrams in elevation view, which demonstrate that during the winter solstice, the existing fencing along the southern side boundary of the subject land shadows the most of the existing rear yard area and up to approximately one-third of the north-facing windows of the units at 185 O G Road throughout the day.

In the case of the rear yards of the units at 185 O G Road, these are 'service yards', accessed from the laundry's of the units. The units also have private front yards located on the southern side. The slight increase in overshadowing of the rear private open space areas resulting from the proposal (given that they are mostly overshadowed already by boundary fencing in the winter solstice) is considered reasonable in this context.

The proposal is consistent with Principle 195, which 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).”

The overshadowing diagrams show that the windows in the rear of the units at 185 OG Road (ie. kitchen, bathroom and laundry windows) will receive at least 3 hours of direct sunlight (between 9:00am and 12:00midday) over a portion of their surface. These are not main living area windows and hence, the 50% portion requirement does not apply.

A copy of the shadow diagrams is contained in **Attachment B5 – B7**.

In terms of visual privacy from the proposed dwellings, all of the side and rear facing upper level windows either incorporate 1.7 or 1.8 metre high sill levels or contain fixed obscure glazing to all portions of the windows below 1.7 metres above the internal upper floor level. The proposed first floor window treatment is consistent with City Wide Principle of Development Control 235, which seeks privacy treatment to a height of 1.7 metres. In any event, if the Panel determine to approve the proposed development, it is recommended that a condition be imposed reiterating that the upper floor dwelling windows on the northern, southern and western elevations be fixed and obscured.

With respect to the upper level office area, the high-level northern side windows incorporate 1.8 metre high sill levels. A portion of the northern side elevation incorporates a vertical section of glazing that commences at the junction of the eastern front and northern side elevations and is 1.3 metres in width. Whilst a person

standing within the upper level office area would be able to obtain views of the neighbouring property at 181 O G Road, they would only be limited to views of a relatively confined portion of the front yard area of this property. On this basis, it is considered unnecessary to obscure this section of glazing to the office.

On the southern side elevation, 1.8 metre high sill levels are proposed for the majority of the glazing. That said, the southern side elevation incorporates a section of glazing that commences at the junction of the eastern front and south side elevations that is 2.4 metres in width. This portion of glazing is considered to potentially result in loss of visual privacy for the occupiers at 1/185 O G Road. If the Panel determine to approve the proposal, it is recommended that a condition be imposed requiring that this section of glazing be fixed and obscured below 1.7 metres above the internal upper floor level.

Private open space

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

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

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

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

(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;”

All of the proposed dwellings have site areas of less than 250m² and, as such, should have a minimum area of private open space of 35m². The proposed private open space areas range between 33.2m² for Dwellings 1 - 4 and 80m² for Dwelling 5. Whilst this is a shortcoming of the proposal, the private open space associated with Dwellings 1 - 4 is of useable dimensions, consistent with City Wide PDC 225(b) and has good links with the living areas of the dwellings, such that the minor shortfall (ie. 1.8m² in area) is not considered to be fatal to the overall merit of the proposal.

The private open space areas of each dwelling are directly accessible from the main living areas of the respective dwellings. The private open space areas associated with Dwellings 1- 4 have excellent orientation for solar access throughout the day, while Dwelling 5 has good orientation only from midday onwards.

City Wide Principle of Development Control 229 states that 50% of the total private open space requirement provided at ground level should be open to the sky and developed in a manner to provide outdoor amenity, opportunities for landscaping and a reduction in stormwater runoff through the use of permeable surface treatments. Dwellings 1 – 4 and Dwelling 5 have 61% and 83% of their private open space respectively open to the sky.

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, 198, 200 & 219

Tables NPSP/8 and NPSP/9

Pursuant to Schedule 8 of the *Development Regulations 2008* and more specially, Section 3 —Development adjacent to main roads, comprising the alteration of an existing access, the proposal was referred to the Safety and Service Division of the Department of Planning, Transport and Infrastructure (DPTI). In relation to modifying the existing southernmost crossover in order to provide access to and from O G Road, the

Safety and Service Division reviewed the proposal and advised that the development should be serviced by a single shared access/egress points that is 6.0 metres in width by 6.0 metres in depth, with the remaining crossover located adjacent the junction of 181 and 183 O G Road, reinstated with kerb and watertable.

A copy of DPTI's advice is contained in **Attachment E**.

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

Each of the proposed five (5) dwellings are provided with two (2) exclusive car parking spaces, in the form of a garage and an unenclosed space beneath the relevant dwelling. In addition, the proposed dwellings are to have access to three (3) of the five (5) car parking spaces designated with the office for visitor car parking purposes outside of office operation hours. More specifically, as part of Community Land Division Approval 155/C062/16 and the approved Community Scheme Description, the three (3) southernmost car parking spaces designated to the office are to be available for use outside of business hours by the owners and/or visitors of the five (5) residential properties.

The proposed residential component of the development results in a theoretical demand for 2.5 visitor spaces, which is required to be rounded up to three (3) according to Table NPSP/8. Accordingly, the proposed car parking demand associated with the dwellings satisfies the requirements detailed in Table NPSP/8, outside of business hours. During business hours, it would be unusual for both designated car parking spaces associated with each dwelling to be occupied (as at least one occupant would typically be away from home with their car), providing opportunity for visitors to park.

In terms of the proposed office component, the overall floor area at upper level equates to 155m² of which 57m² comprises lift space, bathroom/WC and foyer area. As stated previously, the proposed office is to have five (5) designated car parking spaces and in addition to this, a 5.5 metre by 2.0 metres bicycle/motorcycle area has been incorporated within the parking area. With respect to car parking demand associated with an office, Table NPSP/9 states that an office should be provided with four (4) spaces per 100m². In applying the prescribed rate to the overall floor area of 155m², the office would generate a demand of six (6) car parking spaces. The proposed calculated car parking results in a shortfall of one (1) space.

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

"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; or*
- (g) where it can be demonstrated that it would not result in a greater demand for on-street car parking on existing streets in the locality"*

A bus stop is located adjacent the front property boundary of 181 O G Road and adjacent the Payneham Swimming Centre directly opposite on the other side of O G Road, that services buses travelling towards the Adelaide CBD. The proposed shortfall of one (1) car parking space is therefore considered to be justified in this instance.

City Wide Principle of Development Control 189 provides guidelines for the configuration of driveway and manoeuvring areas for battleaxe style allotments, so as to achieve safe and convenient access arrangements. In relation to developments involving more than two (2) dwellings utilising a common driveway, Principle 189 states that the driveway should have a 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. This is also a request made by DPTI. The proposal accords with both the Principle 189 and the DPTI's request.

Principle 189 also states that the paved carriageway width should be no less than 5.0 metres in width, with 1.0 metre of landscaping, resulting in a total width of paved carriageway and landscaping of 6.0 metres. The proposal has a 5.0 metre wide carriageway that is bound by 500mm of landscaping either side. As such, the proposed development satisfies this guideline.

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

Finished floor levels/flooding/retaining

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

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

The subject land has an approximate average fall of 620mm from the O G Road boundary to the western rear boundary. The Applicant has nominated the same finished floor level for each of the five (5) proposed dwellings. In terms of Dwellings 1 – 2, the proposed finished floor level is between 100mm below or at existing adjacent ground level, Dwellings 3 – 4, 100mm – 300mm higher than adjacent ground level and Dwelling 5, 400mm higher than adjacent ground level.

The proposed finished floor levels for the dwellings will result in the need for retaining walls of between 100 - 300mm height along the northern side boundary, between 200 – 420mm along the western rear boundary and between 150 - 300mm along the southern side boundary.

The Applicant has indicated that 1.8 metre high 'Good-neighbour' Colorbond fencing will be used for all internal fencing and the replacement of side and rear fencing where required. The resulting combined height of retaining and fencing at the boundaries of the site (up to 2.2 metres on the northern side boundary) and the resulting level of fill are consistent with City Wide Principles of Development Control 58 and 164 respectively.

A copy of the Civil Plan, which contains the proposed levels and stormwater sump locations, is contained in **Attachment B8**.

The Applicant has proposed to direct roof runoff to 2,000 litre rainwater tanks for each dwelling, which are to be plumbed back to each dwelling for reuse, with overflow directed to a main stormwater collection pipe located beneath the common driveway. Surface water collected from the ground surrounding each dwelling is also proposed to be directed to the main stormwater collection pipe and pumped to the street water table.

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

The Council's Project Manager – Civil, has advised that the proposed levels and stormwater disposal is considered to be acceptable in principle, but the Applicant should be required to prepare a Stormwater Management Plan to ensure that stormwater disposal is maintained at pre-development levels.

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

Trees (significant, mature & street) and landscaping

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

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

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

The proposed development includes a landscaping scheme that proposes a range of ornamental trees, shrubs and ground covers including Manchurian Pears, English Box Hedge, 'Screen Master' Pittosporum and Lomandra Tanika. The proposed landscaping will assist in softening the development when viewed from adjacent land and in particular the directly adjacent units at 185 O G Road through the planting of evenly spaced Manchurian Pears along the length of the southernmost landscaping strip. In addition, the proposed landscape scheme and schedule is considered to provide for a reasonable level of amenity for future occupant of both the dwellings and office, as specified by City Wide Principle of Development Control 221(a).

The landscaping strip situated behind the 1.8 metre high powder coated tubular front fence, varies in width between 408 – 705mm, over a length of 15.1 metres and returns for a length of 5.5 metres adjacent the internal driveway area. The Applicant is proposing to plant ornamental plum trees (ie. *Prunus cerasifera* 'Oakville Crimson Spire') within this particular location. Having regard to the *Fleming's Fruit & Ornamental Tree Guide* produced by Fleming's Nurseries, the 'Oakville Crimson Spire' is anticipated to have an overall mature height of approximately 6.0 metres and a width of 2.0 metres. In addition to this, the *Guide* suggests that this particular tree species is a good option where space is restricted and the 'Oakville Crimson Spire' has branches that are relatively parallel to the main trunk of the tree.

The Applicant has indicated that 14 trees are to be planted within the landscaping strip adjacent the front property boundary (shown in **Attachment B2**). Unfortunately the Applicant has not provided a well detailed landscaping plan and it was not possible to obtain one from the Applicant in sufficient time for the Panel agenda to be finalised. It is unclear from the landscaping plan, how many trees are proposed across the frontage of the site and what particular low-level plantings are to be introduced which are not only compatible with the proposed 'Oakville Crimson Spires' but also able to be maintained within this proposed 408 – 705mm wide landscape area.

In this regard if the Panel determines to approve the development proposal, it is recommended that a condition be imposed requiring a landscaping scheme detailing the exact number of trees that can be accommodated and planted within the landscaping area located in between the proposed front fence and car parking areas, as well details of a suitable low-level plant species that complements the 'Oakville Crimson Spires'. This information is to be provided to the Council's Planning staff prior for consideration prior to Development Approval being granted.

City Wide Principle of Development Control 189 states that the paved carriageway width should be no less than 5.0 metres in width, with 1.0 metre of landscaping, resulting in a total width of paved carriageway and landscaping of 6.0 metres. The proposed development complies with this guideline insofar as the proposed landscaping adjacent to the driveway has a total combined width of 1.0 metre (ie. 500mm + 500mm).

One (1) relatively modest mature street tree is located adjacent to the subject land, which will not be affected by the proximity of the proposed upper level office component of the development.

Environmental Sustainability

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

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

The proposed dwellings and their private open space areas are well oriented for solar access. All five (5) dwellings incorporate covered alfresco/verandah areas adjacent to their respective living areas, which will provide sun and wet-weather protection.

The Applicant has deliberately designed the dwellings so that the windows at both ground and upper floor level on the northern elevation are protected from direct sunlight (ie. heat loading). At ground level the alfresco/verandah areas protect the windows/sliding glass doors and at upper level, the 700mm wide eaves afford protection to the high level windows. On the rear western elevation of Dwelling 5, three (3) of the six

(6) window areas are not afforded any protection from the western summer sun, which is considered to be a negative aspect of the proposal.

In terms of the office, the predominant extent of glazing is situated on the eastern front elevation. As such, the extent of heat loading in the summer months will be limited to the morning hours which is considered to be acceptable. In terms of the northern side elevation of the office, relatively smaller sections of glazing is proposed albeit, unprotected by eaves or canopies, which will result in some degree of heat-load on the internal office area during the summer months. Whilst ultimately the development will need to achieve the required energy rating in order to be granted Building Rules Consent, this is considered to be a negative aspect of the proposed development.

The proposed dwellings are each provided with a 2,000 litre rainwater detention tank, which are to be plumbed back to each dwelling in accordance with City Wide Principle of Development Control 161.

Summary

The Medium Density Policy Area is intended to accommodate a greater range of dwelling types, at a higher density than the general Residential Zone. At a zone level, a small-scale office with a frontage to an arterial road is reasonably anticipated.

The proposed dwelling density is considered to be acceptable, as the proposed dwellings all meet the minimum dwelling floor area provisions and the dwellings generally meet the other relevant quantitative provisions of the Development Plan. The proposed two-storey residential built form is consistent with PDC 7 for the Medium Density Policy Area and is less than the three-storey residential built form threshold allowable for a site fronting an arterial road.

The proposed development meets the minimum quantitative provisions of the Development Plan, with the exception of a shortfall of one (1) car parking space associated within the office and Dwellings 1 – 4 having less than 35m² of private open space (ie. they have 33.2m²).

In relation to neighbouring land, the extent of projected shadowing from the two-storey form, to the neighbouring private open rear yard areas of the dwellings to the south, slightly exceeds the current amount from boundary fencing, however the affected areas are rear 'service yards' and in this context the impact is considered acceptable. Similarly, some increase in shadowing of rear windows to those units will result from the proposal, however these are not main living area windows and will still receive direct sunlight to a portion for 3 hours during the day in the winter solstice.

The presentation of car parking to the street at ground level is a negative aspect of the proposal, however is reasonably screened with reasonably attractive fencing and landscaping.

In terms of the qualitative provisions of the Development Plan, positive aspects of the proposal are the orientation of living areas and private open space areas for four (4) of the five (5) dwellings and the complementary architectural design approach in relation to other residential and non-residential development within the locality, through the incorporation of pitched roofs, building materials and finishes.

Other negative aspects include the unprotected north facing windows for the office and the extent of hard paved surfaces, albeit that the impact of stormwater runoff will be addressed via a stormwater management plan at the Building Rules stage.

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

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/573/16 by Dimension Design Studio to demolish a single-storey detached dwelling and associated outbuildings, and to construct a two-storey residential flat building comprising five (5) dwellings and an office with associated car parking and landscaping, at 185 O G Road, Marden, subject to the following conditions:

Relevant Plans

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

- plans and elevations (Project Number 740.16 – Revision E) prepared by Dimension Design Studio and received by the Council on 7 December 2016 and 13 December 2016; and
- Civil Plan & Details (Project Number 160801) prepared by MQZ Consulting Engineers and received by the Council on 7 December 2016.

Conditions

1. The portion of all upper floor windows on the northern, southern and western elevations, less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwellings and office area in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
2. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.
3. A Stormwater Management Plan shall be prepared and provided to the Council with the documentation for Building Rules Consent, which illustrates stormwater discharge from the subject land at pre-development levels. On-site retention of stormwater may be required during high rainfall events. Sufficient storage (above or below ground) shall be provided to safely contain stormwater runoff from the contributing catchments for a 5 year ARI rainfall event.
4. A rainwater tank with a storage capacity not less than 2 kilolitre (2000 litres), shall be installed for each of the dwellings or alternatively, an 10 kilolitre communal rainwater tank shall be installed, with each dwelling contributing rainwater from at least 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.
5. The existing northernmost crossover invert shall be reinstated to kerb and gutter prior to the occupation of the dwellings and office building to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the owner/applicant.
6. A landscaping scheme relating to the landscaping area located in between the O G Road property boundary and the office car parking area, shall be prepared and provided to the Council prior to the granting of Development Approval, which illustrates the number of 'Oakville Crimson Spire' trees that are to be planted within the landscaping area, as well as details of suitable low-level plant species, located within these landscaping areas, to the reasonable satisfaction of the Council or its delegate.
7. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.

Notes to Applicant

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

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

All works on Council owned land required as part of this development are likely to be at the Applicant's cost.
6. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
7. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Mr Mosel declared a conflict of interest in this matter as he knows one of the representors. Mr Mosel left the meeting at 7:01pm.

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

Mr Donaldson moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan, Development Application No 155/573/16 by Dimension Design Studio to demolish a single-storey detached dwelling and associated outbuildings, and to construct a two-storey residential flat building comprising five (5) dwellings and an office with associated car parking and landscaping, at 185 O G Road, Marden 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 consider amending their proposal to overcome the following concerns:*

- *Insufficient landscaping along the side and front of the site;*

- *The first floor office development and front fence poorly addresses OG Road both architecturally and in terms of street activation.*

Seconded by Mr Dottore and the motion was lost.

Ms Moore moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **refused** to Development Application No 155/573/16 by Dimension Design Studio to demolish a single-storey detached dwelling and associated outbuildings, and to construct a two-storey residential flat building comprising five (5) dwellings and an office with associated car parking and landscaping, at 185 O G Road, Marden, for the following reasons:*

- 1. Lack of adequate street setback contrary to PDC 7 of the Medium Density Policy Area;*
- 2. Lack of adequate landscaping to the front of the site contrary to City Wide Objective 24 and City Wide Principle of Development Control 73;*
- 3. The bulk and scale of the building contrary to City Wide Objectives 18 and 19;*
- 4. The lack of street activation of the first storey office component and car parking area.*

Seconded by Mr Minney and carried.

Mr Mosel returned to the meeting at 7:34pm.

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/333/2016 – MR ZAC SNOW – 383-387 PAYNEHAM ROAD, MARDEN

DEVELOPMENT APPLICATION:	155/333/2016
APPLICANT:	Mr Zac Snow
SUBJECT SITE:	383-387 Payneham Road, Marden (Certificate of Title - Volume: 5876, Folio:640)
DESCRIPTION OF DEVELOPMENT:	Variation to Development Approval 155/051/2002 to increase the operating hours of a restaurant to twenty four (24) hours a day; with alterations and additions to an existing pylon sign.
ZONE:	District Shopping Zone Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)
PUBLIC NOTIFICATION CATEGORY:	Category 2

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application to vary a previously granted Development Approval, to remove restrictions relating to the operating hours of a restaurant and undertake minor alterations and additions to an existing sign.

Staff do not have delegated authority to determine the Application, as the Application has been processed as a Category 2 development for the purposes of public notification and there are representations opposed to the development.

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

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

Background

A Development Application (Development Application No. 155/051/2002) was lodged on 23 January 2002 to demolish the existing buildings and construct a new building that will be utilised as a restaurant (KFC) with associated drive through/takeaway food facility, landscaping, car-parking and advertising signs.

The Panel considered the Application at its meeting held on 13 May 2002 and determined to grant Development Plan Consent subject to the following conditions:

- 1. The development shall proceed in accordance with the details of Development Application No. 155/51/02 and the approved plan, drawing numbers DA F sheets 1 and 3 and DA-LVL B sheet 2 prepared by Sneath and King Architects and received by Council on 23 April 2002 except when varied by the following conditions of consent.*
- 2. All plants proposed within the landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate. All landscaping shall be established prior to the use of the building in accordance with the approved plans.*

3. *All car parking spaces and internal circulation movement shall be linemarked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.*
4. *All car parking spaces, driveways, and vehicle manoeuvring areas shall be maintained in a good condition at all times to the reasonable satisfaction of the Council or its delegate.*
5. *The hours of operation of the premises shall be restricted to the following times:*
 - *Sunday to Thursday – 10.00am – 10.00pm, and*
 - *Friday and Saturday 10.00am – 12.00 midnight.*
6. *The acoustic fence along the northern and western boundary shall be constructed entirely at the expense of the owner/developer. The acoustic fence shall be constructed prior to the commencement of the approved use and shall have a 50m thick acoustic insulation (with a minimum density of 32 kg/m³) and shall be protected by a perforated material with an open area of at least 15%.*
7. *The air conditioning units and ventilation units shall be located as far as practicable from the eastern property boundary so as to minimise any disruption to the residential premises to the east, to the reasonable satisfaction of the Council or its delegate.*
8. *All deliveries to and from the site (including waste collection) shall be restricted to the following times:*
 - *Monday to Friday – 7.00am to 10.00pm.*
9. *All loading and unloading of vehicles shall be carried out entirely upon the subject land.*
10. *Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.*
11. *Access to buildings and designated accessible car parking spaces shall be designed and provided in accordance with the provisions contained in Australian Standard AS1428.*
12. *All trade waste and other rubbish shall be stored in covered containers pending removal and shall be kept screened from public view to the reasonable satisfaction of the Council or its delegate.*
13. *All refuse and stored materials shall be screened from public view to the reasonable satisfaction of the Council or its delegate.*
14. *At no time shall any goods, materials or waste be stored in designated car parking areas, driveways, manoeuvring spaces or landscaping.*
15. *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.*
16. *The Golden Rain Street Tree located within the footway area along Marden Road shall be relocated at the developers expense.*
17. *The existing crossovers along Marden and Payneham Road shall be reinstated to the satisfaction of the Council and at the owner/developers cost.*
18. *The pylon sign shall be reduced in overall height and size from 7 metres to 6 metres.*
19. *Environmental testing of the site shall occur once the existing buildings have been demolished. In the event that contaminants are found, the site shall be suitably remediated and clearance from an Accredited Environmental Auditor shall be provided to the Council stating that the site is suitable for its herein approved use prior to commencement of construction.*

20. *The total number of seats for the restaurant shall be limited to a total number of 70, including outdoor and indoor dining areas.*

A copy of the relevant section of the Minutes of the Panel meeting held on 13 May 2002 are contained in **Attachment A**.

Subject Land Attributes

Shape:	regular
Frontage width:	28.35 metres
Depth:	44.2 metres
Area:	1527m ²
Topography:	essentially flat
Existing Structures:	restaurant and car parking area
Existing Vegetation:	mature trees and shrubs within established garden beds

The subject land contains a single storey 'fast food' restaurant (KFC). A drive thru lane exists on the northern, eastern and southern boundaries. A two way crossover exists on Marden Road and an exit only crossover exists on Payneham Road. There are no regulated trees on the subject land.

Locality Attributes

Land uses:	a mix of commercial and community based facilities
Building heights (storeys):	a mix of generous single storey and two storey development.

In the immediate locality, a car park associated with the Marden shopping centre is located to the north of the subject land. A residential flat building containing a ground floor shop (hairdressers) and sixteen (16) units is located to the east. The southern side of Payneham Road contains a mix of land uses including offices and consulting rooms within the Wellington Business Centre, small scale shops at 356 Payneham Road and the Payneham Returned Services League Club at 360 Payneham Road. A bulky goods shop (Repc) is located to the west of the subject land along with a 24 hour fitness centre and some small scale shops. The Marden Shopping Centre is also located in the immediate locality.

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

Proposal in Detail

The Applicant is seeking approval to remove the restrictions on operating hours in order to allow the restaurant to operate twenty four (24) hours a day. Whilst the site is proposed to operate twenty four (24) hours a day, it is proposed that trading between the hours of Midnight and 6am, be via the Drive Thru only.

The Applicant also proposes to undertake alterations to a pylon sign to advertise the change to operating hours. In particular, an additional light box is proposed on the pylon sign, with dimensions of 1.5m wide and 400mm high, with the words 'Open Late' to be displayed.

The Applicant has advised that KFC is launching a breakfast menu in 2017 and the revised hours of operation are primarily intended to facilitate this.

A copy of the plans supporting documentation prepared by the Applicant is contained in **Attachment C**.

Notification

The proposal has been identified and processed as a Category 2 form of development, pursuant to Schedule 9 Part 2 19 of the *Development Regulations 2008*.

Two (2) representations (One (1) opposed and one (1) in favour) were received in response to this notification, copies of which are contained in **Attachment D**. The representor in favour did not provide any specific reasoning for being supportive of the proposal, with only the boxes ticked on the representation form. With respect to the representor who is opposed to the proposal, the key issues are, in summary:

- traffic issues with patrons;
- unruly patron and staff behaviour;
- loud conversations between KFC employees and drive thru patrons;
- lack of privacy as a result of deciduous trees; and
- existing acoustic fence is adequate for ground floor units, but not first floor units;

None of the representors desire to be heard by the Panel.

The Applicant has provided a response to the representations, a copy of which is contained in **Attachment E**. A summary of the response is below:

- whilst the site will operate twenty four (24 hours a day), trading between the hours of Midnight and 6am will be via the Drive Thru only;
- Signage will be placed at both existing access points (Marden Road and Payneham Road) requesting that patrons exit via Payneham Road between Midnight and 6:00am;
- Noise abatement measures outlined in the GHD report are to be implemented.

State Agency Consultation

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

Discussion

Amenity

District Shopping Zone Objective:	1
District Shopping Zone PDC's:	1.
City Wide Objectives:	1, 2, 3, 7, 12, 26 & 27.
City Wide PDC's:	1, 2, 3, 4, 12, 80, 84 & 86.

The key issue for consideration is the potential impacts on residential amenity that may arise as a result of the proposed deletion of the condition of approval limiting operating hours.

It is considered the following Development Plan Provisions are most relevant when considering the Application.

City Wide Objectives 26 & 27

*Development located and designed to minimise adverse impact and conflict between land uses.
and*

Protect community health and amenity from the adverse impacts of development and support the continued operation of all desired land uses.

City Wide Principle of Development Control 84

Non-residential development on land abutting a residential zone or within a residential zone should be designed to minimise noise impacts and achieve adequate levels of compatibility between existing and proposed uses.

City Wide Principle of Development Control 86

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

Most existing businesses within the locality of the subject land have unrestricted operating hours, however are either small-scale businesses (take away shops, offices etc) or located within the nearby shopping centre and are therefore likely to have lower staffing and patron levels than might be expected for the subject KFC restaurant.

There are four (4) 'fast food' restaurants located in the Council area (McDonalds on Magill Road Trinity Gardens and Payneham Road Felixstow, Hungry Jacks on Glynburn Road Firlle and the subject land). Operating hours for each of the sites along with their respective zonings are outlined in the table below:

Proprietor	Address	Zoning	Hours of Operation
McDonalds Felixstow	465-467 Payneham Road, Felixstow	Local Shopping	24 Hour
McDonalds Trinity Gardens	303-306 Magill Road, Trinity Gardens	Local Commercial	6:00am – 11:00pm Sunday – Thursday 6:00am – Midnight Friday & Saturday
Hungry Jacks	195-197 Glynburn Road, Firlle	Local Shopping	24 Hour
KFC	383-387 Payneham Road, Marden	District Shopping	10:00am – 10:00pm Sunday – Thursday 10:00am – Midnight Friday & Saturday

Objective 1 of the District Shopping Zone states that the zone is primarily intended to accommodate a range of shops serving the needs of a wider area than that of a Local Shopping Zone. Given that the District Shopping Zone is intended to serve a wider catchment than a Local Shopping Zone, the intensity of use within a District Shopping Zone is typically higher, due to the number and size of shops and their hours of operation.

That said, it is still necessary to ensure that development within the District Shopping Zone does not unreasonably affect the amenity of adjacent residential properties. In this respect, the Applicant has provided an acoustic report prepared by GHD. The report analyses the existing noise associated with the site and provides assessment on the predicted noise levels associated with the function of the site for the proposed extended trading period.

With respect to the operations with the restaurant, the GHD report indicates that the restaurant will exceed the parameters of the EPA Policy through the noise associated with the plant, on the occupants of the upper floor units on the adjacent residential flat building to the east.

To address this issue, GHD has suggested that barriers be installed, surrounding all plant on the roof, extending between 0.5m and 1.0m above the top of the equipment.

GHD also indicate that the restaurant will exceed the parameters of the EPA Policy through the noise associated with car doors closing within the car parking area during night time operations. Night time operations are defined in the Environment Protection (Noise) Policy 2007 as activities occurring between the hours of 10:00pm and 7:00am. In response to this issue, GHD has recommended the closure of the five (5) car parking spaces closest to the residential flat building to the east of the site, during night time operations. No details have been provided as to how this is to be managed, but it is considered appropriate that signage be installed in the garden beds in front of the car parking spaces, advising patrons not to use these spaces between 10:00pm and 7:00am.

Subject to the implementation of the recommended noise attenuation measures, it is considered that the proposed expansion of the operating hours will not have unreasonable amenity impacts on the adjoining residential properties.

Pylon Sign Additions

City Wide Objectives:	114, 115 & 116
City Wide PDC's:	366, 367, 368, 370, 371, 374, 375, 377, 378, 379, 380, 381, 383, 385

The proposed additional light box is a minor modification to the pylon sign and is considered appropriate and consistent with City Wide Principle of Development Control 381(a), which states:

The siting, size, colour, shape and materials of construction of advertisements should:

- (a) *be compatible (including visually) with the buildings to which they relate, their environs generally, nearby buildings and spaces and other signs;*

Summary

The Development Plan policies recognise that the interface between non-residential and residential land uses needs to be carefully managed and that any potential amenity impacts are minimised. It is considered that the propose hours of operation are generally appropriate given the location of the subject land with a District Shopping Zone. The applicant has demonstrated that amenity impacts associated with the expanded operations are able to be adequately ameliorated. .

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 155/333/2016 by Mr Zac Snow for a variation to Development Approval 155/051/2002 to increase the operating hours of a restaurant to twenty four (24) hours a day; with alterations to an existing pylon sign on the land located at 383-387 Payneham Road, Marden, 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:

- Acoustic Report prepared by GHD dated October 2016;
- Pylon sign details marked received by Council on 20 May 2016.

Conditions

1. Except where varied by this approval, all other conditions, plans and details relating to Development Application Number 155/051/2002 continue to apply.
2. All noise abatement measures outlined in the acoustic report prepared by GHD, dated October 2016 shall be undertaken prior to the modified hours of operation commencing.
3. Low level signage shall be installed within the garden bed adjacent the five easternmost car parking spaces, advising patrons not to park in them between the hours of 10:00pm and 7:00am. Details of the proposed signage are to be provided to satisfaction of the Council prior to the issuing of Building Rules Consent.

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 **granted** to Development Application No 155/333/2016 by Mr Zac Snow for a variation to Development Approval 155/051/2002 to increase the operating hours of a restaurant to twenty four (24) hours a day; with alterations to an existing pylon sign on the land located at 383-387 Payneham Road, Marden, 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:

- *Acoustic Report prepared by GHD dated October 2016;*
- *Pylon sign details marked received by Council on 20 May 2016.*

Conditions

1. *Except where varied by this approval, all other conditions, plans and details relating to Development Application Number 155/051/2002 continue to apply.*
2. *All noise abatement measures outlined in the acoustic report prepared by GHD, dated October 2016 shall be undertaken prior to the modified hours of operation commencing.*
3. *Low level signage shall be installed within the garden bed adjacent the five easternmost car parking spaces, advising patrons not to park in them between the hours of 10:00pm and 7:00am. Details of the proposed signage are to be provided to satisfaction of the Council prior to the issuing of Building Rules Consent.*

Seconded by Mr Donaldson and carried.

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/D084/2016 & 155/C091/2016 – MR M GHAN – 417 MAGILL ROAD, ST MORRIS

DEVELOPMENT APPLICATION:	155/D084/2016 & 155/C091/2016
APPLICANT:	Mr M Ghan
SUBJECT SITE:	417 Magill Road St Morris (Certificate of Title Volume: 6148 Folio:199)
DESCRIPTION OF DEVELOPMENT:	155/D084/2016: Torrens Title Land Division creating two (2) additional allotments with party wall rights facing Thomas Avenue 155/C091/2016: Community Strata Title Land Division creating two (2) additional allotments
ZONE:	Local Shopping Zone Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for a Torrens Title land division creating two (2) additional allotments with party wall rights facing Thomas Avenue and a Community Strata Title Land Division creating two (2) additional allotments.

Staff do not have delegated authority to determine the Application, as it comprises the division of land to which there is no approved related development and for which there is no quantitative Development Plan criteria with respect to site area or site frontage. 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 (with corner cut-off)
Frontage width:	15.85 metres (excluding corner cut-off)
Depth:	58.83 metres
Area:	928m ²
Topography:	slightly sloping
Existing Structures:	dwelling and outbuildings
Existing Vegetation:	some mature vegetation

The subject land is located on the corner of Magill Road and Thomas Avenue and currently contains a dwelling, outbuildings and a swimming pool. The site slopes approximately 800mm from the south-eastern to the north western corner.

Locality Attributes

Land uses: mixed use
 Building heights (storeys): several two storey
 Streetscape amenity: low on Magill Road, high on Thomas Avenue

The locality contains a mix of uses and is divided into the Local Shopping Zone, the Residential Character Zone and the Local Business Zone located within the City of Burnside on the southern side of Magill Road. Properties facing Magill Road include offices, shops (including café/restaurants), dwellings, consulting rooms and fitness centres. Properties within the locality along Thomas Avenue contain detached dwellings, other than the commercial property on the opposite corner at 419 Magill Road.

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

Background

By way of background, Development Application 155/194/2016 is currently under assessment for the demolition of the existing buildings and the construction of consulting rooms facing Magill Road with two (2) apartments above and the construction of two (2) semi-detached dwellings facing Thomas Avenue with associated landscaping and fencing. This proposal is non-complying as it involves the construction of semi-detached dwellings within the Local Shopping Zone. The Application will be presented to the Panel for consideration at a future meeting, if the land division Applications are approved by the Panel.

Proposal in Detail

The Applicant seeks consent for two land divisions, a Torrens Title land division and a Community Strata Title land division, designed to accommodate the proposed built form which is the subject of Development Application 155/194/2016. The proposed Torrens Title land division creates three allotments; allotments 97 and 98 have site areas of 200m² and 190m² respectively and are intended to accommodate semi-detached dwellings facing Thomas Avenue, and allotment 99 has a site area of 538m² which is intended to be further divided as part of the Community Strata Title land division.

The Community Strata Title land division creates three allotments plus community land. The allotments are intended to accommodate the building containing consulting rooms at ground level and two apartments at first floor level, and a car parking area at ground level at the rear of the building.

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 155/D084/2016: Torrens Title Land Division

Consideration	Allotment 97 (Semi-detached dwelling)	Allotment 98 (Semi-detached dwelling)	Allotment 99 (Commercial and Residential – refer to 155/C091/16))	Development Plan Merit Assessment Quantitative Guideline
Site Area	200m ²	190m ²	538m ²	N/A
Allotment Width	12.60m	12.00m	12.8m (15.85m including corner cut-off)	N/A
Allotment Depth	15.85m	15.85m	34.23m	N/A

TABLE 2: DEVELOPMENT DATA 155/C091/2016: Community Strata Title Land Division

Consideration	Allotment 1 (apartment)	Allotment 2 (apartment)	Allotment 3 (consulting rooms)	Development Plan Merit Assessment Quantitative Guideline
Site Area	102m ² (plus subsidiaries)	113m ² (plus subsidiaries)	148m ² (plus subsidiaries)	N/A
Allotment Width	15.85m	14.5m	15.85m	N/A
Allotment Depth	11.5m	9.5m	14m	N/A
Car Parking Provision	2 undercover	2 undercover	7 parks	Allotments 1 & 2: 2 parks plus 0.5 visitor parks Allotment 3: 4.44 parks

The proposed plans of division and a draft scheme description are contained in **Attachment B**. The plans proposed for Development Application 155/194/2016 are contained in **Attachment C** for indicative purposes only.

Notification

The proposal has been identified and processed as a Category 1 form of development. As such, not public notification has been undertaken.

State Agency Consultation

Both land division Applications were referred by the Development Assessment Commission (DAC) to the Department of Planning Transport & Infrastructure, as the development involves land divisions where the land abuts a secondary arterial road. This response is contained in **Attachment D** and is discussed further in the carparking/access/manoeuvring section of this report.

Discussion

The subject land is located within the Local Shopping 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:

Local Shopping Zone Objective: 1

Local Shopping Zone Principles of Development Control: 1

City Wide Objectives: 1 - 7, 12, 15 - 17

City Wide Principles of Development Control: 1 - 4, 6, 20, 21, 23, 24, 186

City Wide Principle of Development Control 21 states that land should not be divided if the intended use of the land would be contrary to the Zone and relevant Policy Area Objectives.

The Local Shopping Zone anticipates primarily small groups of shops which cater for the day-to-day needs of nearby residents. The proposed allotments are intended to be used for consulting rooms and dwellings.

Although consulting rooms are not specifically anticipated within the Local Shopping Zone, they are a 'merit' form of development within the Zone. A range of commercial uses are currently located along Magill Road including shops, offices consulting rooms and fitness centres. Given the small scale of the consulting rooms, it is considered to be a service directed to the local community, rather than a broader catchment area, and therefore it is considered compatible with local shops and appropriate within the Local Shopping Zone.

Several types of dwellings are listed as non-complying within the Local Shopping Zone including detached, semi-detached, multiple dwelling, and residential flat buildings. Interestingly, a 'shop and dwelling' is listed as a complying form of development within the zone. This reference to dwelling relates to the traditional form of shop with an associated dwelling located at the rear.

It is likely that most dwelling types are listed as non-complying development to preserve land within the zone for shops and allied commercial uses to serve the needs of the local community, and to maintain active frontages along main corridors such as Magill Road.

With respect to preserving commercial land, the proposed land division does provide for a commercial-size allotment at the front, with residential-size allotments above and behind. In this way, the outcome is similar to that which is created by the traditional 'shop and dwelling'. The size of Allotment 3, intended for the consulting rooms, is considered appropriate for the zone. A larger consulting room which occupied the whole site may result in a level of activity which is beyond that anticipated within the Local Shopping Zone and could have a detrimental impact on surrounding residential properties within the Residential Character Zone, by creating a level of intensity of use that is beyond what is anticipated for the Local Shopping Zone.

With respect to providing active frontages to Magill Road, the location of consulting rooms on the lower floor in close proximity to Magill Road is considered to achieve that outcome.

The allotments intended for semi-detached dwellings are located at the rear (north) of the property adjacent to the Residential Character Zone. The location of dwellings at the edge of the zone is considered to provide a reasonable 'buffer' between the consulting rooms and the existing dwelling at 1 Thomas Avenue. In any event, the operation of the consulting rooms is likely to be relatively quiet and there is likely to be little to no activity at sensitive times such as weeknights and weekends. As such, the proposed land division (and the uses to which the allotments are intended to be put) is not considered to result in excessive noise impacts for the occupants of surrounding dwellings.

Given the above circumstances, the intended uses of the proposed allotments are considered appropriate for the site, consistent with City Wide Principle of Development Control 21.

The Local Shopping Zone does not provide minimum site area or frontage width requirements for residential or commercial sites. In lieu of specific minimum provisions, consideration has been given to the appropriateness of the proposed allotment sizes to accommodate the intended land uses, as well as consistency with the surrounding allotment pattern.

City Wide Objective 57 anticipates increased dwelling densities in areas close to public transport, centres and significant public open spaces. The subject land is located adjacent to a frequently serviced public transport route on Magill Road, within 750 metres of St Morris Reserve and St Morris Community Child Care Centre, and approximately 200 metres from shops and services on Glynburn Road. As such, the site is considered to be in a suitable location for increased density.

The indicative plans provided in **Attachment C** illustrate dwellings which are considered to generally have sufficient area for appropriate setbacks from boundaries, private open space and on-site car parking. As such, the proposed allotment sizes are considered to be consistent with City Wide Principle of Development Control 186 which states:

"Residential allotments and sites should have the appropriate orientation, area, configuration and dimensions to accommodate:

- (a) the siting and construction of a dwelling and associated ancillary outbuildings;*
- (b) the provision of landscaping and useable private open space;*
- (c) convenient and safe vehicle access and off street parking;*
- (d) passive energy design; and*
- (e) the placement of a rainwater tank."*

The proposed allotment sizes and configuration will result in future development being two-storey which is discussed further in the *streetscape/bulk/scale/height/character* section of this report.

City Wide Principle of Development Control 24 states that the layout of a land division should complement the appearance and function of the prevailing allotment pattern in the street.

The proposed allotments to accommodate semi-detached dwellings fronting Thomas Avenue (Allotments 97 and 98) are 12.6m and 12m wide and therefore inconsistent with the prevailing allotment pattern of development on Thomas Avenue, with most dwelling sites having a frontage of approximately 18 metres. However, the streetscape impact of the proposed allotments is not considered unreasonable. The proposed 12.6 metre and 12 metre frontage widths of Allotments 97 and 98 are considered to provide an adequate transition to the average 18 metre frontages of dwellings within Thomas Avenue, particularly as the proposed party wall ensures that future dwellings will be semi-detached.

On balance, the proposed allotment sizes, configuration and intended uses are considered to be appropriate in the context of the site and the locality.

streetscape/bulk/scale/height/character

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

City Wide Objectives: 8, 18

City Wide Principles of Development Control: 32

The Local Shopping Zone policies do not provide any guidance with respect to building height. The Magill Road streetscape currently contains a mixture of single storey and two-storey buildings. The proposed Community Strata land division has been designed to accommodate a two-storey building and the size of Allotments 97 and 98 are likely to necessitate future dwellings to be two-storey (as illustrated in the proposed plans for Application 155/194/2016).

Although two-storey development is not typically envisaged within the adjacent Residential Character Zone and the Thomas Avenue streetscape is primarily single storey, it is considered appropriate for some two-storey development to occur on the site, given the varied building heights on Magill Road and the height of the adjacent commercial building at 419 Magill Road. The location of the subject land to the south of the adjacent existing dwelling in Thomas Avenue, also means that any two storey development on proposed Allotment 97 will not result in overshadowing of existing dwellings.

Carparking/access/manoeuvring

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

City Wide Objectives: 34

City Wide Principles of Development Control: 92

The proposed Community Strata land division provides allocated on-site car parking to each Community Strata allotment including two (2) designated undercover car parks each to Allotments 1 and 2 and the remaining seven (7) car parks to Allotment 3. The dimensions of the car parking spaces meet Australian Standards however the north-eastern car park will be more challenging to access given the close proximity to the driveway access. The crossover to the shared parking area is illustrated on the indicative plans as 5.4 metres rather than the standard 6 metres for dual direction access, however the width of the crossover is limited by the adjacent street trees and vehicles will be able to access and egress the future car parking area in a forward direction.

There will be some loss of on-street parking resulting from future crossovers servicing Allotment 98 and the shared car parking area. However it is considered that sufficient upright kerb will remain for on-street parking.

Table NPSP/8 anticipates that dwellings with 2 or 3 bedrooms in a multi-storey building (other than detached and semi-detached dwellings) should be provided with two (2) car parking spaces plus one (1) visitor space for every two (2) dwellings. Allotments 1 and 2 each have two car parking spaces designated, however do not have a designated shared visitor space, which is inconsistent with Table NPSP/8.

City Wide Principle of Development Control 122 parts (b) and (c) anticipate that a lesser number of car parks can be provided where the site is in close proximity to public transport and where the proposal is a mixed use development where the uses have differing peak times. As the subject land is adjacent to public transport on Magill Road and visitors to the apartments could use the car parks to the consulting room after hours, the shortfall of one (1) visitor space from the standard rate, is not considered unreasonable.

Proposed Allotment 3 is intended to accommodate approximately 148m² of commercial floor area. Table NPSP/9A states that non-residential uses within designated areas (applicable to this property) should be provided with a desired minimum car parking rate of 3 parks per 100m² of gross leasable area. As such, future commercial development at this allotment will require a minimum of 4.44 ~ 5 car parking spaces. The proposed car parking allocation will satisfy this provision.

Allotments 97 and 98 in the Torrens Title land division are considered to be of a sufficient size to accommodate two (2) on-site car parking spaces for future dwellings, consistent with Table NPSP/8 for semi-detached dwellings.

The proposed allotments are able to be accessed by vehicle crossover points which do not interfere with the structural root zone of adjacent street trees.

The Applications were referred to the Department of Planning, Transport and Infrastructure (DPTI) as they involve the division of land abutting a secondary arterial road. DPTI are generally supportive of the proposed divisions as they will allow for future vehicle access from Thomas Avenue rather than Magill Road. DPTI have suggested that a right of way could be granted across the car parking area in favour of 415 Magill Road to facilitate future access for this property via Thomas Avenue, rather than Magill Road. The Council is not aware of any current plans for redevelopment for 415 Magill Road and as such, it is not considered necessary or appropriate for the Council to require a right of way over the subject land for this purpose.

DPTI also recommended that parking restrictions be placed on the portion of kerb between Magill Road and the future common driveway of the Community Strata division. The Council's Regulatory Services staff have verbally advised that aside from the required 10 metre clearance from the intersection, there is no current intention to prohibit on street parking in this location, however should it become apparent that cars parking in this location is problematic, this can be reviewed as necessary.

The DPTI response recommends four (4) conditions to be attached to the proposed land divisions however these conditions relate to vehicle access and stormwater so are relevant to built form/land use proposals rather than land divisions. As such, these conditions are not recommended to be included as part of the current proposals.

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: 49-51

City Wide Principles of Development Control: 21, 24, 167 - 171

The subject land is partially affected by the 1 in 50 year floodplain and the majority of the property is affected by the 1 in 100 year floodplain.

As part of the assessment of Development Application 155/194/2016, a report prepared by Tonkin Consulting was provided by the Applicant which was subsequently reviewed by the Council's Project Manager – Civil, and it was concluded that flood water is unlikely to enter the property and that appropriate finished floor levels of future development can be achieved without excessive fill of the site. The Tonkin Consulting report is contained in **Attachment E**.

The slope of the land will require some fill of the land to enable a gravity fed stormwater system however the extent of fill is expected to be less than 600mm consistent with City Wide Principle of Development Control 164.

Trees (significant, mature & street) and landscaping

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

City Wide Objectives: 24

City Wide Principles of Development Control: 185

The subject land is adjacent to a regulated Red Iron Bark street tree located in the Magill Road verge. As part of the assessment of Development Application 155/194/2016 an area of landscaping was incorporated to avoid development being located within the Tree Protection Zone of this tree. This is illustrated on the proposed Community Strata Plan as 'Yard Sub 3'. Sufficient clearance can be provided to the street trees located on the Thomas Avenue verge.

Summary

The proposed land divisions are intended for land uses which are not specifically anticipated within the Local Shopping Zone. However, the scale of the commercial allotment is considered to be consistent with the general intent of the Local Shopping Zone in providing services to the local community. The siting of the proposed residential allotments is not considered to compromise the continued use of commercial land or result in conflicts between commercial and residential use.

The proposed allotment sizes are considered adequate to accommodate future development including building setbacks, car parking and open space.

Accordingly, it is considered that the proposal 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 1

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/D084/2016 by Mr M Ghan for a Torrens Title land division creating two (2) additional allotments with party wall rights facing Thomas Avenue on the land located at 417 Magill Road St Morris 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:

- Plan of division prepared by Mattsson & Martyn, Reference P14169/10/16, received by the Council 22 November 2016

Conditions

1. All buildings shall be demolished and removed prior to the issuing of Section 51 Clearance. Please note that a separate Development Application is required for demolition.

Development Assessment Commission Requirements

1. The financial requirements of the S A Water Corporation shall be met for the provision of water supply and sewerage services. (S A Water H0052711)

The internal drains shall be altered to the satisfaction of the S A Water Corporation.

SA Water advises on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non standard fees. Extension of sewer main is required to serve the proposed allotments.

On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.

2. Payment of \$13352 into the Planning and Development Fund (2 allotment/s @ \$6676/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor, 101 Grenfell Street, Adelaide.
3. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

Notes to Applicant

1. The postal addresses of the newly created allotments are:
Allotment 97 (residential): 2/1 Thomas Avenue St Morris
Allotment 98 (residential): 1/1 Thomas Avenue St Morris
Allotment 99 (commercial): 417 Magill Road St Morris
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 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.

4. This Land Division will lapse within 12 months of the date of this notice unless an application for a certificate under Section 51 of the Act has been lodged with the Development Assessment Commission, accompanied by the Certificate of Approval Fee.

RECOMMENDATION 2

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/C091/2016 by Mr M Ghan for a Community Strata land division creating two (2) additional allotments on the land located at 417 Magill Road St Morris 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:

- Plan of Community Strata prepared by Mattsson & Martyn, Reference P14170/10/16, received by the Council 29 November 2016

Conditions

1. All buildings shall be demolished and removed prior to the issuing of Section 51 Clearance. Please note that a separate Development Application is required for demolition.

Notes to Applicant

1. The postal addresses of the new created allotments are:
Allotment 1 (residential): 1/417 Magill Road St Morris
Allotment 2 (residential): 2/417 Magill Road St Morris
Allotment 3 (commercial): 417 Magill Road St Morris
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 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.

4. This Land Division will lapse within 12 months of the date of this notice unless an application for a certificate under Section 51 of the Act has been lodged with the Development Assessment Commission, accompanied by the Certificate of Approval Fee.

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/D084/2016 by Mr M Ghan for a Torrens Title land division creating two (2) additional allotments with party wall rights facing Thomas Avenue on the land located at 417 Magill Road St Morris 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:

- *Plan of division prepared by Mattsson & Martyn, Reference P14169/10/16, received by the Council 22 November 2016*

Conditions

1. *All buildings shall be demolished and removed prior to the issuing of Section 51 Clearance. Please note that a separate Development Application is required for demolition.*

Development Assessment Commission Requirements

1. *The financial requirements of the S A Water Corporation shall be met for the provision of water supply and sewerage services. (S A Water H0052711)*

The internal drains shall be altered to the satisfaction of the S A Water Corporation.

SA Water advises on receipt of the developer details and site specifications an investigation will be carried out to determine if the connections to your development will be standard or non standard fees. Extension of sewer main is required to serve the proposed allotments.

On approval of the application, all internal water piping that crosses the allotment boundaries must be severed or redirected at the developers/owners cost to ensure that the pipework relating to each allotment is contained within its boundaries.

2. *Payment of \$13352 into the Planning and Development Fund (2 allotment/s @ \$6676/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Development Assessment Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor, 101 Grenfell Street, Adelaide.*
3. *A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.*

Notes to Applicant

1. *The postal addresses of the newly created allotments are:
Allotment 97 (residential): 2/1 Thomas Avenue St Morris
Allotment 98 (residential): 1/1 Thomas Avenue St Morris
Allotment 99 (commercial): 417 Magill Road St Morris*
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 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.

4. *This Land Division will lapse within 12 months of the date of this notice unless an application for a certificate under Section 51 of the Act has been lodged with the Development Assessment Commission, accompanied by the Certificate of Approval Fee.*

and

*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/C091/2016 by Mr M Ghan for a Community Strata land division creating two (2) additional allotments on the land located at 417 Magill Road St Morris 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:

- *Plan of Community Strata prepared by Mattsson & Martyn, Reference P14170/10/16, received by the Council 29 November 2016*

Conditions

1. *All buildings shall be demolished and removed prior to the issuing of Section 51 Clearance. Please note that a separate Development Application is required for demolition.*

Notes to Applicant

1. *The postal addresses of the new created allotments are:
Allotment 1 (residential): 1/417 Magill Road St Morris
Allotment 2 (residential): 2/417 Magill Road St Morris
Allotment 3 (commercial): 417 Magill Road St Morris*
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 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.

4. *This Land Division will lapse within 12 months of the date of this notice unless an application for a certificate under Section 51 of the Act has been lodged with the Development Assessment Commission, accompanied by the Certificate of Approval Fee.*

Seconded by Mr Dottore and carried.

2. STAFF REPORTS

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

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

Purpose of Report

The purpose of this report is to provide details to the Panel on a compromise proposal which has been submitted in relation to a Development Application that was refused by the Panel at its meeting held on 19 September 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. 155/332/16) was lodged with the Council for the construction of a two-storey dwelling, with an associated cellar, swimming pool and fencing.

The Panel considered the Application at its meeting held on 19 September 2016 and determined to refuse the Application 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.*

Following the refusal of the Application by the Panel, the Applicant lodged an appeal with the ERD Court. The Applicant prepared a compromise proposal, which was considered by the Panel at the meeting held on 21 November 2016. A summary of the amendments which were considered by the Panel on 21 November, is provided below:

- The upper level setback from the street was increased from 1.7m to 4.0m;
- The external cladding of the upper level was changed from standing seam metal roof sheet (matt stealth colour) to rendered walling to be finished with cementitious paint;
- The vertical aluminium louvres along the side elevation of the upper level were changed from having a painted finish to a wood finish;
- the front fence design was changed from rendered masonry with circular openings to a stone clad masonry fence;
- the side fence adjacent the driveway was changed from a rendered masonry wall with vertical recesses to a stone clad wall;
- the carport opening width was increased from 6.0m to 7.1m, and
- the landscaping plan was changed, to include the planting of a creeping fig up the wall of the adjacent commercial building to the north.

The Panel determined to advise the ERD Court that the amended proposal did not overcome the Panel's concerns. A copy of the relevant section of the Minutes of the Panel meeting held on 21 November 2016, is contained in **Attachment A**.

On 5 December 2016, the Applicant provided the Council with further amended plans for the Panel's consideration. The further amendments comprise:

- the inclusion of a pitched roof form;
- the use of corrugated profile colorbond roofing with concealed gutters;
- the incorporation of a stone clad wall to the stairwell; and
- the inclusion of conventional windows with metal surround hoods to the upper level wall and roof windows on the southern elevation.
- Whereas the previous amended plans provided a 4.0m setback from the street, the setback is now proposed to be 3.5m.

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

Discussion

The following discussion is based on the Panel's reasons for refusal as listed above.

Built Form Prominence and Compatibility

The increased upper level street setback from 1.7m (original proposal) to 3.5m has the effect of reducing the prominence of the dwelling in the street. Despite the revised setback, the dwelling remains approximately 2.5m forward of the dwelling to the south at 15 Salter Street and would be highly visible in the streetscape due to the separation between the proposed dwelling and the dwelling at 15 Salter Street, created by the driveway.

That said, the increased setback provides a more appropriate transition between the dwelling at 15 Salter Street and the commercial building to the north and results in a less dominant impact on the streetscape.

With respect to the compatibility of the dwelling design with the established character of the street, the pitched roof form references the roof pitches of existing dwellings in the street. This is consistent with the Desired Character Statement for the Residential Historic (Conservation) Zone, which states that *“the roof pitch and basic roof form of surrounding houses will be repeated”* and development 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 use of corrugated iron roofing, rather than a flat-pan profile as was previously proposed, also references traditional dwellings in the street and is consistent with the Desired Character Statement for the Zone, which states *“Corrugated iron roofing will be used in preference to tiled roofs as this is the traditional roofing material, except where Terracotta Marseilles tiles are the original roofing material.”*

The use of stone cladding for the external cladding of the stairwell references the use of stone in older dwellings in the locality and is consistent with the Desired Character Statement for the Zone which states *“New development will complement and reinforce the traditional colours and materials such as stone, brick and rendered masonry”*.

Site Coverage

The increased street setback is achieved by reducing the area of the upper level floor plan, which in turn reduces the site coverage by approximately 7%, from 82% to 75%. There is no quantitative Development Plan policy relating to site coverage. Rather, 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.

The revised site coverage is more compatible with the site coverage of other buildings in the locality and having regard to the adjacency of the site to the commercial building to the north (which has much higher site coverage) and the small area of the subject land, the site coverage is now considered acceptable.

Overlooking

Whereas the previous upper level design included one expansive window facing south, it is now proposed that four relatively small conventional windows be incorporated in the southern elevation, together with roof windows. The use of conventional windows enables overlooking to be more easily managed.

It may be the case that the proposed metal hoods surrounding the windows will adequately address overlooking of the adjacent dwelling to the south, however this is difficult to gauge at this point in time.

Accordingly, if the Panel determines to approve the proposed development, it is recommended that a condition be imposed requiring the south facing upper level windows to be installed with obscure glass to a height of 1700mm above floor level.

If during construction, it is evident that the obscure glass is not required, the Applicant may lodge a Development Application seeking a variation to the condition and that Application would be assessed at that time.

Private Open Space Location

No change has been made to the plans to address the concern that the private open space is located between the dwelling and the street. It is noted, however, that high solid front fences are characteristic of the locality and in this context, this aspect of the proposal is only a minor concern.

Access to Northern Sunlight

In response to a concern that the proposed dwelling is poorly orientated to receive northern sunlight, the Applicant sought to demonstrate with the previous amended proposal, that northern sunlight access is achieved. Specifically, the Applicant demonstrated in the plans, that the height of the adjacent commercial building to the north steps down at the rear, allowing the northern sun to penetrate north-facing windows to the upper level of the proposed dwelling. This situation remains applicable to the further amended plans, albeit only with respect to the master bedroom. The northern window of the lounge, located at the front of the dwelling, is not likely to receive direct sunlight in winter. That said, this room has an expansive east facing windows facing the street, providing ample natural light within the room.

Convenience of Manoeuvring

As was the case with the previous amended plans, the carport opening width has been increased from 6m to 7.1m, by removing a return nib wall from the northern side. This change will increase the convenience of manoeuvring into and out of the carport, however upon applying the Australian Standard vehicle manoeuvring templates for a B85 (85th percentile sized) vehicle, it remains likely that one (1) of the two cars using the carport (ie. the northern-most parked car) will require a three-point turn to leave the carport. Given that the Development Plan only requires a detached dwelling to have one covered car parking space set back at least 5.5m from the primary street frontage, the proposal achieves the car parking policies without accommodating a second car within the carport. In this context, the reduced convenience of the second parking space within the carport is considered acceptable.

Summary

The proposed amendments are considered to result in an improvement to the compatibility of the dwelling to the character of the locality and it is now less prominent. The design composition of the building is now considered to be reasonably compatible with historic buildings in the locality, through the inclusion of a roof form and materials which reference historic buildings in the locality.

Other concerns previously identified have either been addressed, are able to be addressed by way of condition, or are considered to be of relatively minor concern in the overall assessment.

On balance, the proposal is considered to sufficiently accord with the Development Plan to merit consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan, the Environment Resources & Development Court be advised that Development Application No. 155/0332/16, for the construction of a two storey dwelling, swimming pool and fencing, on the land located at 13 Salter Street, Kensington, 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:

- Plans by DC Architecture, Plan Numbers 937.STE.DD01, 937.STE.DD02, 937.STE.DD03, 937.STE.DD04 and 937.STE.DD05, Plot Date 2 December 2016

Conditions

1. The portion of all upper floor south facing windows less than 1.7 m above the internal floor level, of all dwellings shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate.

2. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
 3. 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.
-

Mr Smith moved

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan, the Environment Resources & Development Court be advised that Development Application No. 155/0332/16, for the construction of a two storey dwelling, swimming pool and fencing, on the land located at 13 Salter Street, Kensington, 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:

- *Plans by DC Architecture, Plan Numbers 937.STE.DD01, 937.STE.DD02, 937.STE.DD03, 937.STE.DD04 and 937.STE.DD05, Plot Date 2 December 2016*

Conditions

- 1) *The portion of all upper floor south facing windows less than 1.7 m above the internal floor level, of all dwellings shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate.*
- 2) *All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.*
- 3) *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.*

Seconded by Ms Newman and carried.

2. STAFF REPORTS

2.5 DEVELOPMENT APPLICATION 155/205/2016 – D & C HOMES PTY LTD – 189 PAYNEHAM ROAD, ST PETERS

DEVELOPMENT APPLICATION:	155/205/16
APPLICANT:	D & C Homes Pty Ltd
SUBJECT SITE:	189 Payneham Road, St Peters (Certificate of Title, Volume: 5808 Folio: 982)
DESCRIPTION OF DEVELOPMENT:	Construction of a two-storey office building with associated car parking and landscaping
ZONE:	Local Office Zone - Norwood, Payneham and St Peters (City) Development Plan (dated 15 July 2015)
PUBLIC NOTIFICATION CATEGORY:	Category 2

Purpose of Report

The purpose of this report is to provide details to the Panel on a compromise proposal which has been submitted in relation to a Development Application that was refused by the Panel at its meeting held on 21 November 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. 155/205/201615) was lodged with the Council for the construction of a two-storey office building with associated car parking and landscaping.

The Panel considered the Application at its meeting held on 21 November 2016 and determined to refuse the Application for the following reasons:

- 1. The proposed development would be contrary to Development Plan provisions regarding orderly access and circulation of traffic generated to and from the site so as to compromise safety of pedestrians and traffic, particularly concerning First Lane.*
- 2. The proposed development would be contrary to Local Office Zone Principle of Development Control 2 in so far as it would impair the amenity or residential character of the adjoining residential zone*

A copy of the relevant section of the Minutes of the Panel meeting held on 21 November 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 and a summary letter prepared by the Applicant's Planning consultant is contained in **Attachment B**.

A summary of the proposed amendments is provided below:

- an increase in the front setback of the building to accommodate three (3) car parking spaces (as well as a shared space) in front of the building;
- the construction of a two way crossover adjacent Payneham Road;
- an increase in the width of the landscaping buffer to the northern boundary;
- an increase in the depth of the landscaping buffer adjacent the rear lane;
- vehicle access gate from the rear lane is now setback 2.5m.

Discussion

The Panel was concerned that the proposed development would have detrimental impacts on the amenity of occupants of dwellings in First Avenue, to the north of the subject land, as a result of the proposed parking arrangements, being almost exclusively accessed via the rear lane. In particular, the Panel expressed concern that the number of vehicular movements that the proposed development would generate within First Lane, would cause inconvenience to existing users of the lane and potentially create unsafe conditions for pedestrians within the lane. In addition, concerns were raised regarding the setback of the vehicle access gate and the level of landscaping.

The previous proposal included 11 car parking spaces at the rear of the property, to be accessed via First Lane. The revised proposal is for nine (9) car parking spaces at the rear of the property, to be accessed via First Lane. Two of the car parking spaces that were previously proposed at the rear, are now proposed as designated visitor spaces at the front of the property, together with a designated Accessible Space, to be accessed from Payneham Road.

The Applicant has advised that the two visitor spaces are likely to be utilised by visiting clients and visiting contractors/representatives.

The revised car parking goes some way to addressing the Panel's concerns relating to the potential compromised amenity and safety for adjoining residential properties. In particular, instead of eleven (11) cars using the lane, including visitors, the revised proposal would result in nine (9) cars using the lane, all of which would be staff vehicles.

The revised landscaping buffers, as well as the increased setback of the vehicle access gate are positive attributes of the compromise and are considered to adequately address the Panel's concerns regarding driver sight lines within the lane.

Summary

The proposed amendments go some way to addressing the Panel's reasons for refusing the Application. Whilst the creation of a driveway alongside the proposed building, linking the front and rear car parking areas, would have more substantially addressed the Panel's concerns, the Applicant determined not to amend the proposal in that manner.

The proposed amendments are considered an improvement over the original proposal and as such, it is the opinion of staff that the proposed development, as amended, sufficiently accords with the Development Plan to warrants Development Plan Consent.

RECOMMENDATION

That the Environment Resources and Development Court be advised that the Development Assessment Panel is satisfied that the amended proposal sufficiently accords with the Development Plan to merit Development Plan Consent, subject to the following conditions:

Relevant Plans

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

- Site plan and floor plan prepared by Inspire Design Studio, received by the Council on 1 December 2016;
- Elevations prepared by Inspire Design Studio, received by the Council on 1 December 2016 and
- Civil Computation prepared by Intrax dated 29 March 2016

DPTI Conditions

1. All vehicular access to/from the site being gained via First Lane, with the exception of the disabled car park located at the front of the site.
2. The car park located forward of the building shall be designated as disabled parking only and shall be consistent with AS/NZS 2890.6:2009. A bollard shall be provided within the shared space to prevent vehicles utilising this space as vehicle parking.
3. The Payneham Road access point shall not be utilised by vehicles larger than B99 passenger vehicles. All service vehicles shall gain access via First Lane.
4. Vehicles larger than a 6.4 Small Rigid Vehicle (SRV) shall not be permitted on site.
5. Suitable line marking and signage shall be installed designating the parking area forward of the building for disabled use only.
6. All vehicles shall enter and exit the site in a forward direction.
7. All car parking shall be designed and installed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009.
8. Any landscaping located along the Payneham Road property boundary shall be low growing so as not to restrict driver sightlines.
9. The signage shall be permitted to use LED lighting for internal illumination of a light box only. No element of LED or LCD display shall be included in the design of signs.
10. The signage shall not contain any element that flashes, scrolls, moves or changes.
11. All illuminated signage shall be limited to a low level of illumination so as to minimise distraction to motorists ($\leq 200\text{cd/m}^2$).
12. All signage shall be finished in a material of low reflectivity to minimise the risk of sun and headlamp glare for motorists.
13. No stormwater from this development is permitted to discharge on-surface to Payneham Road. In addition, any existing drainage of the road shall be accommodated by the development and any alterations to road drainage infrastructure as a result of this development shall be at the expense of the developer.

Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into the Payneham Road underground pipe drainage system.
2. All stormwater discharged from the land shall remain at pre-development levels with 1 in 5 year ARI events detained on-site and pumped back to the Payneham Road underground stormwater pipe system.

3. The car parking area shall be graded such that surface stormwater does not enter First Lane, whilst maintaining a convenient grade for vehicles to egress the land into First Lane. Details of the car parking area levels and stormwater disposal shall be provided to the reasonable satisfaction of the Council prior to the issuing of Development Approval.
4. The landscaping bed adjacent the northern boundary shall be increased in width to 1.5m and planted with a mixture of Manchurian Pears and Cherry Plum trees (as nominated on the approved landscaping plan) to the reasonable satisfaction of the council
5. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
6. All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.
7. Wheel stopping devices constructed of concrete, metal or wood shall be placed at the end of all parking bays so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council or its delegate.
8. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
9. Any air conditioning units or other plant and equipment associated with the development, herein approved, shall be adequately screened such that noise levels do not exceed 45db(a) when measured at adjoining residential property boundaries.

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.
-

Ms Moore moved

That the Environment Resources and Development Court be advised that the Development Assessment Panel is not satisfied that the amended proposal sufficiently accords with the Development Plan to merit Development Plan Consent for the reasons previously stated.

Seconded by Mr Minney and carried.

3. OTHER BUSINESS

Mr Smith moved

The Council is requested to consider policy to address the role and function of laneways as a primary access.

Seconded by Mr Dottore and carried.

4. CONFIDENTIAL REPORTS

Nil

5. CLOSURE

The Presiding Member declared the meeting closed at 8:19pm.

Terry Mosel
Presiding Member