

# Council Assessment Panel Minutes

**18 May 2026**

## **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** 6:30PM

**PRESENT**

**Panel Members** Mr Mark Adcock  
Mr Paul Mickan  
Mr Julian Rutt  
Cr Sandy Wilkinson

**Staff** Geoff Parsons – Assessment Manager  
Kieran Fairbrother - Senior Urban Planner  
Ned Feary – Senior Urban Planner  
Callum Hastie - Urban Planner  
Tala Aslat – Administration Officer

**APOLOGIES** Mr Stephen Smith

**ABSENT**

*Mr Parsons advise that Mr Smith is an apology and sought nomination for an Acting Presiding Member*

*Moved by Mr Mickan*

*That Mr Adcock be Acting Presiding Member*

*Seconded by Mr Rutt*

**CARRIED**

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 20 APRIL 2026**

*Move by Cr Wilkinson*

*Seconded by Mr Mickan*  
**CARRIED**

4. **DECLARATION OF INTERESTS**

*Mr Paul Mickan declared a conflict of Interest for Item 5.2*

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER – ID 26002653 - FLAGSHIP DISTILLERY  
- 113 RUNDLE STREET KENT TOWN SA 5067

<b>DEVELOPMENT NO.:</b>	26002653
<b>APPLICANT:</b>	Flagship Distillery
<b>ADDRESS:</b>	113 RUNDLE ST KENT TOWN SA 5067
<b>NATURE OF DEVELOPMENT:</b>	Change of use from a warehouse and shop to distillery and bar
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Urban Corridor (Main Street)</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Affordable Housing</li> <li>• Design</li> <li>• Future Road Widening</li> <li>• Noise and Air Emissions</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Traffic Generating Development</li> <li>• Urban Transport Routes</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Maximum Building Height (Metres) (Maximum building height is 18.5m)</li> <li>• Minimum Building Height (Levels) (Minimum building height is 3 levels)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 5 levels)</li> <li>• Minimum Primary Street Setback (Minimum primary street setback is 0m)</li> <li>• Interface Height (Development should be constructed within a building envelope provided by a 30 degree plane, measured 3m above natural ground at the boundary of an allotment)</li> </ul>
<b>LODGEMENT DATE:</b>	6 Feb 2026
<b>RELEVANT AUTHORITY:</b>	Assessment Panel at City of Norwood Payneham & St. Peters
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) Version 2026.2 29/01/2026
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Kieran Fairbrother, Senior Urban Planner
<b>REFERRALS STATUTORY:</b>	Commissioner of Highways
<b>REFERRALS NON-STATUTORY:</b>	Nil

## CONTENTS:

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APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 5:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Response to Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 7:	Prescribed Body Responses
ATTACHMENT 3:	Zoning Map	ATTACHMENT 8:	Applicant's Responses
ATTACHMENT 4:	Representation Map		

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## DETAILED DESCRIPTION OF PROPOSAL:

The previous approved use of the subject tenancy was as a warehouse with an ancillary shop component. This proposal seeks to change that to a distillery and associated bar (cellar door), with works limited to the internal area of the building. No change to the exterior form, including access points and the front car park is proposed.

The production area associated with the distillery is located in the rear portion of the building and occupies a majority of the floor plan, with the front area closest to Rundle St being used predominantly as the bar, retail sales and delivery area.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 113 RUNDLE ST KENT TOWN SA 5067

**Title ref.:** CT 5085/54      **Plan Parcel:** D28982 AL301      **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

The site is comprised of a large warehouse-style building containing several tenancies, that is constructed to the rear and both side boundaries. A hard-surfaced car parking area is located in the front setback area and there is nil vegetation on the land. The subject tenancy has a floor area of 417m<sup>2</sup>, and three (3) car parking spaces allocated to it.

### Locality

The locality is characterised by a mix of commercial (consulting rooms, offices, vets, licensed premises), light industrial (warehousing) and residential land uses; which is reflected by the mixed zoning shown in **Attachment 3**. Buildings generally range in height from single-storey to two-storey and display a mix of architectural styles, ranging from historic heritage-listed places to more contemporary residential and commercial designs.

Rundle Street is a State-maintained road that accommodates just under 7000 vehicle trips per day at the northeastern end. The demand for on-street parking in this location is high, and the locality generally enjoys a decent level of amenity.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Distillery: Code Assessed - Performance Assessed  
Shop: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
P&D Code

## PUBLIC NOTIFICATION

- **REASON**

The proposed distillery use would only be exempt from notification if the development site is not within 60m of a residential land use in a neighbourhood-type zone, which is not the case.

- **LIST OF REPRESENTATIONS**

Surname	First Name	Address	Position	Wishes to be heard?
Burge	Grant		Support, with concerns	No
Zhu	Grace		Support, with concerns	No
Rundle Street Community Inc			Support, with concerns	Yes
Community Corporation 20010			Support, with concerns	Yes
Baker	Patrick		Opposed	No
Kong	X		Opposed	No

- **SUMMARY**

The Panel should note the following:

- The representations submitted for Representors 4 and 6 are exactly the same submission;
- Representors 3 and 4 are to be represented by the same person, David Baker, at the Panel meeting;
- Some of the comments made by Representors 3, 4 and 6 relate to Council strategies that are not applicable or relevant to the assessment of a development application (and cannot be taken into account).

The concerns raised by the six representors, insofar as they are valid planning considerations, can be summarised as follows (and read in full in **Attachment 5**):

- Potential amenity impacts from late hours of operation and live music;
- Amenity impacts from activities in the loading area located adjacent to dwellings;
- Amenity impacts from increased traffic movements;
- Noise impacts from distillery activities;
- Pedestrian safety concerns, especially with vehicles reversing across footpaths;
- The lack of on-street parking available nearby;

- Hazards posed by the storage of chemicals and flammable substances on site;
- **APPLICANT RESPONSE**

The Applicant's response to representations is contained in **Attachment 6**, but can be summarised as follows:

- The land uses proposed are compatible with the outcomes sought by the Urban Corridor (Main Street) Zone;
- The level of amenity expected by residential uses within this Zone need to be considered in the context of the desired outcomes of the Zone, and the presence of dwellings should not unnecessarily restrict development in the Zone;
- Live music played within the premises shall be acoustic in nature (and they are willing to accept a condition to this effect);
- Any background music played through speakers will not exceed background noise levels in Rundle St (and they are willing to accept a condition to this effect);
- Hours of operations for the various components of the business were clarified;
- Appropriate hazard management procedures will be implemented by the business (notwithstanding this is not a planning matter);
- Commercial vehicle movements to the site will be similar (if not fewer) than the existing warehouse generates, and the loading / unloading of vehicles will occur on-site;
- Overall, the impacts generated by the proposed use are not unreasonable in the context of the zoning applicable.

## AGENCY REFERRALS

- Commissioner of Highways (Urban Transport Routes Overlay)

The Commissioner of Highways has no objection to the proposal.

## PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

### Question of Seriously at Variance

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2026.2, dated 29/01/2026), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code because the Urban Corridor (Main Street) Zone envisages a variety of land uses that add to the vibrancy of the area, and the proposed land use falls within this scope, and the impacts of the use are not considered to be unreasonable.

### Land Use

Desired Outcome 1 of the Urban Corridor (Main Street) Zone states:

*A safe, walkable and vibrant shopping, entertainment and commercial main street precinct with an active day and evening economy supported by medium density residential development.*

Desired Outcomes are not policies in their own right, but they do set the 'agenda' for the Zone and provide the context in which the Zone's Performance Outcomes should be interpreted and applied. To that end,

Desired Outcome 1 makes it clear the Urban Corridor (Main Street) Zone's primary purpose is to accommodate commercial uses that contribute to a vibrant main street during both day and evening hours. Residential development within the Zone should be subordinate to the commercial uses, but of sufficient density to help support those uses. This is relevant when considering the suitability of the proposed land use and the level of amenity to be expected by adjacent residential uses.

Performance Outcome 1.1 of the Urban Corridor (Main Street) Zone states:

*A vibrant mix of land uses adding to the vitality of the area and extending activities outside shop hours including restaurants, educational, community and cultural facilities and visitor and residential accommodation.*

The corresponding Designated Performance Features lists a variety of land uses envisaged within the Zone which include, most notably, hotel, licensed premises, and shop.

Performance Outcome 1.2 of the Urban Corridor (Main Street) Zone states:

*Retail, office, entertainment and recreation related uses that provide a range of goods and services to the local community and the surrounding district.*

Performance Outcome 1.3 of the Urban Corridor (Main Street) Zone states:

*Ground floor uses contribute to a safe, active and vibrant main street.*

Performance Outcome 1.6 of the Urban Corridor (Main Street) Zone states:

*Land uses promote movement and activity during daylight and evening hours, including restaurants, education, health, community and cultural facilities, and visitor and residential accommodation.*

Performance Outcome 1.7 of the Urban Corridor (Main Street) Zone states:

*Changes in the use of land encourage the efficient reuse of commercial premises to maintain and enhance vibrancy within activity centres.*

The proposed distillery land use does not contribute to a vibrant main street as envisaged by these Performance Outcomes, but it does not derogate from these provisions any more than the existing warehouse use does.

More importantly, though, the bar (cellar door) component of the proposed development, which is connected to and integrated with the distillery component, *will* contribute to these outcomes. The bar is proposed to operate between 10am to 10pm, 7 days a week, and with a maximum patronage of 80 persons. Like other, similar land uses in the area (e.g. Kent Town Hotel and Reform Distilling), the premises will provide a range of goods and services to the local community during both daylight and evening hours, adding vitality to the area – consistent with the above Performance Outcomes. The fact that hotel and licensed premises are both included in the list of envisaged uses in DPF 1.1 of the Zone indicates support for such uses in the Zone.

### **Interface (Amenity) Impacts**

While the proposed land uses may be appropriate in the Zone, it nevertheless remains important that any external impacts from these uses are maintained at a reasonable level; particularly with the existence of numerous sensitive receivers (dwellings) within the locality. This does, however, need to be considered in

the context of the Desired Outcome of the Zone, and the existence of residential land uses should not preclude what would otherwise be appropriate development within the Zone from occurring. That is to say, the level of amenity that existing dwellings may expect is to be ascertained by reference to the nature of development envisaged within the Zone; not necessarily by reference to any existing amenity levels.

The key sources of potential amenity impacts are considered to be:

- Noise from service vehicles (loading / unloading) associated with the distillery; and
- Noise from patrons and music associated with the bar.

The industrial processes proposed for the premises do not include fermentation or the production of pure ethanol – it is limited to distillation – which does not generate any odours that could be considered to cause any impacts to neighbouring properties.

To that end, the following policies are considered relevant.

Performance Outcome 2.1 of the Interface Between Land Uses module states:

*Non-residential development does not unreasonably impact the amenity of sensitive receivers... through its hours of operation having regard to:*

- (a) The nature of the development*
- (b) Measures to mitigate off-site impacts*
- (c) The extent to which the development is desired in the zone*
- (d) Measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonable compromising the intended use of that land.*

The hours of operation proposed for this development are as follows:

- Distillery – Monday to Friday, 8:00am to 6:00pm
- Bar (Cellar Door) – 7 days a week, 10:00am to 10:00pm

The Applicant has indicated a potential for some distillery activities outside of these hours, and this is considered reasonable given the zoning applicable to the site. Accordingly, a condition of consent has been recommended that mirrors the proposed hours of operation above, but with the distillery being able to operate on Saturdays also, if required.

For the reasons detailed in the assessment below, the proposed hours of operation are considered to be appropriate.

Performance Outcome 1.2 of the Interface Between Land Uses module states:

*Development adjacent to a site containing a sensitive receiver... is designed to minimise adverse impacts.*

Performance Outcome 4.1 of the Interface Between Land Uses module states:

*Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers...*

Performance Outcome 4.6 of the Interface Between Land Uses module states:

*Development incorporating music achieves suitable acoustic amenity when measured at the boundary of an adjacent sensitive receiver...*

This application does not propose any changes to the structural or acoustic condition of the subject building, which is a concern raised by a couple of representors. Therefore, satisfaction of the above Performance Outcomes inherently requires the Applicant to demonstrate that, despite this, any noise emitted from the premises is reasonably anticipated and appropriate in the context of the Zone.

The application proposes the following features of the bar component that may contribute to noise emissions:

- Noise from up to 80 patrons within the premises, as late as 10pm;
- Noise from live music;
- Noise from background music (broadcast over speakers).

Accordingly, and in light of a representation received during public notification, a Request for Information was issued to the Applicant on 27 February requesting an acoustic report to be provided. This request was later withdrawn, and the correspondence that led to this is contained within **Attachment 8**. In short, the Applicant was amenable to the following conditions being imposed on the development, to avoid an acoustic report needing to be provided:

1. *That any live music played within the premises shall be of an acoustic nature only.*
2. *That any background music played through speakers within the premises shall not exceed existing background noise levels within Rundle Street directly in front of the site.*

Since those discussions, the second condition has been amended slightly to include limiting the volume of acoustic live music to the same standard (to avoid any ambiguity). By adhering to these conditions, any music from the proposed development is not expected to produce any unreasonable noise emissions that could be considered to detrimentally affect the amenity of nearby sensitive receivers.

With respect to patron noise, cellar doors are not typically loud premises and with background music levels limited, the noise from patrons is not anticipated to be so loud as to unreasonably affect the amenity of nearby sensitive receivers. Furthermore, the Zone anticipates land uses that contribute to a *vibrant* main street during the evening hours, and so some level of patronage noise is to be expected.

It is finally worth noting that the following lawful licensed premises exist nearby:

- Reform Distilling – located 25m east of the site, fronting Little Rundle Street, which has:
  - A patron capacity of 100 persons; and
  - Approved operating hours until 9pm, Sunday to Thursday, and until 1am on Friday and Saturdays.
- Kent Town Hotel – located 150m southwest of the site, on the corner of Rundle Street and College Rd, which has:
  - A patron capacity of 540 persons, both inside and outside the premises.
  - licensed hours until midnight, Sunday to Wednesday, and until 2am on Thursday to Saturday.

When considered in the context of the types of land uses anticipated within the Urban Corridor (Main Street) Zone, the context of existing businesses in the area that contribute to a vibrant commercial precinct during evening and night time hours, and the conditions of consent that the applicant is amenable to being imposed, the proposed development is considered to satisfy the abovementioned Performance Outcomes with respect to noise emissions from patrons and music.

With respect to noise from deliveries, the distillery is proposed to operate between 8am and 6pm, with inbound deliveries likely to occur during standard business hours of 9am to 5pm, and between two and five times a week. Some outbound deliveries will occur, and these are proposed to occur within the same span of hours.

The locality is characterised by a mix of land uses which includes commercial uses that operate within these hours. Further, the subject building has been approved for use as a warehouse since at least 1996 and these types of service vehicle movements are consistent with existing use rights. The proposed development does not seek to increase the number of such movements to an unreasonable extent, nor undertake them at unreasonable hours of the day. Consequently, any noise arising from the loading / unloading of vehicles on the subject land is considered to be the continuation of an existing activity to some extent, and reasonable in the circumstances irrespective.

Accordingly, any noise emissions produced by the development are considered to be reasonably anticipated in the context of the Zone and locality and are not considered to be of such a level that they will have a detrimental effect on surrounding residential amenity so as to warrant refusal of this application.

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

The proposed development does not seek to make any amendments to access arrangements or parking layout within the site. Existing access arrangements are considered non-compliant, because they require visitors to reverse over the footpath. However, the applicant cannot be expected to rectify this, given they are not altering any of the access arrangements. Notwithstanding, the minimal setback area provided to the building is not large enough to provide a compliant car park and so, as with many properties in Kent Town, the existing car park suffices to remain.

With respect to car parking, Performance Outcome 5.1 of the Transport, Access and Parking module states:

*Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate...*

The corresponding Designated Performance Feature suggests that satisfaction of the rates in Table 1 or Table 2 of the module (as applicable) will generally satisfy this Performance Outcome. This is the generally adopted approach in planning assessments, unless special circumstances apply. No such circumstances are considered to apply in this instance. The subject land is located within a designated area for the purposes of car parking and accordingly Table 2 of this module prescribes the applicable car parking rate.

To this end, Table 2 prescribes a rate of 3 spaces per 100m<sup>2</sup> of gross leasable floor area for all non-residential development except tourist accommodation. It is well-established in planning law that any existing car parking shortfall can be carried over to any new land use where the total floor area to be used is not being altered.<sup>1</sup> This principle is directly applicable to this application because the total floor area of the subject building is not changing because of the development. Accordingly, because the same car parking rate is prescribed to the existing warehouse and shop use as it is to the proposed distillery and bar use, the existing shortfall on site is the same shortfall that would exist in respect of the proposed use, and therefore the existing number of on-site car parks are considered sufficient for the proposed use. Thus, Performance Outcome 5.1 (above) is satisfied.

The representors' concerns with respect to additional vehicle movements arising from this use is noted and appreciated, but the Planning & Design Code has not been designed to require an empirical assessment for

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<sup>1</sup> *Stamopoulos Pty Ltd v City of Holdfast Bay* [2004] SAERDC 45 at [23]; *Carrabs Nominees Pty Ltd & Ors v City of Burnside* [2003] SAERDC 116 at [31]-[34].

car parking where a development complies with the rates prescribed in Table 2 of the Transport, Access and Parking module.<sup>2</sup>

## Waste Management

Performance Outcome 11.1 of the Design in Urban Areas module states:

*Development provides a dedicated area for on-site collection and sorting of recyclable materials and refuse, green organic waste and wash bay facilities for the ongoing maintenance of bins that is adequate in size considering the number and nature of the activities they will serve and the frequency for collection.*

Performance Outcome 43.1 of the Design in Urban Areas module states:

*Areas for activities including loading and unloading, storage of waste refuse bins in commercial and industrial development or wash-down areas used for the cleaning of vehicles, plant or equipment are:*

- (a) designed to contain all wastewater likely to pollute stormwater within a bunded and roofed area to exclude the entry of external surface stormwater run-off*
- (b) paved with an impervious material to facilitate wastewater collection*
- (c) of sufficient size to prevent 'splash-out' or 'over-spray' of wastewater from the wash-down area*
- (d) designed to drain wastewater to either:*
  - (i) a treatment device such as a sediment trap and coalescing plate oil separator with subsequent disposal to a sewer, private or Community Wastewater Management Scheme*
  - or*
  - (ii) a holding tank and its subsequent removal off-site on a regular basis.*

The floor plan provided shows dedicated waste storage areas within the building, and the separation of different waste types, consistent with these Performance Outcome. Waste is proposed to be stored along the eastern side of the building, in close proximity to a walkway provided between the bar area and the toilets/staff amenities. It is not clear from the plans or the descriptions provided by the applicant whether the waste is intended to be bunded to prevent splash-out or over-spray, and while it is likely that this will be implemented, a condition of consent has been recommended to ensure it is done and visitors to the site are protected from potential hazards (insofar as the prevention of such hazards has a planning purposes).

The Applicant is aware of their responsibility to obtain a Trade Waste Permit from SA Water in respect of any water waste that needs to be discharged to the sewer, and that requirement and process stands outside of the planning process.

## CONCLUSION

The proposed distillery and bar are suitable land uses within the Urban Corridor (Main Street) Zone. They will provide a service to the local community that complements other uses in the locality, and they will add to the vibrancy of the area beyond daylight hours. Access and parking for the development remains unchanged from the current use, and this is considered sufficient given the site is within a Designated Area for parking purposes. Finally, the impacts of the development to nearby dwellings are considered reasonable – both in terms of noise and traffic movements – when considered in the context of the types of development envisaged within the Zone and the level of amenity that such dwellings should expect to have in this location. Accordingly, the application is considered to warrant planning consent.

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<sup>2</sup> See *Palma Investments Pty Ltd v Assessment Panel – City of Mitcham* [2026] SAERDC 5 at [40], [81].

## RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 26002653, by Flagship Distillery, is granted Planning Consent subject to the following conditions:

## CONDITIONS

### PLANNING CONSENT

#### Condition 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).

#### Condition 2

The hours of operation of the Distillery use shall be restricted to following times:

- Monday to Saturday, 8:00am to 6:00pm

The hours of operation of the Bar (cellar door) use shall be restricted to following times:

- 7 days a week, 10:00am to 10:00pm

#### Condition 3

Any live music played within the premises shall be of an acoustic nature only.

#### Condition 4

Any live acoustic music, or background music played through speakers within the premises, shall not exceed existing background noise levels within Rundle Street directly in front of the site.

#### Condition 5

Waste shall be contained, banded and stored within the building in a suitable manner that prevents over-spill or splash-out, to the reasonable satisfaction of the Council.

#### Condition 6

Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.

## ADVISORY NOTES

### PLANNING CONSENT

#### Advisory Note 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.

#### Advisory Note 2

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 3

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 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), or works that require the closure of the footpath and / or road to undertake works on the development site, 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 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 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 7

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 8

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 9

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 10

If excavating, it is recommended you contact Before You Dig Australia (BYDA) ([www.byda.com.au](http://www.byda.com.au)) to keep people safe and help protect underground infrastructure.

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***Dr Baker addressed the Council Assessment Panel from 6:40pm until 6.46pm on behalf of the Community Corporation 20010***

***Dr Baker addressed the Council Assessment Panel from 6:56pm until 7.00pm on behalf of the Rundle Street Community Association Inc***

***Mr Brunning addressed the Council Assessment Panel from 7:01pm until 7:07pm***

#### ***Moved by Mr Mickan***

1. *The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the Planning, Development and Infrastructure Act 2016.*
2. *Development Application Number 26002653, by Flagship Distillery, is granted Planning Consent subject to the following conditions:*

#### **CONDITIONS**

##### **PLANNING CONSENT**

###### *Condition 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).*

###### *Condition 2*

*The hours of operation of the Distillery use (and all associated activities) shall be restricted to following times:*

- *Monday to Saturday, 8:00am to 6:00pm*

*The hours of operation of the Bar (cellar door) use shall be restricted to following times:*

- *7 days a week, 10:00am to 10:00pm*

###### *Condition 3*

*Any live music played within the premises shall be of an acoustic nature only.*

*Condition 4*

*Any live acoustic music, or background music played through speakers within the premises, shall not exceed existing background noise levels within Rundle Street directly in front of the site.*

*Condition 5*

*Waste shall be contained, banded and stored within the building in a suitable manner that prevents over-spill or splash-out, to the reasonable satisfaction of the Council.*

*Condition 6*

*Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.*

**ADVISORY NOTES**  
**PLANNING CONSENT**

*Advisory Note 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.*

*Advisory Note 2*

*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 3*

*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 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), or works that require the closure of the footpath and / or road to undertake works on the development site, 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 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 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 7*

*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 8*

*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 9*

*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 10*

*If excavating, it is recommended you contact Before You Dig Australia (BYDA) ([www.byda.com.au](http://www.byda.com.au)) to keep people safe and help protect underground infrastructure.*

**Seconded by Mr Rutt**  
**CARRIED**

**5.2 DEVELOPMENT NUMBER – ID 25035754 - NORTH HAUS P1 DEVELOPMENTS PTY LTD  
– 25 LAURA STREET STEPNEY SA 5069**

<b>DEVELOPMENT NO.:</b>	25035754
<b>APPLICANT:</b>	North Haus, P1 Developments Pty Ltd
<b>ADDRESS:</b>	25 LAURA ST STEPNEY SA 5069
<b>NATURE OF DEVELOPMENT:</b>	Demolition of existing dwelling, and construction of two (2), two-storey semi-detached dwellings, associated garaging and fencing, and removal of a regulated tree
<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>• Historic Area</li> <li>• Hazards (Flooding - General)</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 8m; semi-detached dwelling is 8m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 200 sqm; semi-detached dwelling is 200 sqm; row dwelling is 200 sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 1 level)</li> <li>• Site Coverage (Maximum site coverage is 60 per cent)</li> </ul>
<b>LODGEMENT DATE:</b>	18 Nov 2025
<b>RELEVANT AUTHORITY:</b>	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) Version 2025.20 23/10/2025
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Edmund Feary, Senior Urban Planner
<b>REFERRALS STATUTORY:</b>	None
<b>REFERRALS NON-STATUTORY:</b>	Heritage Advisor- David Brown City Arborist- Matthew Cole Consultant Hydrological Engineer- Melinda Lutton Senior Traffic Engineer- Rebecca Van Der Pennen Assets Manager- Josef Casilla

## CONTENTS:

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APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 3:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 4:	Response to Representations
ATTACHMENT 2:	Subject Land, Locality & Zoning Map	ATTACHMENT 5:	Internal Referral Advice

## DETAILED DESCRIPTION OF PROPOSAL & BACKGROUND:

The proposal involves the demolition of the existing dwelling on the site, and construction of two new dwellings (semi-detached). This includes the construction of two outbuildings (garages) and the removal of a regulated tree to facilitate the development.

The existing dwelling on the site is understood to have been constructed in 1945 (based on Valuer-General's data) and is in an austerity style.

The site is currently separated into two allotments, with the existing dwelling straddling the allotment boundaries. A new land division application (26010443) has been lodged, which seeks to realign the boundaries in line with this proposal and add party wall rights easements. This application is currently under assessment.

The proposed dwellings are symmetrical and are intended to mostly present to the street as a single dwelling. The front portion is single storey in nature, with a transverse gable roof and a blade canopy verandah. The main living areas are in the two-storey component of the dwellings, with the upper floor being set 5.7m behind the building line (but mostly obscured from Laura Street by the roof of the forward portion).

Vehicle access is provided from Henry Street at the rear of the site, and the proposal includes two outbuildings facing Henry Street, which also include transverse gables. The proposal would remove a regulated street tree (White Cedar *Melia azedarach*) on Henry Street, which is obstructing access.

The application was submitted on 11 November 2025 and lodged on 18 November 2025. An initial assessment determined that the original design could not be supported, and amendments were made to address concerns relating to heritage / streetscape impacts, flooding issues, and soft landscaping. Following these negotiations, an amended design was submitted with public notification occurring from the 13<sup>th</sup> of March - 2<sup>nd</sup> of April 2026, with representations received, two of whom wish to be heard.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 25 LAURA ST STEPNEY SA 5069

<b>Title ref.:</b> CT 5605/696	<b>Plan Parcel:</b> F17334 AL400	<b>Council:</b> THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
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**Location reference:** 25 LAURA ST STEPNEY SA 5069

<b>Title ref.:</b> CT 5605/696	<b>Plan Parcel:</b> F17334 AL401	<b>Council:</b> THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
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Shape:	Rectilinear
Frontage Width:	18.03m
Area:	558m <sup>2</sup>
Topography:	The Henry Street frontage is notably higher than the Laura Street frontage, with the southeastern corner of the site being some 1.8m above the northwestern corner of the site. There is a fall of approximately 600mm east-west along Henry Street, and 300mm east-west along Laura Street. An existing retaining wall of approximately 400mm retains some of the fall within the site, but it mostly grades naturally between the streets.
Existing Structures:	Austerity-style dwelling constructed circa 1945, shade sail, two outbuildings (sheds)

Existing Vegetation: Within the site are a range of small trees and shrubs, mostly various kinds of fruit trees, and lawn. There are four street trees on the verges; two on Laura Street (Honey Locust *Gleditsia triacanthos*) and two on Henry Street (White Cedar *Melia azedarach*).

## Locality

A locality for the site is illustrated in **Attachment 2**. It extends some 66m southwest to Morcamb Street, and 55m east to the rear boundaries of properties facing Frederick Street (but not including properties facing Frederick Street). It includes properties facing both Laura and Henry Streets within that range.

The locality is part of the Historic Area Overlay and is mostly made up of original building stock from the Victorian and Edwardian eras. This is typically villas and cottages (single and double fronted) including some constructed at the corner. Many buildings have no front setback. Both Henry and Laura Streets have a relatively compact feel due to the narrow streets with limited setbacks.

Key built form elements include verandahs, simple pitched roofs, a single storey appearance, and masonry construction.

Street tree canopy is moderate, and the locality exhibits an overall high degree of amenity.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
 Tree-damaging activity: Code Assessed - Performance Assessed  
 Carport or garage  
 Semi-detached dwelling: Code Assessed - Performance Assessed  
 Demolition: Code Assessed - Performance Assessed  
 Outbuilding (Carport or garage): Code Assessed - Performance Assessed  
 New housing  
 Demolition
- **OVERALL APPLICATION CATEGORY:**  
 Code Assessed - Performance Assessed
- **REASON**  
 P&D Code; No other pathways apply

## PUBLIC NOTIFICATION

- **REASON**

Development exceeds the single-storey building height TNV

- **LIST OF REPRESENTATIONS**

Surname	First Name	Address	Position	Wishes to be heard?
Grigg	Brendan		Support	No
Lyons	Jessica		Support with concerns	No
Dottore	Carlo & Wendy		Opposed	Yes

Koroneos	Simeon (Sam)		Opposed	Yes
Moore	Evonne		Opposed	No

• **SUMMARY**

The representor supportive of the proposal noted that the existing building was “an eyesore” and considered that “the proposal makes good use of the site and, in particular, the rear access to Henry Street.”

Representors opposed or concerned by the development expressed a series of issues, including:

- Site coverage
- Soft landscaping
- Tree removal
- Bulk and scale
- Vehicle access and safety
- Visual outlook
- Car parking functionality
- Construction disturbance

As construction disturbance is not subject of any relevant policies in the Planning and Design Code, it is not addressed in the Planning Assessment below, though each of the other points are addressed. While sometimes Relevant Authorities (including both this Panel and the Assessment Manager) have chosen to include conditions requiring a Construction Environment Management Plan (CEMP), this is only typically required where there are circumstances which significantly constrain construction work on the site - an example being the construction of a dwelling opposite a school, where the CEMP was required to avoid conflicts with school traffic. While it could be considered that the narrow street network surrounding the subject site does present such a constraint worthy of a CEMP, it is not recommended.

**AGENCY REFERRALS**

None

**INTERNAL REFERRALS**

- Heritage Advisor - David Brown

The application was referred to Council’s Heritage Advisor, who expressed concern with a number of elements of the proposal in its initial form. Following meetings and negotiations with the Heritage Advisor, the application has been amended to address the majority of these concerns.

- City Arborist - Matthew Cole

The application was referred to Council’s City Arborist for comment on tree removal within the site, and the impact on Council street trees. He advised that there appeared to be no regulated trees within the site, though the street trees are regulated, one of which is proposed to be removed.

The City Arborist was not supportive of the removal of the street tree and had concerns about the impact of the development on the health of the trees, particularly those on the Laura Street frontage. These issues will be discussed further in the planning assessment below.

- Consultant Hydrological Engineer - Melinda Lutton

As the site is flood affected, the ap Council’s consultant hydrological engineer for comment. Following a site inspection to ascertain the expected flood behaviour, suitable levels were advised which are expected to provide appropriate flood protection.

- Senior Traffic Engineer - Rebecca Van Der Pennen

Based on concerns from representors, comment was sought from Council's Senior Traffic Engineer. She advised that there may be some issues regarding manoeuvring and visibility from the proposed garages. This is discussed in further detail in the planning assessment below.

- Assets Manager - Josef Casilla

Advice was sought from Council's Assets Manager regarding impacts on the side entry pit adjacent to the site on Henry Street.

## **PLANNING ASSESSMENT**

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

### **Demolition**

The Historic Area Statement identifies the significant era of development for this area as being from 1850-1900. The existing dwelling on the site, being constructed in 1940, is clearly outside of this. It also does not exhibit the key characteristics of the area's historic character, as outlined in the Heritage Advisor's report.

As the existing building is not representative of the historic characteristics of the area, its demolition is acceptable in line with Historic Area Overlay PO 7.3.

### **Land Use & Question of Seriously at Variance**

The Established Neighbourhood Zone primarily envisages residential uses. The Historic Area Overlay also generally envisages residential uses, with the Historic Area Statement referencing "Detached, semi-detached and row dwellings." The proposed development of a semi-detached dwelling is therefore generally consistent with this.

Noting this, and the conformity of the demolition with the policies of the Overlay, the proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.

### **Allotment Suitability**

It is noted that this application does not include land division but would involve the construction of two dwellings where there is presently only one.

Performance Outcome 2.1 of the Established Neighbourhood Zone states:

*Allotments/sites for residential purposes are of suitable size and dimension to accommodate the anticipated dwelling form and are compatible with the prevailing development pattern in the locality.*

The development site already consists of two residential allotments, with a boundary realignment proposed as part of a separate Development Application. The proposed allotments will both be 278sqm in area, exceeding the minimum site area of 200sqm sought by DPF 2.1. Smaller allotments are common along Laura Street, with long but narrow sites, typically providing rear access to Henry Street. The allotment configuration allows for rear garaging along Henry St, maintaining the streetscape along Laura Street.

The allotments are compatible with existing development patterns and are configured to maintain the prevailing streetscape character, therefore PO 2.1 is met.

### **Building Height & Visual Prominence of Second Storey**

The proposed development involves the construction of two, two-storey dwellings, while the Zone and Historic Area Statement envisage development generally being single storey. As noted above, the locality has a generally single-storey character.

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.*

Historic Area Overlay PO 1.1 states:

*All development is undertaken having consideration to the historic streetscapes and built form as expressed in the Historic Area Statement.*

Historic Area Overlay PO 2.1 states:

*The form and scale of new buildings and structures that are visible from the public realm are consistent with the prevailing historic characteristics of the historic area.*

Historic Area Overlay PO 2.2 states:

*Development is consistent with the prevailing building and wall heights in the historic area.*

These policies are generally concerned with the visual impact of the development and its impact on the area's character. The fundamental fact of the development's two-storey nature is therefore not in-and-of-itself an issue. Rather, the question is whether the appearance of the building detracts from the historic character (and broader character) of the area.

The area predominantly comprises single-storey built form, though there are some two storey dwellings in the locality. This includes the site at 23B Laura Street, which includes a similar gable feature to the form proposed in this development, with a roof terrace separating the gable element from the actual built form of the upper level. A view of this from the side is shown in the screenshot below from Google Streetview.

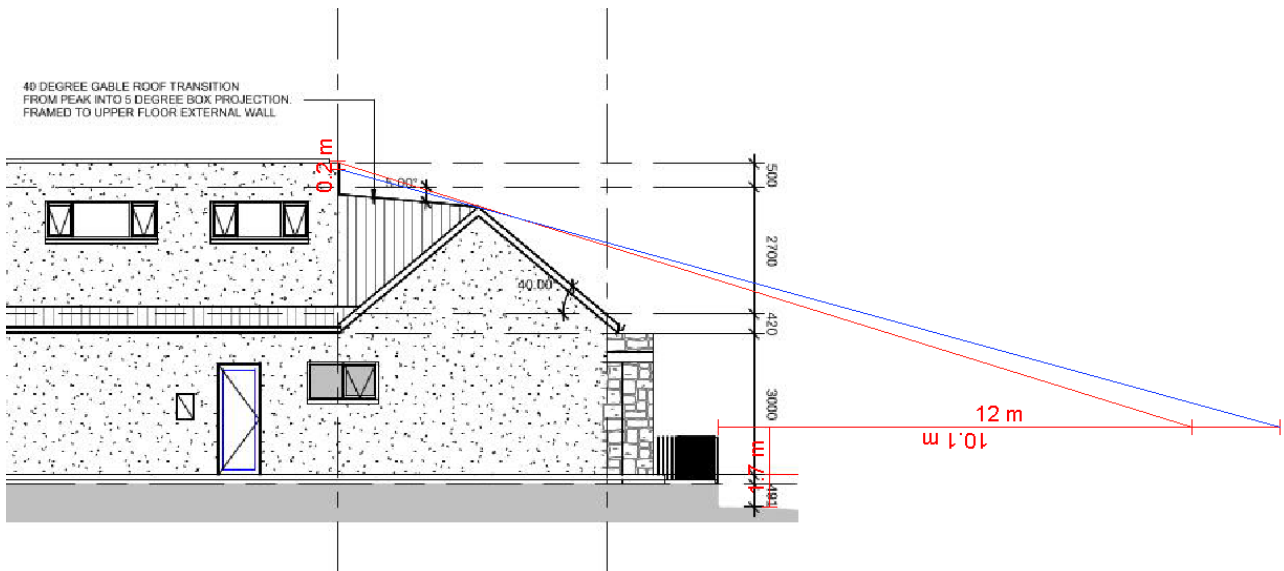


There is further two-storey development at the opposite end of the locality, including at 35 Laura Street and 68 Frederick Street. This is less sympathetic to the historic forms of the area and is shown below.



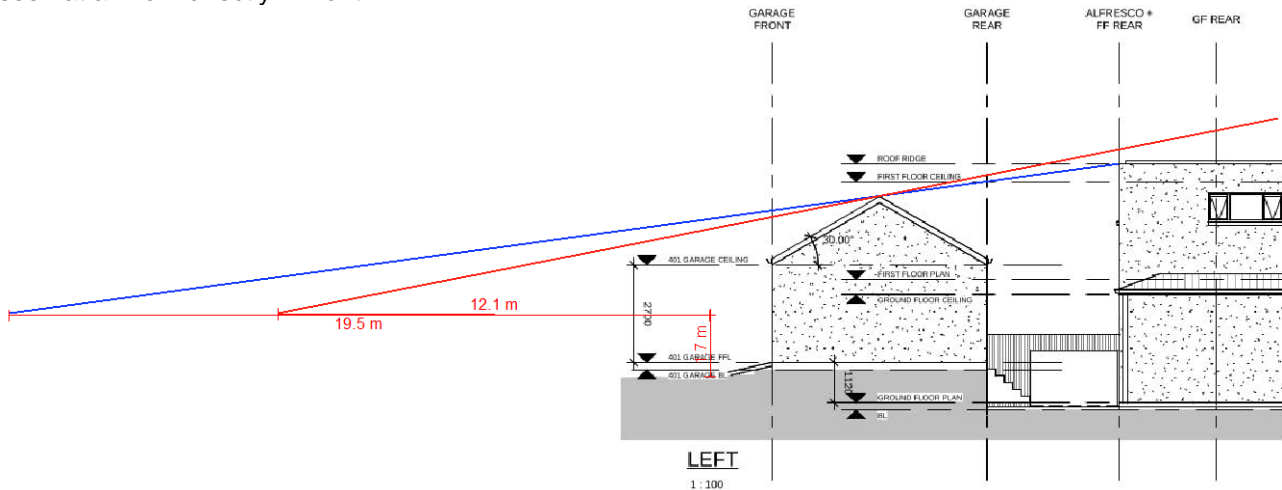
Nonetheless, these examples are the exception rather than the rule; the locality is clearly made up predominantly of single storey dwellings.

The development includes a gabled roof form which will generally hide the view of the upper floor from Laura Street. The diagram below shows that the upper storey would not be visible at all from less than 10.1m in front of the property, and that from the other side of Laura Street (which is approximately 12m wide) only 0.2m of the upper floor would be visible.



Oblique views will be relatively limited in this case as both adjoining properties have very limited front and side setbacks.

From the Henry Street side, the topography aids in hiding the upper floor behind the outbuilding, as do the gable ends on this structure as well. The diagram below shows that the upper floor is not visible until one stands 19.5m back, and the street is again approximately 12m wide, such that the upper floor should not be seen at all from directly in front.



In this case once again, there are limited oblique views due to the walls being situated on the boundaries, with neighbouring outbuildings being similarly located.

As a result, the visual impact of the upper floor is considered to be suitably mitigated such that it is not visually prominent from the public realm. This is considered sufficient to generally comply with the policies above.

**Heritage Impact of New Dwelling & Streetscape Appearance**

Firstly, it is noted that the existing dwelling on the site is not representative of the historic character of the area, and its demolition is consistent with Performance Outcome 7.3 of the Historic Area Overlay.

Council’s Heritage Advisor provided advice on a series of versions of this proposal. In general, the applicant has implemented his recommendations, albeit that the Heritage Advisor remains concerned about the overall scale of the upper floor.

In considering the question of scale, it is noted that the proposal has a site coverage of 74.8%, which is very high. Nonetheless, high site coverages are not uncommon in the locality, particularly in this row of development from 23B-27 Laura Street. Therefore, it is not considered that this site coverage is not an issue

in-and-of-itself. The upper floor is set back from side boundaries by 2m (which is 1m further in from the ground floor), limiting its visibility and providing some relief from its scale.

The dwelling presents mostly as a single storey building to the Laura Street frontage, as outlined above. The overall form is reminiscent of traditional maisonettes, though the proposal is wider and has a larger roof than would be typical for such buildings.

The roof pitch of 40 degrees is somewhat steeper than is typical of Victorian dwellings which are the prevailing era in this Historic Area. Nonetheless, this pitch is not so much steeper that it will appear significantly out of character.

Gabled roof forms of this type are also not typical of this era of mid-Victorian (1870-1890) dwellings. Such forms are more typical of interwar, or early Victorian (1830's-1860's) buildings. Nonetheless, such gables are relatively common in the western part of Laura Street, where there are more interwar dwellings, and the SA Housing Trust site at Henry Muller Cottages also uses these gable forms extensively. Street facing gables are common among villas in this mid-Victorian era, but these are generally oriented perpendicular to the street, when the proposed gable form is parallel to the street. Despite this, the gable form as proposed was a suggestion from Council's Heritage Advisor, as this is still reflective of traditional roof forms, and will better hide the upper floor. A similar form is provided for the more recent infill dwelling at 23B Laura Street, which adjoins an interwar dwelling with a similar roof form as well.

The proposal also includes a verandah element in the form of a blade canopy which sits underneath the eaves of the main roof. This provides shading to the main face of the dwelling and is a relatively common modern reinterpretation of the traditional front verandah form.

The buildings setbacks are generally consistent with the pattern in Laura Street, with side boundary setbacks of 1m, and a limited setback from the primary street.

With regard to materials, the front wall is mostly rendered, being shale grey in colour, though with sandstone pillars. This is a reversal from traditional treatments which included sandstone as the main wall material, with rendered quoins and dressings. This is considered suitably complimentary, without replicating traditional development. The roof is proposed to be Colorbond Wallaby, though a profile is not noted. A condition is recommended to clarify that this should be corrugated in profile, consistent with traditional dwellings in the Historic Area.

The proposal also includes fencing forward of the building. Given the amount of fill required to provide suitable flood protection, there is a proposed retaining wall along the front boundary of up to 800mm, with a simple 900mm high blade fence on top of this. This provides an appropriately open fencing outcome which allows for connectivity between the dwelling and the street. With the change in levels from the street level, there is a street level section for the pedestrian walkway, with steps up to the verandah area. The flat area is suitably sized to allow the gate to swing inwards.

Side fencing is proposed to be shale grey of up to 1.8m high, though this is from the top of the retaining such that the actual maximum height from street level is 2.6m. This is very tall and not consistent with the pattern of fencing in the street, where side fencing forward of the building maintains a consistent fence height with the actual front fence. A further condition clarifies that this fencing forward of the building line should be in a corrugated profile, and no taller than the fencing along the primary street boundary.

### **Impact on Neighbouring Properties**

Performance Outcome 8.1 of the Established Neighbourhood Zone 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*

As discussed above, the dwellings are consistent with the existing pattern of development in the locality and the desired values of the Historic Area Statement.

The ground levels of the dwellings are setback at least 1m from side boundaries, meeting the setback sought by Zone DPF 8.1. The upper levels will be setback 1.985m, a shortfall from the 2.17m setback desired by the DPF. Like most dwellings along Laura Street, the abutting dwellings to the east and west have minimal side boundary setbacks and private open space is provided between the dwellings and rear garages. Given the relatively limited quantum of the shortfall, and the fact that none of the boundaries are south-facing, it is considered that the impact of this setback is not unreasonable.

The garages will be located on the boundaries, this is common in the locality, and the garages will abut other boundary walls, with minimal impact on neighbouring residents despite the height of their gable ends.

Upper-level windows facing adjacent land will have either obscure glazing or high sills to 1.5m above the finished floor level. Obscure glazing will be enforced via a condition.

The proposed fencing alongside boundaries is intended to be 1800mm high colorbond fencing, which is a generally reasonable fencing height to provide privacy without unreasonably impacting visual amenity. It is noted that extensive retaining is required such that the fencing would be up to 2.6m tall from natural ground level at its maximum extent, though in the backyard it will be approximately 2.3m tall. This is nonetheless not an unreasonable fence height in the context of the level required for flood protection.

It is noted that a view into neighbouring properties would be possible from the steps up to the garages, since these would elevate a person above the level of the backyard and the fencing. While this is of some concern, it is noted that the Code's policies regarding visual privacy generally only refer to windows, decks, balconies and terraces; not movement spaces such as this. As a result, the impact of overlooking from these steps is not considered relevant to this assessment.

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

The western dwelling will use the existing driveway, while a new access point is proposed for the eastern dwelling, which is elaborated upon below under the verge infrastructure section.

Both dwellings are provided with a double garage; the parking spaces satisfy the minimum dimension outlined in Design in Urban Areas DPF 23.1, though there are some limitations on their functionality due to manoeuvring challenges which will be discussed below. One on-street parking space will be retained on Henry Street between the access points to satisfy Design in Urban Areas DPF 23.6, with an additional crossover removed on Laura Street, providing additional parking space there.

With regard to gradients, the garages are sited higher than the footpath level, in order to provide flood protection. Notably, this is to avoid the entry of floodwaters into the property beyond given the lower level of the dwelling, so the proposed floor levels of the garages are necessary to protect the dwelling, as much as protecting the garage. While the plans note a 12.5% gradient down, this is utilising the verge area, which is not permitted, as a lesser grade is required for the footpath. For the eastern dwelling, there is a 300mm difference in level between the footpath in front of the site and the garage, with only a 500mm setback to account for this level change. The Code outlines a maximum gradient for a driveway of 12.5%, with transition points of 15%, when the necessary change in grade here would be 60%. To achieve a consistent grade of 15% (given the limited space for transitions) would require a 2m setback. The western garage has a greater level difference of approximately 670mm, though a greater setback of 1.281m, meaning a gradient of 52.3%.

Regardless, it is clear that the driveway gradients required cannot be accommodated within the short space available. Pushing back the garage would solve this, but this would create further problems due to the limited soft landscaping and private open space. Therefore, it is recommended that a sloping slab be incorporated into the design to allow for the floor level which will provide appropriate flood protection, while still providing a safe and convenient gradient for vehicle movements.

There are further manoeuvring challenges in the horizontal plane as well as the vertical. Design in Urban Areas DPF 23.5 (b) includes a guideline that: "the centreline of the driveway has an angle of no less than 70 degrees and no more than 110 degrees from the street boundary to which it takes its access". The proposed eastern garage has an angle of 97.56 degrees, and the western boundary 100.69 degrees, meaning that it complies with this policy. Council's Senior Traffic Engineer has pointed out that due to the crossovers being narrower than the double garages, the manoeuvre in and out of these garages must be done on an angle.

The diagrams below show a swept-path turning movements for a B85 vehicle into the proposed garages. In essence, these show that it is only possible to enter the eastern garage when travelling from east - west, and vice-versa for the western garage.



*Movement into and out of each garage when approaching from the east. Note that there is a small conflict between the vehicles in the western garage.*



*Movement into and out of each garage when approaching from the west. Note that there is a conflict between the vehicles in the eastern garage.*

Nonetheless, these diagrams are not perfect and are not based on precise measurements of street width, or a detailed understanding of the exact crossover positioning.

There are two ways in which this issue could be solved:

- a) Pushing the garage back further into the allotment; or
- b) Widening the driveway crossovers.

Option A is potentially problematic as discussed above, because this would further reduce the space available for landscaping, private open space and/or the actual dwellings. While a small adjustment (e.g. less than 500mm) may be acceptable, anything more substantial would likely create more issues than it solves.

With regard to option B, this would also create further problems. In order to allow a manoeuvre into the eastern garage while heading east, the crossover would need to be widened on its western side, which is constrained by the side entry pit. The same issue occurs for the western garage, where the manoeuvre would require additional width on the eastern side, which would conflict with the street tree which is to remain. The western garage can have more space on its western side by utilising the crossover of the neighbouring dwelling, which is already continuous across the extended property boundary. The eastern garage can also have more space on the eastern side, however this would conflict with the existing parking control (no stopping) sign. This sign could feasibly be relocated to the opposite side of the crossover if additional space here is useful to the turning manoeuvre. Essentially, the additional width available would only make the angled manoeuvre easier, rather than allowing for a bi-directional, perpendicular movement as is typical.

Given the lack of reasonable alternatives (i.e. removal of further verge infrastructure, or loss of further space on the site), it is considered that the proposed manoeuvring, despite its imperfections, is fundamentally acceptable. Nonetheless, there is the potential that additional crossover width on the near side, or a small increase to the depth of the garage could make a material difference to the convenience of the manoeuvre.

A Reserved Matter is therefore recommended to enable resolution of the exact detail of garage door widths, crossover widths and garage depth to ensure that the garages allow for suitably safe and convenient vehicle movement. This is to be in the form of swept path turning diagrams of the relevant vehicle manoeuvres, though it may be that some manoeuvres (e.g. turning into the eastern garage from the west) are simply not possible.

As a result of the vehicles being parked in the garage at an angle, the vehicles will take up a longer space than is typical. Given the proposed location of the pedestrian door between the garage and the backyard, the proposed door would not be able to be opened if a car was parked there. To solve this issue, a condition is recommended requiring this to be a sliding door, rather than a swing door.

One of the representors expressed concern regarding traffic safety, with the narrow width of the street combined with the bend in Henry Street to the east of the site creating a potential hazard. While this is noted, the Senior Traffic Engineer has advised that the site's access is not inherently problematic with respect to the bend. While sight distance is limited due to the nature of the reversing movement, and by having garages close to the boundary, this is the existing situation for all dwellings along this street, and the proposal is no more problematic than these other situations. The only alternative would be to set in the garage several more metres, which again restricts the backyard space to a degree which would be unreasonable.

### **Verge Infrastructure**

The site has one existing crossover on Henry Street and another on Laura Street. Both are on the western allotment, meaning that the eastern allotment does not presently have vehicle access. It would therefore generally be reasonable that an access point on this eastern side should be constructed.

Between the side entry pit, and two street trees, there is no space for an additional crossover from Henry Street. As a result, the proposal includes the removal of a regulated street tree to facilitate access from Henry Street. Council's City Arborist has inspected the tree and advised that, "the tree... is an important tree that should be retained."

While Planning and Design Code policy (e.g. Design in Urban Areas PO 23.4) intends for vehicle access to "not interfere with street infrastructure or street trees, it is generally reasonable in some circumstances for street trees to be removed to facilitate development. Council's Tree Strategy outlines valid reasons for the removal of street trees, which includes the following:

*The Council will consider the removal of a Council owned tree, only if the tree is: ... preventing the development of land (e.g. by impeding access) and reasonable alternative development design options that would obviate the need to remove the tree have been considered;*

Council's City Assets team had investigated relocation of the side entry pit as part of preliminary advice for this site, and further advice was provided by Council's Assets Manager as part of the assessment process.

The position of the City Assets Team is that they would not support removal or relocation of the side entry pit without clear evidence that this would not have a detrimental impact on the capacity of the stormwater system to mitigate flooding. Evidence of this would need to be supplied by the applicant, but from an initial review, it was considered unlikely that there would be an alternate location for the pit that would avoid either driveway crossovers or street trees, given the topography, the flood risks in the area, and the number of trees and crossovers along Henry Street. No request was made of the applicant to provide consideration of this, since it would likely be both costly and fruitless.

Further consideration was given to the potential for a trafficable grated pit which would allow the crossover to be located above the pit. Council's Assets Manager did not support this, as doing so would "will increase the likelihood (and therefore the risk) of blocking the entrance to the pit. This will then increase the likelihood (and therefore the risk) of flooding of both this property and adjacent properties". While more frequent maintenance could mitigate this risk, an increased maintenance burden of this nature was not supported by City Assets.

There is a 3m gap between the two trees on the Laura Street frontage to the site. The development could, theoretically, be reoriented so that the vehicle access came from Laura Street, with the dwellings facing Henry Street. Doing so would require a significant amount of fill, as the dwellings would need to be built up to the proposed level of the garage, which would create significant issues. Moreover, the general pattern of allotments in this section of the street is for primary frontages to face Laura Street, with garages off of Henry Street. This would therefore interrupt the character of the Historic Area, which is not considered a reasonable outcome.

The only other alternative (other than one allotment simply not having vehicle access- which is not considered a reasonable alternative due to the expectations of the Code around on-site parking) would be for the dwellings to be reoriented at right angles, such that each only had one street frontage, with one dwelling accessed from the existing Laura Street crossover, and the other from the existing Henry Street crossover. This again is not considered a reasonable alternative, as this would, again, disrupt the overall pattern in the Historic Area, and because this would essentially suggest that the existing eastern allotment would not be entitled to vehicle access.

Therefore, the removal of the street tree is the only option to enable the reasonable development of the land.

Further to this, the development may damage the three street trees which are not intended to be removed. The proposal includes retaining on the front boundary along Laura Street which will require excavation, meaning that the encroachment into the root zones of the Laura Street trees will start at the property boundary. There will also be a substantial encroachment for the garages into the remaining white cedar on Henry Street.

A summary of these trees is provided in the table below:

Tree	SRZ	NRZ	SRZ Encroachment	NRZ Encroachment
Tree 1 (eastern honey locust)	2.27m	4.44m	8.5%	24.7%
Tree 2 (western honey locust)	2.39m	5.04m	8.2%	28.4%
Tree 4 (western white cedar)	2.74m	6.96m	0%*	24.9%

\*SRZ overlaps with existing driveway crossover, and proposed driveway would encroach on SRZ, though this has not been factored into this calculation.

It is noted that the City Arborist was of the view that the NRZ's for the trees should be "offset" rather than using the standard measurement, to account for the expected lack of nutrient uptake from under the roadway. Nonetheless, under the circumstances, he did not provide an alternative NRZ.

Given the extent of encroachment, and lack of other areas for the trees to take up nutrients, the City Arborist was very concerned about the impact of the development on these trees. There was no tree protection methodology which he could recommend which would provide him confidence that the trees would not be unduly damaged.

As a result, the only options would be:

- a) Push the dwellings and garage further into the block to provide more space for street trees; or
- b) Remove all street trees; or

- c) Provide tree protection measures which give the street trees the best possible chance at surviving despite the development.

Option A is challenging, as this would create a scenario where the proposed development had a setback which was no longer consistent with the surrounding pattern of development. This would also further limit the space available on the site for development, which, given the already constrained landscaping, would require a reduction in the building footprint, though pushing the garage back would assist in the manoeuvring issue outlined above. Nonetheless, previous case law has outlined that an alternative should not be considered to be a “reasonable alternative” (in the context of avoiding tree damaging activity) if doing would result in a violation of some other principle of development control (as was under the previous act). This would suggest that pushing the dwellings back to avoid tree damaging activity, which would mean that the development would likely no longer comply with Performance Outcomes relating to front setbacks, is not a “reasonable alternative”.

Option B simply resigns to the fate that is seeking to be avoided in this scenario. While the City Arborist has some concerns about tree stability given their height, the impact on structural roots can be managed by condition in order to avoid such risks.

As a result, option C is considered the most viable option. In order to establish such a solution, a reserved matter is recommended for a Tree Protection Plan which will maximise the trees’ chances of survival.

While a Reserved Matter for such a consideration is perhaps unorthodox, it is considered that in this case, this is not actually fundamental to the application, as there is considered to be no alternative which could be supported. While it could be said that knowledge of whether the development would result in removal of these trees is necessary to make an informed decision on Planning Consent (as the development may not be supported if it required the removal of all four street trees), the implication of this would be that either an increased setback must be acceptable, or there is simply no way of developing the land. The latter position is not a reasonable position to hold, particularly in light of the fact that the site is already divided into two allotments. The former position is not one which is supported, given the context of the streetscape.

This is to say that either we must be prepared to accept a greater setback, or damage to the trees. It is considered that damage to the trees is preferred over the greater setback, however all reasonable steps should be taken to minimise damage to the trees. Since damage must however, be acceptable, this is not fundamental to the application, and can be managed via Reserved Matter.

### **Landscaping**

Design in Urban Areas DTS/DPF 22.1 seeks that the developments on sites between 200sqm and 450sqm provide at least 20% soft landscaping. The proposed dwellings provide 15.6% and 17.0% soft landscaping respectively, however, 8m<sup>2</sup> or 2.9% of this area is actually underneath the upper floor as this overhangs the rear private open space area.

There is some tension here between the higher site coverage typical of the locality and the Code’s desire to maximise soft landscaping. The proposed landscaping is of reasonable quality, with tree planting in front and at the rear of the dwellings that provides shade for residents and over the street. Significant landscaping is provided in front of the dwellings (30% of the area in front of the western dwelling and 50% of the area in front of the eastern dwelling), improving the appearance of the land along the Laura Street frontage. The landscaping is limited in its ability to meet PO 22.1’s objectives of minimising heat absorption and maximising stormwater infiltration due to the limited area available.

Overall, landscaping opportunities have been maximised within the constraints of the site coverage, and the landscaping is of suitable quality that it is considered that a departure from Design in Urban Areas PO 22.1 is not so significant as to warrant refusal of the application.

A small tree is shown in the rear yard of each dwelling, although the tree location is in the section underneath the upper floor overhang. This tree will need to be moved, but there is sufficient space to allow this to be done. A condition in accordance with Practive Direction 12 is recommended to achieve this.

## Flooding & Stormwater

Council's flood mapping indicates that the site is flood affected up to the 20% AEP event, albeit that the indicated depths even in the 1% AEP event are only up to 100mm. Council's consultant hydrological engineer conducted a site inspection in order to ensure that the understanding of the topography and therefore flood behaviour was correct.

From this inspection, it was determined that the level of the garage could be raised above the flood level, which should in turn provide sufficient protection for the dwelling from flooding from Henry Street, so that the level could be set based on the level of Laura Street, therefore minimising visual impact.

The suggested FFLs were:

- Garage FFL 48.97m
- Dwelling FFL 47.85m

This is based on the highest top of kerb level, then 100mm for the flood depth, then 300mm for freeboard. The applicant has set the garage FFLs based on the ground levels of that portion of the site; i.e. the western garage has a lower FFL to reflect the lower kerb level at this portion of the site.

Given the commentary in the traffic, access and parking section regarding the driveway gradients, it is noted that some part of the garage may be below the "safe" level outlined above. In order to suitably protect the garage structure in this case, a condition is recommended regarding flood resilient design details to ensure that, in the event of a flood, undue damage is not caused to the garage structure.

Appropriate stormwater infrastructure is available on either Laura Street or Henry Street, meaning that it will be straightforward for the development to discharge stormwater into an appropriate Council system.

## Waste

Ample room is provided within the garages for the storage of bins, which can then be presented to Henry Street for collection. Bins can be collected from above side entry pits, which provides sufficient room for collection.

## CONCLUSION

The development has a series of key issues, chief among which is whether the proposal represents an overdevelopment of the site, with particular regard to the site coverage, upper floor, and lack of landscaping. The scale of the development also has an impact on the potential street tree impacts, and the manoeuvring challenges for the garaging.

Nonetheless, the proposal does have many positive elements, including the presentation of the overall form to Laura Street, and the consistency with setback patterns. It is also noted that the proposed site coverage is consistent with the pattern of surrounding dwellings, such that while it is very high, it is not considered to deviate from the relevant Performance Outcome.

While there are issues as outlined above, these can be mitigated, as is proposed via the Reserved Matters relating to manoeuvring and damage to street trees. Furthermore, these issues are somewhat inherent in the site, and the steps needed to solve these issues could simply create more issues.

On the whole, while finely balanced, it is considered that the development does sufficiently comply with the relevant provisions of the Planning and Design Code to warrant consent.

## RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.

2. Development Application Number 25035754, by North Haus and P1 Developments Pty Ltd is granted Planning Consent subject to the following reasons / conditions / reserved matters:
3. Pursuant to Section 102(3) of the *Planning, Development & Infrastructure Act 2016*, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval. Resolution of the reserved matter(s) and the imposition of any additional conditions is delegated to the Assessment Manager.

## **RESERVED MATTERS PLANNING CONSENT**

### Reserved Matter 1

The Authority notes the three street trees in the verges of Laura Street and Henry Street, which are proposed not to be removed as part of the development. A detailed and site specific Tree Protection Plan shall be provided for each tree, prior to Development Approval and to the reasonable satisfaction of the Assessment Manager, which demonstrates appropriate tree protection measures to minimise potential damage to these trees during the course of construction for the proposed development.

NOTE: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.

### Reserved Matter 2

The Authority notes that the proposal includes two double garages facing Henry Street, with limited setbacks between the street boundary and the garages, and crossovers which are narrower than a standard double crossover width. To clarify the detail relating to garage door widths, crossover widths and garage depth, detailed swept path turning diagrams are required, prior to Development Approval, to demonstrate that the garages are suitably functional and allow for safe and convenient vehicle movements as double garages, to the reasonable satisfaction of the Assessment Manager.

NOTE: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.

## **CONDITIONS PLANNING CONSENT**

### Condition 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).

### Condition 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.

### Condition 3

All stormwater from buildings and hard-surfaced 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.

### Condition 4

The upper floor windows to the side and rear elevations shall either have sill heights of a minimum of 1500mm above floor level or be treated to a minimum height of 1500mm above floor level, within one (1) week of 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 to the reasonable satisfaction of the Council.

Condition 5

Prior to construction works associated with the approved development commencing, payment must be made to the Council in the amount of \$2720, for the cost of removing the street tree by Council, necessary to enable vehicular access to the proposed development. Upon the issuing of full Development Approval and payment of the said amount, and prior to construction work commencing, please contact the Council's Planning Dept. to arrange for removal of the tree.

Condition 6

The existing vehicular crossover on Laura Street shall be reinstated to kerb and gutter so as to match the existing adjacent kerb and gutter profile, within one (1) week of occupation of the development to the reasonable satisfaction of the Council. All associated costs shall be borne by the owner / applicant.

Condition 7

Council's specifications require the driveway crossovers between the back of kerb and the property boundary to be shaped to provide a verge slope no greater than 2.5% fall towards the road where a footpath is present and a maximum 5% where no footpath is present. Any gradient required to accommodate vehicle access that exceeds the Council specifications shall be accommodated entirely within the boundaries of the subject land.

Condition 8

The retaining walls indicated on the approved plans are to be constructed prior to the commencement of the construction of the dwelling(s) to ensure that the land is suitably stabilised to prevent slip and pollution through soil erosion.

Condition 9

Either:

1. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.
2. Where provided for by any relevant off-set scheme established under section 197 of the Planning, Development and Infrastructure Act 2016 (as at the date of lodgement of the application), payment of an amount calculated in accordance with the off-set scheme may be made in lieu of planting/retaining 1 or more trees as set out in the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). Payment must be made prior to the issue of development approval.

Condition 10

The approved development must include rainwater tank storage which is:

1. connected to at least 60% of the roof area;
  2. connected to one toilet and either the laundry cold water outlets or hot water service;
  3. with a minimum retention capacity of 2000 litres;
  4. if the site perviousness is less than 30%, with a minimum detention capacity of 1000 litres; and
  5. where detention is required, includes a 20-25 mm diameter slow release orifice at the bottom of the detention component of the tank
- within 12 months of occupation of the dwelling(s).

Condition 11

The roof of the proposed dwellings and garages shall be constructed in a corrugated profile.

Condition 12

The side return fencing forward of the building line shall be no taller than the fencing along the primary street boundary herein approved. This fencing shall be constructed with a corrugated profile.

Condition 13

The pedestrian doors to the garages herein approved shall be a sliding door, or other door which suitably allows for this door to be opened while vehicles are parked within the garage.

Condition 14

The Authority notes that due to the difference in levels between the proposed garages and the footpath, an unsuitably steep driveway gradient may be necessary. The gradient of the driveway may not exceed a grade

of 1 in 4 and shall include transitions to ensure a maximum grade change of 12.5% (1 in 8) for summit changes, and 15% (1 in 6.7) for sag changes, in accordance with AS 2890.1:2004 to prevent vehicles bottoming or scraping. This may require chamfering to the slab of the proposed garages to accommodate such a gradient change.

The Authority further notes that the subject site is within the floodplain of the 1% AEP flood event, with a predicted flood level of approximately 48.67m AHD. The proposed garage has a floor level which does not provide the necessary freeboard above this level, and the potential chamfering outlined above may add to this further. Therefore, these garages may be subject to inundation in significant storm events. In order to avoid undue damage to the structure:

- the internal wall linings, floors and other fittings of the garage shall be of a water-resistant material, with such detail provided with the building consent documentation;
- all electrical outlets shall be no less than 300mm above the internal floor level of the garage for the western dwelling (the floor level being 48.67m AHD).

## **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 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), or works that require the closure of the footpath and / or road to undertake works on the development site, 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 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 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 7

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 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 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 10

If excavating, it is recommended you contact Before You Dig Australia (BYDA) ([www.byda.com.au](http://www.byda.com.au)) to keep people safe and help protect underground infrastructure.

Advisory Note 11

The Authority notes that as a result of the arrangement of the proposed garages, certain vehicle movements may not be possible in and out of the garages herein approved (e.g. it may not be possible to enter the western space of the eastern dwelling's garage, while travelling west to east along Henry Street). Future owners should be advised of this limitation.

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***Mr Mickan declared a conflict of interest for item 5.2 and left the meeting at 7:25pm***

***Mr Dottore addressed the Council Assessment Panel from 7:28pm until 7:41pm***

***Mr Koroneos addressed the Council Assessment Panel from 7:42pm until 7:45pm***

***Mr Rolfe from URPS addressed the Council Assessment Panel from 7:48pm until 7:55pm***

***Moved by Mr Rutt***

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PLANNING CONSENT**

*Reserved Matter 1*

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*NOTE: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.*

*Reserved Matter 2*

*The Authority notes that the proposal includes two double garages facing Henry Street, with limited setbacks between the street boundary and the garages, and crossovers which are narrower than a standard double crossover width. To clarify the detail relating to garage door widths, crossover widths and garage depth, detailed swept path turning diagrams are required, prior to Development Approval, to demonstrate that the garages are suitably functional and allow for safe and convenient vehicle movements as double garages, to the reasonable satisfaction of the Assessment Manager.*

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*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.*

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*Either:*

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*of 1 in 4 and shall include transitions to ensure a maximum grade change of 12.5% (1 in 8) for summit changes, and 15% (1 in 6.7) for sag changes, in accordance with AS 2890.1:2004 to prevent vehicles bottoming or scraping. This may require chamfering to the slab of the proposed garages to accommodate such a gradient change.*

*The Authority further notes that the subject site is within the floodplain of the 1% AEP flood event, with a predicted flood level of approximately 48.67m AHD. The proposed garage has a floor level which does not provide the necessary freeboard above this level, and the potential chamfering outlined above may add to this*

*further. Therefore, these garages may be subject to inundation in significant storm events. In order to avoid undue damage to the structure:*

- the internal wall linings, floors and other fittings of the garage shall be of a water-resistant material, with such detail provided with the building consent documentation;*
- all electrical outlets shall be no less than 300mm above the internal floor level of the garage for the western dwelling (the floor level being 48.67m AHD).*

## **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 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), or works that require the closure of the footpath and / or road to undertake works on the development site, 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 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 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 7*

*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 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 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 10*

*If excavating, it is recommended you contact Before You Dig Australia (BYDA) ([www.byda.com.au](http://www.byda.com.au)) to keep people safe and help protect underground infrastructure.*

*Advisory Note 11*

*The Authority notes that as a result of the arrangement of the proposed garages, certain vehicle movements may not be possible in and out of the garages herein approved (e.g. it may not be possible to enter the western space of the eastern dwelling's garage, while travelling west to east along Henry Street). Future owners should be advised of this limitation.*

**Seconded by Mr Adcock  
CARRIED**

**Mr Mickan returned to the meeting at 8:29pm**

**5.3 DEVELOPMENT NUMBER – ID 25009447 - MICHELLE JONES & CAM FLOWER  
- 18 BENNETT STREET MAYLANDS SA 5069**

<b>DEVELOPMENT NO.:</b>	25009447
<b>APPLICANT:</b>	Michelle Jones & Cam Flower
<b>ADDRESS:</b>	18 BENNETT ST MAYLANDS SA 5069
<b>NATURE OF DEVELOPMENT:</b>	Privacy screen (retrospective)
<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>• Character Area</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Traffic Generating Development</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 12m; semi-detached dwelling is 10m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 500 sqm; semi-detached dwelling is 500 sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 2 levels)</li> <li>• Minimum Side Boundary Setback (Minimum side boundary setback is 1m for the first building level; 3m for any second building level or higher)</li> <li>• Site Coverage (Maximum site coverage is 50 per cent)</li> </ul>
<b>LODGEMENT DATE:</b>	23 Dec 2025
<b>RELEVANT AUTHORITY:</b>	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) Version 2025.22 18/12/2025
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Callum Hastie, Urban Planner
<b>REFERRALS STATUTORY:</b>	None
<b>REFERRALS NON-STATUTORY:</b>	None

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ATTACHMENT 1: Application Documents	ATTACHMENT 4: Representations
ATTACHMENT 2: Subject Land Map	ATTACHMENT 5: Response to Representations

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## DETAILED DESCRIPTION OF PROPOSAL:

The proposal is a retrospective application for a privacy screen structure.

The screen is 28.2m long with a maximum height of 2.4m. The screen is setback 17cm from the existing fence on the northern boundary.

Council first became aware of the construction of the structure without Development Approval in March 2025. Council's compliance officer subsequently inspected the site and determined that the development required approval. They invited the landowner to either remove the structure or lodge a development application to attempt to seek Development Approval for the structure.

The existing boundary fence is less than 2.1m in height, measured from the existing ground level either side, and therefore did not require Development Approval. Council has recently approved applications for a dwelling addition and swimming pool, these were completed in December 2023 and November 2022 respectively.

The structure has been considered as a privacy screen, as it is not a fence or an outbuilding. Fence is not defined in the Planning & Design Code, however, is defined in the dictionary as an *"enclosure or barrier along the boundary of a park, field etc or any place to protect it from intruders or to define limits."*

The structure is slightly setback from the side boundary, being off-set 17cm and there is existing fencing forming the barrier along the boundary.

## DEVELOPMENT APPROVAL HISTORY:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
16 November 2022	22025963	Dwelling addition at rear
10 September 2021	21027691	Swimming pool and safety fence
23 October 2009	155/781/2009	Carport & verandah

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 18 BENNETT ST MAYLANDS SA 5069

**Title ref.:** CT 6097/311    **Plan Parcel:** F134832 AL81

**Council:** THE CITY OF NORWOOD  
PAYNEHAM & ST PETERS

The development site is a rectangular allotment with a frontage of 12m and a depth of 36m, the total site area is approximately 440sqm. The site currently contains a single storey detached dwelling with the recently constructed rear addition and swimming pool.

The existing boundary fence consists of metal sheeting towards the rear of the site and timber slats towards the front of the buildings, and a short section of masonry wall close to the street boundary. The privacy screen only abuts the timber slat and metal sheet fencing.

The locality is predominantly single storey detached dwellings. Side setbacks are generally limited, with some dwellings nearby incorporating boundary walls.

The subject land is identified in **Attachment 2 – Subject Land Map**. The zoning is shown in **Attachment 3 – Zoning Map**.

### CONSENT TYPE REQUIRED:

Planning Consent

### CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Other - Residential - Privacy screen: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
P&D Code

### PUBLIC NOTIFICATION

- **REASON**

Per Table 5 procedural matters of the Established Neighbourhood Zone, privacy screen is not listed and it is not considered a minor form of development

- **LIST OF REPRESENTATIONS**

Three representations were received during the public notification period.

One representation was supportive of the proposal with some concerns and two of the representations were supportive of the proposal. Two representors wish to be heard in support of their written representations.

The representor details are below:

Representor Name	Representor's Address	Position	Wishes to be Heard
Giles Bettison		Support	Yes
Jane Sleath		Support	No
Mohamad Rafet		Support with concerns	Yes

- **SUMMARY**

The 2 representors who support the development believe that the development does not impact amenity or access to sunlight of adjacent residents and that the development improves privacy for residents of the subject property and neighbouring land.

The other representor supports the development in principle but raised concerns regarding the following matters:

- The height of the screen and resulting amenity impacts (the representor also contends that the height exceeds that shown on the provided elevation drawings)
- The design of the structure, especially when viewed from neighbouring land

- Difficulty maintaining the boundary fence due to the limited setback and potential for debris/rainwater to become trapped between the fence and the privacy screen
- Noise made by the structure moving, especially during periods of high wind

Written representations are included in **Attachment 5** and the applicant's response is provided in **Attachment 6**.

## AGENCY REFERRALS

None

## INTERNAL REFERRALS

None

## PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

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There is contention regarding the actual height of the structure. A representor has alleged that the structure is more than 2.7m in height, while the provided elevation drawing indicates that the structure is 2.4m high. Photos provided by representor show that the structure varies in height, with the tallest sections located around the dwellings before reducing in height towards the rear of the site. There are no retaining walls on the boundary that would cause this discrepancy. This assessment is based on the elevation drawing with a maximum height of 2.4m. Should the Panel grant Planning Consent, Council Staff will inspect the site post Development Approval to ensure that the structure is consistent with the elevation drawing.

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The applicant has provided three reasons for installing the privacy screen (see supporting letter included in **Attachment 1**):

1. Blocking noise from an air conditioner on neighbouring land
2. Privacy protection within their private open space and recent dwelling addition
3. Structural concerns about the existing fence

The significant height of the structure is only relevant to privacy protection. Noise nuisance can be controlled via the *Local Nuisance and Litter Control Act 2016*. Replacement / repair of the existing fence does not require Development Approval if the fence remains less than 2.1m in height, however this would have to be negotiated with the neighbouring landowner.

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The Code does not speak directly to privacy screen structures; however this form of development is considered to be most similar in nature to a fence.

Performance Outcome 9.1 of the Design in Urban Areas module speaks directly to fence development:

*Fences, walls and retaining walls of sufficient height maintain privacy and security without unreasonably impacting visual amenity and adjoining land's access to sunlight or the amenity of public places.*

Performance Outcome 11.1 of the Established Neighbourhood Zone speaks to residential ancillary structures in a more general sense, and seeks that they are:

*Sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties.*

Design in Urban Areas Performance Outcome 9.1 seeks to balance privacy with amenity impacts from fencing. The existing boundary fence is between 1.65 and 1.8m in height. Per the definition of private open space under Part 8 of the Planning and Design Code, a 1.8m high fence is sufficient to enclose private open space. Therefore, there is merit to replace some or all of the existing boundary fence to improve privacy. However, a replacement fence up to 2.1m in height would not require Development Approval and would provide adequate privacy to satisfy the Code. The proposed height of 2.4m is therefore excessive. The additional height of the privacy screen is not necessarily unreasonable. Excess height may be accepted if it does not unreasonably impact amenity and achieves the balance sought by Design in Urban Areas PO 9.1.

Regarding amenity impacts, the existing dwelling to the north (20 Bennett St, Maylands) has a limited setback and a wide gable end. Therefore, a boundary structure greater than 2.1m in height may reduce access to natural light along the side boundary. Despite this, some boundary development is envisioned; DTS 11.1 of the Zone allows for a structure on the side boundary up to 3m in height and 8m in length. While this structure is less than 3m in height, its length means that access to natural light is reduced for the entire length of the dwelling. The proposed height may be acceptable at the rear of the site as the impact on private open space is minimal compared to around the dwelling. Notably, the representor at 20 Bennett St supports provision of a privacy screen at the rear of the site and they have only objected to the height alongside the dwelling due to the reduced access to natural light. The structure is of excessive height to maintain privacy and unreasonably impacts the visual amenity and access to sunlight of the neighbouring property to the north. Therefore, Design in Urban Areas PO 9.1 is not met.

The design of the privacy screen detracts from the appearance of the neighbouring dwelling to the north. The structure is poorly integrated with the existing fence. The supports for the screen are visible from the abutting property to the north, and the screen is constructed from a different material to the boundary fence, increasing its prominence. The applicant has suggested a lattice or similar treatment could obscure the support posts and improve the appearance of the structure; they have not provided details of the treatment. If the Panel decides to grant Planning Consent, it is recommended that this be addressed via a reserved matter. Regardless of any potential treatment to the support posts, the excessive height of the structure and poor integration with the existing boundary fence detracts from the appearance of the neighbouring property to the north; therefore, PO 11.1 of the Established Neighbourhood Zone is not satisfied.

### **Question of Seriously at Variance**

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2025.22 18/12/2025) the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reason:

- The Code does not speak directly to privacy screen structures, however it is considered to be similar in nature to a fence, which is a form of development anticipated in the Code.

### **CONCLUSION**

The proposal seeks retrospective consent for a privacy screen structure. The Planning & Design Code does not speak directly to this form of development; however it is considered similar in nature to a fence.

There are two Performance Outcomes that have been considered as being most applicable to the proposal, that which speak directly to fence development and that which speaks in a more generalised sense to residential ancillary development.

The proposal does not satisfy either of the relevant performance outcomes. The privacy screen unreasonably impacts the visual amenity and access to sunlight of neighbouring occupants due to its excessive height, poor design, and proximity to the adjacent dwelling to the north.

A replacement fence up to 2.1m in height does not require Development Approval and would provide adequate privacy as envisioned by the Code; there is no justification for additional height that compromises the amenity of adjacent residents.

## RECOMMENDATION

### REFUSE PLANNING CONSENT

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 25009447, by Michelle Jones and Cam Flower is **REFUSED** Planning Consent for the following reasons:
  - The proposal fails to at least in part satisfy Performance Outcome 9.1 of the Design in Urban Areas Module in that the existing boundary fencing is sufficient for privacy and security, and the proposal unreasonably impacts visual amenity and adjoining land's access to natural light.
  - The proposal fails to at least in part satisfy Performance Outcome 11.1 of the Established Neighbourhood Zone as the privacy screen structure is considered to detract from the appearance of the neighbouring property (20 Bennett St, Maylands).

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### **Moved by Cr Wilkinson**

1. *The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the Planning, Development and Infrastructure Act 2016.*
2. *Development Application Number 25009447, by Michelle Jones and Cam Flower is **REFUSED** Planning Consent for the following reasons:*
  - *The proposal fails to at least in part satisfy Performance Outcome 9.1 of the Design in Urban Areas Module in that the existing boundary fencing is sufficient for privacy and security, and the proposal unreasonably impacts visual amenity and adjoining land's access to natural light.*
  - *The proposal fails to at least in part satisfy Performance Outcome 11.1 of the Established Neighbourhood Zone as the privacy screen structure is considered to detract from the appearance of the neighbouring property (20 Bennett St, Maylands).*

**Seconded by Mr Rutt**  
**CARRIED**

**5.4 DEVELOPMENT NUMBER – ID 25040629 - CHRIS WARDEN - 94 FIRST AVENUE  
ST PETERS SA 5069**

<b>DEVELOPMENT NO.:</b>	25040629
<b>APPLICANT:</b>	Chris Warden
<b>ADDRESS:</b>	94 FIRST AV ST PETERS SA 5069
<b>NATURE OF DEVELOPMENT:</b>	Two-storey dwelling addition, including associated alterations to the roof
<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>• Historic Area</li> <li>• Heritage Adjacency</li> <li>• Hazards (Flooding - General)</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Traffic Generating Development</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 18m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 600 sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 1 level)</li> <li>• Site Coverage (Maximum site coverage is 50 per cent)</li> </ul>
<b>LODGEMENT DATE:</b>	28 Jan 2026
<b>RELEVANT AUTHORITY:</b>	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) Version 2026.1 15/01/2026
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Callum Hastie, Urban Planner
<b>REFERRALS STATUTORY:</b>	None
<b>REFERRALS NON-STATUTORY:</b>	Heritage Advisor - David Brown

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ATTACHMENT 2: Subject Land & Locality Map	ATTACHMENT 6: Response to Representations
ATTACHMENT 3: Zoning Map	

## DETAILED DESCRIPTION OF PROPOSAL:

The proposed development involves a two-level addition to an existing single storey detached dwelling. The existing dwelling is a representative building constructed around 1900 (per data from the Valuer-General).

The addition is located at the rear of the existing dwelling and maintains the existing front and side boundary setbacks. It would add a new living area, 2-bedrooms, a games room, bathroom, and covered outdoor patio.

The site has two access points that will be maintained. A double width access point is provided to Second Lane at the rear of the site, with a double garage located on the rear boundary. A second, single-width access point connects to First Avenue, a new, single carport is proposed over the existing driveway.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 94 FIRST AV ST PETERS SA 5069

**Title ref.:** CT 5774/409

**Plan Parcel:** F135738 AL87

**Council:** THE CITY OF NORWOOD  
PAYNEHAM & ST PETERS

Shape: Rectangular

Frontage Width: 16.76m

Area: 766m<sup>2</sup>

Existing Structures: Single storey dwelling constructed circa 1900 (representative building), swimming pool and safety fencing, rear garage, boundary fencing (sheet metal to side and rear boundaries, brush fencing to street frontage)

Existing Vegetation: There are no regulated trees on the land, the northeastern section of the site is covered by lawn. There are two large street trees on First Avenue that will not be impacted.

### Locality

A locality for the site is illustrated in **Attachment 2**. It extends approximately 80m south to Winchester St, 60m west to Second Av, and 150m north along First Avenue. It includes properties facing both First and Second Avenues and their rear boundaries along First and Second Lanes.

The locality is within the Avenues Historic Area. The Area is dominated by single storey detached dwellings constructed from the late 1870s onwards. The St Peters section of the Historic Area typically has older Victorian Villas. It is worth noting that First Avenue does not display the same consistency in typology or height as the rest of the Historic Area. There are some later 20<sup>th</sup> century group dwellings along First Avenue, including two storey dwellings at the Winchester St intersection.

The St Peter's Baptist Church is a Local Heritage Place; it is on the abutting allotment south of the development site.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Dwelling alteration or addition

Demolition

Dwelling addition: 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

## **PUBLIC NOTIFICATION**

- **REASON**

Development is two storey, exceeding the Building Height (Levels) TNV

- **LIST OF REPRESENTATIONS**

<b>Surname</b>	<b>First Name</b>	<b>Address</b>	<b>Position</b>	<b>Wishes to be heard?</b>
Pirone	Ralf		Opposed	Yes

- **SUMMARY**

The representor raised concerns regarding site coverage, height, visual bulk, overshadowing, neighbourhood character and the impact on amenity. The applicant did not provide a response to the representation.

## **AGENCY REFERRALS**

None

## **INTERNAL REFERRALS**

Heritage Advisor - David Brown

## **PLANNING ASSESSMENT**

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

### **Question of Seriously at Variance**

The proposed development comprises construction of a 2-storey dwelling addition. It is located in the Established Neighbourhood Zone and the Historic Area Overlay. Development of this nature may be appropriate within the site, locality or in the subject Zone and Overlay for the following reasons.

- The proposed development is an extension of the existing residential use that is envisioned within the Zone;
- The proposal maintains the predominantly single storey streetscape character;
- The design is generally compatible with the historic characteristics of the area and does not detract from the adjacent heritage place.

The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.

### **Land Use**

The proposed development is an extension of the existing residential use and maintains the “predominantly residential development” envisioned by PO 1.1 of the Established Neighbourhood Zone (ENZ).

## Building Height

The proposed dwelling addition is two storeys, exceeding the single storey TNV set by ENZ DPF 4.1. The second level would be located at the rear of the site, with a maximum height of 6.6m. The following Performance Outcomes are relevant to the proposal:

ENZ PO 4.1

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

ENZ PO 4.2

*“Additions and alterations do not adversely impact on the streetscape character.”*

Historic Area Overlay PO 2.2

*“Development is consistent with the prevailing building and wall heights in the historic area.”*

The Historic Area Statement seeks generally single storey development, up to two storeys in some areas. As noted previously, First Avenue does not display the same consistency in height or form as the other Avenues. The Local Heritage Place to the south is 8m high at the street and the hall at the rear is 2 storeys, and significantly more visible than the proposed addition will be. The units at 7 Winchester Street are also two storeys and visible from the street. The proposed addition while 2 storeys higher, will have a lower maximum height than these surrounding examples. The applicant has also demonstrated that the addition will not be visible from the street, preserving the historic streetscape character.

The proposed height reasonable transitions in scale from the taller buildings to the south to the historic single storey development along First Avenue and satisfies the relevant Performance Outcomes of the Zone and Historic Area Overlay.

## Setbacks, Design & Appearance

### Site coverage

Total site coverage is approximately 380m<sup>2</sup>/50%, this is consistent with the 50% site coverage envisioned by ENZ DPF 3.1.

### Setbacks and Impact on Neighbouring Properties

The existing front setback will be maintained, as will the ground level side boundary setbacks. The upper level of the addition will be setback approximately 4m from the northeastern side boundary, 7m from the southwestern side boundary, and 10m from the northwestern rear boundary.

The rear boundary abuts Second Lane, which is dominated by rear boundary outbuildings. The proposed dwelling addition will have minimal visibility from the dwellings facing Second Avenue and the proposed rear setback is therefore acceptable.

Regarding the side boundary setbacks, ENZ Performance Outcome 8.1 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.”*

The Local Heritage Place to the southwest is used for non-residential purposes and does not have windows facing towards the proposed development, therefore, it will not be impacted by the addition. To the northeast, there is a single storey detached dwelling. ENZ DPF 8.1 provides some guidance in relation to acceptable setbacks; where the wall height exceeds 3m, the Code seeks that buildings are setback from side boundaries at least 900mm plus a distance 1/3 of the extent to which the wall height exceeds 3m. The proposed wall height is 5.2m, therefore the desired setback is 0.9m + 1.72m = 2.62m. The proposed development

significantly exceeds this. The addition also has a maximum building height just 1m higher than the existing dwelling and therefore will not create unreasonable new impacts on the abutting dwelling.

The representor at 96 First Avenue has raised concerns regarding overshadowing of their property. However, given the proposed setback of the upper level, the small increase in maximum height compared to the existing dwelling, and that the development site is southwest of the representor's property, the proposed development will not cause unreasonable overshadowing.

#### Materials

Since the proposed addition will not be visible from the street, the Code is not particularly concerned with materials and finishes. The addition will be colour matched to the existing dwelling to provide a compatible appearance with the locality. Given the limited visibility of the addition from outside the site, the proposed colour scheme satisfies the relevant Performance Outcomes of the Code.

#### Privacy

High-sill windows are proposed facing northeast and southwest, with larger windows looking out from the upper-level to the rear boundary. Design in Urban Areas Performance Outcome 10.1 seeks to mitigate direct overlooking from upper-level windows to habitable rooms and private open spaces of adjoining residential land. Direct overlooking is defined in Part 8 of the Code as limited to areas within a horizontal distance of 15m from an upper-level window.

The proposed addition is setback 10m from the rear boundary, and Second Lane is approximately 5m wide. Therefore, there will be no overlooking into the private open space of the dwellings facing Second Avenue and the proposed windows are acceptable.

Land to the southwest is not used for residential purposes and no open space or windows face the subject land. Accordingly no privacy protection is necessary (although the windows in the upper level of the addition contain high sills in any event).

A condition is recommended to ensure that windows facing the abutting dwelling to the northeast provide high-sills or obscure glazing to 1.5m above the finished floor level of the upper-level as there is potential for overlooking into that site.

#### **Heritage**

As discussed above, the proposed extension will not be visible from the street and will therefore not detract from the historic value of the streetscape. It is sufficiently setback from the adjacent Local Heritage Place to prevent any detrimental impacts upon it. The parts of the existing dwelling to be demolished are at the rear of the building and do not contribute to the important historic characteristics visible from the street. The proposed development has been reviewed by Council's heritage advisor and is supported by him.

#### **Carport Design, Setbacks and Streetscape Impact**

ENZ Performance Outcome 10.1 states:

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

The proposed carport will be located on the southwestern boundary. It will be slightly in front of the building line, but behind and lower than the verandah that runs along the width of the front elevation. The Historic Area Statement seeks that vehicle access is provided via rear lanes. A new access point and driveway would therefore be undesirable. Since these already exist, the streetscape character has already been compromised, and the proposed carport will not significantly impact the streetscape. The Local Heritage Place to the southwest also has an access point to First Avenue. The proposed carport abuts non-residential land and therefore is acceptable.

Overall, the carport functions as an extension of the existing verandah and will not significantly impact the historic character of the area beyond the existing driveway and access point. The relevant provisions of the Zone and Historic Area Overlay are satisfied.

## Traffic Impact, Access and Parking

### Vehicle Access

No changes are proposed to vehicle access, the existing access points to First Avenue and Second Lane will be maintained.

### Parking

The proposed carport meets the minimum parking space dimensions in the Planning and Design Code. The double garage at the rear of the site will be maintained.

## Landscaping and Private Open Space

More than 25% of the site will be covered by soft landscaping to satisfy Design in Urban Areas DPF 19.1, there will be no reduction in landscaping along the front boundary.

More than 60sqm of private open space is retained at the rear of the site as sought by Design in Urban Areas DPF 21.1. Private open space will meet the likely needs of residents and includes a covered outdoor dining area under the dwelling addition.

## CONCLUSION

While the proposed two storey dwelling addition is at variance with the single storey TNV that applies to the area, the second level is hidden from the street and sufficiently setback from adjacent land to mitigate its impact. The proposal is compatible with the locality and will not unreasonably impact the amenity of adjacent residents. The design is also compatible with the Historic Area Statement.

On balance, the proposed development is considered acceptable.

## RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 25040629, by Chris Warden is granted Planning Consent subject to the following conditions and advisory notes.

## CONDITIONS

### PLANNING CONSENT

#### Condition 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).

#### Condition 2

The upper floor windows facing northeast shall have sill heights of a minimum of 1500mm above floor level or be treated to a minimum height of 1500mm above floor level, within one (1) week of 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 to the reasonable satisfaction of the Council.

#### Condition 3

All stormwater from buildings and hard-surfaced 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.

Please note that disposal of the stormwater to the adjacent laneway is not permitted and compliance with this condition will only be achieved with all stormwater being directed to the primary street kerb and water table or associated underground pipe drainage system.

#### Condition 4

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.

### **ADVISORY NOTES PLANNING CONSENT**

#### Advisory Note 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.

#### Advisory Note 2

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 3

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 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), or works that require the closure of the footpath and / or road to undertake works on the development site, 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 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 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 7

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 8

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 9

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 10

If excavating, it is recommended you contact Before You Dig Australia (BYDA) ([www.byda.com.au](http://www.byda.com.au)) to keep people safe and help protect underground infrastructure.

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***Ms Pirone addressed the Council Assessment Panel from 8:37pm until 8:44pm***

***Mr Barrington addressed the Council Assessment Panel from 8:45pm until 8:50pm***

***Moved by Cr Wilkinson***

1. *The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the Planning, Development and Infrastructure Act 2016.*
2. *Development Application Number 25040629, by Chris Warden is granted Planning Consent subject to the following conditions and advisory notes.*
3. *Pursuant to Section 102(3) of the Planning, Development & Infrastructure Act 2016, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval. Resolution of the reserved matter(s) and the imposition of any additional conditions is delegated to the Assessment Manager.*

**RESERVED MATTERS  
PLANNING CONSENT**

*A final schedule of colours and materials shall be provided prior to Development Approval to the reasonable satisfaction of the Assessment Manager.*

*NOTE: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.*

**CONDITIONS  
PLANNING CONSENT**

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*Condition 2*

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PLANNING CONSENT**

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**Seconded by Mr Rutt  
CARRIED**

6. DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT

7. REVIEW OF ASSESSMENT MANAGER DECISIONS

8. ERD COURT APPEALS

- *Mr Parsons advised the Panel that the Applicant has submitted an appeal with the ERD Courts for the Adelaide Caravan Park Development ID 24040449.*

9. OTHER BUSINESS

- *Mr Parsons advised the Panel that a Special CAP Meeting is scheduled for the 1 June 2026 for the Adelaide Caravan Park Application ID 2400449 compromise.*
- *Mr Parsons also advised that Cr Wilkinson has declared a conflict of interest in this matter.*

10. CONFIDENTIAL REPORTS

11. CLOSURE

*The Acting Presiding Member declared the meeting closed at 9:01pm*

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Mark Adcock  
**ACTING PRESIDING MEMBER**

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Geoff Parsons  
**ASSESSMENT MANAGER**