

# Council Assessment Panel Minutes

**18 January 2018**

## **Our Vision**

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

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

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City of  
Norwood  
Payneham  
& St Peters

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**VENUE** Mayors Parlour, Norwood Town Hall

**HOUR** 7pm

**PRESENT**

**Panel Members** Terry Mosel (Presiding Member)  
Phil Smith  
Fleur Bowden  
John Minney  
Jenny Newman

**Staff** Eleanor Walters (Acting General Manager Urban Planning & Environment)  
Kathryn Clausen (Acting Manager Development Assessment)  
Nenad Milasinovic (Senior Urban Planner)  
Ellen de Souza (Development Officer, Planning)  
Adam Bowey (Urban Planner)

**APOLOGIES**

**ABSENT**

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 18 DECEMBER 2017**

*Motion was put that the minutes of the Meeting of the Development Assessment Panel, held on 18 December 2017 be taken as read and confirmed,*

*Seconded and Carried*

## 2. STAFF REPORTS

### 2.1 DEVELOPMENT APPLICATION 155/D078/2017 – MR VIRA PARSI – 18 TENTH AVENUE, ST PETERS

<b>DEVELOPMENT APPLICATION:</b>	<b>155/D078/2017</b>
<b>APPLICANT:</b>	<b>Mr Vira Parsi</b>
<b>SUBJECT SITE:</b>	<b>18 Tenth Avenue, St Peters</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Torrens Title Land Division creating one (1) additional allotment</b>
<b>ZONE:</b>	<b>Residential Character Zone St Peters/Joslin/Royston Park Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 30 May 2017)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on a Torrens Title land division, to create one (1) additional allotment in a 'hammerhead' configuration. The proposal plan also includes the establishment of rights of way and a reciprocal party wall right.

Staff do not have delegated authority to determine the Application, as the proposed allotment configuration and the creation of party wall rights, is intended for the future construction of a residential flat building, for which there is no quantitative site area or frontage width guidance set out in the St Peters/Joslin/Royston Park Policy Area.

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

#### **Background**

A separate Development Application (Development Application Number 155/854/17) has been lodged for the construction of a two-storey residential flat building containing two (2) dwellings on the subject land. Assessment of this Application will occur under delegated authority, following the determination of the subject Torrens Title land division by the CAP.

#### **Subject Land Attributes**

Shape:	rectangular (irregular)
Frontage width:	18.38 metres
Depth:	42.36 – 48.49 metres
Area:	835m <sup>2</sup>
Topography:	levels not provided
Existing Structures:	dwelling and outbuilding
Existing Vegetation:	non-regulated trees and shrubs

The subject land is located on the western side of Tenth Avenue and contains a single-storey detached dwelling and outbuilding. The site is not heavily vegetated and there are no regulated trees on the subject land.

### Locality Attributes

Land uses: predominantly residential  
Streetscape amenity moderate to high

The locality comprises predominantly single-storey detached dwellings on generously sized allotments, except for the two immediate neighbouring allotments to the subject land - one being a single -storey residential flat building located at 16 Tenth Avenue and the other being a service station located on the corner of Tenth Avenue and Stephen Terrace. The subject land backs onto the River Torrens Linear Park.

Residential and streetscape amenity is considered to be relatively high although influenced negatively to some degree by the adjacent service station activity and proximity to Stephen Terrace.

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

### Proposal in Detail

The land division proposal creates two (2) Torrens Title allotments from one detached dwelling site. The allotments are in a hammerhead configuration whereby the rear allotment has a driveway 'handle' providing a narrow frontage to Tenth Avenue. Rights of way are proposed in order to establish shared driveway servicing both allotments. A reciprocal party wall right is also proposed, as it is intended to develop a residential flat building containing two (2) dwellings on the subject land.

Consideration	Allotment 201	Allotment 202	Development Plan Merit Assessment Quantitative Guideline
Site Area	400m <sup>2</sup> (inclusive of right of way)	435m <sup>2</sup> (inclusive of right of way)	N/A
Allotment Width	17.3m	1.08m – 18.38m	N/A
Allotment Depth	23.12m	19.24 – 25.37m (excluding the driveway handle)	N/A

The Panel should note that there are two drafting errors in the proposed plan of division. The boundary between allotment 201 and 202 is shown incorrectly, as the portion marked 'A' on the plan is intended to be part of allotment 202 and should be shown as a solid line between the portions marked 'A' and 'B'. Secondly, the party wall shown on the plan does not have an accompanying registration note which would be a requirement under the Real Property Act. Should the Panel determine to approve the Application, an email from the Applicant confirming the above should form part of the approval documentation.

A copy of the proposed land division plan and an email dated 9 January 2018, confirming the status of the proposed rights of way and reciprocal party wall right, is contained in **Attachment B**. Also included is a letter addressed to the Panel from the Applicant.

The plans contained in Development Application 155/854/17 for the construction of a two-storey residential flat building containing two (2) dwellings on the subject land are contained in **Attachment C** and may assist the Panel in assessing the suitability of the proposed land division.

### Notification

The proposal has been identified and processed as a Category 1 form of development. As such, no public notification was undertaken.

### State Agency Consultation

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

**Discussion**

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

Within the St Peters/Joslin/Royston Park Policy Area, Principle of Development Control 6 specifies areas where further land division should not occur. The subject land is not located within one of these specified areas and therefore land division may be contemplated subject to a number of limitations set out in the Desired Character Statement and Principles of Development Control 2, 3 and 5 of the Policy Area.

The Desired Character Statement anticipates that where infill development can occur, it may comprise *‘detached and semi-detached dwellings but in the case of semi-detached dwellings, only where vehicle access and garaging can be established entirely from adjacent rear laneways.’*

The subject land does not have a rear lane, therefore detached dwellings are the only dwelling type that should be contemplated.

Principle of Development Control 5 states that *‘the division of land should not create a hammerhead, battleaxe or similar configuration allotment’*.

As the proposed land division creates a hammerhead allotment which is intended for the development of a residential flat building, neither the configuration of the land division or the intended dwelling type is in accordance with these provisions.

Principle of Development Control 3 sets out the following qualitative and minimum quantitative site area and frontage width requirements for land division:

*‘A dwelling should be consistent with the predominant land division pattern within the locality and in any case, should have a minimum site area and a frontage to a public road of not less than shown in the following table:*

Dwelling Type	Site Area (square metres)	Minimum Site Frontage (metres)
Detached Dwelling:		
- St Peters, College Park, Joslin	500 minimum	15
Semi-detached Dwelling:		
- St Peters, College Park (only where vehicle access and garaging for both dwellings can be established from an adjacent rear laneway)	500 minimum	10

Principle of Development Control 3 contains no quantitative guidance for a residential flat building, presumably because it is not an anticipated dwelling type. In light of the clear inconsistency of the land division with the desired character for the policy area, consideration has been given to whether the proposed allotment configuration would be compatible with the predominant land division pattern within the locality.

The proposed allotments have site areas of 400m<sup>2</sup> and 435m<sup>2</sup> respectively, and frontage widths of 17.3m and 1.08m respectively. Along Tenth Avenue the land division pattern comprises detached dwelling sites of between 600m<sup>2</sup> and 1000m<sup>2</sup>, with frontage widths of between 15m and 18m. Two (2) exceptions with regard to site area include the adjacent residential flat building site, which has a total site area of 1524m<sup>2</sup> and an average site area per dwelling of 254m<sup>2</sup>. The other is a smaller detached dwelling site located at 13A Tenth Ave, which has a site area of 464m<sup>2</sup>. Whilst the land division pattern within the locality displays some variation, it comprises predominantly detached dwelling sites of greater than 600m<sup>2</sup>.

Although it is considered that the proposed hammerhead configuration would maintain the existing frontage width pattern along Tenth Ave, it does not reflect the pattern of detached dwelling sites within the locality and the proposed site areas are not consistent with the predominant size of allotments within the locality.

More generally, City Wide Principles of Development Control 185 – 189 relate to residential land division. A separate Development Application has been lodged by the Applicant, for the construction of dwellings on each of the proposed allotments. A copy of the built form plans submitted with that application is contained in **Attachment C** and may further assist in considering how the proposed land division accords with these policies.

City Wide Principle of Development Control 185 states (in part):

*“Residential land division should:*

- (a) preserve significant natural, cultural or landscape features including State and Local Heritage Places, and Contributory Items;*
- (b) preserve regulated trees; and*
- (c) preserve street trees and where possible, other mature vegetation which contributes to the visual and environmental amenity of a location.”*

There are no significant natural, cultural or landscape features, nor regulated trees on the subject land. The proposed land division utilises the existing crossover (albeit modified) and would not affect the existing street tree adjacent to the subject land.

City Wide Principle of Development Control 186 states (in part):

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

- (a) the siting and construction of a dwelling and associated ancillary outbuildings;*
- (b) the provision of landscaping and useable private open space; and*
- (c) convenient and safe vehicle access and off street parking;*

It is considered that the proposed built form plans do not adequately demonstrate how the proposed allotments could be developed in accordance with parts (a) (b) and (c) of this Principle of Development Control.

With regard to part (a) the indicative rear dwelling does not satisfy the building height and building set-back requirements of City Wide Principles of Development Control 201, 202 and 203.

City Wide Principle of Development Control 201 states:

*“The height of a dwelling/s sited behind a dwelling/s fronting a public road on a battleaxe, hammerhead or similar configuration allotment or site (including those accommodating group dwellings) should not exceed one storey, nor should the dwelling contain a second storey in the roof space, except where:*

- (a) the predominant height of the surrounding existing dwellings is greater than one storey. In this instance the development should not be more than two storeys above the natural ground level; or*
- (b) a height greater than one storey is envisaged in the zone or policy area for such dwellings.”*

The built form plans indicate that the rear dwelling is proposed to be two-storeys and as neither of the circumstances described in parts (a) and (b) are applicable in this locality, the proposal fails this requirement.

City Wide Principles of Development Control 202 and 203, require that the ground level components of a dwelling should be set back at least 2.5m from the subject land boundaries and the upper level components be set back by at least 4.5m from the subject land boundaries. The proposed built form plans fail both of these set-back requirements

With regard to the indicative front dwelling the Residential Character Zone Principle of Development Control 6 requires that development should maintain a single -storey streetscape appearance. The built form plans indicate that the front dwelling is proposed to be two-storey but with a partial roof-space design and dormer style windows fronting the street. At nearly 8m high, it is considered that such a design would result in an outwardly two-storey streetscape appearance. Furthermore, the remainder of the building (at nearly 9m high) would be highly visible from the street and would further exacerbate the streetscape appearance of the dwellings.

With regard to part (b) of PDC 186 (*'the provision of landscaping and useable private open space'*), City Wide Principles of Development Control 222 – 225 provide guidance on the private open space requirements for new dwellings. The built form plans indicate that the rear allotment could provide at least 20% of its area as private open space which would be accessible from the main living areas of the dwelling. The front allotment, however, would rely on enclosing its front yard in order to satisfy the provision of private open space, which is not in accordance with Principle of Development Control 224 parts (a) and (b). Parts (a) and (b) require the location of private open space to be generally located to the side or rear of a dwelling and for it to be accessed directly from the internal living areas of the dwelling.

Furthermore, as a large area of the site is given over to buildings and the shared driveway, it is considered that the allotments would not be able to accommodate sufficient space for landscaping and the relatively generous siting characteristics of dwellings within the Policy Area.

With regard to part (c) of PDC 186 (*'convenient and safe vehicle access and off street parking'*) City Wide Principle of Development Control 189 and Table NPSP/8 provide relevant guidance.

The proposed land division does not accord with City Wide Principle of Development Control 189 which requires that the width of the driveway 'handle' should be no less than 4m, in order to provide a vehicle carriageway of at least 3m, plus an additional combined width of 1m for landscaping. Whilst the exact width of the driveway handle is not quantified on the land division plan, the built form plans (which reflect the land division plan) shows the width between the subject land boundary and the wall of the front dwelling to be only 3.67m in total.

With reference to the built form plans, the proposed allotments could facilitate two occupant car parking spaces per dwelling, at least one of which is covered. This is consistent with Table NPSP/8.

With regard to visitor parking, Table NPSP/8 requires that an additional visitor space for every two dwellings be provided in a residential flat building. Whilst this is usually provided within the 'common' driveway area in a Community Title arrangement, the proposed tenure arrangement provides no common property. As such, the practical application of this policy would be to require that the rear dwelling provides a visitor space within its own exclusive site.

With regard to manoeuvring, it would appear from the built form plans that there is not sufficient manoeuvring space for vehicles to exit the garage of the front dwelling without encroaching on the exclusive site of the rear dwelling. In this regard, the rights of way would need to be extended further along the driveway to facilitate legal vehicular egress from the garage of the front dwelling. Furthermore, there does not appear to be sufficient manoeuvring space for one of the vehicles to reverse from the garage of the rear dwelling if the other space is occupied.

City Wide Principle of Development Control 188 states that *'Residential allotments or sites in the form of a battle-axe, hammerhead or similar configuration should only be created if they are envisaged in the relevant part of the zone or policy area'*.

The Residential Character Zone clearly distinguishes at the Policy Area level where this type of development is permitted. Principle of Development Control 5 of the St Peters/Joslin/Royston Park Policy Area states that the division of land should not create this type of allotment configuration.

City Wide Principle of Development Control 21 (d) states that land should not be divided if *'the intended use of the land would be contrary to the Zone and relevant Policy Area Objectives'*. The proposed land division is intended to create a hammerhead allotment for the construction of a residential flat building, neither of which is supported by the objectives of the St Peters/Joslin/Royston Park Policy Area and is therefore not in accordance with this provision.



## Summary

The proposed land division would create a hammerhead allotment configuration which is intended for the construction of a residential flat building.

The St Peters/Joslin/Royston Park Policy Area does not support the creation of hammerhead allotments and only supports the development of detached dwellings in this location.

Furthermore, the proposed allotment configuration is not considered to reflect the predominant land division pattern within this locality.

Whilst the circumstance of the subject land sitting between a single-storey residential flat building and a single -storey commercial building, may provide some justification for flexibility in the application of the relevant policies, in this instance, it has not been adequately demonstrated that the proposal would support built form outcomes in accordance with the objectives and principles of development control for the Residential Character Zone – St Peters/Joslin/Royston park Policy Area.

On balance, whilst it is considered that the proposed land division is not seriously at variance with the Development Plan, it is considered that it is not sufficiently in accordance with the relevant provisions of the Development Plan to warrant consent.

## RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **refused** to Development Application No 155/D078/2017 by Mr Vira Parsi for a Torrens Title land division, to create one (1) additional allotment in a 'hammerhead' configuration and associated rights of way and reciprocal party wall rights, for the following reasons.

1. The proposed hammerhead allotment configuration is not supported in the St Peters/Joslin/Royston Park Policy Area and would not be consistent with the predominant land division pattern within the locality.
2. The proposed land division is intended for the development of a residential flat building which is not an anticipated dwelling type in the St Peters/Joslin/Royston Park Policy Area.
3. It has not been adequately demonstrated that the proposed allotments are of a sufficient size and configuration to support development in accordance with the desired character of the Residential Character Zone and the St Peters/Joslin/Royston Park Policy Area.

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**Moved**

## RECOMMENDATION

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **refused** to Development Application No 155/D078/2017 by Mr Vira Parsi for a Torrens Title land division, to create one (1) additional allotment in a 'hammerhead' configuration and associated rights of way and reciprocal party wall rights, for the following reasons.*

1. *The proposed hammerhead allotment configuration is not supported in the St Peters/Joslin/Royston Park Policy Area and would not be consistent with the predominant land division pattern within the locality.*

2. *The proposed land division is intended for the development of a residential flat building which is not an anticipated dwelling type in the St Peters/Joslin/Royston Park Policy Area.*
3. *It has not been adequately demonstrated that the proposed allotments are of a sufficient size and configuration to support development in accordance with the desired character of the Residential Character Zone and the Sty Peters/Joslin/Royston Park Policy Area.*

**Seconded and carried**

## 2. STAFF REPORTS

### 2.2 DEVELOPMENT APPLICATION 155/D077/2017 – MRS DEBORAH LODGE – 40 GARDINER AVENUE, ST MORRIS

<b>DEVELOPMENT APPLICATION:</b>	<b>155/D077/2017</b>
<b>APPLICANT:</b>	<b>Mrs Deborah Lodge</b>
<b>SUBJECT SITE:</b>	<b>40 Gardiner Avenue, St Morris</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Torrens Title Land Division creating one (1) additional allotment</b>
<b>ZONE:</b>	<b>Residential Character Zone – Trinity Gardens/St Morris Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 30 May 2017)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on a Torrens Title land division, to create two (2) allotments from one (1) existing allotment and to create a reciprocal party wall right, for the intended future construction of a pair of semi-detached dwellings.

Staff do not have delegated authority to determine the Application, as it comprises a land division which does not meet the relevant quantitative Development Plan criteria with respect to site frontage. In particular, the Application includes allotments with frontages of 7.92m, whereas the relevant quantitative Development Plan criterion for semi-detached dwellings is 9m.

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

#### **Background**

A separate Development Application (Development Application Number 155/904/17) has been lodged for the construction of a pair of two-storey semi-detached dwellings on the subject land. Assessment of this Application will occur under delegated authority, following the determination of the subject Torrens Title land division by the CAP.

#### **Subject Land Attributes**

Shape:	rectangular
Frontage width:	15.84 metres
Depth:	50.29 metres
Area:	796m <sup>2</sup>
Topography:	levels not provided
Existing Structures:	detached dwelling and outbuilding
Existing Vegetation:	non-regulated trees and shrubs

The subject land is located on the eastern side of Gardiner Avenue and contains a single-storey detached dwelling and outbuilding. The site is not heavily vegetated and there are no regulated trees on the subject land.

### Locality Attributes

Land uses: predominantly residential  
Streetscape amenity: moderate to high

The locality is wholly residential and whilst there is variation in building style, it comprises mostly single-storey detached dwellings. Some older (1970s) infill activity is evident - mostly allotments comprising single-storey residential flat and group dwellings. More recent infill activity includes single-storey detached dwellings at 24 and 24A Gardiner Ave, 30, 30A and 30B Gardiner Ave and 45 and 45A Gardiner Ave and two-storey detached dwellings at 47A and 47B Gardiner Ave.

The Panel should note that only one (1) of these land divisions (creating 30B Gardiner Ave) was approved since the Residential Character Zone was introduced in 2015.

Other two-storey replacement dwellings have been constructed at 36 and 48 Gardiner Ave.

Residential and streetscape amenity is considered to be moderate to high.

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

### Proposal in Detail

The land division proposal creates two (2) Torrens Title allotments from one detached dwelling site. A reciprocal party wall right is also proposed, as it is intended to develop a pair of two –storey semi-detached dwellings on the subject land.

Consideration	Allotment 1	Allotment 2	Development Plan Merit Assessment Quantitative Guideline
Site Area	398m <sup>2</sup>	398m <sup>2</sup>	400m <sup>2</sup>
Allotment Width	7.92m	7.92m	9m (semi-detached)
Allotment Depth	50.29m	50.29m	N/A

A copy of the proposed land division plan and accompanying planning report prepared by URPS is contained in **Attachment B**.

The plans contained in Development Application 155/904/17 for the construction of a pair of two-storey semi-detached dwellings on the subject land are contained in **Attachment C** and may assist the Panel in assessing the suitability of the proposed land division.

### Notification

The proposal has been identified and processed as a Category 1 form of development. As such, no public notification was undertaken.

### State Agency Consultation

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

### Discussion

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

Within the Trinity Gardens/St Morris Policy Area, Principle of Development Control 5 specifies areas where further land division should not occur. The subject land is not located within one of these specified areas and therefore land division may be contemplated where it accords with the desired character of the Zone and Policy Area.

The Desired Character Statement anticipates that where infill development can occur, it may comprise *'detached and semi-detached dwellings, provided that such development complements the existing streetscape character and is consistent with the predominant land division pattern in the locality.'*

Principle of Development Control 2 sets out the following qualitative and minimum quantitative site area and frontage width requirements for land division intended for detached and semi-detached dwellings in St Morris:

*'A dwelling should be consistent with the predominant land division pattern within the locality and in any case, should have a minimum site area and a frontage to a public road of not less than shown in the following table:*

<b>Dwelling Type</b>	<b>Site Area (square metres)</b>	<b>Minimum Site Frontage (metres)</b>
Detached	400 minimum	11
Semi-detached Dwelling:	400 minimum	9

The first 'test' of PDC 2 is whether or not the proposed land division would be consistent with the predominant land division pattern within the locality and secondly whether it achieves the minimum quantitative requirements.

For the purpose of assessing the predominant land division pattern, the locality is considered to comprise allotments fronting Gardiner Avenue, between Seventh Avenue and Third Avenue.

Along the western side of Gardiner Avenue, the original subdivision pattern is mostly intact other than the corner sites at each end of the locality and two (2) other original allotments which have been subdivided. The predominant allotment pattern comprises detached dwelling sites of greater than 800m<sup>2</sup>, with frontage widths of around 18m.

Along the eastern side of Gardiner Avenue, the original allotment pattern is much less intact - particularly along the southern portion of the street – where most of the original allotments have been subdivided. The narrower detached sites have site areas of greater than 450m<sup>2</sup> and frontage widths of at least 9m, the exception being the sites at 45 and 45A Gardiner Avenue, where the original allotment was divided unevenly, resulting in frontage widths of 10.3m and 7.99m.

In this regard, it is considered that further subdivision would not be inconsistent with the predominant land division pattern, given the extent of subdivision activity which has occurred in the past, and the possibility that many of the allotments on the western side of Gardiner Avenue have sufficient site area and frontage width to accommodate semi-detached dwellings. However, where land division has occurred, the frontage width pattern which is already evident, and which would continue to be established under the current policy, would reflect 9m frontage widths.

Whilst the proposed land division, effectively achieves the minimum site area requirement for semi-detached dwellings, with each being only 2m<sup>2</sup> below the required 400m<sup>2</sup>, neither allotment achieves the minimum site frontage requirement for semi-detached dwellings, with each being 1.08m short of the minimum 9m requirement.

In determining whether this shortfall in frontage width is critical, further consideration has been given to City Wide Principles of Development Control 185 – 189, which relate to residential land division. A separate Development Application has been lodged by the Applicant, for the construction of a pair of semi-detached dwellings on the proposed allotments. A copy of the built form plans submitted with that application is

contained in **Attachment C** and may further assist in considering how the proposed land division accords with these policies.

City Wide Principle of Development Control 185 states (in part):

*“Residential land division should:*

- (a) preserve significant natural, cultural or landscape features including State and Local Heritage Places, and Contributory Items;*
- (b) not relevant*
- (c) not relevant*
- (d) preserve regulated trees; and*
- (e) preserve street trees and where possible, other mature vegetation which contributes to the visual and environmental amenity of a location.”*

There are no significant natural, cultural or landscape features, nor regulated trees on the subject land. There are two (2) mature street trees adjacent to the subject land. One is located centrally and is unlikely to limit the establishment of a new driveway access. The other tree would be required to be removed to establish vehicle access to the northernmost allotment. As such, the proposed land division is contrary to this provision and is a negative aspect of the proposal. At this time, the Applicant has not formally requested the removal of this street tree, however, the Panel should note that if it determines to approve the land division, then the development would not be able to proceed unless this tree could be removed. In this regard, Staff have sought the advice of the General Manager, Urban Services, who is responsible for decisions relating to the removal of street trees. Mr Perilli has advised that generally, support would not be given to remove a street tree in the circumstance where the proposed development would be contrary to the provisions of the Development Plan. This is particularly relevant in parts of the City such as the Residential Character Zone, where achieving infill is not the primary objective and considered secondary to streetscape character preservation.

City Wide Principle of Development Control 186 states (in part):

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

- (a) the siting and construction of a dwelling and associated ancillary outbuildings;*
- (b) the provision of landscaping and useable private open space; and*
- (c) convenient and safe vehicle access and off street parking;*

With regard to part (a), the plans accompanying the built form application are for the construction of a pair of two-storey semi-detached dwellings on the subject land. While there are positive elements of the proposed built form design, it is considered that the narrow width of the allotments is likely to affect the ability to design dwellings which reflect the desired siting requirements for new dwellings within the Residential Character Zone and would exacerbate the streetscape dominance of driveways and garaging. This is reflected in the failure of the proposal to achieve the minimum 1m ground level side set-back requirement and the maximum site coverage requirement of 50% within the Trinity Gardens/St Morris Policy Area (Principle of Development Control 3).

Residential Character Zone Principle of Development Control 6 requires that development should maintain a single -storey streetscape appearance. The built form plans indicate a design where the upper level has been set back significantly in order to accord with this provision, which is a positive aspect of the proposal from streetscape perspective. Ultimately though, on sites where the building envelope is constrained by a narrow width (as it is in this case), the dwelling design tends to incorporate more floor area at the upper level, in order to better achieve the ground level siting and private open space requirements. As such, the effect of PDC 6 is to push the visual impact of the upper level further back on the site, where it is more likely to have negative visual amenity and overshadowing impacts on the neighbouring land. Whilst shadow diagrams have not been provided with the built form plans (and the minimum upper level side set-back requirements are achieved), it is considered that the shortfall in frontage width would directly affect the ability to design dwellings which achieve the desired siting characteristics of the zone and policy area and which have an acceptable visual outlook impact from neighbouring properties.

With regard to part (b) of PDC 186 (*'the provision of landscaping and useable private open space'*), City Wide Principles of Development Control 222 – 225 provide guidance on the private open space requirements for new dwellings. The built form plans indicate that the sites would provide the minimum private open space requirement within the rear yards areas and that the area would be directly accessible from the main living areas of the dwellings. The plans indicate that proposed dwellings would exceed the maximum site coverage requirement for the Policy Area, and it is considered that this, along with the extent of front yard given over to garaging and driveway, would impact on the ability to provide meaningful landscaping.

With regard to part (c) of PDC 186 (*'convenient and safe vehicle access and off street parking'*) the built form plans indicate that at least two (2) on-site vehicle parking spaces (1 covered) could be provided. With regard to access and manoeuvring, as discussed previously in this report, a new driveway access for the northern allotment could only be established if the adjacent street tree were to be removed. Furthermore, it is considered that there is unlikely to be any design options which would allow the retention of the tree and facilitate safe and convenient vehicular access.

On balance, it is considered that the failure of the proposal to meet the minimum frontage width requirement for semi-detached dwellings by more than one (1) metre for each allotment is significant and would result in a land division which does not accord with City Wide Principle of Development Control 186 (a), (b) and (c) and which would not be in accordance with the desired character of the Residential Character Zone and Trinity Gardens/St Morris Policy Area.

## Summary

The proposed land division is intended for the construction of a pair of semi-detached dwellings on the subject land.

In this locality land division is anticipated and would not be inconsistent with the predominant land division pattern, given the extent of subdivision activity which has occurred in the past, and the possibility that many of the allotments on the western side of Gardiner Avenue have sufficient site area and frontage width to accommodate semi-detached dwellings.

The proposed allotment configuration effectively achieves the minimum site area requirement for dwellings within this part of St Morris, however, it fails the minimum frontage width requirement for semi-detached dwellings by over 1m for each allotment. It would also require the removal of an adjacent mature street tree, in order to establish vehicle access for one of the allotments. The General Manager, Urban Services, has advised that a request to remove this tree would not be supported if the development is contrary to the provisions of the Development Plan.

The Applicant has lodged a separate Application for the construction of a pair of two-storey semi-detached dwellings on the subject land, which have been used to assist in assessing the frontage width shortfall. In this regard, it has been concluded that the frontage width shortfall is a critical failure of the proposal and is unlikely to support development which is in accordance with the desired character of the Residential Zone and St Morris Policy Area.

On balance, whilst it is considered that the proposed land division is not seriously at variance with the Development Plan, it is considered that it is not sufficiently in accordance with the relevant provisions of the Development Plan to warrant consent.

## RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **refused** to Development Application No 155/D077/2017 by Ms D T Lodge, for a Torrens Title land division, to create one (1) additional allotment and a reciprocal party wall right, for the following reasons.

1. The frontage width shortfall is considered to be a critical failure of the proposal and would result in residential land division which does not accord with City Wide Principle of Development Control 186 (a), (b) and (c) and is unlikely to support the future development of the allotments in accordance with the desired character of the Residential Zone and St Morris Policy Area.

**Moved**

**RECOMMENDATION**

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **refused** to Development Application No 155/D077/2017 by Ms D T Lodge, for a Torrens Title land division, to create one (1) additional allotment and a reciprocal party wall right, for the following reasons.*

- 1. The frontage width shortfall is considered to be a critical failure of the proposal and would result in residential land division which does not accord with City Wide Principle of Development Control 186 (a), (b) and (c) and is unlikely to support the future development of the allotments in accordance with the desired character of the Residential Zone and St Morris Policy Area.*

**Seconded and carried**



## 2. STAFF REPORTS

### 2.3 DEVELOPMENT APPLICATION 155/819/2017 – MR M CIVITARESE – 13 SIXTH AVENUE, ST PETERS

<b>DEVELOPMENT APPLICATION:</b>	<b>155/819/17</b>
<b>APPLICANT:</b>	<b>Mr M Civitarese</b>
<b>SUBJECT SITE:</b>	<b>13 Sixth Avenue, St Peters (Certificate of Title: Volume 5663 Folio 702)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Construction of a two storey detached dwelling and an inground swimming pool</b>
<b>ZONE:</b>	<b>Residential Historic (Conservation) Zone –St Peters Policy Area – Norwood, Payneham and St Peters (City) Development Plan (dated 30 May 2017)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

#### **Purpose of Report**

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

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

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

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

#### **Subject Land Attributes**

Shape:	regular
Frontage width:	15.24 metres
Depth:	45.72 metres
Area:	696.77m <sup>2</sup>
Topography:	slightly sloping from the rear (southeast) to the front (northwest)
Existing Structures:	vacant
Existing Vegetation:	nil

The subject land is a regular shaped allotment on the south-eastern side of Sixth Avenue. The subject land is currently vacant. The land slopes slightly from the Sixth Lane property boundary to the Sixth Avenue frontage, falling approximately 460mm (ie. from the midpoint of the land) across a length of 45.72. The site has been cleared of all buildings and vegetation.

#### **Locality Attributes**

Land uses:	residential
Building heights (storeys):	predominantly single-storey with some two-storey dwellings

The locality is considered to be confined to the dwellings fronting both sides of Sixth Avenue, between Harrow Road and St Peters Street, and is predominantly characterised by single-storey detached dwellings. Most of the dwellings within the locality are Contributory Items, with single fronted cottages, double fronted cottages and villas the most common architectural styles. The only notable exceptions to this are a two-storey residential flat building located directly to the northeast (19 Sixth Avenue) and three two-storey detached dwellings (at 21A, 21B and 21C Sixth Avenue), which were constructed in the early 1990's.

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

### Proposal in Detail

The Applicant seeks consent to construct a two-storey detached dwelling and an inground swimming pool.

The proposed dwelling has a symmetrical hipped roof over a front single-storey pavilion. The two-storey portion of the dwelling is set back behind the single-storey pavilion and is outwardly rectilinear in form and appearance.

Whilst contemporary in design, the proposed dwelling utilises traditional building materials such as face brick, rendered masonry, timber doors and traditionally proportioned window frames, with corrugated sheet metal roofing. The proposed colour scheme includes both "nero" PGH face brickwork and mortar colour to the single-storey pavilion and rendered "off white" walls to the remainder of the ground level elevations. At upper level, James Hardie "Axon" (colorbond "Ironstone" colour) and Fielders Prominence (colorbond "Ironstone/Monument" colour) vertically fixed lightweight wall cladding is proposed along with "True Oak" galvanised corrugated profile roof sheeting.

The proposed front verandah is to be constructed with a 150mm steel parallel flange channel frame incorporating a 'hot dipped' galvanised finish. Stainless steel cables are to be situated within sections of the verandah in order to enable vines to be grown over what would ordinarily be the roof area of the verandah.

Internally, the proposed dwelling comprises a combined kitchen/dining/living room, a secondary living room, a master bedroom (with an ensuite and walk-in-robe), a WC and a laundry at ground level; with three bedrooms, a living area and a bathroom at the first floor level. A three (3) vehicle garage is integrated into the rear of the dwelling with vehicular access/egress from Sixth Lane.

Although a contemporary masonry and metal infill front fence is shown on the streetscape perspective, the Applicant has advised that front fencing (along with side and rear fencing) does not form part of this Application and will be submitted as part of a future separate Development Application.

The proposed inground swimming pool is to be situated within the easternmost section of the rear yard area.

A landscaping plan has been submitted with the Application. The proposed landscaping includes a range of ornamental trees, shrubs and ground covers.

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

**TABLE 1: DEVELOPMENT DATA:**

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
Site Area	696.77m <sup>2</sup>	300m <sup>2</sup> – St Peters Policy Area PDC 5
Allotment Width	15.24m	13.0m – St Peters Policy Area PDC 7
Allotment Depth	45.72m	N/A
External Wall Height*	3.5 – 6.9m	N/A
Maximum Overall Height (to roof apex)*	5.9m (single-storey component) 6.9m (two-storey component)	Single-storey – St Peters Policy Area PDC 4

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

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
<b>Floor Areas</b>	369m <sup>2</sup> - footprint	N/A
	469m <sup>2</sup> - total floor area	
<b>Site Coverage</b>	53%	50% - St Peters Policy Area PDC 6
<b>Private Open Space</b>	138m <sup>2</sup> (20%)	20% - City Wide PDC 225(a)
<b>Street Set-back</b>	6.0m – verandah 7.5m – facade 23.5m – upper level	Reflect the pattern in the locality and no nearer to the street than any adjacent LHP or CI – St Peters Policy Area PDC 8
<b>Side Set-back</b>	<u>North- eastern</u> 1.0–1.5m – ground level 3.5m – upper level <u>South-western</u> NIL – garage 1.0-1.5m – ground level 2.9m – upper level	Reflect the established pattern – St Peters Policy Area PDC 8
<b>Rear Set-back</b>	1.8m – ground level 5.6m – upper level	N/A
<b>Car Parking Provision</b>	3 undercover	2 on-site parking spaces per dwelling (Table NPSP/8)

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

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

### Notification

The proposed development has been identified and processed as a Category 1 form of development.

The two-storey detached dwelling is Category 1, pursuant to Schedule 9, Part 1, 2 (a) of the *Development Regulations 2008*. The swimming pool is also Category 1 development, pursuant to Schedule 9, Part 1, 2 (d) of the *Development Regulations 2008*.

Accordingly, no public notification was undertaken.

### State Agency Consultation

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

### Discussion

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

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

#### Land Use and Density

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

St Peters Policy Area Desired Character Statement

St Peters Policy Area Objectives: 1  
St Peters Policy Area PDC's: 2, 3, 5 & 7

Residential Historic (Conservation) Zone Desired Character Statement

RH(C)Z Objectives: 2, 4, 6  
RH(C)Z PDC's: 7, 8, 30

City Wide Objectives: 1, 2, 7, 8, 10 & 55-57  
City Wide PDC's: 1, 2, 3 & 4

St Peters Policy Area Principle of Development Control 2 states:

*“Development should comprise the erection, construction, conversion, alteration of, or addition to, buildings of the following kinds:*

*Detached Dwelling  
Semi-detached Dwelling”*

The construction of a detached dwelling, with an ancillary swimming pool is consistent with Principle of Development Control 2 of the St Peters Policy Area.

St Peters Policy Area Principle of Development Control 3 and the Desired Character Statement (in part) state respectively:

*“A new dwelling should only be constructed where it replaces an existing building or feature, which does not contribute to the historic character of the St Peters Policy Area, with a more sympathetic style of development.”*

and

*“Due to the well established and preserved housing stock and pattern of development, limited opportunity exists for redevelopment in the St Peters Policy Area. New dwellings will be limited to the replacement of non-contributory items.”*

As the subject land is currently vacant, the proposed dwelling is consistent with Principle of Development Control 3 and the Desired Character Statement of the Policy Area.

Streetscape/bulk/scale/height/character

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

St Peters Policy Area Desired Character Statement

St Peters Policy Area Objectives: 1  
St Peters Policy Area PDC's: 1, 3 & 4

Residential Historic (Conservation) Zone Desired Character Statement

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

City Wide Objectives: 18, 19 & 20  
City Wide PDC's: 28-32, 37, 39, 41, 191 & 209-216

As the dwelling is located within the Residential Historic (Conservation) Zone, the Application was referred to the Council's Heritage Advisor, David Brown. Mr Brown has concluded that the proposed dwelling will result in a positive and complementary contribution to the existing streetscape given the massing, scale and overall proportions along with a simple material palette.

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

In terms of a streetscape context, the proposed dwelling predominantly reads as a double-fronted dwelling displaying a contemporary design and presenting as a simple single-storey symmetrical hipped roof house. That said, the proposed dwelling design displays a relatively conservative approach to a new house in an Historic Conservation Zone with minimal applied detail, which is considered to result in a design which complements, without competing with, surrounding character homes, in particular the neighbouring Contributory Items located at 1, 3, 5, 7, 9 and 11 Sixth Avenue.

In terms of scale, St Peters Policy Area Principle of Development Control 4 states:

*“Development in the St Peters Policy Area should not be more than one (1) storey above natural ground level.”*

The predominant height of dwellings in the locality is single-storey, consistent with St Peters Policy Area Principle of Development Control 4. Whilst the proposed dwelling is at odds with Principle 4, the upper level has been set back 23.5 metres from the street so as to reduce its prominence when viewed from Sixth Avenue, such that it presents as a single-storey dwelling when viewed from the street.

Residential Historic (Conservation) Zone Principle of Development Control 17 states:

*“Development of a new building or building addition should result in dwellings that have a single storey appearance along the primary street frontage, where these are predominant in the locality, but may include:*

- (a) sympathetically designed two-storey additions that utilise or extend roof space to the rear of the dwelling, such as the use of attics with dormer windows; or*
- (b) second storey components located to the rear of a building; and*
- (c) in either of these instances:
  - (i) should be of a building height, scale and form that is compatible with the existing single-storey development in the zone;*
  - (ii) should not overshadow or impact on the privacy of neighbouring properties;*
  - (iii) should not compromise the heritage value of the building or the view of the building from the street; and*
  - (iv) the total width of second storey windows should not exceed 30 percent of the total roof width along each elevation and be designed so as to not overlook the private open space of adjoining dwellings.”**

The proposed dwelling includes a second-storey component that is located towards the rear of the dwelling, consistent with part (b) of Principle 17.

The proposed dwelling has wall heights, an overall scale and roof form that is compatible with existing single-storey development in the zone when viewed from the street. The proposed dwelling will not unreasonably overshadow or cause overlooking of adjacent properties (this will be discussed in further detail under the relevant heading later in the report); and the dwelling will retain a generally single storey appearance from the street. With respect to the part (iv) of this principle, the window areas on the north-eastern elevation exceed the 30% of the total roof width criteria, however, they are to have sill heights of 2.1 metres which in turn reduces the window surface area and in any event, any possible outlook would be onto carports and common areas associated with the neighbouring residential flat building located at 19 Sixth Avenue. In this context, the proposed dwelling design is also consistent with part (c) of Residential Historic (Conservation) Zone Principle of Development Control 17.

Residential Historic Conservation Zone Principle of Development Control 32 states:

*“Vehicle access to sites should be via minor streets and/or existing crossovers where possible. Where rear lanes exist, vehicle access and garaging should be located at the rear of the allotment.”*

The land is currently serviced by an existing crossover that provides vehicular access/egress to and from Sixth Avenue. A three vehicle garage with vehicular access/egress to and from Sixth Lane is proposed. This aspect of the proposal is consistent with the above policy and results in the proposed dwelling having all of its vehicular access from the rear lane, such that the existing driveway crossover can be removed from Sixth Avenue. This is considered to be a positive aspect of the proposal.

The Applicant has prepared a streetscape perspective of the proposed dwelling, which provides a reasonable illustration of the bulk and scale of the proposed dwelling and its relationship with the adjacent two-storey residential flat building and single-storey symmetrical cottage located at 19 Sixth Avenue and 11 Sixth Avenue respectively. The streetscape perspective is contained in **Attachment B4**.

It is considered that the two-storey form of the proposal is acceptable and accords with City Wide Principles of Development Control 29 and 30, which seek new buildings with a visual bulk and architectural scale that is complementary to the established character of the locality. On balance, the proposal is considered to be acceptable from a streetscape heritage and character perspective.

#### Setbacks and Site Coverage

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

St Peters Policy Area PDC's:	6 & 8
Residential H(C)Z PDC's:	10, 11 & 12
City Wide PDC's:	50, 204-206, 208 & 218

The facade of the dwelling is proposed to be set back 7.5 metres from the Sixth Avenue property boundary, with a verandah element extending to 6.0 metres from the street boundary.

St Peters Policy Area Principle of Development Control 8 states:

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

The adjacent double-fronted cottage at 11 Sixth Avenue is a Contributory Item and has a front setback to the primary facade of 7.0 metres. To the northeast, the two-storey residential flat building is set back in the order of 5.5 metres from Sixth Avenue. Beyond the residential flat building, the two-storey detached dwelling at 21A Sixth Avenue has a front setback in the order of 5.2 metres to the dwelling facade.

The proposed dwelling has a greater front setback than both the adjacent Contributory Item and two-storey residential flat building and in this context, the proposed front setback is consistent with St Peters Policy Area Principle of Development Control 8.

On the north-eastern side, the proposed dwelling is to have side setbacks ranging from 1.0 – 1.5 metres at ground level and 3.5 – 7.3 metres at the upper level. On the south-western side, the proposed dwelling is to have side setbacks also ranging from 1.0 – 1.5 metres at ground level and 2.9 metres at the upper level. The garage is to incorporate a boundary wall that is 7.1 metres in length and 3.5 metres in height. The garage boundary wall is to be situated to the southeast of the neighbouring freestanding garage located at 11 Sixth Avenue.

In the context of existing development within the locality, some of which incorporates single-storey walls close to (ie. in some instances less than 1.0 metre) or on (ie. garages/carports) side boundaries, the proposed ground level setbacks are considered acceptable.

In terms of the neighbouring dwelling at 11 Sixth Avenue, the proposed upper level set back of 2.9 metres is likely to have some impact on the visual outlook of the occupants of this dwelling. This is particularly relevant, since dwellings should be single storey within The Avenues Policy Area pursuant to Principle of Development Control 4. Whilst this is a negative aspect of the proposal, due to the siting of buildings and private open space at 11 Sixth Avenue, the two storey portion of the proposed dwelling is not expected to have a significant impact on amenity, either by way of visual outlook or overshadowing. In particular, there is only a small gap of approximately 3m between a pergola structure at the rear of 11 Sixth Avenue and a garden shed adjacent to the side boundary shared with the subject land. Outlook from the rear of the dwelling is therefore focused more towards the rear (south-east) over the rear yard area, whereas views of the proposed two storey section of the dwelling would be more peripheral.

In this context, it is considered that the proposed south-western side setback of the upper level is sufficiently in accordance with City Wide Principle of Development Control 206, which requires that side and rear setbacks should be progressively increased as the height of the building increases in order to minimise such impacts.

In terms of the north-eastern side boundary, the neighbouring two-storey residential flat building located at 19 Sixth Avenue is set back in the order of 14.5 metres from this side boundary with the land within this space occupied by carports and a common driveway. In this context, the visual outlook for the occupiers of the two-storey residential flat building is not considered to be unreasonably compromised.

The proposed dwelling has a setback of 1.8 metres and 5.6 metres from the south-eastern rear boundary to the ground floor and upper floor level respectively. Combined with the width of the rear lane (ie. 4.2 metres), outbuildings located within the rear yard areas of 6 and 8 Fifth Avenue along with covered verandah area within the rear yard of 6 and 8 Fifth Avenue, all of which limit the visual outlook onto the proposed dwelling, the proposed rear setbacks are considered to be acceptable.

Overall, it is considered that the proposed setbacks and the potential visual impact of the proposed two-storey dwellings on the occupiers of adjacent land are acceptable in the context of the existing locality.

In terms of site coverage, St Peters Policy Area Principle of Development Control 6 states that “*buildings should not cover more than 50 percent of the total area of the site.*” The proposed dwelling has an overall site coverage of 53%. Whilst the proposed site coverage is inconsistent with Principle 6 it is not considered to be fatal to the Application as the dwelling includes covered outdoor living areas such that further applications for additional structures are unlikely.

Furthermore, there are examples of detached dwellings within the locality that have site coverage greater than 50%, notably properties located at 5, 14, 16, 20, 21A, 21B, 21C, 22, 23, 25, 27 and 28 Sixth Avenue.

#### Overshadowing/overlooking

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

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

City Wide Principle of Development Control 196 states:

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

Staff have utilised ‘shadow-draw’ templates to determine the extent of overshadowing that will result from the construction of the proposed two-storey dwelling. The resulting shadow line has been overlayed on an aerial photograph, in order to illustrate the impact of overshadowing on the adjacent dwelling’s private open space at 11 Sixth Avenue.

A copy of the shadowing illustration is contained in **Attachment D**.

During the winter solstice, the proposed dwelling will cast a shadow over the adjacent dwelling’s private open space to varying degrees throughout the morning. However, by midday, the extent of overshadowing caused by the proposed dwelling will be limited to the roof of the existing shed.

Throughout the afternoon, the adjacent dwelling at 11 Sixth Avenue will maintain direct sunlight to at least half of its private open space, in accordance with City Wide Principle of Development Control 196. As such, the degree of overshadowing caused by the proposed dwelling will not have an unreasonable impact on adjacent dwellings or their occupants.





Finished floor levels/flooding/retaining

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

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

The subject land is not within a recognised flood plain.

The subject land is relatively flat with a maximum fall of 460mm from the rear of the allotment to the front, over the 45.72 metre depth of the site. As such, stormwater is able to be discharged to the Sixth Avenue water table by gravity.

The proposed finished floor level of the new dwelling will range between 250 and 550 millimetres above the relative natural ground level and 700 to 740 millimetres above the adjacent top-of-kerb. The proposed finished floor level is considered appropriate, as the level of 'build-up' is considered to be consistent with traditional character homes within the locality and will provide a good transition in height between the adjacent buildings (which include a two-storey residential flat building and a single-storey dwelling, which has a finished floor level that is approximately 190mm lower than that of the proposed dwelling).

In this context, retaining walls are required along both external side boundaries of the land. Along the north-eastern side boundary, retaining will vary in height between 150 and 320 millimetres. Along the south-eastern side boundary, retaining will vary in height between 380 and 430 millimetres. The Applicant has not proposed any side or rear fencing as part of the development proposal. That said, fencing within a Historic (Conservation) Zone would require approval and as such, should new side and/or rear fencing be proposed in the future, a fresh Development Application will be required to be submitted to the Council for consideration.

Assuming the Applicant elects to propose typical 1.8-metre high fencing at a later stage, the combined height of retaining walls and fencing will range between 1.95 and 2.23 metres. The resulting combined retaining wall and fencing heights are not considered not to be unreasonable, and would be consistent with City Wide Principle of Development Control 58, which states:

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

Trees (regulated, mature & street) and landscaping

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

Residential H(C)Z PDC's: 36 & 37  
City Wide Objectives: 24, 98, 117, 118 & 119  
City Wide PDC's: 220, 221, 396, 398- 400

There are no regulated or mature trees on the subject land or adjacent land that would be affected by the proposed development.

In terms of landscaping, the Applicant has provided a landscaping plan and schedule, which identifies a range of small trees that will enhance the garden setting of the proposed dwelling, which is a characteristic of the locality. A copy of the landscaping plan and schedule is contained in **Attachment B1**.

The proposed landscaping is considered to complement the development and the locality and is considered to be consistent with City Wide Objective 24, which anticipates development enhanced with appropriate landscaping.

### Environmental Sustainability

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

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

The private open space area is located on the north-eastern side of the proposed dwelling (ie. to the rear of the ground floor portion of the dwelling and to the north-east of the two-storey portion of the dwelling). Whilst solar access to the private open space will be compromised during the late afternoon, the private open space will receive direct solar access throughout the morning and within the early afternoon.

City Wide Principle of Development Control 159 prescribes that new dwellings should be provided with a 2,000-litre rain water tank in order to maximise the use of stormwater collected from roof areas. The civil plan contained in **Attachment B3** indicates that a 1,000-litre rain water tank is to be provided as part of the proposal.

Given that the proposed development includes large areas of impervious surfaces, it is recommended that, if the Panel determines to approve the proposed development, a condition be imposed requiring that a rainwater tank with a minimum capacity of 2,000 litres be installed in accordance with City Wide Principle of Development Control 159.

In general terms, the environmental performance of the dwelling is considered to be reasonable.

### **Summary**

The proposed detached dwelling is an anticipated type of development within the Residential Historic (Conservation) Zone.

The proposed dwelling displays a single-storey dwelling facade that is sympathetic to the basic scale and proportions of existing single-storey character dwellings within the locality. The dwelling demonstrates a compatible visual relationship with buildings that contribute to the historic character of the St Peters Policy Area by way of integrating a two-storey design component within the single-storey footprint of the building. Furthermore, the contemporary architectural design approach is considered to complement the historic building stock, without replicating the original dwellings within the locality.

In addition, the proposed dwelling has consistent setbacks with other detached dwellings, uses a traditional roof form over the single-storey pavilion, incorporates well-proportioned front windows, has a front verandah element and has complementary masonry materials and finishes to the facade.

On balance, the proposed dwelling will fit comfortably into the existing streetscape, will not compromise the rhythm of front setbacks in the locality and will not unreasonably impact on adjacent residential properties.

The provision of private open space and the resulting site coverage are considered to be acceptable. The provision of on-site car parking and vehicular access from Sixth Lane is considered to be safe and convenient.

The proposal results in the internal and outdoor living areas of the proposed dwelling having compromised access to northern sunlight in the late afternoon, given the orientation of the subject land and the dwelling's subsequent configuration. Solar access throughout the remainder of the day is reasonable.

The proposal is not considered to be seriously at variance with the Development Plan and is considered to be sufficiently in accordance with the provisions of the Development Plan to warrant Development Plan Consent.

## RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/819/17 by Mr M Civitarese, to construct a two-storey detached dwelling with an associated swimming pool, on the land located at 13 Sixth Avenue, St Peters, subject to the following requirements, conditions and notes:

### Relevant Plans

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

- plans and elevations (Drawing Number IDW-DJ-1707-1) prepared by Daniel Jordan Homes and received by the Council on 3 January 2018; and
- civil and drainage plan (Drawing Number 17692-C01) prepared by Gama Consulting and received by Council on 2 November 2017.

### Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.
2. The portion of all upper floor windows less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwelling in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
3. A 2,000 Litre rainwater tank shall be plumbed into a toilet, water heater and/or laundry cold water outlet by a licenced plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with the application for Building Rules Consent.
4. The existing crossover invert that is located along the Sixth Avenue property boundary shall be reinstated to kerb and gutter prior to the occupation of the dwelling to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the owner/applicant.

### Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.
2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.

3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.
  4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development is likely to be at the Applicant's cost.
  5. The Applicant is advised that the property is located within an Historic (Conservation) Area and that Approval must be obtained for most works involving the construction, demolition, removal, conversion, alteration or addition to any building and/or structure (including fencing).
  6. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
  7. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.
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**Moved**

### **RECOMMENDATION**

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/819/17 by Mr M Civitarese, to construct a two-storey detached dwelling with an associated swimming pool, on the land located at 13 Sixth Avenue, St Peters, subject to the following requirements, conditions and notes:*

#### Relevant Plans

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#### Conditions

1. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.*
  2. *The portion of all upper floor windows less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwelling in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate.*
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*(Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)*

3. *A 2,000 Litre rainwater tank shall be plumbed into a toilet, water heater and/or laundry cold water outlet by a licenced plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with the application for Building Rules Consent.*
4. *The existing crossover invert that is located along the Sixth Avenue property boundary shall be reinstated to kerb and gutter prior to the occupation of the dwelling to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the owner/applicant.*

Notes to Applicant

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

**Seconded and carried**

## 2. STAFF REPORTS

### 2.4 DEVELOPMENT APPLICATION 155/002/2018 – BUNNINGS GROUP PTY LTD – 3-5 PENNA AVENUE, 37-43 GLYNBURN ROAD, 37 PROVIDENT AVENUE AND 35 BARNETT AVENUE, GLYNDE

<b>DEVELOPMENT APPLICATION:</b>	<b>155/002/2018</b>
<b>APPLICANT:</b>	<b>Bunnings Group Pty Ltd</b>
<b>SUBJECT SITE:</b>	<b>3-5 Penna Avenue, 37-43 Glynburn Road, 37 Provident Avenue and 35 Barnett Avenue, Glynde</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Demolition of existing structures and construction of a bulky goods outlet together with associated car parking, signage and landscaping – non- complying</b>
<b>ZONE:</b>	<b>Light Industry Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 19 December 2017)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 3</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a resolution to be made on whether or not to proceed with an assessment of a non-complying development application to demolish existing structures and construct a bulky goods outlet together with associated car parking, signage and landscaping.

Whilst Council staff have delegated authority to resolve whether or not to proceed to assess a non-complying application, it is considered appropriate in the circumstances of this development application, for the CAP to do so. As such, Council staff have determined not to exercise their delegation in this instance.

As such, the Application is referred to the Panel to resolve whether or not to proceed with an assessment.

#### **Background**

The Council's Development Assessment Panel (DAP) considered Development Application Number 155/154/2016, by Bunnings Group Ltd, for the demolition of existing structures and the construction of a bulky goods outlet together with associated car parking, signage and landscaping on 10 May 2017. The DAP determined to refuse the application for the following reason:

*"The proposed development is contrary to objective 1 of the Light Industry Zone as it will generate heavy traffic and is not manufacturing on a small scale"*

A copy of the refused plans is contained in **Attachment A**.

On 7 July 2017, Bunnings Group Pty Ltd lodged Development Application Number 155/503/17, for the demolition of existing buildings and the construction of a distribution centre. In accordance with legal advice received, the application was for a complying form of development, comprising a 'store' which satisfied the relevant preconditions. As such, the application was granted Development Plan Consent. A copy of the approved plans is contained in **Attachment B**.

On 2 January 2018, the Council received Development Application Number 155/2/18, which is the subject of this report. The development application essentially replicates DA 155/154/16, with the exception of Barnett Avenue, which is no longer proposed as a vehicular access point. A copy of the plans and supporting information lodged with DA 155/2/18 is contained in **Attachment C**.

## Discussion

Regulation 17(3) of the Development Regulations 2008 (the regulations) states:

*“A relevant authority may, after receipt of an application which relates to a kind of development that is described as a non-complying development under the relevant Development Plan—*

- (a) refuse the application pursuant to section 39(4)(d) of the Act, and notify the applicant accordingly; or*
- (b) resolve to proceed with an assessment of the application.”*

No guidance is provided within the regulations, as to what might be relevant considerations for a relevant authority when determining whether or not to resolve to proceed with an assessment of a non-complying development application.

In the case of the subject proposal, it may be a relevant consideration that the development application is ostensibly the same as DA 155/154/16, which was recently refused by the DAP.

Arguments put forward by Fyfe consultants in the Statement of Support prepared on behalf of the Applicant, as to why the current development application ought to be considered favourably, relate mainly to a comparison with approved DA 155/503/17. In particular, Fyfe have argued that the current proposal is an improvement over the approved distribution centre, with respect to its visual impact, due to having less height, greater articulation and improved landscaping.

However, the DAP did not raise visual impact as a reason for refusing DA 155/154/16. The reasons for refusal related to traffic generation and land use. Neither of those issues have been substantially addressed with the current proposal.

Within the Statement of Support, Fyfe have suggested that the removal of the previously proposed access to Barnett Avenue addresses traffic impacts on adjoining areas including residential properties and businesses in the locality.

The previously proposed vehicular access point to Barnett Avenue was additional to access points to Penna Avenue and Provident Avenue; both of which remain in the current proposal. The removal of the access to Barnett Avenue is unlikely to have a significant impact on traffic distribution through local streets. Any person leaving the car park who wishes to travel west through the local streets, would do so regardless of whether or not the Barnett Avenue access was available, as it would not shorten the distance required to travel. It appears that the primary purpose of the previously proposed Barnett Avenue access point was to provide a convenient access point to staff parking, located adjacent to the access point.

## Summary

The current proposal is ostensibly the same as the one which was refused by the DAP on 10 May 2017. The reasons for refusal relating to traffic generation in local streets and inappropriate land use have not been addressed to any significant degree.

In this context, there does not appear to be any good reason to proceed with an assessment of DA 155/2/18.

## RECOMMENDATION

That Development Application No 155/2/18 by Bunnings Group Pty Ltd to demolish existing structures and construct a bulky goods outlet together with associated car parking, signage and landscaping on the land located at 3-5 Penna Avenue, 37-43 Glynburn Road, 37 Provident Avenue and 35 Barnett Avenue, Glynde, be refused pursuant to section 39(4)(d) of the *Development Act 1993*.

**WITHDRAWN FROM AGENDA AT APPLICANTS REQUEST**



**3. OTHER BUSINESS**

Nil

**4. CONFIDENTIAL REPORTS**

Nil

**5. CLOSURE**

*The Presiding Member declared the meeting closed at 7:34pm*

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

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**Kathryn Clausen**  
**Acting Assessment Manager**