

Development Assessment Panel Minutes

15 May 2017

Our Vision

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

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

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City of
Norwood
Payneham
& St Peters

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VENUE Mayors Parlour, Norwood Town Hall

HOUR **7.00 pm**

PRESENT

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

Staff

Mr Mark Thomson (Manager Development Assessment)
Ms Kathryn Clausen (Senior Urban Planner)
Mr Graeme Gibson (Urban Planner)

APOLOGIES Mr John Frogley
 Mr Don Donaldson

ABSENT

1. CONFIRMATION OF THE MINUTES OF THE SPECIAL MEETING OF THE DEVELOPMENT ASSESSMENT PANEL HELD ON 10 MAY 2017

Confirmation of these Minutes will be made at the next meeting of the Development Assessment Panel to be held on 19 June 2017.

2. STAFF REPORTS

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

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/90/2016 – MR BERNIE DE GILLO – 292 PORTRUSH ROAD, KENSINGTON

DEVELOPMENT APPLICATION:	155/90/2016
APPLICANT:	Mr Bernie De Gillo
SUBJECT SITE:	292 Portrush Road, Kensington (Certificate of Title Volume: 5820 Folio: 972)
DESCRIPTION OF DEVELOPMENT:	Demolition of a Contributory Item and a Community Title Land Division and the construction of two (2) storey group dwellings and one (1) single storey group dwelling with associated landscaping, fencing and common areas.
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 information to the Panel in order for a determination to be made on an Application for the demolition of a Contributory Item, a Community Title Land Division and the construction of two (2) storey group dwellings and one (1) single storey group dwelling with associated landscaping, retaining, fencing and common areas.

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

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

Subject Land Attributes

Shape:	irregular
Frontage width:	15.35 metres
Depth:	38 - 56 metres
Area:	756.45m ²
Topography:	slope of 1.6m from east to west
Existing Structures:	single storey dwelling, two (2) outbuildings
Existing Vegetation:	no vegetation of note

Locality Attributes

Land uses:	mostly residential
Predominant dwelling era:	pre-war and post-war
Extent of consolidation/infill:	medium - high
Dwelling heights (storeys):	mix of 1, 2 and 3 storey buildings
Streetscape amenity	low

The locality comprises a number of large irregular-shaped allotments comprising group dwellings and residential flat buildings, in addition to a number of Contributory dwellings sited on conventional detached sites. The Norwood Swimming Centre, Mary McKillop College and Convent, St Ignatius College and the Norwood Garden Centre are also located nearby. High front fencing is a predominant built form characteristic along Portrush Road.

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

Proposal in Detail

The Applicant seeks consent to demolish a Contributory Item (the existing dwelling) and two (2) large outbuilding structures and undertake a Community Land Division creating two (2) additional allotments and the construction of two (2) storey group dwellings and one (1) single-storey group dwelling, with associated common areas, car parking areas, landscaping, and fencing.

With regard to the demolition proposal, the Applicant has provided an engineering report which discusses the structural condition of the dwelling. A copy of this report is contained in **Attachment B**.

With regard to the proposed Community Land Division, a copy of the proposed Land Division Plan is contained in **Attachment C**.

The land use/built form proposal is for the construction of three (3) abutting group dwellings. The front dwellings (Dwellings 1 and 2) are two-storeys and the rear dwelling (Dwelling 3) is single-storey. Dwellings 1 and 2 comprise two (2) bedrooms, two (2) bathrooms and a study at ground level and at the upper level, an open plan kitchen/dining/living area, laundry, toilet and an adjacent patio. The single-storey dwelling has two (2) bedrooms, two (2) bathrooms, study, laundry and an open plan kitchen/dining/living area. All three (3) dwellings have single garages which are an integrated part of each dwelling.

The dwellings have a simple contemporary design with a flat roof form. Construction is rendered Hebel block with feature colorbond wall cladding, semi-commercial natural anodised aluminium windows and sliding doors. Perforated steel mesh sun canopies are provided over the upper level windows on the northern and western elevations. New fencing is proposed along the southern boundary of the subject land (2m high colorbond 'good neighbour'), adjacent to the property located at 294 Portrush Road. The existing masonry front fence is proposed to be retained and altered to widen the driveway access. New fencing along the northern boundary is not part of this proposal.

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

TABLE 1: DEVELOPMENT DATA:

Consideration	Proposed Dwelling 1	Proposed Dwelling 2	Proposed Dwelling 3	Development Plan Merit Assessment Quantitative Guideline
Site Area	125m ²	111m ²	222m ²	400m ² (unless the site of the development does not contribute positively to the historic character in which case it should not be inconsistent with the predominant pattern)
Allotment Width	10.11m – 15.35m			N/A
Allotment Depth	38m – 57m			N/A
External Wall Height*	3m – 6.6m	3m – 6.6m	3m – 3.6m	N/A
Maximum Overall Height (to roof apex)*	6.6m	6.6m	3.6m	2 storey height limit
Floor Area (total)	180m ²	175m ²	134m ²	N/A
Floor Area (footprint)	84m ²	84m ²	134m ²	N/A

TABLE 1: DEVELOPMENT DATA *continued...*

Consideration	Proposed Dwelling 1	Proposed Dwelling 2	Proposed Dwelling 3	Development Plan Merit Assessment Quantitative Guideline
Site Coverage	44%			Compatible with the site coverage of those buildings which contribute significantly to the historic character
Private Open Space	51m ² 41% of site area 100% uncovered	42m ² 46% of site area 100% uncovered	27m ² 12% of site area 100% uncovered	35m ²
Street Set-back	9.2m	N/A	N/A	Consistent with the historic pattern but not projecting forward from an adjacent Contributory Item
Set-backs				Dwelling 1 – consistent with the historic pattern
- southern (ground)	nil - 2.3m	nil - 2.3m	1.2m	
- southern (upper)	1.8m – 4m	1.8m – 4m	-	Dwellings 2 & 3 – 2.5 (ground level) 4.5 (upper level)
- south-eastern (ground)	-	-	1m	
-eastern (ground)	-	-	1.4m – 2m	
-north-eastern (ground)	-	-	900mm – 5m	
-northern (ground)	5.6m – 7.8m	5.2 – 7.4m	8m	
-northern (upper)	4.2m – 6m	4.2m – 6m	-	
Car Parking Provision	1 undercover & 1visitor	1undercover & 1visitor	1undercover & 1visitor	2 (1being covered) plus 1 visitor space for every 2 dwellings

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

Plans and details of the proposed development are attached (**Attachment D**).

Notification

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

Four (4) representations were received (1 in favour, 2 opposed and 1 neutral) in response to this notification, copies of which are attached (**Attachment E**). The key issues raised by representors are, in summary:

- loss of northern sunlight to open space and living and bedroom;
- balcony and patio of Dwelling 2 will create privacy issues (1700mm screens are too low);
- potential for noise from dwellings;
- two storey units are not in keeping with the adjacent properties;
- trees should be retained on the property; and
- setback from the southern boundary should be increased to allow the planting of vegetation.

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

- Catherine Mead
- Sister Colleen Roberts (with a possible representative of the Sisters of St Joseph)
- Meng Yao

The Applicant has responded to the representations and the response is summarised below:

- the garages of Dwellings 2 and 3 have been re-designed to lower the height of the boundary wall to 1.8m on the southern boundary;
- the set-back to the upper level patio of Dwelling 1 from the southern boundary of the subject land has been increased to 1.8m and a 2m high solid wall has replaced the previously proposed translucent glazing;
- the set-back to the upper level patio of Dwelling 2 from the southern boundary of the subject land has been increased to 2.8m and a 2m high (insulated) wall has replaced the previously proposed translucent glazing; and
- double glazing has been included for all Dwellings which will increase noise attenuation for both occupants and neighbours.

State Agency Consultation

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

Discussion

The subject land is located within the Residential Historic (Conservation) Zone of the Norwood, Payneham and St Peters (City) Development Plan and within that, the Kensington 1 Policy Area. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

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

Demolition of a Contributory Item

The following Development Plan provisions provide guidance on the demolition of a Contributory Item.

RH(C) Zone PDC: 27

PDC 27 states (in part):

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

(b) the condition of the item is structurally unsound and substantial rehabilitation work is required to an extent that is unreasonable; and

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

The Applicant has provided a report prepared by MQZ Consulting Engineers dated 16 September 2016, which discusses the structural condition of the dwelling. A copy of this report is contained in **Attachment B**. The report contains the observations of the engineer and recommendations regarding the extent of works required to make the dwelling fit for human habitation. In the opinion of the engineer, this includes roof and floor framing, underpinning, damp proofing, repair of brickwork and articulate walls and repair of termite damage.

Staff subsequently sought independent engineering advice, which was prepared on behalf of the Council by LN Engineering Consulting Pty Ltd (dated 17 February 2017). A copy of this report is also contained in **Attachment B**. This report concludes that much of the damage to the dwelling is not irreparable and mostly due to it not being maintained. The report however, is not conclusive about the extent of structural damage as a full inspection of the roof, floor and wall structure was not undertaken. The author states that a roof inspection was not carried out due to it appearing unsafe and possibly containing quantities of asbestos. The writer has further suggested that the services of a Quantity Surveyor would be required to assess the extent of costs associated with the repair of the dwelling to make it habitable.

In this regard, whilst the available information on the condition of the building is not entirely conclusive, it is considered reasonable to form the opinion that the costs associated with undertaking a further assessment of the building and subsequently undertaking any necessary structural works, are likely to be extensive to the point of being unreasonable. This conclusion is further supported by the opinion of the Council's Heritage Advisor, Mr David Brown, who does not consider that the dwelling makes a significant contribution to the heritage value of the streetscape or Policy Area.

Where a proposal satisfies the above test, part c) of PDC 27 further requires consideration of the replacement development, in that the replacement dwelling should not diminish the level of contribution to the historic character of the zone. The Council's Heritage Advisor, Mr David Brown, has provided advice on this aspect of the proposal which is contained in **Attachment F**.

Mr Brown considers that the streetscape along this section of Portrush Road is already compromised given the neighbouring three-storey townhouses and the arterial road locality, which is dominated by high solid fences. The subject dwelling is noted as a much re-worked Bungalow with a poor quality side addition which has significantly altered its streetscape appearance. Added to this, the high front fence and proximity to the street has, in Mr Brown's opinion, has further compromised its contribution to the streetscape.

In this context, Mr Brown considers that the replacement of the dwelling with the simply designed contemporary townhouses is an acceptable development approach in this locality and in this circumstance where it will be sufficiently set back behind a high front fence and not highly visible in the streetscape.

Land Use and Density

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

Kensington 1 Policy Area Desired Character Statement

Kensington 1 Policy Area Objective: 1
Kensington 1 Policy Area PDCs: 1, 2, & 4.

RH(C)Z Desired Character Statement

RH(C)Z Objectives: 1
RH(C)Z PDCs: 1, 2, 7 & 8.

City Wide Objectives: 1, 2, 7, 8, 10, 19, 20 & 55-57.
City Wide PDCs: 1, 2, 3 & 4.

The continuation of the subject land for residential use is consistent with Objective 4 of the Residential Historic (Conservation) Zone and PDC 2 of the Kensington 1 Policy Area.

The proposal for group dwellings is consistent with PDC 2 of the Kensington 1 Policy Area which provides for a 'range of types and forms of housing'.

PDC 4 of the Policy Area provides the following guidance on density:

*"The average site area per dwelling unit for residential development in the Kensington 1 Policy Area should not be less than 400 square metres except where:
The site of the development does not contribute positively to the historic character of the Policy Area and is not identified in Tables NPSP/5, 6 or 7. In this instance, a lesser site area per dwelling may be considered provided that the development is not inconsistent with the predominant pattern of development in the immediate locality."*

The subject land has a total site area of 756m² and the proposed Community Land Division indicates that the dwelling sites (exclusive of the common driveway area) would be in the order of 125m² (Dwelling 1), 111m² (Dwelling 2) and 222m² (Dwelling 3).

Although these site areas do not satisfy the 400m² guideline, in the context of Mr Brown's advice, it could be argued that a lesser site area may be considered, as the site makes little, if any, contribution to the historic character of the Policy Area.

If the Panel accepts the above, then PDC 4 allows for a lesser site to be considered where it is consistent with the predominant land division pattern within the locality. The locality, which comprises land on both sides of Portrush Road (both within and outside of the Residential Historic (Conservation Zone), comprises a number of medium density sites, most notably a large group of 2 and 3 storey residential flat buildings directly to the north and north-east of the subject land and one and two-storey townhouses on the opposite side of Portrush Road. Whilst dwelling site areas have not been calculated for these sites, the immediately adjacent single-storey group dwellings abutting the southern and south-eastern boundaries of the subject land have site areas of between 221m² and 241m² (approximately). The 'run' of Contributory Items to the south of the subject land have site areas ranging between 488m² and 800m² (approximately). Overall, the existing allotment pattern is considered to be irregular in that there is no consistent size or form.

Accordingly, it is considered that the proposed site areas do not offend this PDC and support more generally the principles around a more compact urban form and increasing residential densities in close proximity to District and Regional centres, such as The Parade.

streetscape/bulk/scale/height/character

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

Kensington 1 Policy Area Desired Character Statement

Kensington 1 Policy Area Objective: 1.
Kensington 1 Policy Area PDCs: 1, 2 & 3.

Residential H(C)Z Desired Character Statement

Residential H(C)Z Objectives: 1 & 5.
Residential H(C)Z PDCs: 1, 2, 13-19, 22, 23, 25 & 26.

City Wide Objectives: 18, 19 & 20.
City Wide PDCs: 28-32, 37, 39, 41, 201 & 209-216.

The proposal incorporates an outwardly two-storey form for Dwelling 1 (fronting Portrush Road) and Dwelling 2 (sited immediately behind), which does not offend the two-storey height limit guidance for development with the Kensington 1 Policy Area.

With regard to the two storey height of Dwelling 2, City Wide Principle of Development Control 201(a) limits the height of dwellings on battle-axe and hammerhead allotments to one storey, except in areas where the predominant height of surrounding development is greater than one storey. In this instance, the neighbouring 2 and 3 storey development extends from Portrush Road through to Thornton Street and is considered to provide some precedence for supporting the reasonably modest extent of two-storey development proposed on the subject land, subject to further consideration of the impact of such development in terms of set-backs and neighbouring amenity, which will be discussed in the following sections of this report.

With regard to the streetscape impact of the proposed development within the Policy Area, the Desired Character Statement of the Kensington 1 Policy Area describes a range of building eras which make up the original 'urban village' of Kensington. It also describes the unique diagonal street pattern as being an important element of Kensington's character. In this regard, it is considered the subject land is located on the periphery of the Policy Area and Portrush Road does not form part of the original diagonal street pattern. Furthermore, Mr Brown's advice has concluded that the contribution of this pocket of housing to the historic significance of the Policy Area is compromised to the extent that he is able to support more flexible design parameters from a streetscape and heritage perspective.

PDC 17 of the Residential Historic (Conservation) Zone, requires that development has a single-storey streetscape appearance along the primary street frontage where single storey development is predominant in the locality. In this instance, it is considered that the adjacent 2 and 3 storey residential flat buildings provide a precedence which supports an outwardly two-storey form on this site. The dwelling is set-back 9.5m from Portrush Road in comparison to the adjacent single-storey Contributory Item, which has a much lesser set-back of approximately 3.5m. Overall, it is considered that the generous front set-back, combined with the relatively low, simple, flat roof design of Dwelling 1 provides an acceptable transition in scale from

the single storey Contributory dwellings to the neighbouring 3 storey residential flat building and would not overwhelm its Contributory neighbours.

Accordingly, from a streetscape and heritage perspective, the proposed height and presentation of the proposed development to Portrush Road is considered to be acceptable.

Setbacks and Site Coverage

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

RH(C)Z PDCs:	10, 11 & 12.
City Wide PDCs:	50, 202, 203, 204, 206, 207 & 208.

With regard to the front and side set-backs of Dwelling 1 (fronting Portrush Road), PDC 11 of the Residential Historic Conservation Zone states:

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

As discussed previously, Dwelling 1 has a set-back of 9.5m from Portrush Road, which is significantly greater than the set-backs of the adjacent Contributory Items, which are all much closer to the street. Whilst the proposed set-back is not consistent with the front set-back pattern established by the surrounding heritage places, the greater set-back will ensure that the dwelling does not project forward of the adjacent Contributory Item, which is in accordance with this aspect of the PDC.

With regard to the side set-back of Dwelling 1, the common driveway is located on the northern side of the development site, whilst on the southern side the dwelling has a ground level set-back of 2.4m and an upper level set-back of between 1.8m (to part of the main wall and the patio privacy wall) and 4m to the remainder of the upper level wall. These set-backs are considered to be generally consistent with the side set-back pattern of the adjacent Contributory Items, which have a driveway on one side and a small set-back on the other side. The owner of 294 Portrush Road has indicated support for the development subject to ensuring that privacy is maintained and requesting a 2m high fence between the properties. The Applicant has addressed both of these requests. The shadow diagrams contained in **(Attachment G)** indicate that most of the shadow from Dwelling 1 would fall over the driveway area and carport structures of this property. Whilst there would be some visual impact from the proposed dwellings, it is unlikely to be unreasonable given the size and orientation of the property's private open space area.

Accordingly, the set-backs of Dwelling 1 are considered to be acceptable from a streetscape perspective and with regard to the impact on the neighbouring land.

The side and rear boundary set-backs of Dwellings 2 and 3 which are sited behind Dwelling 1, are guided by City Wide Principles of Development Control 202 and 203, which state respectively:

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

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

With regard to the single-storey components of these dwellings, both include garages built to the southern boundary of the subject land (resulting in a total of 7.3m of boundary development), which is not in accordance with PDC 202. The remainder of the single-storey components are set back between 1m and 2.4m from the southern, south-eastern and eastern boundaries of the subject land and also do not satisfy

PDC 202. The Panel should note that the height of the boundary walls has been amended from the original proposal as a result of concerns raised during notification.

In response to the concerns raised by the neighbour located at Unit 3/47 Thornton Street (who would be most affected by the boundary walls), the Applicant has amended the design of the garages in order to reduce the wall height along this boundary to be only 1.8m above the neighbouring ground level. This has been possible due to the existing difference in ground level between the two properties, whereby the subject land is lower than the neighbouring land. This amended wall height is akin to a standard fence height and as such, it is considered that the siting of the garage walls on the boundary does not offend PDC 202 and is therefore acceptable.

The remaining ground level set-backs of Dwelling 3 are considered to be acceptable in the context of the siting of the existing pitched roof structures on the subject land, one being a garage and the other a former hall which is sited very close to the boundaries. Further consideration has also been given to the irregular shape of the subject and surrounding allotments and the existing set-backs of buildings on those allotments. In particular, it is noted that the dwellings on the irregular shaped allotments located at 47 and 49 Thornton Street have minimal set-backs from their boundaries.

In addition, the change in ground level between the subject land and the neighbouring land (which is up to 900mm difference in places) means that the proposed flat roof form of the single-storey dwelling will not be highly visible above the fence-lines.

Accordingly, it is considered that the failure of the proposal to meet the 2.5m ground level set-back requirement of PDC 202 is acceptable in the context of the minimal impact on neighbouring land.

With regard to the upper level components of Dwelling 2, the main wall has a set-back of between 1.8m and 4m and the patio privacy wall has a set-back of 2.8m from the southern boundary of the subject land. The Panel should note that the set-back of the patio wall has been increased from what was originally proposed as a result of concerns raised during notification. Notwithstanding this amendment, the set-backs still do not satisfy PDC 203.

With regard to the upper level southern boundary set-backs of Dwelling 2, consideration has been given to the likely overshadowing and visual amenity impacts on the occupants of Units 2/47 and 3/47 Thornton Street, both of whom made representation during the notification period of the proposed development.

The owner of 2/47 Thornton Street has objected to the proposal stating concerns regarding the loss of natural light, sunlight and views and concerns about privacy. This property is located to the east of the proposed rear single-storey dwelling – a distance of approximately 20m from Dwelling 2. As such, it is considered that the occupants are unlikely to be affected to any unreasonable degree in the manner stated. The shadow diagrams indicate a small additional amount of shadow may fall with the common space area between Unit 2 and the fence. Furthermore, the replacement of the existing large pitched roof structure at the rear of the subject land with a flat roofed single-storey structure in almost the same position is likely to increase the visual outlook of the occupants from this residence.

The owner of 3/47 Thornton Street has objected to the proposal stating concerns regarding the loss of northern sunlight, overlooking, noise and two-storey development in general. As previously discussed, the Applicant has amended the original proposal to reduce the height of the boundary development, increase the set-back of the patio wall, increase the height of the patio wall (to increase privacy) and change the structure of the patio wall to increase the acoustic performance of the wall. The design of the main wall has also been altered to remove the parapet and therefore reduce the overall height of the wall on the southern elevation. Additionally, all doors and windows of the proposed dwellings are now proposed to be double glazed, in order to provide further noise attenuation.

With regard to the visual impact of the upper level set-back of Dwelling 2 on the occupants of 3/47 Thornton Street, the difference in the ground levels between the properties would assist in minimising the visual impact of the development. In this context, the top of the privacy wall of the patio would be 4m above the neighbouring ground level (set back 2.8m from the boundary) and the top of the main wall would be 5.2m above the neighbouring ground level (set back 4m from the boundary).

Photograph 1 below is taken from the courtyard of the neighbouring property at 3/47 Thornton Street, looking north into the 'space' where the proposed development would be visible.

Photograph 1



There is unlikely to be any unreasonable visual impact from inside the dwelling as the window seen in the right of the photograph is the kitchen window and looks out towards the west. Beyond the kitchen window (closest to the fence) is the laundry window which looks out towards the west.

Photograph 2 below shows the northern elevation of the dwelling located at 3/47 Thornton Street. This elevation shows the bathroom window (closest in view) which has no outlook to the north. The only other window on the northern elevation is a bedroom window which sits adjacent to the Dwelling 3 which is single-storey.

Photograph 2



In this context, the main visual impact would be outside, from within the courtyard area of the unit. In this regard, the outlook is already somewhat compromised by the nearby three-storey development, however, the proposed development would result in some additional visual intrusion. This is highlighted as a negative aspect of the proposal, although it is considered that design amendments have reduced the potential significance of this impact. The amendments have also considerably reduced the potential for noise impacts by moving the patio further away from the boundary, limiting the usability of the space closest to the boundary (as the width of this space has been reduced so that it is more of a walkway to the larger patio space) and through the inclusion of acoustic treatment.

It is worth noting that whilst the upper level set-back of Dwelling 2 does not satisfy the 4.5m guidance of PDC 203 for the siting of dwellings on hammerhead or battle-axe configurations, the impact of a large two-storey detached dwelling with an upper level balcony, would most likely be akin to the impact of the proposed development, except in that circumstance, a detached dwelling proposal would not be subject to the more conservative set-back guidance of PDC 203. In this circumstance, it is considered that the unusual allotment pattern and the siting of the adjacent dwelling, would make it difficult to avoid introducing some additional built form impact in developing the subject land.

Discussion regarding the overshadowing impact of the proposed development is provided in the following section of this report.

With regard to site coverage, the Residential Historic (Conservation) Zone – Kensington 1 Policy Area does not provide quantitative guideline for site coverage. It is estimated that the proposal would result in approximately 44% site coverage. Site coverage within the locality is varied, however, it is considered that a figure of around 50% site coverage is relatively consistent with the site coverage of the nearby Contributory Items. As such, it is considered that the proposed site coverage the site coverage satisfies Residential Historic (Conservation) Zone Principle of Development Control 12 which states:

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

Overshadowing/overlooking

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

City Wide PDCs: 11, 31, 71, 72, 195, 196, 235 & 236.

City Wide Principles of Development Control 195 and 196 state:

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

“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.”

With regard to PDC 195, the only north facing habitable room to consider is the bedroom window of Unit 3/47 Thornton Street (shown previously in **Photograph 2**). The one north facing window of the adjacent Portrush Road is separated by the driveway and the side set-back of the proposed development. With regard to Unit 3/47 Thornton Street, the siting of the north facing window places it adjacent to Dwelling 3 which is single-storey. Accordingly, it is considered that the proposal satisfies this PDC.

Shadow diagrams are contained in **Attachment G** and along with **Section A-A shown on Attachment D1**, indicate in plan and elevation view, the extent of overshadowing affecting Unit 3/47 Thornton Street, during the winter solstice. They indicate that some additional overshadowing would occur from the proposed development beyond that which would already occur from existing structures. Currently, at ground level, more than half of the private open space area of Unit 3 would be in shadow. As the proposal would introduce additional shadow, PDC 196 is not met, which is highlighted as a negative aspect of the proposal. **Section A-A** indicates that the extent of additional overshadowing at ground level would be in the order of 1.5m. This is not considered to be significant in the context of the fact that the courtyard area is paved and the vegetation is potted and mostly appears to be located outside of the area which would be shadowed. Accordingly, the extent of additional shadowing is considered to be acceptable notwithstanding the failure to meet PDC 196.

With regard to overlooking, the upper level windows on the southern elevation of Dwellings 1 and 2 are proposed to be screened by way of the 2m high patio walls. The upper level window on the eastern elevation of Dwelling 2 is noted as being a fixed window with obscure glazing. The windows on the upper level northern and western elevation do not propose any privacy treatment and are not considered to pose any issues relating to privacy.

As such, the proposal is considered to satisfy City Wide PDC 235 regarding privacy.

Private open space

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

City Wide PDCs: 222-225 & 229, 230.

City Wide PDC 225 requires that sites with an area of less than 250m² should provide a minimum of 35m² of private open space of which one portion should be at least 16m² and a minimum dimension of 4m.

In this regard, Dwelling 1 has 51m² of private open space and Dwelling 2 has 42m² of private open space, comprising ground level 17m² court yards and upper level patios of 34m² and 25m² respectively. The patios are accessed from the main living areas while the ground level courtyards are accessed through the studies. The upper level patios incorporate steel framed pergolas over the northern sections of the patios, for the purpose of growing vines for shade and amenity. The upper level patios have good access to northern sunlight and would be the primary outdoor space. The ground level courtyards are located on the southern side of the dwellings and therefore do not have good access to northern sunlight and are not easily accessible from the main living areas. These areas, however, would provide sufficient areas for clothes drying, bin storage and the like.

Dwelling 3 has 27m² of private open space comprising a courtyard accessed from the main living area. The set back of the building from the side and rear boundaries would also provide small additional areas of private open space, which would increase the overall amount of private open space to achieve the required 35m². These additional areas are not overly usable but would be suitable for landscaping, clothes drying and bin storage.

Accordingly, it is considered that the proposal satisfies the relevant policies relating to the amount, access and useability of private open space.

Car-parking/access/manoeuvring

City Wide Objectives: 32, 34.
City Wide PDCs: 92, 98, 101, 104, 115, 118, 120, 122, 123 & 189

Table NPSP/8

City wide PDC 120 states that development should include on-site vehicle parking in accordance with the rates set out in Table NPSP/8. In relation to group dwellings, the rate for 2 bedroom group dwellings is 2 spaces per dwelling, of which at least one space should be covered. In addition, one (1) visitor space should

be provided for every 2 dwellings (rounded up). The proposal would need to provide a total of eight (8) on-site vehicle parking spaces in order to satisfy this requirement.

The proposed development provides only one (1) car parking space for each dwelling in the form of single garages. Three (3) visitor parking spaces are proposed to be located within the common property area adjacent to the Portrush Road frontage, which theoretically, could serve as either occupant or visitor spaces. Overall, there is an on-site vehicle parking shortfall of two (2) spaces, when considered against the requirement of Table NPSP/8.

In further deliberating whether this shortfall is, in itself, fatal to the Application, consideration has been given to City Wide PDC 122 which, in part, provides some ability to consider discounting the rates set out in Table NPSP/8 where:

- the site of the development is located within 200 metres walking distance of a convenient and frequent service fixed public transport stop; or
- 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.

The development site is located approximately 260m from Kensington Road and 370m from The Parade. Despite not satisfying the distance criteria for discounting the required rate, the location is considered to be highly walkable in terms of proximity to major shopping, recreation, community and public transport services.

With regard to the second criteria, the location of the development site on Portrush Road limits any ability to park adjacent to the site. There is some on-street parking available in nearby Phillips Street, which is primarily a non-residential street. The ability to park in other local streets would be limited by distance and convenience.

In this circumstance, where on-street parking is either not possible or highly impractical it could be argued that the development would generate very little demand for on-street parking within the locality. In this case, residents and visitors would be forced to accept the highly constrained on-street parking situation, which is not uncommon on main road locations. Notwithstanding this, it is considered important to ensure that the three (3) visitor spaces remain free for visitors and are not taken up by the occupants own vehicles. As such, should the Panel determine to approve the Application, it is recommended that a condition of approval be included to require that these spaces remain part of the 'common property' allotment and that they are reserved for short term visitor parking at all times.

With regard to vehicle manoeuvring, the Applicant has provided manoeuvring diagrams which demonstrate access and egress paths of vehicles for each garage. Whilst the manoeuvring for Dwelling 2 requires additional vehicle movements, it does adequately demonstrate that there would be sufficient garage and driveway width for vehicles to enter and exit the site in a forward direction and according to the report provided by Cirqa (**Attachment H**), is in accordance with Australian Standards.

The Application was referred by the Development Assessment Commission to the Department of Planning, Transport and Infrastructure (DPTI) for regard under Schedule 8 of the Development Regulations 2008. A copy of the DPTI's advice is contained in **Attachment I**.

The advice contains a number of recommendations for which the Applicant has sought further advice from traffic consultant, which is also contained in **Attachment H**. In response to these recommendations, the Applicant has altered the design of the visitor vehicle parking area adjacent to Portrush Road to ensure that there is no conflict between vehicles entering the site from Portrush Road if, at the same time, vehicles are reversing from the visitor parking spaces. The report also provides a response to the recommendations regarding the shape of the driveway crossover and pedestrian sight lines.

Overall, it is considered that proper regard has been given to the recommendations of DPTI and where appropriate, adjustments to the design have been made.

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 PDCs: 53-58, 79, 164, 167-171.

The subject land is not within an identified flood plain.

The subject land has a slope of approximately 1.6m from the rear (east) of the site down to the top of kerb level on Portrush Road. The ground level at the rear of the subject land is lower than the neighbouring land and there are existing retaining walls in place along portions of the southern, south-eastern and eastern boundaries with a height of between 300mm and 900mm. The highest section of retaining is along the portion of the southern boundary adjacent to the property at Unit 3/47 Thornton Street.

The finished floor levels are proposed to be stepped to better address the natural contour of the land and allow for the drainage of stormwater to the street via a sealed gravity fed system.

The finished floor levels of Dwellings 2 and 3 are nominated as being lower than the neighbouring ground level to the south and east of the subject land and the existing retaining walls are to remain in place. The finished floor level of Dwelling 2 is proposed to be 770mm lower than the top of retaining wall level and the finished floor level of Dwelling 3 is proposed to be 580mm lower than the top of retaining wall level. The floor levels of the garages are slightly lower again and have been designed to result in a boundary wall height on the southern boundary which is no higher than a standard fence height (1.8m).

It is considered that the finished floor levels of Dwellings 2 and 3 are a positive aspect of the proposal which will assist in reducing the overall height of the dwellings when viewed from the neighbouring land to the south and east.

Trees (significant, mature & street) and landscaping

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

Residential H(C)Z PDCs: 36 & 37.

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

City Wide PDCs: 220, 221, 396, 398- 400.

There are no regulated or mature trees on the subject land, or any other vegetation of note.

A large London Plane Tree with a circumference measuring approximately 2.2m is located on the adjacent land, approximately 8m to the closest part of the proposed development. This tree however, is an exempted species under the Development Regulations 2008 and therefore is not a regulated tree. Notwithstanding this, the tree is considered to provide environmental benefit to both the subject land and the adjacent land, providing visual amenity, shading and wildlife habitat.

The proposed development is designed to increase the set-back from this tree, with much of this area proposed as driveway (with permeable paving) and the courtyard area of Dwelling 3.

As such, the siting of the proposed built form is considered to be a positive aspect, although care would still need to be taken if any excavation for site preparation or driveway construction is to occur close to the tree. As such, if the Panel determines to approve the Application, it is recommended that a condition of approval be included to require the Applicant to seek the advice of an arborist if tree roots greater than 25mm in diameter are encountered during any excavation works associated with the development.

A street tree is located adjacent to the subject land and is also a relatively mature London Plane Tree. The proposed flaring of the current driveway configuration at the boundary with the footpath is unlikely to have any effect on this tree. The existing masonry front fence will be retained albeit, altered to increase the driveway opening to the street. The alteration to the fence is unlikely to have any impact on the street tree.

A landscaping scheme has been provided by the Applicant which includes the areas to be landscaped and a planting schedule. The landscaping along the driveway includes a 400mm wide bed along the northern boundary and additional landscaping beds in front of Dwellings 1 and 2. In addition to landscaping on the subject land, the Plane Tree and bottlebrush trees on the adjacent land provide an element of 'borrowed' landscape. Further opportunity for greening the site is proposed for the upper level patios which include steel framed pergolas for planting vines for shade and amenity.

Overall, it is considered that the level of landscaping proposed is acceptable, particularly in the context of the additional amenity provided by the existing trees located adjacent to the northern boundary of the subject land.

Environmental Sustainability

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

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

The proposed development has been designed with the driveway on the northern side of the site providing a good northerly aspect for the upper level living areas and the main courtyard area of Dwelling 3. The small courtyards on the southern side of Dwellings 1 and 2 would not receive much winter sun, however, the orientation of the upper level patios, which would be the main outdoor space, are well sited in this respect. Steel framed pergolas sit over the northern portion of these patios, providing opportunity for planting deciduous vines to provide summer shading.

Windows on the western and northern elevations of Dwelling 1 and the northern elevation of Dwellings 2 and 3 are provided with steel framed perforated metal sun canopies, which would provide some shading from summer sun. It is also noted that the large London Plan Tree on the adjacent land already provides significant summer shading across the site.

All of the dwellings have been designed with double glazing and combined with the Hebel brick construction should provide good noise attenuation for the occupants. Additionally, the patio wall of Dwelling 2 has been amended to include additional insulation in order to provide better noise attenuation, given the close proximity of the adjacent unit at 3/47 Thornton Street.

Each dwelling has a 2000 litre rainwater tank, with 1000 litre capacity proposed to be connected to a water closet, water heater or laundry cold water outlet. The other 1000 litres would serve as capacity for on-site detention.

With regard to general waste, green waste and recycling bins, the proposal requires sufficient verge space on Portrush Road for the placement of up to six (6) bins at any given time. The minimum space recommended is 1m per bin, which means that 6m of verge space would be required to cater for the maximum amount of bins.

The site has a frontage of 15.35m of which 6m would be taken up by the driveway. The existing street tree and adjacent bed of planted grasses takes up additional verge space. This only leaves approximately 4.5m of available adjacent verge space on the southern side of the tree. To the north of the tree, the driveway would restrict bin placement. There is however, additional verge space directly on the other side of the driveway in front of an ETSA transformer box, which would provide an additional 4m of verge space.

Accordingly, it is considered that there is sufficient verge space for the placement of bins, which would not impact on the neighbouring properties or create issues for vehicle access and egress.

Summary

The proposal is considered to meet the test for demolition of the Contributory Item based on the engineering information provided and the advice of the Council's Heritage Advisor who considers that the heritage significance of this locality is somewhat compromised and the Contributory value of the subject dwelling is minimal.

The proposal is considered to satisfy the land use and density provisions of the Development Plan, as well as other provisions relating to site coverage, private open space, landscaping and environmental sustainability.

The proposal has an on-site vehicle parking shortfall of two (2) spaces, however, given the size of the dwellings and the proximity of the site to major shopping, recreational, community and public transport facilities, this shortfall is considered to be acceptable. On-street parking is not available on Portrush Road and the only reasonably convenient on-street parking available would be in nearby Phillips Street, which is not a residential street. It is unlikely that nearby residential streets would be impacted by any overflow parking from this development. Residents and visitors to this site would be forced to accept the highly constrained on-street vehicle parking situation which is not uncommon on main road locations. On the positive side, the visitor parks are located adjacent to the road and would be easily accessible for visitors. To ensure this, it is recommended that a condition of approval be included to require that these spaces do not become unit subsidiaries (formally or informally) and remain available for short term visitor parking at all times.

The proposal does not meet the building set-back requirements for dwellings sited on hammerhead and battle-axe allotments (Dwellings 2 and 3). The existing driveway located on the northern side of the subject land has, to some degree influenced the siting of the dwellings on the southern side of the subject land. The ground level set-backs are considered to be acceptable in the context of the difference in height between the subject land and the neighbouring land which would result in the proposed development appearing lower from the neighbouring land. The upper level set-back of Dwelling 2 has been amended by the Applicant to partially address the shortfall and changes have been made to the height and construction of the patio wall to address the concerns of the neighbour regarding potential noise and overlooking. Regard has been given to the potential visual and overshadowing impact of the two-story form of Dwelling 2 on the neighbour at 3/47 Thornton Street, who is the neighbour most likely to be affected by the development.

The Applicant has made amendments to the proposal to assist in minimising these impacts to a degree which is considered to be, on balance, acceptable.

Accordingly, it is considered that the proposal **is not** seriously at variance with the Development Plan.

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. 155/90/2016 by Mr Bernie De Gillo, to demolish a Contributory Item and undertake a Community Title Land Division creating two (2) additional allotments and the construction of two (2) storey group dwellings and one (1) single storey group dwelling with associated landscaping, fencing and common areas, on the land located at 292 Portrush Road, Kensington, 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:

- Drainage plan, levels plan and engineering calculations prepared by MQZ Consulting Engineers (dated April 2017)
- Floor plans, streetscape plan, elevations prepared by George Majda & Associates dated May 2017

Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.

2. That the three (3) visitor car parking spaces are to remain part of the 'common property' allotment and should be reserved for short term visitor parking at all times.
3. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, herein approved, prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
4. 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.
5. If excavation is undertaken on the subject land which exposes any structural roots (i.e. roots greater than 25mm in diameter) of the adjacent London Plan Tree (located adjacent to the northern boundary of the subject land), the Applicant should engage the services of an Arborist to assess the possible risk to the tree and to supervise any cutting or digging around the roots, in order to ensure that the health and structure of the tree is not compromised by such works.

Notes to Applicant

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

Sr Coleen Roberts and Mr Brian Peterson addressed the Panel from 7:03pm until 7:09pm

Meng Yao addressed the Panel from 7:10pm until 7:11pm

Sr Coleen Roberts, on behalf of Sr Catherine Mead, addressed the Panel from 7:11pm until 7:11pm

Mr George Majda addressed the Panel from 7:12pm until 7:14pm.

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. 155/90/2016 by Mr Bernie De Gillo, to demolish a Contributory Item and undertake a Community Title Land Division creating two (2) additional allotments and the construction of two (2) storey group dwellings and one (1) single storey group dwelling with associated landscaping, fencing and common areas, on the land located at 292 Portrush Road, Kensington, 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:

- Drainage plan, levels plan and engineering calculations prepared by MQZ Consulting Engineers (dated April 2017)*
- Floor plans, streetscape plan, elevations prepared by George Majda & Associates dated May 2017*

Conditions

- 1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.*
- 2. That the three (3) visitor car parking spaces are to remain part of the 'common property' allotment and should be reserved for short term visitor parking at all times.*
- 3. All areas nominated as landscaping or garden areas on the approved plans, as amended to the reasonable satisfaction of the council or its delegate, to reduce the amount of hard paving in favour of soft landscaping and permeable paving, shall be planted in accordance with the landscaping plan and schedule, herein approved, prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.*
- 4. 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.*
- 5. If excavation is undertaken on the subject land which exposes any structural roots (i.e. roots greater than 25mm in diameter) of the adjacent London Plan Tree (located adjacent to the northern boundary of the subject land), the Applicant should engage the services of an Arborist to assess the possible risk to the tree and to supervise any cutting or digging around the roots, in order to ensure that the health and structure of the tree is not compromised by such works.*

Notes to Applicant

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

Seconded by Ms Bowden and carried.

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/91/2017 – MR A NORTON & MS V CHARTER – 105 QUEEN STREET, NORWOOD

DEVELOPMENT APPLICATION:	155/91/2017
APPLICANT:	Mr A Norton and Ms V Charter
SUBJECT SITE:	105 Queen Street, Norwood (Certificate of Title Volume:5449 Folio:467)
DESCRIPTION OF DEVELOPMENT:	Installation of a clear panel to extend the height of the northern boundary fence by 350mm for a length of 9.65 metres
ZONE:	Residential Character (Norwood) 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 for the installation of a clear panel to extend the height of the northern boundary fence by 350mm for a length of 9.65 metres. Staff do not have delegated authority to determine the Application, as it comprises a Category 2 form of development and there is an unresolved representation opposing the development. As such, the Application is referred to the Panel for determination. An Application for a fence greater than 2.4 metres high is designated as a Category 2 form of development by the Development Plan. Unlike situations where a type of development is designated as Category 2 by the Development Regulations, there is no ability for the Application to be deemed 'minor' and therefore become Category 1.

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

Subject Land Attributes

Shape:	regular
Frontage width:	45.6 metres
Depth:	59.74 metres
Area:	2712m ²
Topography:	slightly sloping
Existing Vegetation:	established landscaping

The subject land contains a late Victorian sandstone villa which is listed as a Local Heritage Place in the Council's Development Plan, tennis court, swimming pool and established landscaping. Along the northern boundary, the land slopes 320mm from the front to the rear and along the southern boundary the land slopes 1 metre from the front to the rear. The finished floor level at the rear of the dwelling is approximately 1 metre above natural ground level at the rear of the property and the level of the recently constructed swimming pool is approximately 1 metre above the ground level of the adjacent property at 103C Queen Street Norwood.

Locality Attributes

Land uses: entirely residential
Building heights (storeys): several two storey
Streetscape amenity high

The locality contains a range of dwelling types on a range of allotment sizes.

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

Background

Development Application 155/288/2015 was approved in April 2016 for alterations and additions to an existing detached dwelling and the construction of an inground swimming pool. This Approval included a portion of new fencing on the northern boundary at the rear. This Application was Category 1 so did not involve notification to neighbouring property occupants. In April 2016 Development Application 155/233/2016 was lodged seeking approval for the construction of a masonry fence on another portion of the northern boundary, adjacent to 103C Queen Street. The fence height ranged from 2.5 metres to 3 metres measured from the lower side at 103C Queen Street Norwood. Development Application 155/233/2016 was a Category 2 form of development and no representations were received opposing the development. The Application was granted consent under staff delegation in June 2016. Building Rules Consent was issued by a private certifier in July 2016.

In January 2017 it was observed that the fence and adjacent garden bed did not comply with Australian Standards for pool safety fencing as the height between the top of the fence and the adjacent garden bed and pool was insufficient. In an attempt to remedy the situation, the property owners have submitted the current Application seeking to install a clear panel to extend the height of the fence by 350mm.

Proposal in Detail

The Applicant seeks consent to install a clear panel to extend the height of the northern boundary masonry fence by 350mm for a length of 9.65 metres measured from the rear boundary.

Notification

The proposal has been identified and processed as a Category 2 form of development, pursuant to Residential Character (Norwood) Zone Principle of Development Control 24, as the fence as proposed would exceed 2.4 metres when measured above the lowest adjacent natural ground level.

One (1) representation opposed to the development was received in response to this notification, a copy of which is contained in **Attachment C**. The key issues raised by representors are, in summary:

- Lack of air circulation resulting from increased fence height
- Visual impact
- The proposed extension will result in accumulated leaf litter

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

A summary of the response is provided below:

- The fence extension is required to increase the height of the fence to be pool compliant
- Other solutions would be impractical or non-compliant with pool safety standards
- The Applicant does not consider the fence to be causing issues for the adjacent air conditioner
- The Applicant does not believe the fence extension will cause issues of trapping leaf litter or visual amenity

State Agency Consultation

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

Discussion

The subject land is located within the Residential Character (Norwood) 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.

Bulk/scale/impact on neighbour

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

City Wide Objective: 28

City Wide Principle of Development Control: 58

City Wide Principle of Development Control 58 states:

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

The existing masonry fence exceeds 2.4 metres when measured from the ground level at 103C Queen Street Norwood. The fence height ranges from 3 metres where it is adjacent to a driveway and garage and reduces to 2.5 metres adjacent to the remainder of the house and backyard area. There are no ground level windows facing the fence.

The proposed extension exacerbates the departure from City Wide Principle of Development Control 58 as the fence would increase in height by 350mm. The additional height consists of a clear panel (the Applicant has nominated polycarbonate in their response to the representation) fixed to the Applicant's side of the wall. The use of clear polycarbonate is considered to minimise the visual impact on the neighbouring property occupants, compared to an extension of the fence in rendered blockwork. Due to the height of the wall above ground level, and the fact that the polycarbonate will be fixed to the Applicant's side of the wall, the neighbour is unlikely to obtain full direct views of the polycarbonate other than when standing further north in the rear yard area. The orientation of the wall to the south of 103C Queen Street will result in no overshadowing to this neighbour. The fence extension is not considered to directly affect other adjacent property occupants.

The representor also raised concerns relating to the impact of airflow to their air conditioner and the potential for accumulation of leaf litter. The proposed polycarbonate addition may have some effect on airflow, however the impact is likely to be limited given the height of the addition. Alternative materials which may alleviate this issue, such as latticework, are unlikely to meet Australian Standards for a non-climbable fence as it would introduce footholds. It is acknowledged that the polycarbonate may result in some accumulation of leaves, however this is most likely to occur adjacent to the vegetation within the rear yard of 103C Queen Street where the wall is more accessible for maintenance.

Heritage

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

City Wide Objectives: 110

The proposed fence extension is at the rear of the property so will not have a direct or material effect on the heritage value of the Local Heritage Place or the streetscape.

Summary

The proposed additional fence height is required for compliance with Australian Standards for pool safety and alternative options have been explored by the Applicant. The material for the extension has been selected to minimise visual impact for the neighbouring property occupant. Issues such as access to airflow for a nearby air conditioner and potential accumulation of leaf litter have been considered, however on balance, these issues are not considered to be significant enough, nor sufficiently supported by provisions of the Development Plan, to warrant refusal of the Application.

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

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 155/91/2017 by Mr A Norton and Ms V Charter for the installation of a clear panel to extend the height of the northern boundary fence by 350mm for a length of 9.65 metres on the land located at 105 Queen Street Norwood subject to the following requirements, conditions and notes:

Relevant Plans

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

- Elevation and site plan prepared for Mr A Norton & Ms V Charter, received by the Council 23 February 2017

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 granting of this consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.

The Applicant's attention is particularly drawn to the requirements of the Fences Act 1975 regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission available at www.lsc.sa.gov.au. Alternatively a hard copy can be mailed to you on request by contact the Planning Department on 8366 4530 or 8366 4508.

The Applicant's attention is also 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 Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.

Ms Bowden 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 155/91/2017 by Mr A Norton and Ms V Charter for the installation of a clear panel to extend the height of the northern boundary fence by 350mm for a length of 9.65 metres on the land located at 105 Queen Street Norwood subject to the following requirements, conditions and notes:*

Relevant Plans

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

- *Elevation and site plan prepared for Mr A Norton & Ms V Charter, received by the Council 23 February 2017*

Conditions

1. The top of the fence extension shall be no higher than the minimum height required in order to achieve the requirements of the Building Rules with respect to swimming pool fencing.

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 granting of this consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.*

The Applicant's attention is particularly drawn to the requirements of the Fences Act 1975 regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission available at www.lsc.sa.gov.au. Alternatively a hard copy can be mailed to you on request by contact the Planning Department on 8366 4530 or 8366 4508.

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

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

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

Seconded by Mr Dottore and carried.

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/693/2016 – MR J BENEDETTI & MS E VERLATO – 3 HILL STREET, KENSINGTON

DEVELOPMENT APPLICATION:	155/693/16
APPLICANT:	Mr J Benedetti & Ms E Verlato
SUBJECT SITE:	3 Hill Street, Kensington (Certificate of Title: Volume: 5819, Folio: 586)
DESCRIPTION OF DEVELOPMENT:	Construction of two (2) two-storey semi-detached dwellings with associated 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 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of two (2) two-storey semi-detached dwellings with associated fencing.

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

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

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

Subject Land Attributes

Shape:	regular
Frontage width:	24.38 metres
Depth:	14.9 – 15.2 metres
Area:	371m ²
Topography:	gentle cross fall from east to west of 600mm
Existing Structures:	vacant land
Existing Vegetation:	nil

The subject land is currently vacant and is devoid of landscaping with a modest cross-fall from east to west. A mature street tree is located within the Hill Street verge and an immature street tree is located within the Salter Street verge.

The allotments were recently approved by staff under delegation as they were consistent with Principle of Development Control 4 of the Kensington 1 Policy Area, which states:

The average site area per dwelling unit for residential development in the Kensington 1 Policy Area should not be less than 400 square metres except where:

The site of the development does not contribute positively to the historic character of the Policy Area and is not identified in [Table NPSP/5, 6 or 7](#). In this instance a lesser site area per dwelling may be considered provided that the development is not inconsistent with the predominant pattern of development in the immediate locality.

In this respect, the subject land did not contain a dwelling which contributed positively to the Policy Area and was not identified in Table NPSP/5, 6 or 7. Having regard to the varied allotment pattern in the immediate locality, the allotments were considered to be appropriate in terms of their size and configuration.

Locality Attributes

Land uses: predominately residential
Building heights (storeys): mix of single and two storey

Hill Street is characterised by predominantly two storey semi-detached dwellings on compact allotments. Salter Street contains a mix of dwelling styles and forms with two storey semi-detached dwellings being located at 2-8 Salter Street, a two storey detached dwelling located at 8A Salter Street, a single storey detached dwelling at 3 Salter Street (Contributory Item), warehouses at 5 and 9 Salter Street, single storey detached dwellings at 10, 12 and 14 Salter Street and two storey group dwellings are located at 18-20 Salter Street.

The subject land is located at the interface of the Residential Historic (Conservation) Zone and the Mixed Use Historic (Conservation) Zone. The boundary of the Residential Historic (Conservation) Zone runs through the middle of Hill Street and a portion of Salter Street as is demonstrated on **Attachment A**.

Whilst the locality is within the Residential Historic (Conservation) Zone and Mixed Use Historic (Conservation) Zone, it is largely devoid of historic buildings, with only the dwellings at 3 and 14 Salter Street being Contributory Items.

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

Proposal in Detail

The Applicant seeks to construct two (2) two-storey semi-detached dwellings with associated fencing.

The proposed semi-detached dwellings each contain three (3) bedrooms (master with ensuite), a separate bathroom and a combined kitchen/dining/lounge room with direct links to a covered outdoor area. Each dwelling has a garage (double for Residence 1).

The proposed semi-detached dwellings have a common corrugated iron hipped roof, vertically proportioned windows and a simple front verandah element. Building materials include stone cladding to the front and side walls, a painted render, "Woodland Grey" pre-coloured roof sheeting, powder coated commercial aluminium windows and a timber front door.

The proposed development includes a contemporary 1.5m high front fence, with rendered brick piers and steel slatted infill 'pickets'.

Landscaping includes the planting of Ornamental Pear Trees and low level magnolias, yuccas and dianellas within the front (and side) yards of the dwellings.

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

TABLE 1: DEVELOPMENT DATA:

Consideration	Dwelling 1	Dwelling 2	Development Plan Merit Assessment Quantitative Guideline
Site Area	185.77m ²	184.8m ²	N/A
Allotment Width	12.19m	12.19m	N/A
Allotment Depth	15.2m	15.2m	N/A
External Wall Height*	5.7m	5.7m	N/A
Maximum Overall Height (to roof apex)*	8.2m	8.2m	N/A
Total Floor Area	207m ²	208m ²	N/A
Ground Floor Area	128.6 m ²	128 m ²	N/A
Upper Floor Area	76.4 m ²	80 m ²	N/A
Site Coverage	69%	69%	N/A
Private Open Space	35m ² 78% uncovered	35m ² 85% uncovered	35m ² - City Wide PDC 225(b)
Street Set-back	1.0m – 2.37m (dwelling) 2.4m-2.64m (verandah)	1.0m–1.83m (dwelling) 5.5m (garage)	N/A
Side Set-back	1.5m m (ground floor) 2.2m (garage) 4.0m – 4.9m (upper floor)	Nil (ground floor) 3.9m (upper floor)	N/A
Rear Set-back	Nil (garage) 7.3m (ground floor) 2.6m (upper floor)	1.2m – 2.9m (ground floor) 2.7m – 3.8m (upper floor)	N/A
Car Parking Provision	2 Undercover	1 undercover & 1 uncovered	2 spaces (1 covered) - Table NPSP/8

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

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

Notification

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

State Agency Consultation

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

Discussion

The subject land is located within the Kensington 1 Policy Area of the Residential Historic (Conservation) Zone, as identified within the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

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

Land Use and Density

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

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

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

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

Kensington 1 Policy Area Principle of Development Control 2 states:

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

It is considered that the construction of two (2) semi-detached dwellings is consistent with PDC 2 of the policy area. The above-stated Development Plan provisions are consistent with the existing built form in the locality, which is characterised by a relatively eclectic mix of dwellings forms.

Given that the subject allotments have recently been approved, the resulting dwelling density and allotment pattern will remain unchanged.

Streetscape/bulk/scale/height/character

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

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

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

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

There are several two-storey buildings within the locality, including semi-detached dwellings to the north east at 2-4A Hill Street, group dwellings to the south east at 2-8 Salter Street and a detached dwelling at 8A Salter Street

Kensington 1 Policy Area Principle of Development Control 3 states:

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

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

The Applicant has prepared a streetscape diagram of the proposed dwelling, which provide a good illustration of the bulk, scale and architectural form of the proposed dwelling and its relationship with adjacent dwellings. The streetscape diagram is contained in **Attachment B6 – B7**.

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

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

It is considered that the proposed outwardly two storey form of the dwellings is appropriate, given the lack of historic dwellings in the locality. It is considered that the proposed dwellings will be compatible with the two storey dwellings located opposite the subject land on Hill Street and the side elevation of the dwelling located at 2 Salter Street which addresses Hill Street.

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

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

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

It is considered that the proposed dwellings are consistent with the above provision in that the dwellings are similar in scale to that of surrounding two storey development and utilise a materials and finishes palette which complement the materials and finishes of dwellings typically found within a Historic (Conservation) Zone.

The dwellings have been reviewed by Councils Heritage Adviser, Mr David Brown. In summary, whilst Mr Brown has highlighted deficiencies with the house design, he considers the overall form compatible with the streetscape character of immediate locality. Mr Browns report is contained in **Attachment C**.

The proposed dwellings have been amended several times as a result of concerns raised by Council's Planning staff related to the presentation of the building to the corner of Salter and Hill Streets, the amount of private open space and the compatibility with the adjacent Contributory Item at 3 Salter Street, the provision of a single width garage to dwelling 2 and the amendment of the internal dimensions of the garages. The amended proposal is considered to adequately address those issues.

Setbacks and Site Coverage

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

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

The facades of the proposed dwellings are set back between 1.0m and 2.37m from the Hill Street property boundary, with verandahs extending to within 1.0 metre of the front boundary. The proposed front setbacks are consistent with the side setbacks of the dwellings located at 2 Salter Street (corner of Hill & Salter) and 1 Hill Street, Kensington.

The proposed dwellings have been sited to replicate the existing setback patterns along Hill Street.

In terms of side setbacks, the proposed semi-detached dwellings are set back 1.5m from the secondary street frontage and nil to the north western boundary. Whilst Dwelling 2 is inconsistent with Principle of Development Control 20 of the Residential Historic (Conservation) Zone, which states:

Building to side boundaries (other than for party walls in semi-detached or row dwellings) or to the rear boundary is generally inappropriate, but may be considered where it is demonstrated that it assists in the retention of a heritage place and where there will be no detrimental effect on the residential amenity of adjoining properties.

Insofar as a 1m setback is not provided to the western side boundary, it is considered that the generous setback of the garage from Hill Street provides a reasonable impression of space on this side of the dwelling, such that the departure from Principle 20 is not considered to be a significant shortcoming of the proposal.

Principle of Development Control 11 of the Residential Historic (Conservation) Zone states:

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

The proposed front setbacks are consistent with the above provision.

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

"A wall or structure on a side or rear boundary should generally be limited to a height of 3 metres above natural ground level and a length of 8 metres. A greater height or length may be considered where:
(a) *there is an existing abutting boundary wall or structure on the adjoining land: or*
(b) *there will be no unreasonable visual outlook impact or overshadowing impact on the occupants of the adjoining property."*

The proposed boundary walls have a length of 6.0 metres and an overall height of 3.0 metres, consistent with City Wide Principle of Development Control 207. In addition, the siting of the proposed garages will not result in a compromised amenity for the occupants of adjacent land.

The proposed front, side and rear setbacks are considered to reflect the predominant setback pattern established by the adjoining dwellings, consistent with relevant provisions of the Residential Historic (Conservation) Zone.

In terms of site coverage, the proposed dwellings will cover 69% of the site of each allotment.

There are no quantitative site coverage guidelines within the Kensington 1 Policy Area or the Residential Historic (Conservation) Zone. In terms of qualitative guidance, Residential Historic (Conservation) Zone Principle of Development Control 12 and City Wide Principle of Development Control 208 state:

Residential Historic (Conservation) Zone Principle of Development Control 12

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.

City Wide Principle of Development Control 208

Site coverage should ensure that sufficient space is provided for:

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

The existing Contributory Item at 3 Salter Street has an approximate site coverage of 19% and the property at 14 Salter Street has an approximate site coverage of a 55%, and as such the proposed site coverage of 69% is not consistent with this provision.

The dwellings at 2-8 Salter Street have average site coverage of 87% and the dwellings located opposite at 2 - 4A Hill Street range from 36% to 44%.

Whilst the proposed site coverage is not consistent with Residential Historic (Conservation) Zone Principle of Development Control 12, it is considered that given the significant variation in the site coverage of dwellings in the locality and the fact that the applicant has demonstrated that the dwellings are able to comply with City Wide Principle of Development Control 208, the proposed level of site coverage for each dwelling is acceptable. In addition, Principle of Development Control 12 is considered to be of less relevance as a result of the relatively low proportion of buildings in the locality which contribute significantly to the historic character.

Overshadowing/overlooking

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

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

City Wide Principle of Development Control 195 states:

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

The proposed development will ensure that the adjacent dwelling at 3 Salter Street will maintain direct sunlight for at least three (3) hours between 9am and 5pm on the winter solstice, consistent with City Wide Principle of Development Control 195.

City Wide Principle of Development Control 196 states:

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

The Applicant has provided shadow diagrams that illustrate the level of overshadowing caused by the proposal at 9.00am, 12.00pm and 3.00pm on 21 June (the winter solstice). A copy of the shadow diagrams is contained in **Attachment B8-B10**.

At 9.00am, the proposed development would cast a shadow over the north-east facing side window of the adjacent dwelling at 3 Salter Street. By midday, overshadowing to 3 Salter Street will be reduced in the northern rear yard, but still shadow the window. In the afternoon, a portion of the driveway on the adjacent land would be affected by overshadowing, with nearly all of the private open space free of shadow.

Accordingly, the shadow diagrams indicate that the level of overshadowing will be consistent with Principles 195 and 196.

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

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

- (a) have a sill height of not less than 1.7 metres above the finished floor level (Refer to Figure 10); or*
- (b) be treated with permanently fixed obscured treatment (such as glazing or adhesive film) in the part of the window below 1.7 metres above the finished floor level (Refer to Figure 10); or*
- (c) be permanently screened to a height of not less than 1.7 metres above the finished floor level, through the use of external screening devices, such as planter boxes and angled louvres (Refer to Figure 10); and*
- (d) in the case of balconies, not exceed 15 square metres in floor.”*

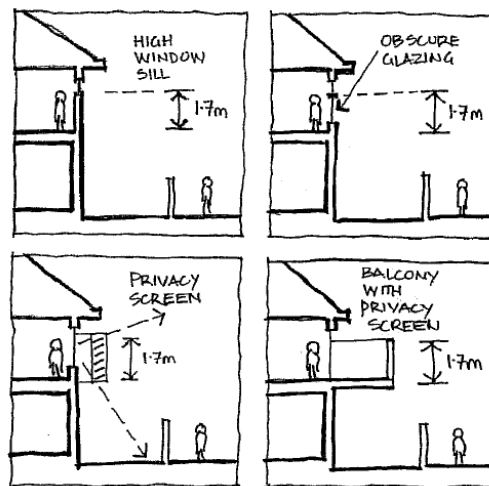


Figure 10

The southern and eastern upper level windows of both dwellings have the potential to create unreasonable levels of overlooking into adjoining areas of private open space and no privacy treatment details have been provided. If the Panel determines to approve the Application, it is recommended that a condition be imposed to adequately address overlooking of the private open space of adjacent properties.

Private open space

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

City Wide PDC's: 222-225 & 229

Each of the proposed dwellings includes 35m² of private open space.

City Wide Principle of Development Control 225 states:

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

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

Both of the proposed dwellings have site areas of less than 250m². As such, each of the dwellings should have at least 35m² of private open space, with one portion incorporating an area of 16m² with a minimum dimension of 4 metres. The proposed dwellings are consistent with the quantitative provision of private open space, as prescribed by City Wide Principle of Development Control 225.

The main private open space areas for each dwelling are located on the southern side and therefore have poor solar orientation, contrary to Principle of Development Control 224. This situation is difficult to overcome due to the allotment configuration and the desire to have private open space located at the rear of the dwellings. That said, both dwellings also have north facing balconies, with dimensions which ostensibly achieve the dimensions in Principle of Development Control 222(c), which are the minimum necessary for the balconies to be counted as private open space. The balcony associated with residence 2 is marginally short of the prescribed figure of 8m², at 7.3m².

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

Carparking/access/manoeuvring

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

Residential H(C) Zone PDC's:	32
City Wide Objective:	34
City Wide PDC's:	120, 123, 211, 212 & 218

Table NPSP/8

Table NPSP/8 states that semi-detached dwellings should each be provided with two (2) (1 covered) spaces per dwelling; whereby the covered space is set back no less than 5.5 metres from the primary street frontage, unless otherwise specified in the relevant zone and/or policy area. Residence 1 includes a double width garage accessed via Salter Street and Residence 2 includes a single width garage accessed via Hill Street. The provision of on-site car parking is consistent with Table NPSP/8.

Through the assessment, Residence 2 has been amended to incorporate a single width garage (as opposed to the originally proposed double width garage) in order to comply with City Wide Principle of Development Control 211, which states:

Unless the desired character of an area provides otherwise, garages and carports fronting a primary street should:

- (a) be of a width that is minimised relative to the width of the dwelling frontage and in any case, should be designed with a maximum width (including the total width of any support structure) of 6.5 metres or 50 per cent (or 40 per cent in a Residential Historic (Conservation) Zone) of the allotment or building site frontage width, whichever is the lesser distance; and
- (b) be set back at least 0.5 metres behind the main face of the associated dwelling, unless the main face incorporates projecting elements such as a portico or verandah, in which case the garage or carport may be in line with the main face of the associated dwelling (Refer to Figure 8); and
- (c) be set back no less than 5.5 metres from the primary street frontage, to allow for vehicle parking.

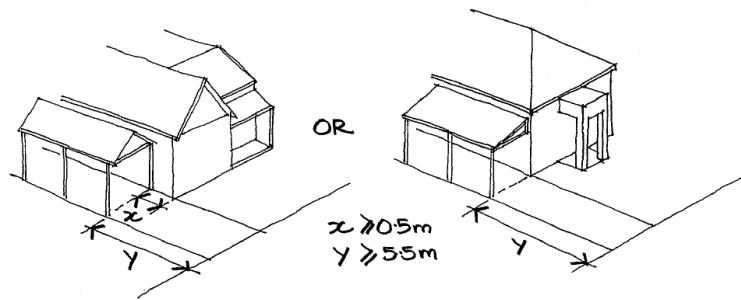


Figure 8

The internal dimensions of the proposed garages are consistent with City Wide Principle of Development Control 212.

Finished floor levels/flooding/retaining/fencing

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

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

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

The finished floor level of the proposed dwellings (RL 78.20) ranges between 260mm and 700mm above the adjacent top of kerb level in Hill Street and 90mm and 160mm above the top of kerb in Salter Street.

The proposed finished floor level is similar to adjacent development and will provide a good fit in the context of the streetscape.

Table NPSP/4 which (in part):

...the erection of high walling in concrete, masonry or timber is not appropriate where it is liable to obscure the view of a dwelling from a road,...

The proposed fencing to the Hill and Salter Street frontages is relatively open with masonry pillars to be constructed with metal infill panels, consistent with Table NPSP/4.

Given the cross-fall of the site, fencing and retaining walls to side and rear boundaries will also be required, however these will have a combined height of less than 2.4m when measured from the two adjoining ground levels, consistent with City Wide Principle of Development Control 58.

Trees (significant, mature & street) and landscaping

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

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

The subject land is devoid of any regulated or mature trees and there are no regulated trees on adjacent land that would be affected by the proposed development. A mature street tree is located within the Council verge in Hill Street and an immature Street Tree is located within the Council verge in Salter Street, adjacent to the subject land. The proposed development, including the construction of the crossovers and fencing are sufficiently separated from the trees so as not to impact the structural root zone.

The Applicant has proposed to plant the front yards of each dwelling with Ornamental Pear Trees, Yuccas and ground covers. Given the size of the dwellings relative to the size of the allotments, opportunities for soft landscaping are minimal. The inclusion of some soft landscaping within the front yard of each dwelling and along the secondary street frontage will go some way to providing an appropriate level of soft treatment to the dwellings consistent with City Wide Principle of Development Control 220.

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

Environmental Sustainability

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

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

The proposed dwellings are reasonably well orientated on the subject land so as to provide solar access to the main living areas and the smaller areas of private open space (balconies). The rear courtyards have poor solar access, but this is difficult to mitigate given the orientation of the allotment.

No windows are proposed on the western elevation. The Applicant has provided shade to the north facing living room windows/openings by including balcony and verandah, which will minimise direct sunlight (i.e. summer heat loading) to the internal living areas. This is considered to be a positive and practical design approach with regard to reducing the need for artificial cooling during the summer months within the proposed dwelling.

The Applicant has not provided details of rainwater tanks, though it is considered there are a number of suitable locations available. City Wide Principle of Development Control 161 states that new dwellings should be provided with a 2000 litre rain water tank in order to maximise the use of stormwater collected from roof areas. As such, if the Panel determines to approve the development, it is recommended that a condition be imposed requiring the Applicant to install a rainwater tank with a minimum capacity of 2000 litres.

Summary

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

However, the semi-detached form of the dwellings and the secondary street setback to Salter Street will result in a built form that will complement adjacent and nearby development.

The front and side setbacks of the proposed dwellings are consistent with the predominant pattern of development within the locality.

The overall site coverage of the dwellings is relatively high, but given the variation in built form within the locality is considered acceptable in the context of the locality.

The provision of private open space and off-street car parking are all considered to be acceptable. The proposed dwellings incorporate finished floor levels that will enable all stormwater to drain to the Hill/Salter Street water table via gravity.

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

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/693/16 by Mr J Benedetti & Ms E Verlato for the construction of two (2) two-storey semi-detached dwellings with associated fencing, on the land located at 3 Hill Street, Kensington, subject to the following requirements, conditions and notes:

Relevant Plans

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

- the plans, elevations and details prepared by Salvatore Marzullo, Project No. SM-468, Revision G received by the Council on 5 April 2017.

Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.
2. All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times, with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.
3. A rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres) shall be installed to each dwelling and plumbed into a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.
4. The portion of the upper floor windows (other than those facing Hill Street and Salter Street) less than 1.7 m above the internal floor level shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 m above the internal floor level or a window sill height of 1.7 above the internal floor level.)

Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.
2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.

4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development are likely to be at the Applicant's cost.
5. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
6. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Mr 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 155/693/16 by Mr J Benedetti & Ms E Verlato for the construction of two (2) two-storey semi-detached dwellings with associated fencing, on the land located at 3 Hill Street, Kensington, subject to the following requirements, conditions and notes:*

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Conditions

1. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.*
2. *All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times, with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.*
3. *A rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres) shall be installed to each dwelling and plumbed into a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.*
4. *The portion of the upper floor windows (other than those facing Hill Street and Salter Street) less than 1.7 m above the internal floor level shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 m above the internal floor level or a window sill height of 1.7 above the internal floor level.)*

Notes to Applicant

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

Seconded by Ms Newman and carried.

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2. OTHER BUSINESS
Nil

3. CONFIDENTIAL REPORTS
Nil

4. CLOSURE

The Presiding Member declared the meeting closed at 7:49pm

Terry Mosel
Presiding Member