

# Council Assessment Panel Minutes

18 January 2023

## 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** Council Chambers, Norwood Town Hall

**HOUR** 7:00pm

**PRESENT**

**Panel Members**

Mr Terry Mosel  
Mr Mark Adcock  
Mr Ross Bateup  
Ms Jenny Newman  
Mr Kester Moorhouse

**Staff**

Geoff Parsons, Manager Development Assessment  
Kieran Fairbrother, Senior Urban Planner  
Nenad Milasinovic, Senior Urban Planner  
Ned Feary, Urban Planner  
Tala Aslat, Planning Assistant

**APOLOGIES** Cr Christel Mex

**ABSENT**

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT  
PANEL HELD ON 19 DECEMBER 2022**

**Seconded and Carried**

Mr Terry Mosel declared a conflict of interest for item 2.1 and left the meeting at 7:02pm

Mr Geoff Parsons sought nominations for an Acting Presiding Member.

**MOVED**

That Mr Mark Adcock be Acting Presiding Member

**Seconded and Carried**

2. STAFF REPORTS

2.1 DEVELOPMENT NUMBER 22031539 - MR XIN LI – 34 ELIZABETH STREET, NORWOOD

|  |   |
|--|---|
| <b>DEVELOPMENT NO.:</b>                    | 22031539  |
| <b>APPLICANT:</b>                          | XIN LI  |
| <b>ADDRESS:</b>                            | 34 ELIZABETH ST NORWOOD SA 5067   |
| <b>NATURE OF DEVELOPMENT:</b>              | Two storey addition to a Local Heritage Place including associated carport  |
| <b>ZONING INFORMATION:</b>                 | <p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Established Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Heritage Adjacency</li> <li>• Local Heritage Place</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Urban Tree Canopy</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Minimum Frontage (Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 8m; row dwelling is 6m; group dwelling is 18m; residential flat building is 18m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 250 sqm; semi-detached dwelling is 250 sqm; row dwelling is 250 sqm; group dwelling is 250 sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 2 levels)</li> </ul> |
| <b>LODGEMENT DATE:</b>                     | 23 Sep 2022   |
| <b>RELEVANT AUTHORITY:</b>                 | Assessment panel at City of Norwood, Payneham and St. Peters  |
| <b>PLANNING &amp; DESIGN CODE VERSION:</b> | The version applicable at 23 September 2022   |
| <b>CATEGORY OF DEVELOPMENT:</b>            | Code Assessed - Performance Assessed  |
| <b>NOTIFICATION:</b>                       | Yes   |
| <b>RECOMMENDING OFFICER:</b>               | Edmund Feary<br>Urban Planner   |
| <b>REFERRALS STATUTORY:</b>                | N/A   |

|                                 |             |
|---------------------------------|-------------|
| <b>REFERRALS NON-STATUTORY:</b> | David Brown |
|---------------------------------|-------------|

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**DETAILED DESCRIPTION OF PROPOSAL:**

The applicant proposes to build a two-level addition to the rear of the existing Local Heritage listed detached dwelling, and build an open-roofed carport alongside.

The ground level includes the front two rooms of the existing Local Heritage Place as a living room and bedroom, with a laundry, two toilets and an open-plan kitchen/dining/living area in the addition. The upper floor would include two bedrooms, both of which would have an ensuite bathroom, and one of which would include a walk-in wardrobe.

The addition is of a rectilinear form, and will include privacy screening to minimise overlooking.

The upper floor is cantilevered over the carport. The ground floor of the addition would be clad in Surfsmist coloured Axion cladding, while the upper floor would be mostly Windspray coloured Maxline cladding, with a part of the elevation facing Elizabeth St being the Surfsmist Axion cladding. The works would also include restoration of the existing dwelling, with the brickwork to be rendered in Pearl Lustre and a galvanised iron roof.

The addition includes a boundary wall which is 8.25m in length and 2.7m in height, while the upper floor is setback 2.834m from the southern boundary and cantilevers over the carport space.

Private open space is provided at the rear of carport structure behind the vehicle park.

**BACKGROUND:**

The Local Heritage Place was included as part of the City of Kensington & Norwood’s Heritage Survey in 1994. At that time, it was recommended for listing on the State Heritage Register. The contents of that report are outlined below:

***“Description:** A very early and attractive Victorian cottage with typical hipped roof and integrated front verandah. It has a steeply pitched roof with early external wall chimneys and rare (for this sort of cottage) French windows. The building is in close to original condition and appears to be in reasonable physical condition for its age.*

***“History:** According to local rate assessments, this small house was built between 1857-1858 for William Swanson as two rooms with a garden. He bought the land from John Wright on 6 April 1857 for sixty pounds. Being a builder, it is likely that Swanson built the house himself. Only a year later Swanson sold the property to a blacksmith called James Newberg who lived here until January 1866. After this, John J Whitbread a gardener owned it until February 1908.*

***“Streetscape Contribution:** Forms part of an attractive street of Victorian/Edwardian houses.*

**“Significance:** ... This building is an important example of an early Victorian cottage. It is associated with the early growth of Norwood in the 1850’s-60’s ([criterion] 4a) and illustrates the nature of simple early dwellings found in Norwood at that time ([criterion] 4b). It is a very attractive building ([criterion] 4d) which contributes to the older character of Elizabeth Street.

**“Development Implication:** Retention and protection of the original form of the building, its setting and all associated building fabric, as viewed from the road.

**“Recommendation: State Heritage Register”**

The dwelling on this site has been derelict for several years, its condition having deteriorated substantially since the report above.

The dwelling to the north at 74 William St, Norwood, was demolished in 2021 and the land was subdivided via (008/027/2020). Two new dwellings were approved (155/328/2020) on that site, which included a boundary wall on the boundary with 34 Elizabeth St i.e. the subject land. That land division included a realignment of the boundary between 34 Elizabeth St and the William St sites, with the Elizabeth St site becoming narrower at the rear, with the width at the street boundary retained to allow a driveway crossover to be built around the mature Queensland Box Tree in the verge. While the land division has been cleared, the built form application has received Planning Consent but not Development Approval.

A previous application on the subject land had been submitted under the *Development Act*, but was not supported by staff due to concerns about the design of the proposed addition not being complimentary to the Local Heritage Place.

## **SUBJECT LAND & LOCALITY:**

### **Site Description:**

**Location reference:** 34 ELIZABETH ST NORWOOD SA 5067

**Title ref:** CT6270/248 **Plan Parcel:** D129480 AL201 **Council:** City of Norwood, Payneham & St Peters

|                      |  |
|----------------------|--|
| Shape:               | Mainly rectangular, with the northern boundary curving inwards so that it is wider at the street frontage.                   |
| Frontage width:      | 15.7m wide at the street frontage, narrowing to be 12.7m from a point 5.5m from the street frontage.                         |
| Depth:               | 19.3m  |
| Area:                | 224m <sup>2</sup>  |
| Topography:          | Mostly flat  |
| Existing Structures: | Single storey cottage - Local Heritage Place constructed in 1857   |
| Existing Vegetation: | Grass, with two trees adjacent to the southern boundary; a small tree in the front yard and a medium-sized tree at the rear. |

The subject land is located on the eastern side of Elizabeth St, Norwood, approximately 30m south of the roundabout at the corner of William St.

The site contains a Local Heritage listed cottage built in 1857. The cottage is in poor condition, but would be renovated as part of this development. Vehicular access is provided on the northern side of the site via an existing crossover.

## Locality

The locality exhibits a mix of dwelling styles, though the stock mostly consists of detached dwellings with some examples of group or semi-detached dwellings.

Dwellings in the area are from a variety of eras, including historic villas and cottages, as well as dwellings from the 1960's - today. The site immediately to the north is currently cleared, though an application for two detached dwellings has received Planning Consent.

A two-storey form is not uncommon in the locality, with examples such as at 35 Elizabeth St, 76 and 76A William St, 78 and 78A William St, and 40 Elizabeth St.

Both Elizabeth and William streets are relatively wide, with on-street parking on both sides and clear lanes of traffic in each direction. They have good tree cover with mostly gravel verges and paved footpaths on both sides, generally providing a good level of amenity.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Dwelling addition: Code Assessed - Performance Assessed  
Carport: Code Assessed - Performance Assessed  
Partial demolition of a building or structure: Code Assessed- Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
P&D Code; No other pathway provided (Local Heritage Place)

## PUBLIC NOTIFICATION

- **REASON**  
The proposed boundary wall exceeds 8m in length and therefore exceeds the limit outlined in DTS/DPF 7.1 of the Established Neighbourhood Zone, which is a trigger for public notification.
- **LIST OF REPRESENTATIONS**  
Six (6) representations were received during the public notification period.

| Given Name           | Family Name | Address                              | Wishes to be Heard | In Support         |
|----------------------|-------------|--------------------------------------|--------------------|--------------------|
| Paul                 | Taplin      | 38A Elizabeth St,<br>Norwood         | No                 | Yes, with concerns |
| Peter                | Grieg       | 36 Elizabeth St, Norwood             | Yes                | No                 |
| Michael and Jennifer | Holland     | 76 William St, Norwood               | No                 | Yes, with concerns |
| Grant                | White       | 72 William St, Norwood               | Yes                | Yes, with concerns |
| Bronda               | Wiggins     | Unit 3, 59-63 William St,<br>Norwood | No                 | Yes, with concerns |

|       |       |                             |    |                    |
|-------|-------|-----------------------------|----|--------------------|
| Emily | Troon | 118 Sydenham Rd,<br>Norwood | No | Yes, with concerns |
|-------|-------|-----------------------------|----|--------------------|

- **SUMMARY**

Representors were primarily concerned with the design of the development and its impact on the heritage value of the original dwelling, mainly due to the scale of the addition. Other concerns included:

- Inclusion of soft landscaping;
- Impact of the addition's scale on neighbouring properties;
- Overshadowing; and
- Preservation of original historic elements such as brickwork, roof shingles and inclusion of a plaque to celebrate its heritage value.

## **AGENCY REFERRALS**

None

## **INTERNAL REFERRALS**

- Heritage Advisor - Supportive of the proposed development

## **PLANNING ASSESSMENT**

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One. An assessment covering the matters considered most relevant in the consideration of the proposal is provided for below.

### **Land Use**

The development is proposed within the Established Neighbourhood Zone. Desired Outcome (DO) 1 and Performance Outcome (PO) 1.1 state the following:

*DO 1 – A neighbourhood that includes a range of housing types, with new buildings sympathetic to the predominant built form character and development patterns.*

*PO 1.1 – Predominantly residential development with complementary non-residential activities compatible with the established development pattern of the neighbourhood.*

The development principally comprises alterations and additions to an existing dwelling. The land use is clearly envisaged by the zoning. The impacts on neighbourhood character etc. are addressed in further detail under the headings below.

### **Building Height**

Performance Outcome 4.1 of the Established Neighbourhood Zone states:

*“Buildings contribute to the prevailing character of the neighbourhood and complements the height of nearby buildings.”*

The Designated Performance Feature (DPF) associated with PO 4.1, is for building height to be no greater than a specified height, according to the relevant Technical Numeric Variation (TNV). In the case of the subject land, the relevant TNV is:



*“Maximum building height is 2 levels”*

Therefore, the development is consistent with the DPF, and given other examples of two storey development in the locality, a two-storey design is, in principle, consistent with the established built form in the locality.

Performance Outcome 10.2 of the Established Neighbourhood Zone states:

*“The appearance of development as viewed from public roads is sympathetic to the wall height, roof forms and roof pitches of the predominant housing stock in the locality.”*

From the street, the two-level addition will be visible, albeit in the background of the single-storey Local Heritage Place. Nonetheless, the locality does include a number of two storey dwellings, including examples which are visibly two-storey from the street. Hipped rooves are the predominate roof type throughout the locality, and the appearance from the street would be mainly of the original dwelling with its hipped roof, while the flat roof of the addition is in the background as a less prominent form.

The impact of the addition and its height on the Local Heritage Place will be discussed under the heading of *Heritage* below. However, the building height itself is consistent with DPF, and is considered to achieve the Performance Outcomes outlined above.

### Setbacks

Proposed setbacks at the side and rear for the proposed addition are as below, compared to the relevant DTS/DPF criterion:

| Building Level | Direction    | DTS/DPF Setback     | Setback Provided   | Variance   |
|----------------|--------------|---------------------|--------------------|--|
| Ground         | North (side) | 0.9m                | 3.7m               | Meets DPF Criterion                                      |
| Upper          | North (side) | 1.97m               | 1.9m               | Shortfall on DPF Criterion by 0.07m                      |
| Ground         | South (side) | N/A (boundary wall) | 0m (boundary wall) | Uses different criteria- see Boundary Wall section below |
| Upper          | South (side) | 2.97m               | 2.75m              | Shortfall on DPF Criterion by 0.22m                      |
| Ground         | East (rear)  | 4m                  | 0.9m               | Shortfall on DPF Criterion by 3.1m                       |
| Upper          | East (rear)  | 6m                  | 2m                 | Shortfall on DPF Criterion by 4m                         |

Therefore, there are shortfalls relating to the upper floor side boundaries, and the rear setback.

Performance Outcome 8.1 (Side Boundary Setback) states:

*“Buildings are set back from side boundaries to provide:*

- a) *separation between buildings in a way that complements the established character of the locality*
- b) *access to natural light and ventilation for neighbours.*

In considering whether these setbacks complement the established character of the area, small upper floor side setbacks are common across the locality including at 38 Elizabeth St, 40 Elizabeth St, 1/46 Elizabeth St, and 35 Elizabeth St. There are also examples of where upper floors of dwellings are joined, including at 76 and 76A William St, 78 and 78A William St, and units 1-5 of 59 William St. Therefore, it is considered that having a small upper floor setback is consistent with the established character of the area, and the proposed setbacks are complimentary to that character.

The question of access to natural light, which can be problematic with reduced boundary setbacks, will be considered below in the *Overshadowing* section.

Performance Outcome 9.1 relates to the rear setback:

*“Buildings are set back from rear boundaries to provide:*

- a) *separation between dwellings in a way that complements the established character of the locality*
- b) *access to natural light and ventilation for neighbours*
- c) *private open space*
- d) *space for landscaping and vegetation.*”

Given the proposed rear setback of 0.9m at ground level and 2m at the upper level, there is a substantial shortfall from the DTS/DPF figure.

Limited separation between dwellings is common in the locality, especially at the rear. Examples include 76a William St, 72 William St, 38 Elizabeth St, and numerous examples of group dwellings or hammerhead allotments, as well as major outbuildings at the rear such as at 40 Elizabeth St.

Furthermore, both dwellings granted Planning Consent at 74 and 74A William St include rear boundary walls which face this site. Therefore, the limited setback is consistent with the area, and complements its established character.

Access to natural light will be discussed below under *Overshadowing*, but the available space will provide for adequate ventilation.

Private open space and landscaping will be discussed below, but there is sufficient space available to be consistent with the relevant DPF's for each.

Given the small size of the site, the existing building is only approximately 5.5m from the rear boundary. The site is substantially shallower than other allotments such as at 36 Elizabeth St, and a lesser rear setback is therefore reasonable to expect. Considering the context of the locality, and the limitations of the site itself, it is suggested that the rear setback is acceptable.

## **Boundary Wall**

The length of the boundary wall of the proposed development was the trigger for public notification for this application, being 8.25m long rather than the 8m outlined in DPF 7.1 of the Established Neighbourhood Zone.

PO 7.1 of the Established Neighbourhood Zone states:

*“Dwelling boundary walls are limited in height and length to manage visual and overshadowing impacts on adjoining properties.”*

The corresponding DPF 7.1 seeks for dwelling boundary walls not to exceed:

- a) 3.2m from natural or finished ground level (whichever is lower)
- b) 8m in length
- c) 45% of the length of the boundary (when combined with any other boundary walls on the site).

In this case, the boundary wall is less than 3.2m in height, and is less than 45% of the length of the boundary (given the boundary length of 19.2m and a wall length of 8.25m, which is equivalent to 43%).

While the length of the wall does exceed the 8m standard outlined in the DPF, the extent of this exceedance is only approximately 25cm. The axion cladding provides a reasonable level of visual interest, and being Surfmist in colour means that the space will be lighter, which is important in the context of the potential overshadowing issues.

Additionally, the wall is sited adjacent windows rather than private open space, which will also limit its visual impact. Combined with its limited height of 3m, visual impacts are considered to be reasonably managed.

Overshadowing impacts are discussed below, however these impacts are as a result of the upper storey, rather than the boundary wall, as shown by the cross-section shadow diagrams provided. Therefore, the boundary wall does reasonably manage overshadowing impacts on adjoining properties.

Therefore, the development is considered to meet the relevant Performance Outcome.

## **Overshadowing**

As the proposal incorporates a boundary wall on a southern boundary and the upper floor setbacks fall short of the numerical standards outlined in the relevant DPF's, overshadowing is an important consideration. This will be in regard to both the north facing windows of the dwelling at 36 Elizabeth St, Norwood, the Private Open Space at 76 William St, Norwood, and the solar panels at both of these addresses.

Detail on overshadowing policies is found in the Interface Between Land Uses module of General Development Policies. This section contains three Performance Outcomes which relate to north-facing windows, private open space and solar panels, each of which are addressed in turn below:

DTS/DPF 3.1 states:

*“North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.”*

Performance Outcome 3.1 states:

*“Overshadowing of habitable room windows of adjacent residential land uses in:*

- a) *a neighbourhood-type zone is minimised to maintain access to direct winter sunlight”*

While the shadow diagrams reflect the sun positions on the 22<sup>nd</sup> of June rather than the 21<sup>st</sup> of June as expressed in the policy, this reflects the date of the winter solstice for 2023, which is the

intent of the policy. The diagrams show that these windows would not receive three hours of sunlight between 9am and 3pm, and therefore that the proposal does not meet DTS/DPF 3.1.

The existing conditions diagrams provided by the applicant suggest that these windows do not currently receive three hours of sunlight on the winter solstice. This is due in part to a lattice screen above the existing fence. While such a screen would let in some dappled light that the diagrams do not (and could not) reflect, it is true that this would provide some shading to the windows at present. Windows would still receive some direct sunlight, albeit not for the full three hours sought by the DTS/DPF criterion.

It is also noted that, if the upper floor were moved 220mm to the north, the upper floor setback would meet the relevant DTS/DPF criterion, despite there still being overshadowing impacts of a similar scale to those seen with the current proposal. While the pathway is not relevant on this site given its many constraints and the Local Heritage Place, a second storey addition with these wall heights and a slightly amended setback could be processed as Deemed-to-Satisfy, and therefore must be granted consent. There is therefore an implication that this level of overshadowing is envisaged by the policy.

Therefore, considering the existing conditions already limit direct sunlight, it is considered that the proposal reasonably minimises overshadowing of habitable room windows to maintain direct winter sunlight.

DTS/DPF 3.2 states:

*“Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following:*

- a) for ground level private open space, the smaller of the following:*
  - i. half the existing ground level open space or*
  - ii. 35m<sup>2</sup> of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m)”*

Performance Outcome 3.2 states:

*“Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:*

- a) a neighbourhood type zone is minimised to maintain access to direct winter sunlight”*

The shadow diagrams provided show that there is no shadowing of Private Open Space between 9am and 12pm on the winter solstice, meaning that DTS/DPF 3.2 is met. As a result, PO 3.2 is considered to be satisfied.

Regarding solar panels, Performance Outcome 3.3 states:

*“Development does not unduly reduce the generating capacity of adjacent rooftop solar energy facilities taking into account:*

- a) the form of development contemplated in the zone*
- b) the orientation of the solar energy facilities*
- c) the extent to which the solar energy facilities are already overshadowed.”*

Note that there is no DTS/DPF criterion which corresponds to Performance Outcome 3.3. In this case, the form of development anticipated is residential, the solar energy facilities are oriented differently for the two different sites, and neither set of panels is currently overshadowed

by a building, but the panels at 36 Elizabeth St are shadowed by the tree at 34 Elizabeth St which would be removed.

The shadow diagrams provided by the applicant indicate that there would be very limited shadowing on the solar panels of either site between 9am and 3pm on the winter solstice. It is noted that the shadow diagrams provided are with regard to 36 Elizabeth St and do not account for the wall height at 76 William St. Therefore, while a 7.4m<sup>2</sup> section at the southwestern corner of the building of 76 William St is shaded at 3pm on the summer solstice, this does not account for the wall height, and any shadowing would be limited.

Given the limited amount of shading on the solar panels as demonstrated by the shadow diagrams provided, it is considered that any shadowing of solar panels would not unduly reduce their generating capacity, and the proposed development complies with this Performance Outcome.

### **Overlooking**

The applicant has provided details of the proposed screening mechanism, as an alternative to frosted glass. Policy relating to overlooking is found in Design in Urban Areas Performance Outcome 10.1 and the corresponding DTS/DPF 10.1.

Performance Outcome 10.1 states:

*“Development mitigates direct overlooking from upper-level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.”*

DTS/DPF 10.1 states:

*“Upper level windows facing side or rear boundaries shared with a residential use in a neighbourhood-type zone:*

- a) are permanently obscured to a height of 1.5m above finished floor level and are fixed or not capable of being opened more than 125mm*
- b) have sill heights greater than or equal to 1.5m above finished floor level*
- c) incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the window surface and sited adjacent to any part of the window less than 1.5 m above the finished floor level.”*

Windows on the rear (eastern) elevation of the upper floor are proposed to be frosted (as shown in screen 06 of the Screen Detail Plan).

Windows on the front (western) elevation employ two different screening methods. On the southern side, the windows are high level, meaning they comply with part (b) of DTS/DPF 10.1 above. On the northern side, the dwelling granted Planning Consent at 74 William St has no windows on its southern side, and the area of landscaping on the southern side is not private open space.

Further, the garage at 72 William St, and the distance provided for by the width of Elizabeth St, means that there would be no direct overlooking of private open space or habitable windows of this address either. Therefore, there are no adverse overlooking outcomes from the windows on this elevation.

On the northern side, the detail provided for screen 01 also shows angled battens which would limit any views out of this window to be of areas where there would be no direct overlooking. The openings in the screen are 25% of their length, and are consistent with part (c) of DTS/DPF 10.1.

On the southern side, screen 04 relates to a high-level window, which is consistent with part (b) of DTS/DPF 10.1. Screen 05 incorporates the same method as screen 01.

Therefore, the proposal is considered to mitigate direct overlooking from upper-level windows, and is consistent with Performance Outcome 10.1 above.

### **Design & Appearance (Carport)**

Performance Outcome 10.1 of the Established Neighbourhood Zone states:

*“Garages and carports are designed and sited to be discrete and not dominate the appearance of the associated dwelling when viewed from the street.”*

The Designated Performance Feature for Performance Outcome 10.1, is for garages and carports facing a street to be:

- a) *set back at least 0.5m behind the building line of the associated dwelling;*
- b) *set back at least 5.5m from the boundary of the primary street; and*
- c) *have a total garage door / opening width not exceeding 30% of the allotment or site frontage, to a maximum width of 7m.*

The proposed open-roofed carport is:

- a) Is set back from the building line by 0.5m;
- b) Is set back from the street by 6.6m; and
- c) Has a driveway width of 3m.

The proposal is therefore consistent with this DPF and Performance Outcome. It is also noted that because the site is a Local Heritage Place, the applicant would need further approval from the Assessment Manager for either a roller door or roofing on the carport.

### **Heritage**

The Local Heritage Place on the site is one of the oldest remaining houses in the Council area, constructed as a two-room red brick cottage in 1857. Under the report produced which recommended it be added to the State Heritage Register (see the background section for further detail), described the dwelling as:

*“A very early and attractive Victorian cottage with typical hipped roof and integrated front verandah. It has a steeply pitched roof with early external wall chimneys and rare (for this sort of cottage) French windows.”*

The “Development Implication” from that report states:

*“Retention and protection of the original form of the building, its setting and all associated building fabric, as viewed from the road.”*

Council’s Heritage Advisor, Mr. David Brown, has produced a report which is available in the attachments. Mr Brown is supportive of the proposal, concluding:

*“Overall the proposal is considered acceptable in terms of its impact on the Local Heritage Place as it includes the restoration of the old building, and retains the most important original elements of the house. The addition, while visually dominant, is well considered and probably as small as it could be for a two level addition.”*

While the Heritage Adjacency Overlay is applied to the site, it is applied with reference to the Local Heritage Place on the site, and therefore it is considered that the Local Heritage Place Overlay should take precedence.

Performance Outcome 1.1 of the Local Heritage Place Overlay states:

*“The form of new buildings and structures maintains the heritage values of the Local Heritage Place.”*

Mr Brown has described the addition’s form as, *“a contemporary rectilinear form that [is] set relatively low in scale to attempt to relate to the humble cottage.... The overall form is stepped so that it is away from the boundaries, and cantilevers over the courtyard and car parking area.”* He goes on to describe it as, *“a simple form that does not compete with the cottage”*. A design that does not compete with the cottage is considered sufficient to maintain its heritage values, and is therefore consistent with the Performance Outcome.

Performance Outcome 1.2 of the Local Heritage Place Overlay states:

*“Massing, scale and siting of development maintains the heritage values of the Local Heritage Place.”*

Mr Brown states:

*“While this is a challenging site to design something for, the proposed scheme has been revised and adjusted many times and is now at point where its form, bulk and scale are about as low, small and understated as a two level addition can be and still ensure the final outcome is a liveable house... It has a mix of materials that assists in breaking down the scale... In the strictest sense the addition does dominate the Local Heritage Place to a reasonable degree, however the site is so small, and the existing house set so far back that there really are no other viable locations or options”*

Therefore, the massing, scale and siting of development has reasonably minimised its impact on the Local Heritage Place. Considering Desired Outcome 1 of the Local Heritage Place Overlay:

*“Development maintains the heritage and cultural values of Local Heritage Places through conservation, ongoing use and adaptive reuse.”*

The proposed addition is key to ensuring the maintenance of the heritage values of the dwelling, through its ongoing use. As Mr Brown states, it is as low, small and understated as such an addition can reasonably be while maintaining liveability in order to provide for ongoing use.

Performance Outcome 1.3 of the Local Heritage Place Overlay states:

*“Design and architectural detailing (including but not limited to roof pitch and form, openings, chimneys and verandahs) maintains the heritage values of the Local Heritage Place.”*

The key architectural details of the original dwelling including its roof form, French doors and chimneys are to be retained through the development. Given the simple, rectilinear form of the addition, this will not compete with these features and will emphasise their value.

Performance Outcome 1.4 of the Local Heritage Place Overlay states:

*“Development is consistent with boundary setbacks and setting.”*

The proposed development does not involve any works forward of the building line. The ground floor on the northern side is consistent with the existing dwelling, while the upper floor on the northern side and the ground floor on the southern side both extend beyond the line of the existing dwelling.

The siting of the addition is considered to be sensitive to the original dwelling, and does not detract from the heritage value of the Local Heritage Place.

Performance Outcome 1.5 of the Local Heritage Place Overlay states:

*“Materials and colours are either consistent with or complement the heritage values of the Local Heritage Place.”*

Regarding materials and colours, Mr Brown states:

*“It has a mix of materials that assists in breaking down the scale... The proposed design is very much of its time; a rectilinear form with modern materials, a simple grey colour scheme, and some slatted elements to break it up from being a plain box”*

The upper storey wall of the addition facing the street includes both *windspray* (grey) and *surfmist* (off-white) colours which also breaks up the addition. The *surfmist* section being immediately behind the original dwelling will assist in emphasising the original dwelling.

As the colours and materials proposed are not the same as those on the Local Heritage Place, they are not “consistent with” these. However, they do “complement” the heritage values, by emphasising the qualities of the heritage place.

Performance Outcome 1.6 of the Local Heritage Place Overlay states:

*“New buildings and structures are not placed or erected between the primary or secondary street boundaries and the façade of a Local Heritage Place.”*

No part of the addition or carport would be between the building line and Elizabeth St.

Performance Outcome 1.7 of the Local Heritage Place Overlay states:

*“Development of a Local Heritage Place retains features contributing to its heritage value.”*

The proposed development retains the key features of the original two-roomed cottage, including its roof form, chimneys and French doors. This is considered consistent with the above PO.

Performance Outcome 2.1 of the Local Heritage Place Overlay states:

*“Alterations and additions complement the subject building and are sited to be unobtrusive, not conceal or obstruct heritage elements and detailing, or dominate the Local Heritage Place or its setting.”*

The proposed addition is sited to be as unobtrusively as possible, being entirely behind the heritage place. As a result of this siting, the addition will not conceal any heritage elements and detailing as all such elements will be between the street and the addition.

Regarding the extent to which the proposal dominates the Local Heritage Place, and is complementary to it, Mr Brown states:



*“In the strictest sense the addition does dominate the Local Heritage Place to a reasonable degree, however the site is so small, and the existing house set so far back that there really are no other viable locations or options. It then comes down to the design and style of the proposed addition... The addition, while visually dominant, is well considered and probably as small as it could be for a two-level addition.”*

Therefore, while the addition is somewhat dominant, referring again to DO 1, the addition allows for the ongoing use of the Local Heritage Place and allows for it to be restored and maintained.

Performance Outcome 2.2 of the Local Heritage Place Overlay states:

*“Adaptive reuse and revitalisation of Local Heritage Places to support their retention in a manner that respects and references the original use of the Local Heritage Place.”*

Given the dilapidated state of the Local Heritage Place, provisions relating to adaptive reuse are considered relevant, since the existing building will need to be adapted in order for it to be liveable. The proposed additions do support the retention of the Heritage Place by making it a viable dwelling for modern lifestyles. It also respects the original use by retaining it as a dwelling and continuing in it as living space.

Restoration works to the original dwelling are subject to PO 7.1:

*“Conservation works to the exterior of a Local Heritage Place (and other features identified in the extent of listing) match original materials to be repaired and utilise traditional work methods.”*

The applicant has noted in their response to representations that the original materials have been compromised and the setting and contribution of the LHP has been altered from its original form.

Council’s Heritage Advisor, David Brown, has commented on this point:

*“The works to the old cottage appear to be well thought through with a simple new concave roof verandah, rendering with block lines to the walls in a manner that was typical at the time, and retention of the important remaining doors, windows and chimneys.*

*There is no note on the gutter profile. This should be OG in profile. The down pipes are noted as 90mm diameter, but no material is noted to the downpipes on the old house. These downpipes should be metal, not PVC. The downpipes for the addition could be PVC.”*

A condition is recommended to reflect Mr Brown’s comments regarding guttering and downpipes. Given the existing compromised state of the original materials, and Mr Brown’s commentary, it is considered that the proposed conservation works are reasonable and are consistent with PO 7.1.

### **Landscaping and Private Open Space**

As the site is between 200-450m<sup>2</sup>, Design in Urban Areas DTS/DPF 22.1 seeks for 20% of the site to be soft landscaping. Proposed landscaping areas with a minimum dimension of 700mm add up to 46.4m<sup>2</sup> or 20.7% of the site area. There is also additional landscaping along the northern boundary which does not meet the minimum dimension but would add 10m<sup>2</sup>. Therefore, there is sufficient space for landscaping and vegetation.

The proposal would see the medium-sized tree at the rear removed, but the smaller tree at the front retained.

As the site is below 300m<sup>2</sup>, Table 1 of Design in Urban Areas requires 24m<sup>2</sup> of private open space. The area behind the vehicle parking area is the designated private open space area, and this is approximately 24m<sup>2</sup> in area. Therefore, sufficient space for private open space is provided.

### **Traffic Impact, Access and Parking**

As the development includes 2 or more bedrooms, Table 1 of the Transport, Access and Parking module states that the development should include two parking spaces, one of which is to be covered. The proposed development would include two car spaces considering the space available in the driveway, but none would be covered. Considering the proposed pergola/arbour structure in the driveway which could partially cover one vehicle and the constraints of a such a small site, this is considered reasonable.

The driveway arrangement was approved as part of land division application 008/027/2020. It would not conflict with any verge infrastructure.

### **CONCLUSION**

The proposal seeks to make alterations and a two-level addition to a dilapidated Local Heritage Place, which would include restoration of the two-room cottage which forms the basis of the listing. The allotment is relatively small for the area at only 224m<sup>2</sup> meaning that it is difficult to create a built form outcome which is both suitable for a modern lifestyle and sympathetic to the Local Heritage Place.

While the addition does to some extent dominate the Local Heritage Place, it is designed in such a way as to minimise its impact while retaining the features which make it useable. It is therefore considered to be consistent with Desired Outcome 1 of the Local Heritage Place Overlay in maintaining the heritage value of the Place by providing for its ongoing use.

There are further questions regarding overshadowing and visual impact, but the applicant has demonstrated that these have been reasonably minimised given the constraints of the site.

The application is considered to sufficiently accord with the provisions of the Planning and Design Code so as to warrant consent.

### **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22031539, by Xin Li is granted Planning Consent subject to the following reasons/conditions/reserved matters:

### **CONDITIONS**

Planning Consent

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers within the next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, 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. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.
4. The upper floor windows on the northern, southern and western elevations shall be suitably treated in order to comply with DPF 10.1 of the Design in Urban Areas module, prior to occupation of the building, in a manner that restricts views being obtained by a person within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.
5. Gutters on the retained portion of the Local Heritage Place shall be of an OG profile, with downpipes in metal, to the reasonable satisfaction of the Assessment Manager or their delegate.

## **ADVISORY NOTES**

### Planning Consent

#### Advisory Note 1

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

#### Advisory Note 2

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au). Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

#### Advisory Note 3

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

#### Advisory Note 4

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

#### Advisory Note 5

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and, in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

#### Advisory Note 6

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 pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

#### Advisory Note 7

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

#### Advisory Note 8

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

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.

#### Advisory Note 9

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.

Advisory Note 10

The Applicant is advised that the property is a Local Heritage Place and that approval must be obtained for any works involving the construction, demolition, removal, conversion, alteration or addition to most building and/or structure (including fencing).

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*Mr Greig addressed the Council Assessment Panel from 7:06pm until 7:10pm*

*Mr White addressed the Council Assessment Panel from 7:11pm until 7:12pm*

*Mr Vaccarella addressed the Council Assessment Panel from 7:13pm until 7:21pm*

*Mr Hosking addressed the Council Assessment Panel from 7:22pm until 7:30pm*

**MOVED**

- 1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and*
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- 4. The upper floor windows on the northern, southern and western elevations shall be suitably treated in order to comply with DPF 10.1 of the Design in Urban Areas module, prior to occupation of the building, in a manner that restricts views being obtained by a person within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.*

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**Advisory Note 10**

*The Applicant is advised that the property is a Local Heritage Place and that approval must be obtained for any works involving the construction, demolition, removal, conversion, alteration or addition to most building and/or structure (including fencing).*

**Seconded and Carried**

*Mr Terry Mosel returned to the meeting at 7:56pm*

**2.2 DEVELOPMENT NUMBER 22014444 – BUNNINGS GROUP LIMITED – 3-5 PENNA AVENUE, GLYNDE**

|  |   |
|--|---|
| <b>DEVELOPMENT NO.:</b>                    | 22014444  |
| <b>APPLICANT:</b>                          | Bunnings Group Limited  |
| <b>ADDRESS:</b>                            | 3-5 PENNA AV GLYNDE SA 5070<br>37 PROVIDENT AV GLYNDE SA 5070<br>37 GLYNBURN RD GLYNDE SA 5070<br>35 BARNETT AV GLYNDE SA 5070<br>41-43 GLYNBURN RD GLYNDE SA 5070<br>39 GLYNBURN RD GLYNDE SA 5070<br>41-43 GLYNBURN RD GLYNDE SA 5070   |
| <b>NATURE OF DEVELOPMENT:</b>              | Bulky Goods Outlet (Shop) with advertising displays and earthworks  |
| <b>ZONING INFORMATION:</b>                 | <p><b>Zone:</b></p> <ul style="list-style-type: none"> <li>• Employment</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Hazards (Flooding - General)</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Traffic Generating Development</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <p>Maximum Building Height (Levels) (Maximum building height is 2 levels)</p> |
| <b>LODGEMENT DATE:</b>                     | 6 May 2022  |
| <b>RELEVANT AUTHORITY:</b>                 | Assessment Panel at City of Norwood, Payneham and St. Peters  |
| <b>PLANNING &amp; DESIGN CODE VERSION:</b> | The version applicable on 6 May 2022  |
| <b>CATEGORY OF DEVELOPMENT:</b>            | Code Assessed - Performance Assessed  |
| <b>NOTIFICATION:</b>                       | For original Application – Yes<br>For Reserved Matter consideration - No  |
| <b>RECOMMENDING OFFICER:</b>               | Geoff Parsons<br><br>Assessment Manager / Manager Development Assessment  |



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| ATTACHMENT 1: | Updated PSI                   |
| ATTACHMENT 2: | DSI                           |
| ATTACHMENT 3: | EPA Email                     |
| ATTACHMENT 4: | Original CAP Report – 20/7/22 |
| ATTACHMENT 5: | Decision Notification Form    |

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## BACKGROUND:

Development Application 22014444 was lodged on 6 May 2022 and sought Planning Consent for:

*“A bulky goods retail outlet, together with associated earthworks, signage, car parking and landscaping, as well as amending the boundary layout to facilitate alterations to the road and kerbing, and intersection upgrade works associated with the installation of a signalised intersection. More specifically, the proposed outlet is to be occupied by Bunnings, a large-scale retailing hardware supplies store”.*

The Application was considered by the Council Assessment Panel at the meeting held on 20 July 2022. The Panel determined to grant Planning Consent to the Application, subject to a reserved matter and a number of conditions and notes. The reserved matter comprised the following:

*“The decision & assessment of matters pertaining to site contamination, including any required site remediation, is reserved for further assessment pursuant to s102(3) of the PDI Act.*

*As part of that assessment the applicant is to provide an updated Preliminary Site Investigation report. The Panel reserves its decision on the imposition of any additional conditions of planning consent that it considers appropriate to impose in respect of the reserved matter following its further assessment.”*

The purpose of this report is to consider whether the reserved matter has been satisfied and if so, whether any additional conditions should be imposed.

Given the detailed report that was previously prepared for the Panel, it is not necessary to repeat the information previously presented with respect to the subject land and locality, detailed description of proposal, or other procedural matters. Instead, a copy of the report previously presented to the Panel is provided for in **Attachment 4**.

## PUBLIC NOTIFICATION

Public notification is not necessary. The public notification process, including the hearing of representations, was conducted as part of the original assessment and the decision making process for Development Application 22014444. The satisfaction of the reserved matter (or otherwise) is purely a matter for the consideration of the Council Assessment Panel.

## AGENCY REFERRALS

No formal agency referrals were required as part of this process, however both the Applicant and Council held informal discussions with the Environment Protection Authority regarding the investigations that have been undertaken.

## INTERNAL REFERRALS

No internal referrals were required as part of the consideration of this matter.

## PLANNING ASSESSMENT

Having previously determined to grant Planning Consent to Development Application 22014444, the Panel is restricted to considering whether the reserved matter previously imposed has been satisfied and whether any additional conditions should be imposed with respect to that reserved matter and the response that has been provided.

The Panel is unable to revisit other aspects of the proposal or the merits or otherwise of the development.

To provide further context as to the rationale for the reserved matter, the following paragraph was included in the staff report previously considered by the Panel:

*A Preliminary Site Investigation (PSI) report was prepared for Bunnings in 2015, which concluded the site was generally suitable for the intended use and recommending further soil sampling in some areas of the site. Pursuant to Practice Direction 14, the applicant is required to submit a current PSI report and depending upon the information contained therein, the application may need to be referred to the Environment Protection Authority (EPA). An updated PSI report has not yet been prepared. Therefore, if the Panel determines to grant consent to the application, it is recommended that the consent be subject to the reservation of assessment of site contamination, following receipt of relevant information.*

On Thursday 24 November 2022 the Applicant submitted the following documents to Council:

- Updated Preliminary Site Investigation Report by LBWco;
- Detailed Site Investigation Report by LBWco;
- Confirmation from the Environment Protection Authority (EPA) that there is no formal referral role for the EPA as part of this process.

Copies of the documents are provided for in **Attachments 1-3**. Each Site Investigation Report contains an executive summary, detailed report, and appendices producing information such as bore log details etc.

The key findings of each report are summarised below.

### Findings – Updated Preliminary Site Investigation (PSI) Report

The Updated Preliminary Site Investigation Report found evidence that four (4) potentially contaminating activities (PCAs) had occurred on site and that the risks from those PCAs to the proposed retail / commercial land use ranges from low to high.

Other PCAs were identified as having occurred on or near the site but the risks to the proposed land use from those PCAs were identified as being in the negligible to low range.

The report went on to state that the contamination identified on site was primarily located in several “hot spot” areas and while the risks posed to human health upon the establishment of the new use were reasonable, there was potential for greater risks to human health and ecological receptors during construction and, dependent on how the excavated soils were used, during operation.

Accordingly, the report recommended further investigations be undertaken to better inform the development of a remediation plan which was considered to be necessary. The applicant therefore proceeded to source a Detailed Site Investigation Report.

#### Findings – Detailed Site Investigation (DSI) Report

The conclusions and recommendations from the Report are reproduced 'verbatim' below:

*Based on the data presented within this DSI, LBWco makes the following conclusions:*

- *Site contamination exists on the site with respect to the proposed commercial land use. The site contamination was evident as soil impacts only, which were adequately delineated to support remediation management planning.*
- *No evidence of site contamination with respect to soil vapour or groundwater was identified on site.*
- *Potential risks to human health for future commercial land use are limited to an isolated hotspot containing an elevated lead concentration within fill material to a depth of 0.35 mBGL, and a limited area of residual asbestos fragments at the location of the demolished residential dwelling.*
- *Potential ecological risks from concentrations of petroleum hydrocarbons in shallow soils were evident across several isolated hotspot areas.*
- *The proposed Bunnings store development will include a sealed surface across most of the site, which will mitigate risks to future site users and ecological receptors by providing a barrier to exposure. Where no barrier will be present at proposed landscaped areas, targeted removal of shallow contaminated soil may be warranted to support plant growth.*
- *Historical underground storage tanks (USTs) are present in the south western portion of the site and assessment data indicated that historical loss of contaminant has occurred, resulting in petroleum impacts to soils adjacent to and beneath the USTs to a maximum depth of 4 mBGL. Impacted soils are odorous and stained and would not be suitable to remain as accessible soils in landscaped areas onsite.*
- *The proposed Bunnings store development will require significant disturbance of the existing soils for site preparation earthworks and construction activities. Should offsite disposal of surplus soil be required, a large portion of the site is anticipated to meet the chemical requirements of Waste Fill, as shown in Figure 5B in Appendix A. Waste classification for soils across the balance of the site are anticipated to range from Intermediate Waste to exceeding Low Level Contaminated Waste.*

*It is LBWco's opinion that the site can be readily made suitable for the proposed commercial land use by implementing remediation works under a remediation management plan (RMP), as recommended in Section 17 below. Accordingly, it is expected that the development approval can be conditioned pursuant to section 127(1)(b) of the Planning, Development and Infrastructure Act 2016 and Planning Practice Direction 14 (Site Contamination) (version 2, June 2022, PD14), as follows:*

*A person must not occupy the building for the purpose authorised under the development approval until a statement of site suitability is issued certifying that the required remediation has been undertaken and the land is suitable for the proposed use.*

*Based on the findings of the DSI the following recommendations are made:*

- *An RMP should be prepared by an experienced site contamination consultant, in collaboration with the project design team.*
- *Remediation works are anticipated to be limited to the following:*
  - *Removal of USTs and associated hydrocarbon impacted adjacent soils to the extent necessary*
  - *Removal of surface fragments of asbestos containing material by a licenced professional*
  - *Targeted removal of shallow soil impact at hotspot locations and provision of suitable clean soil growing medium to landscaping areas.*
- *The RMP should incorporate a waste soil management plan to help guide the efficient and effective planning, handling and reuse of soils onsite, to minimise offsite waste soil disposal during the redevelopment.*
- *The RMP should include the requirement for a Remediation Validation Report (RVR) to document the final condition of the land and confirm its suitability for the proposed land use.*
- *On completion of the RVR, the site contamination consultant should issue a Statement of Site Suitability in accordance with Schedule 3 of PD14.*

#### Assessment

The reserved matter was relatively broad, allowing for *“the assessment of matters pertaining to site contamination, including any required site remediation”*.

The Applicant has completed and submitted an updated Preliminary Site Investigation Report, and provided advice from the Environment Protection Authority confirming they have no role to play in the process. In addition, based on the findings of the updated Preliminary Site Investigation Report, the Applicant has proceeded to source and submit a Detailed Site Investigation Report, providing further information and recommendations with respect to site contamination.

The Detailed Site Investigation Report confirms, in the view of a site contamination professional, that the land can be made suitable for the proposed retail / commercial use, if a Remediation Management Plan is developed and the development is undertaken in accordance with that.

Accordingly, the reserved matter is considered to have been satisfied.

#### Conditions

Given the reserved matter is considered to have been satisfied, the Panel can turn its mind to whether any additional conditions should be imposed with respect to the reserved matter.

LBWco have recommended the following condition:

*A person must not occupy the building for the purpose authorised under the development approval until a statement of site suitability is issued certifying that the required remediation has been undertaken and the land is suitable for the proposed use.*

The condition is supported and its inclusion is recommended – however it is recommended that the wording be slightly altered to reflect that required in Practice Direction 14. The recommendation at the conclusion of this report reflects the amended wording.

In addition, the following conditions are also recommended:

- A. *In accordance with the Detailed Site Investigation Report, undertaken by LBWco Pty Ltd, dated 15/11/22, a Remediation Management Plan should be prepared, finalised and in place (to the reasonable satisfaction of the Assessment Manager) prior to construction commencing on site.*

*The Remediation Management Plan shall include, but not necessarily be limited to, the following:*

- *Remediation works covering the following:*
  - *Removal of USTs (Underground Storage Tanks) and associated hydrocarbon impacted adjacent soils to the extent necessary;*
  - *Removal of surface fragments of asbestos containing material by a licenced professional;*
  - *Targeted removal of shallow soil impact at hotspot locations and provision of suitable clean soil growing medium to landscaping areas;*
- *A Waste Soil Management Plan to help guide the efficient and effective planning, handling and reuse of soils on site;*
- *A requirement for the development and finalisation of a Remediation Validation Report (RVR) to document the final condition of the land and confirm its suitability for the proposed land use.*

- B. *The Remediation Management Plan, inclusive of the Waste Soil Management Plan and other components noted in Condition A above, shall be provided to the Council prior to construction commencing on site.*

- C. *All site works shall be undertaken in the accordance with the requirements of the Remediation Management Plan.*

A recommendation is provided for below that would allow for the imposition of these four (4) additional conditions.

It is considered that these conditions would provide for a suitable level of certainty that the contamination on site can be appropriately remediated and that the development will be suitable for its proposed use, not posing any significant hazard to any user (or adjoining / nearby owner) via contamination.

#### Other

Finally, it is worth noting that, upon satisfaction of the reserved matter, one other matter remains outstanding being the approval of Council which is required to enable the alterations to the adjacent public road network.

The proposal incorporates the signalisation of the Glynburn Road and Penna Avenue intersection and the associated widening of a portion of Penna Avenue. While the widening of the road reserve does not require land division approval, it does require the approval of Council as the additional road reserve would vest with Council.

The Council is yet to consider a request from the Applicant in this regard. This matter would require resolution before the Planning Consent (and subsequent Building Rules Consent and Development Approval) could be fully implemented.

## CONCLUSION

It is suggested that the Applicant has submitted a sufficient level of information to satisfy the reserved matter.

Four (4) additional conditions are listed below that are appropriate to ensure the intention of the reserved matter (i.e., to suitably manage any potential contamination on site) can be implemented.

If the Panel supports the recommendation, an updated Decision Notification Form (DNF) will be issued which will include the removal of the reserved matter and the inclusion of the four (4) additional conditions, in association with the existing conditions that are already imposed.

## RECOMMENDATION

It is recommended that the Council Assessment Panel resolves that:

1. *Pursuant to Section 102(3) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the documentation provided to satisfy the outstanding Reserved Matter, the Reserved Matter has been satisfied; and*
2. *An additional four (4) conditions are imposed on the Planning Consent for Development Application Number 22014444 (in addition to those conditions and notes previously imposed), as outlined below:*

### Conditions

- A. *In accordance with the Detailed Site Investigation Report, undertaken by LBWco Pty Ltd, dated 15/11/22, a Remediation Management Plan should be prepared, finalised and in place (to the reasonable satisfaction of the Assessment Manager) prior to construction commencing on site.*

*The Remediation Management Plan shall include, but not necessarily be limited to, the following:*

- *Remediation works covering the following:*
    - *Removal of USTs (Underground Storage Tanks) and associated hydrocarbon impacted adjacent soils to the extent necessary;*
    - *Removal of surface fragments of asbestos containing material by a licenced professional;*
    - *Targeted removal of shallow soil impact at hotspot locations and provision of suitable clean soil growing medium to landscaping areas;*
  - *A Waste Soil Management Plan to help guide the efficient and effective planning, handling and reuse of soils on site;*
  - *A requirement for the development and finalisation of a Remediation Validation Report (RVR) to document the final condition of the land and confirm its suitability for the proposed land use.*
- B. *The Remediation Management Plan, inclusive of the Waste Soil Management Plan and other components noted in Condition A above, shall be provided to the Council prior to construction commencing on site.*

- C. *All site works shall be undertaken in the accordance with the requirements of the Remediation Management Plan.*
  - D. *A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability is issued certifying that the required remediation has been undertaken and the land is suitable for the proposed use.*
- 

## **MOVED**

- 1. *Pursuant to Section 102(3) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the documentation provided to satisfy the outstanding Reserved Matter, the Reserved Matter has been satisfied; and*
- 2. *An additional four (4) conditions are imposed on the Planning Consent for Development Application Number 22014444 (in addition to those conditions and notes previously imposed), as outlined below:*

### **Conditions**

- A. *In accordance with the Detailed Site Investigation Report, undertaken by LBWco Pty Ltd, dated 15/11/22, a Remediation Management Plan should be prepared, finalised and in place (to the reasonable satisfaction of the Assessment Manager) prior to construction commencing on site.*

*The Remediation Management Plan shall include, but not necessarily be limited to, the following:*

- *Remediation works covering the following:*
    - *Removal of USTs (Underground Storage Tanks) and associated hydrocarbon impacted adjacent soils to the extent necessary;*
    - *Removal of surface fragments of asbestos containing material by a licenced professional;*
    - *Targeted removal of shallow soil impact at hotspot locations and provision of suitable clean soil growing medium to landscaping areas;*
  - *A Waste Soil Management Plan to help guide the efficient and effective planning, handling and reuse of soils on site;*
  - *A requirement for the development and finalisation of a Remediation Validation Report (RVR) to document the final condition of the land and confirm its suitability for the proposed land use.*
- B. *The Remediation Management Plan, inclusive of the Waste Soil Management Plan and other components noted in Condition A above, shall be provided to the Council prior to construction commencing on site.*
-

- C. All site works shall be undertaken in the accordance with the requirements of the Remediation Management Plan.*
- D. A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability is issued certifying that the required remediation has been undertaken and the land is suitable for the proposed use.*

**Seconded and Carried**



## 2.3 STATE PLANNING COMMISSION CORRESPONDENCE – CAP CONDUCT AND ADMINISTRATION

### PURPOSE OF REPORT

The purpose of the report is to provide a copy of correspondence received from the State Planning Commission on 24 December 2022 regarding the conduct and administration of Council Assessment Panels / Regional Assessment Panels and their members.

### BACKGROUND

The State Planning Commission (“the Commission”) is the body responsible for investigating complaints lodged against the conduct of Council Assessment Panel / Regional Assessment Panel Members, pursuant to Regulation 11 of the *Planning, Development and Infrastructure (General) Regulations 2017*. Any such complaint must be in writing, contain the particulars of the allegation(s) and be confirmed by a statutory declaration. It must also be lodged within 6 months of the date of the alleged incident.

In response to a complaint, the Commission has a number of options but essentially it can either refuse to deal with the complaint (if for example, it believes it is unjustified / vexatious), refer the matter to the Panel Member in question, investigate the matter and / or take action to remove the Member from office or take other action it sees fit.

The attached correspondence confirms the Commission received ten (10) complaints during the 2022 calendar year relating to alleged breaches of the Code of Conduct. It is noted that some complaints were substantiated and sanctions / disciplinary actions were recommended to the appointing entities.

In addition, the Commission undertook an audit of the Council Assessment Panel / Regional Assessment Panel Membership and, pleasingly, found that all members were fully compliant when it came to compliance with the accreditation requirements.

Given the activities of the Commission with respect to Panels throughout the year the Commission thought it timely to write to the appointing authorities for Panels reminding them of the obligations applicable to Panels and their Members. The correspondence is attached.

### DISCUSSION

In particular, the Commission has raised the following matters:

- Accreditation – The importance of ensuring that all Panel Members (with the exception of the Elected Member(s)) maintain the currency of their accreditation;
- Notice of Appoint Forms – All new (and reappointed) Panel Members must complete a Notice of Appointment form at the beginning of their term and disclose their financial interests via Primary and Ordinary Returns;
- Primary and Ordinary Returns (disclosure of financial interests) – These documents are required to be completed at the end of each financial year – they ensure there is a complete record of any financial interests that could give rise to potential conflicts of interest;
- Code of Conduct – All members must ensure they act in accordance with the Code of Conduct at all times;

- Training – The importance of undertaking training to ensure the role of a CAP Member can be undertaken with the necessary skills and experience and the requirements for accreditation can be met.

The correspondence also notes that some specific forms of training should be considered, including training for Panel Chairs on the effective management of meetings, and training for all members on conflict-of-interest obligations.

Each Independent Member of the Norwood Payneham & St Peters Council Assessment Panel is accredited and undertakes the necessary training to maintain their accreditation. The Council has all relevant Notice of Appointment Forms on file (or in the process of being completed) and Primary and Ordinary Returns are regularly completed.

Training will be arranged for the Panel in the first quarter of 2023 and topics such as the Meeting Procedures, Code of Conduct and conflicts of interest will be discussed.

## **CONCLUSION**

The correspondence is a timely reminder regarding the obligations that are placed upon Council Assessment Panel Members with respect to their conduct and the sensitive and critical functions carried out by Panels.

Panel Members should ensure they comply with the Code of Conduct at all times and that accreditation certificates and other important forms and requirements for appointment are completed. The administration will continue to assist wherever possible.

Pleasingly the City of Norwood Payneham & St Peters Council Assessment Panel continues to function efficiently and effectively and the Council acknowledges and appreciates the diligence with which Members approach their roles and conduct.

## **COMMENTS**

Nil.

## **ATTACHMENTS**

1. SPC Letter
2. Section 83 Notice of Appointment Form
3. Fact Sheet – Elected Members on Council Assessment Panels
4. Fact Sheet – Assessment Managers
5. Fact Sheet – Relevant Authority – Assessment Panel and Assessment Manager Relationship
6. Code of Conduct – Assessment Panel Members

## **RECOMMENDATION**

1. That the report be noted.

## **Seconded and Carried**

3. **OTHER BUSINESS**  
Nil
4. **CONFIDENTIAL REPORTS**  
Nil
5. **CLOSURE**

The Presiding Member declared the meeting closed at 8:05pm

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Terry Mosel  
**PRESIDING MEMBER**

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Geoff Parsons  
**MANAGER DEVELOPMENT ASSESSMENT**