

Council Assessment Panel Minutes

16 April 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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|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|
| 1. | CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 19 MARCH 2018..... | 1 |
| 2. | STAFF REPORTS..... | 2 |
| 2.1 | DEVELOPMENT APPLICATION 155/C069/2017 – RIVER GUM HOMES – 66, 68 & 70 MARDEN ROAD, MARDEN | 2 |
| 2.2 | DEVELOPMENT APPLICATION 155/796/2017 – STEVENTONS CONSTRUCTIONS – 2/44 NELSON STREET, STEPNEY..... | 20 |
| 2.3 | DEVELOPMENT APPLICATION 155/27/2018 – MEDALLION HOMES PTY LTD – 1 & 2/ 104 FOURTH AVENUE, JOSLIN..... | 32 |
| 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 | 43 |
| 2.5 | DEVELOPMENT APPLICATION 155/802/2016 – MR M MARRONE – 429 PAYNEHAM ROAD, FELIXSTOW | 46 |
| 3. | OTHER BUSINESS..... | 51 |
| 4. | CONFIDENTIAL REPORTS..... | 51 |
| 5. | CLOSURE | 51 |

VENUE Mayors Parlour, Norwood Town Hall

HOUR 7pm

PRESENT

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

Staff Mark Thomson (Manager Development Assessment)
Kathryn Clausen (Senior Urban Planner)
Nenad Milasinovic (Senior Urban Planner)
Ellen de Souza (Development Officer, Planning)

APOLOGIES Nil

ABSENT Nil

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 19 MARCH 2018**

Motion was put that the minutes of the Meeting of the Council Assessment Panel, held on held on 19 March 2018 be taken as read and confirmed.

Seconded and carried

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/C069/2017 – RIVER GUM HOMES – 66, 68 & 70 MARDEN ROAD, MARDEN

| | |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DEVELOPMENT APPLICATION: | 155/C069/17 |
| APPLICANT: | River Gum Homes |
| SUBJECT SITE: | 66, 68 and 70 Marden Road, Marden (Certificate of Title - Volume: 5800, 5316 and 5359, Folio: 729, 782 and 883) |
| DESCRIPTION OF DEVELOPMENT: | Community Title Land Division creating sixteen (16) Community Lots, the construction of three (3) two-storey residential flat buildings comprising sixteen (16) dwellings and associated fencing, retaining walls and landscaping |
| ZONE: | Residential Zone – Medium Density Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 19 December 2017) |
| PUBLIC NOTIFICATION CATEGORY: | Category 3 |

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on a Development Application for a Community Title Land Division creating sixteen (16) Community Lots, the construction of three (3) two-storey residential flat buildings comprising sixteen (16) dwellings and associated fencing, retaining walls and landscaping.

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

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

Subject Land Attributes

| | |
|----------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Shape: | regular |
| Frontage width: | 57.91 metres |
| Depth: | 45.53 - 55.17 metres |
| Area: | 5,808.46m ² |
| Topography: | sloping from southeast to northwest between 2.78 metres to 3.26 metres |
| Existing Structures: | single-storey detached dwelling and one outbuilding on 66 Marden Road and two bituminised car parking areas on 68 and 70 Marden Road |
| Existing Vegetation: | a number of fruit trees, shrubs and landscaping beds across the three existing allotments |

At 66 Marden Road, a vacant single-storey hipped-roof dwelling, likely to have been constructed in the 1960 -1970's is situated, together with an associated outbuilding within the rear yard area.

At 68 and 70 Marden Road, there are two bituminised car parking areas, which were approved by the former City of Payneham in 1993 (Development Application 190/1326/92). The Application to establish the car parking areas at 68 and 70 Marden Road was lodged in tandem with a separate Development Application to undertake alterations and additions to the Marden Shopping Centre. The two car parking areas were established in order to provide designated car parking provision for staff employees at the Marden Shopping Centre, so as to free-up parking provision for customers of the shopping centre.

Locality Attributes

Land uses: mixture of commercial and residential
Building heights (storeys): single-storey and two-storey

The eastern side of Marden Road is characterised by residential development, predominantly in the form of detached dwellings and some residential flat buildings (located at 54 - 56 and 62 – 64 Marden Road). The only exceptions to this on the eastern side of Marden Road, are the two car parking areas at 68 and 70 Marden Road, as well as a car parking area associated with a restaurant (Kentucky Fried Chicken) located at the corner of Marden Road and Payneham Road.

The western side of Marden Road is characterised by the Marden Shopping Centre. The shopping centre has been constructed over two levels and a two-way vehicle entry and exist to the centre's car parking area is situated approximately 70 metres northwest of 66 Marden Road. The principal tenant at the shopping centre is Woolworths supermarket which has a customer entrance and delivery/loading dock area adjacent the centre's Marden Road frontage.

The locality is considered to have a moderate level of amenity, resulting from the mix of residential and non-residential land uses, vehicle movements as a result of customers using Marden Road to visit and/or leave the Marden Shopping Centre, proximity to Payneham Road and the existing built form quality.

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

Proposal in Detail

The Applicant proposes to undertake a Community Title Land Division creating sixteen (16) Community Lots along with the construction of three (3) two-storey residential flat buildings comprising sixteen (16) dwellings in total. The proposal also involves the construction of associated fencing, retaining walls and the introduction of landscaping both within the common areas as well as individual lots.

One of the residential flat buildings (Building 1) contains six (6) dwellings and fronts onto Marden Road. Each dwelling within this building has a single-vehicle garage, one bedroom, a laundry area within the garage and a bathroom at ground level, with a combined kitchen/meals/living area, a master bedroom (including an ensuite), an open balcony area (fronting internally within the site) at the first floor level.

Another of the residential flat buildings (Building 2) contains four (4) dwellings and is located adjacent the north-eastern boundary. The dwellings within this building front onto an internal driveway area and each contain a two-vehicle garage, a combined kitchen/meals/living area, laundry and WC at ground level, with three bedrooms (Bedroom 1 includes an ensuite), a secondary living area, separate bathroom and an open balcony area (fronting the internal driveway area within the site) at the first floor level.

The final residential flat building (Building 3) contains six (6) dwellings and is located adjacent the north-western boundary. that the dwellings within this building front onto the internal driveway area and contain a two-vehicle garage, with the sixth dwelling having a single-vehicle carport and an exclusive open-air car parking space. Each of these dwellings contain combined kitchen/meals/living areas, a laundry area and a WC at ground level, with three bedrooms (Bedroom 1 includes an ensuite), a secondary living area, separate bathroom and an open balcony area (fronting the internal driveway area within the site) at the first floor level.

All of the 16 dwellings have ground level yard areas, along with balcony areas at first floor level.

Each two-storey building has a rectilinear design appearance and incorporates framed-out feature facade elements with concealed roof areas. Building 1 is to have rendered external walls (colour Dulux 'kiwi fruit') and painted lightweight cladding (colour Colorbond 'Surfmist') along with expressed joint feature panels to

the front and side elevations (colour Colorbond 'Monument'). Building 2 is to have vertical fixed CSR fibre cement sheet cladding (Territory Woodlands 'Teak') and a rendered finish (colour Colorbond 'Surfmist'). Building 3 is to have rendered walls (colour a combination of Colorbond 'Surfmist' and 'Monument') along with feature vertical fixed CSR fibre cement sheet cladding (colour Dulux 'Desert Soil').

Vehicle access to the 16 dwellings is proposed via a common driveway accessed from a new two-way crossover on Marden Road. Within the common driveway area, seven (7) visitor car parking spaces are to be provided.

Along the north-western side of the site, new retaining walls and fencing is proposed with the retaining walls varying in height between 1.0 – 1.2 metres in height combined with 1.8 metre high colorbond fencing. Along the Marden Road frontage, stepped horizontal aluminium slatted 1.5 metre high fencing along with rendered lightweight 1.8 metre high front walls are proposed.

The proposed development includes a landscaping scheme that proposes specific small tree species, shrubs and ground covers including trees, shrubs, plants and grass covers.

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

TABLE 1 (part a): DEVELOPMENT DATA:

| Consideration | Building 1 | Building 2 | Building 3 | Development Plan Merit Assessment Quantitative Guideline |
|----------------------------------------------|----------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| Site Area | 98 - 124m ² | 121 - 146m ² | 115 – 239m ² | No minimum |
| Site Width (overall/frontage to Marden Road) | | 57.91 metres | | 18m (total development site frontage) |
| Site Width | 4.8 – 5.8m | 7.2 – 8.2m | 4.3 – 8.2m | 18m (total development site frontage) |
| Site Depth | 20.1 – 21.5m | 16.6 – 17.9m | 15.9 – 18.3m | N/A |
| External Wall Height* | 7.0m | 6.6 – 7.0m | 7.1m | N/A |
| Maximum Overall Height (to roof apex)* | 8.0m | 7.0m | 7.3m | Three-storey |
| Floor Area (total) | 120.2m ² | 167.2m ² | 161 – 167.2m ² | Dwellings - 100m ² minimum internal living |
| Floor Area (footprint) | 61.4m ² | 87.8m ² | 87.8 – 99.4m ² | N/A |
| Site Coverage | | 41% | | 70% overall |
| Private Open Space | 9.8m ² (balcony not including front yard area) - 100% uncovered | 38.4m ² – 42.4m ² (ground level + balconies) - 100% uncovered | 30m ² – 66m ² (ground level + balconies) and 98m ² (ground level and no balcony) for north-easternmost dwelling - 100% uncovered | 35m ² per dwelling 50% uncovered |

TABLE 1 (part a): DEVELOPMENT DATA *continued*...

| Consideration | Building 1 | Building 2 | Building 3 | Development Plan Merit Assessment Quantitative Guideline |
|-----------------------------------------------|------------------------------------------------------------------------|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Street Set-back | 2.4 – 3.7m | N/A | 5.2 – 5.8m | 4.0m |
| Side Set-back (south-eastern side) | 1.0m (ie. existing external side boundaries) | 1.0m (ie. existing external side boundaries) | N/A | 3.25m – for Building 1 |
| Side Set-back (north-western side) | 28.1m (ie. existing external side boundaries) | N/A | 3.0m (ie. existing external side boundaries) | 3.0m |
| Rear Set-back (north-eastern boundary) | N/A | 3.8 – 4.9m | 4.0 – 4.5m | 3.0m |
| Car Parking Provision | 1 covered spaces per dwelling and one exclusive open air parking space | 2 covered spaces per dwelling | 2 covered spaces per dwelling for five of the six dwellings. Remaining dwelling has one covered space and one exclusive open air parking space | Residential - 2 spaces per dwelling plus 1 visitor space for every 2 dwellings for a development of up to 10 dwellings; plus 1 space (exclusive of vehicle manoeuvring areas) for every additional 4 dwellings exceeding 10 dwellings. |

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

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

Notification

The proposal has been identified and processed as a Category 3 form of development. Three (3) representations were received in response to the public notification, with two being opposed and one in support.

One of the representors opposed to the proposal resides in a dwelling within the existing two-storey residential flat building at 389 Payneham Road and is concerned that his property will lose natural sunlight. They are also concerned about having a compromised visual outlook as a result of the two-storey development.

The other representor opposed to the proposal is a business proprietor within the Marden Shopping Centre and is concerned with the development having inadequate on-site parking, as well as the possibility of construction related vehicles accessing the shopping centre's car park during the course of construction.

A copy of the representations is contained in **Attachment C**.

On behalf of the Applicant, Masterplan Town & Country Planners have provided a response to the representations received, which is summarised as follows:

- the majority of overshadowing that will occur will be confined to non-residential land (ie. the adjacent Kentucky Fried Chicken fast-food restaurant); and

- during the course of construction, it is anticipated that the majority of vehicles can be accommodated on the development site. Whilst it is likely that there will be an increase in vehicular traffic along Marden Road during the course of construction, access and egress from the Marden Shopping Centre car park will not be inhibited.

A complete copy of Masterplan's response to the representations received is contained in **Attachment D**.

State Agency Consultation

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

Discussion

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

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

Land Use and Density

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

Medium Density Policy Area (PA) Desired Character Statement

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

Residential Zone Desired Character Statement

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

City Wide Objectives: 1, 2, 7, 8, 10, 26 & 55-57
City Wide PDC's: 1-4, 60 & 61

A fundamental question with respect to the suitability of the proposed use of the land, is whether the land should be retained as a car parking area. This issue is discussed under the heading of car parking further in this report, where it is concluded that the car parking is ostensibly surplus to the car parking needs of the shopping centre.

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

"Whilst detached and semi-detached dwellings will continue to be developed within the Medium Density Policy Area, more flexible development parameters for other forms of housing (including group dwellings, row dwellings and residential flat buildings) are included and will provide additional opportunities for increasing residential densities in these locations."

and

"Around the Marden District Centre, the Medium Density Policy Area includes parts of Marden located to the north of the District Centre (east and west of Lower Portrush Road) and parts of Payneham located to the south of the District Centre (east and west of Portrush Road). The area has good access to bus routes along Payneham Road and Portrush Road and reasonable access to the Klemzig O'Bahn Interchange and is within accessible walking distance to district level shops and facilities at Marden."

and

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

The proposed residential flat buildings are an anticipated land use within the Medium Density Policy Area of the Residential Zone. Furthermore, the subject land is located within a part of the Medium Density Policy Area (ie. Marden Road south of Kent Street) which is specifically designated as being appropriate for residential development up to three (3) storeys in height.

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

In this instance, the subject land has an allotment frontage width of 57.91 metres, consistent with Medium Density Policy Area Principle of Development Control 5.

Medium Density Policy Area Principle of Development Control 6 states that dwellings contained within a residential flat building with two and three bedrooms, should have a minimum floor area per dwelling of 70m² and 100m² respectively. The dwellings contained within Building 1 each have two bedrooms whereas the dwellings within Building 2 and 3, each have three bedrooms. The proposed floor areas range between 120.2m² (for the dwellings within Building 1), 167.2m² (for dwellings within Building 2) and 161 – 167.2m² (for dwellings within Building 3), which exceeds the quantitative requirement specified by Medium Density Policy Area PDC 6.

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

Streetscape/bulk/scale/height/character

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

Medium Density PA Desired Character Statement

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

Residential Zone Desired Character Statement

Residential Zone PDC's: 6, 7 & 8

City Wide Objectives: 18, 19, 20 & 62, 64
City Wide PDC's: 28-32, 33 37, 39, 40, 197, 238 & 260 - 272

The Desired Character Statement for the Medium Density Policy Area and in particular, the Marden District Centre policy, states (in part):

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

The current Medium Density Policy Area provisions were introduced on 2 July 2015 to provide opportunities for a higher density of development, facilitated by two and three-storey development. It is understood that the reason for the three-storey 'concession' on Marden Road south of Kent Street, was to encourage higher density developments to establish in close proximity of bus routes along Payneham Road and Portrush Road as well as access to the district level shops, services and facilities within the Marden area.

As the development site fronts Marden Road, development up to three-storeys is envisaged within this part of the Medium Density Policy Area, provided that an appropriate built form transition to adjacent residential land outside of the Policy Area can be achieved. The proposed development is two-storeys in height and is situated adjacent to existing residential development, which is also located within the Medium Density Policy Area. In this regard, the proposed development is consistent with the Marden District Centre policy criteria.

The proposed building form of the three (3) residential flat buildings is generally consistent in terms of height and massing and separation from boundaries, with directly adjacent residential development comprising two-storey residential flat buildings at 62 – 64 Marden Road and 389 Payneham Road. In addition, whilst less dominant in form and scale, the two-storey form of the proposed residential flat buildings is compatible with the built form of the neighbouring Marden Shopping Centre situated on the other side of Marden Road in terms of rectilinear massing and proximity to the street boundary.

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

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

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

And

“Dwellings will be designed to provide a good level of visual interest and articulation and should avoid large expanses of uninterrupted walling, tilt-up concrete or glass, or the monochromatic use of materials and finishes.”

Aside from the Kentucky Fried Chicken restaurant located at 383 – 387 Payneham Road, the character of the locality along the eastern side of Marden Road is generally derived from residential buildings, including two-storey and single-storey residential flat buildings along with single-storey detached dwellings, all of which incorporate pitched roof forms. The eastern elevation of the Marden Shopping Centre building, located across from the development site, displays a solid masonry rectilinear form to Marden Road. The outwardly rectilinear design appearance of the residential flat buildings is distinctly contemporary. Having regard to the established residential built form character along the eastern side of Marden Road, namely single-storey and two-storey dwellings with pitched roofs, the rectilinear form is inconsistent with the existing character when viewed within this part of the Marden Road streetscape.

That said, the Medium Density Policy Area anticipates a variety of facade treatments with overall balanced building proportions that provide for a good level of visual interest and articulation when viewed within a streetscape context.

The finishes and architectural detailing to Building 1’s facade and the south-western side elevation of Building 3 are considered to provide visual interest consistent with the Desired Character Statement as well as City Wide Principle of Development Control 30 and the proposed building materials (ie. rendered walls, horizontally and vertically fixed painted feature cladding and extensive use of glazing to the front elevation of Building 1), complement the existing residential urban character of the immediate area as called for by City Wide Principle of Development Control 29. In terms of the south-western side elevation of Building 3, the presentation of this building to Marden Road is considered to be reasonably well articulated with the 12.3 metres wide x 7.1 metres high section of side walling sufficiently “broken-up” through the use of vertical fixed CSR fibre cement sheet cladding (Territory Woodlands ‘Teak’), as called for by the Desired Character Statement.

The proposal also includes stepped horizontal aluminium slatted 1.5 metre high fencing in combination with sections of rendered lightweight 1.8 metre high front walls along the Marden Road property boundary. The combination of fencing type (ie. horizontal slats with spacing) and fencing heights enables for a reasonable degree of passive surveillance to occur whilst also activating the street frontage of the development site as part of the proposed development, as called for by City Wide Objective 64(c), which states:

“Development that enhances the public environment, provides activity and interest at street level and a high quality experience for residents, workers and visitors by:

(c) improving public safety through passive surveillance”

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

Setbacks and Site Coverage

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

| | |
|--------------------------|---------------|
| Medium Density PA PDC's: | 7 |
| Residential Zone PDC's: | 8 |
| City Wide PDC's: | 50, 208 & 273 |

Medium Density Policy Area Principle of Development Control 7 states that development fronting a public road (ie. not an arterial road) within the Medium Density Policy Area should be designed with a minimum setback of 4.0 metres. When measured to the closest point, Building 1 is set back between 2.4 and 3.7 metres from the Marden Road property boundary. The proposed development does not accord with the front setback requirement prescribed in Principle 7.

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

“The setback of buildings should:

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

The adjacent two-storey residential flat buildings at 62 – 64 Marden Road are set back in the order of 6.5 and 16 metres respectively. The single-storey KFC building is set back approximately 19 metres from Marden Road.

Setbacks of existing buildings front Marden Road within the locality vary considerably as shown on **Attachment A1**. Beyond the two (2) previously mentioned directly neighbouring properties facing Marden Road, the detached dwelling located at the junction of Marden Road and Kent Street is setback approximately between 2.6 – 3.0 metres. On the other side of Marden Road, the Marden Shopping Centre has a varied setback back from Marden Road, ranging from being built on the boundary through to setbacks varying from 2.0 – 11.0 metres.

In this context, is the proposed setback distance from Marden Road is considered reasonably consistent with the qualitative considerations of City Wide Principle of Development Control 50, whilst noting that an increased setback to achieve the 4m dimension in Medium Density Policy Area Principle of Development Control 7 would provide opportunity for increased landscaping. .

The side and rear setbacks of Building 1 are considered acceptable, as it is surrounded by driveways and car parking areas, including the car parking area of Kentucky Fried Chicken to the south.

The recently gazetted (ie. on 19 December 2017) *Inner and Middle Metropolitan Corridor (Design) Development Plan Amendment* introduced new planning policies for medium density developments in to order improve their design quality and integration, provide better outcomes for local streetscapes and the public realm, improve the form and appearance of new developments and provide better relationships between nearby medium developments. These policies are contained in the City Wide section of the Development Plan under the heading of Medium and High Rise Development (3 or More Storeys), on pages 54-59.

Included in these policies, is criteria for siting of buildings and separation from boundaries, which differ from the 'regular' criteria that applies to residential development, contained in the City Wide section of the Development Plan under the heading of Residential Development, on pages 38-54.

As the proposed development is two storeys, on a strict reading of the Development Plan, the siting/setback policies contained under the Residential Development heading are relevant, rather than those under the Medium and High Rise Development (3 or More Storeys) heading. However, the policy context of the subject land, is such that 3 storey development can be reasonably anticipated for the subject land (as well as adjoining land in the future). In this policy context, it is considered relevant to consider the siting/setback policies contained under the heading of Medium and High Rise Development (3 or More Storeys).

With respect to rear setbacks, under the sub-heading of Building Separation and Outlook, City Wide Principle of Development Control 273 states:

“Residential buildings (or the residential floors of mixed use buildings) should have habitable rooms, windows and balconies designed and positioned with adequate separation and screening from one another to provide visual and acoustic privacy and allow for natural ventilation and the infiltration of daylight into interior and outdoor spaces.

One way of achieving this is to ensure any habitable room windows and/or balconies are separated by at least 6 metres from one another where there is a direct 'line of sight' between them and be at least 3 metres from a side or rear property boundary. Where a lesser separation is proposed, alternative design solutions may be applied (such as changes to orientation, staggering of windows or the provision of screens or blade walls, or locating facing balconies on alternating floors as part of double floor apartments), provided a similar level of occupant visual and acoustic privacy, as well as light access, can be demonstrated.”

Building 2 has a rear setback from the existing north-eastern boundary ranging from 3.8 – 4.9 metres whereas Building 3 has a rear setback from the existing north-western boundary ranging from 4.0 – 4.5 metres. The separation between Building 2 and the neighbouring residential flat building at 389 Payneham Road ranges between 8.2 and 9.3 metres. The separation between Building 3 and the neighbouring residential flat building at 64 Marden Road is in the order of 5.3 metres. The separation between Buildings 2 and 3 and the neighbouring residential flat buildings is illustrated in **Attachment B38**.

Whilst the separation between Building 3 and the neighbouring residential flat building at 64 Marden Road does not accord with the quantitative aspect of Principle 273 (5.3m instead of 6.0m), the visual outlook for the occupiers at 64 Marden Road is not considered to be unreasonably compromised as the occupiers of the units do not have a direct outlook from the living areas onto the proposed development.

In terms of site coverage, Medium Density Policy Area Principle of Development Control 7 states that the site coverage for dwellings other than detached and semi-detached dwellings (and ancillary structures) within the Policy Area should not exceed 70%. The overall site coverage for the three (3) residential flat building equates to 41% and therefore, the proposal satisfies Policy Area Principle of Development Control 7.

Overshadowing/Overlooking

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

City Wide PDC's: 11, 31, 71, 72, 196, 235, 236 & 273

City Wide Principle of Development Control 196 states:

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

The Applicant has provided shadowing diagrams, to demonstrate the extent of overshadowing that would result from the proposed development during the winter solstice. In relation to the two directly adjacent properties and in particular, 389 Payneham Road, which is to the southeast of the subject site, the shadowing analysis demonstrates that the two-storey residential flat building on this property will experience some shadowing to its common driveway area in the late afternoon period and the ground floor yard areas of these dwellings will continue to receive direct sunlight to their private open space area as prescribed by Principle 196.

In terms of visual privacy from the proposed dwellings, all of the rear facing upper level windows of Building 2 and 3 incorporate 1.7 metre high sill levels above the internal upper floor level. The proposed first floor window treatment is consistent with City Wide Principle of Development Control 235, which seeks privacy treatment to a height of 1.7 metres. In any event, if the Panel determine to approve the proposed development, it is recommended that a condition be imposed reiterating that the upper floor dwelling windows on the norther-western elevation of Building 3 and north-eastern elevations of Building 2 be fixed and obscured.

Private open space

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

City Wide PDC's: 222-225, 227, 228, 229 & 230

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

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

- (b) *a dwelling with a site area of less than 250 square metres, a minimum of 35 square metres should be private open space, of which one portion should have an area of 16 square metres and a minimum dimension of 4 metres;”*

All of the proposed dwellings have site areas of less than 250m² and, as such, should have a minimum area of private open space of 35m², and may comprise ground level courtyards, balconies or a combination of both.

The proposed private open space areas for fifteen (15) of the sixteen (16) dwellings are 21.8 -23.8m² for Building 1, 38.4 – 42.4m² for Building 2 and 30 - 98m² for Building 3.

All six (6) of the dwellings contained within Building 1 and four (4) of the dwellings contained within Building 3 have private open space areas less than the 35m² prescribed in Principle 225(b).

The front yard areas of the dwellings contained within Building 1 have been nominated as private open space. In this respect, City Wide Principle of Development Control 222 allows front yards to be counted as private open space, provided that it is screened to achieve privacy by a suitable fence of 1.8 metres in height and that solid front fences form part of the existing streetscape or the desired character of the locality.

High solid front fences do form part of the existing streetscape, as do high walls associated with the shopping centre on the street boundary. In this context, the use of front yards for private open space for the dwellings within Building 1 is considered reasonable. The proposed front fencing comprises a combination of 1.8 – 1.9 metre high solid fencing adjacent clothes drying areas and relatively low aluminium slatted

fencing (ranging in height from 1.3 – 1.5 metres) adjacent bin storage and pedestrian entry areas. This is considered a reasonable response.

Whilst there is a numerical shortfall in private open space area for ten (10) of the sixteen (16) dwellings, given the form and nature of the proposed development, the provision of private open space is considered to be acceptable in that it provides a choice of lifestyle that does not require the upkeep of a large garden.

The main private open space areas of each dwelling are directly accessible from the living areas of the respective dwellings and have good orientation for solar access throughout the day. More specifically, the dwellings contained within Building 1 and 2 will have good solar access during the morning to early afternoon period whereas the dwellings contained within Building 3 will have good access to direct sunlight from the late morning to the late afternoon period.

City Wide Principle of Development Control 229 states that 50% of the total private open space requirement provided at ground level should be open to the sky and developed in a manner to provide outdoor amenity, opportunities for landscaping and a reduction in stormwater runoff through the use of permeable surface treatments. All of the proposed private open space areas associated with each dwelling are 'open to the sky' which in turn accords with Principle 229.

Car parking/access/manoeuvring

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

| | |
|-----------------------|----------------------------------------------------------------------|
| City Wide Objectives: | 32 & 34 |
| City Wide PDC's: | 98, 101, 104, 113, 115, 118, 120, 123, 130, 122, 181, 189, 198 & 200 |

Tables NPSP/8 and Table NPSP/9A

The proposed development seeks to remove the two existing staff/employee car parking areas, containing a total of 60 spaces, associated with the Marden Shopping Centre at 68 and 70 Marden Road.

Development Approval was granted in 2014 (Development Application 155/492/14) to undertake alterations and additions to the Marden Shopping Centre, which included the creation of 24 additional car parking spaces (bringing the total supply to 390 spaces, including the staff/employee parking at 68 and 70 Marden Road) and an additional 1440m² of retail floor area.

To assist with the assessment of the car parking implications of that Development Application, the Council engaged Mr Paul Simons of Tonkin Consulting. At the time of assessment, the Council's Development Plan prescribed a minimum car parking rate of 5 car parking spaces per 100m² of gross leasable floor area. Having regard to the Development Plan rate as well as other car parking study documents, Mr Simons adopted a car parking rate of 4.5 spaces per 100m² of gross leasable floor area. On this basis, it was determined that the shopping centre would have a theoretical demand of 383 car parking spaces, which in turn resulted in a surplus of seven (7) spaces.

The Applicant has provided a traffic and car parking assessment by Mr Ben Wilson of CIRQA Pty Ltd that discusses the removal of the 60 staff/employee spaces. Mr Wilson has provided car parking survey data that identifies that at 11:45am on Saturday 24 June 2017, a total of 118 spaces were available at the shopping centre, along with 45 spaces at 68 and 70 Marden Road. This survey factors in 251.5m² of vacant shop tenancy space within the shopping centre. In any event, Mr Wilson has concluded that the car parking demand associated with the shopping centre, can be accommodated within the Marden Shopping Centre complex and does not rely on the car parking at 68 and 70 Marden Road

A copy of Mr Wilson's report is contained in **Attachment B45 – B49**.

On 28 April 2016, the Existing Activity Centres Policy Review DPA (Ministerial) was consolidated into the Development Plan. As a result, Table NPSP/9A was inserted, prescribing vehicle parking rates for Designated Areas. The Marden Shopping Centre is located within the District Shopping Zone as detailed on Map NPSP/4 in the Development Plan. A District Shopping Zone is identified as a Designated Area. Table

NPSP/9A sets a minimum car parking rate of three (3) spaces per 100m² of gross leasable floor area for non-residential development.

Applying this criteria, the existing gross leasable floor area of the Marden Shopping Centre totalling 8,506m² would generate a theoretical demand of 258 car parking spaces which in turn would result in a surplus of 132 spaces within the shopping centre complex. On this basis (and having regard to the survey undertaken by Mr Wilson which validates the current rate), the removal of the 60 staff/employee car parking spaces, associated with the Marden Shopping Centre at 68 and 70 Marden Road is considered acceptable.

City Wide Principle of Development Control 189 provides guidelines for the configuration of driveway and manoeuvring areas for residential flat buildings, so as to achieve safe and convenient access arrangements. In relation to developments involving more than two (2) dwellings utilising a common driveway, Principle 194 states that the driveway should have a 6.0 x 6.0 metre paved carriageway at the front of the property, to enable safe and convenient access/egress for vehicles turning into and out of the site simultaneously. The proposal accords with this guideline.

Principle 189 also states that the paved carriageway width should be no less than 5.0 metres in width with 1.0 metre of landscaping along one or both sides. The landscaping varies in width from 2.2 - 2.4 metres either side of the carriageway commencing from Marden Road, resulting in a total combined width of paved carriageway and landscaping of at least 8.2 metres, consistent with Principle 189.

City Wide Principle of Development Control 120 states that development should include on-site car parking in accordance with the rates prescribed in Table NPSP/8. In relation to residential flat buildings, Table NPSP/8 states that two (2) on-site car parking spaces should be provided for each two (2) - three (3) bedroom dwelling, of which at least one (1) should be covered. In addition, one (1) visitor space should be provided for every two (2) dwellings up to ten (10) dwellings. Beyond ten (10) dwellings, one (1) visitor space (exclusive of vehicle manoeuvring areas) for every additional four (4) dwellings is to be provided.

Each of the proposed sixteen (16) dwellings are provided with two (2) exclusive car parking spaces either in the form of covered spaces and/or an unenclosed space (ie. for the dwellings within Building 1 and the north-easternmost dwelling located in Building 3). The proposed development includes the provision of seven (7) accessible on-site visitor spaces.

The sixteen (16) proposed dwellings result in a demand of 32 spaces, plus a demand of seven (7) visitor spaces. Accordingly, proposed on-site car parking rate per dwelling and on-site visitor parking spaces satisfies the requirements prescribed in Table NPSP/8.

The Council's Planning staff applied the 85th percentile vehicle turning templates, within the Australian Standard for off-street car parking, to the manoeuvring areas. Having regard to the plans that are before the Panel, vehicle movements can be undertaken on-site in a safe and convenient manner.

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, 160, 164 & 167-171

The subject land is not located within a recognised flood plain.

With regard to site levels, the development site slopes from southeast to northwest in the order of 2.78 - 3.26 metres. On the north-eastern side, the adjacent land at 389 Payneham Road is higher and there are existing retaining walls that are to be retained located along the north-eastern boundary.

Given the existing topography of the land, the Applicant has proposed that bench and floor levels will be stepped across the site in order to minimise the requirement for cut and/or fill and retaining walls. The plans also indicate a new section of retaining wall along the existing north-western boundary, which would be between 1.0 -1.2 metres in height. Combined with 1.8 metre colorbond 'good neighbour' fencing, this would result in the combined height of fencing and retaining wall along this boundary between 2.8 – 3.0 metres, which is not 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).”

Having regard to the ground level units located within the two-storey residential flat building at 64 Marden Road, which have their wet areas facing 66 Marden Road along with small windows on their rear elevations, it is considered that the combined fence and retaining wall height is unlikely to have any unreasonable visual amenity impacts on these occupiers.

City Wide Principle of Development Control 58 states:

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

In terms of stormwater management as part of the proposed development, the Applicant is proposing to create underground stormwater drainage infrastructure and to connect it to the existing underground system in Marden Road. The Council’s Project Manager, Assets, has advised that the proposed levels and stormwater disposal is considered to be acceptable and that the Stormwater Management Plan demonstrates that the proposed development does not increase stormwater discharge from the site with pre-development levels maintained for a 5 year ARI storm event.

Trees (significant, mature & street) and landscaping

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

| | |
|-----------------------|--------------------------------------|
| City Wide Objectives: | 24, 117 & 118 |
| City Wide PDC’s: | 73, 74, 75, 220, 221, 395, 396 & 397 |

The subject land contains one regulated tree or any other mature trees that are considered worthy of retention.

The proposed development includes a landscaping scheme that proposes trees such as pencil pines, crepe myrtles and upright silver birch, shrubs and ground covers including hedge planting (Naringa Westringia and Euonymus Tom Thumb), shade tolerant plants (agave and Tasman Flax-lily) along with Kikuya lawn turf. The proposed landscaping will assist to some extent, softening the development within the common driveway area at the front of the development. In addition, the proposed landscape scheme and schedule is considered to provide for a reasonable level of amenity for future occupants of the dwellings, as specified by City Wide Principle of Development Control 221(a).

Environmental Sustainability

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

| | |
|-----------------------|----------------------------|
| City Wide Objectives: | 23 & 42 |
| City Wide PDC’s: | 67-69, 147, 148, 151 & 159 |

The proposed dwellings and their private open space areas are well oriented for solar access. Pergola areas adjacent to the respective ground level living areas are proposed to Buildings 2 and 3, however, as discussed earlier in this report, it is highly likely that future owners of the dwellings would enclose the pergolas and/or construct verandahs in these locations, based on their personal preference and needs, which would provide sun and wet-weather protection to the ground level north-western and north-eastern facing window/door areas of these twelve (12) dwellings.

All of the upper level windows on the north-western and north-eastern elevation of Buildings 2 and 3 (apart from the north-easternmost dwelling in Building 3) have high-level horizontally proportioned minimal window areas which in turn minimises the extent of direct sunlight (ie. heat loading) to these windows.

City Wide Objective 42 seeks development that is designed to maximise the harvest and use of stormwater and Principle of Development Control 159 prescribes that new dwellings should be provided with a 2,000 litre rainwater tank, which is plumbed to the dwellings for reuse. The plans and documentation indicate a rainwater tank provision for each dwelling but does not specify a volume. In regard, it is recommended that a condition be imposed requiring that 2000 litre rainwater tanks be installed to each dwelling.

Summary

The Medium Density Policy Area, and in particular the Marden District Centre, is intended to accommodate a greater range of dwelling types, at a higher density than the general Residential Zone.

The proposal for three two-storey residential flat buildings, in a location that anticipates up to three-storey construction, is consistent with the desired character of the Medium Density Policy Area of the Residential Zone, which encourages denser and more diverse housing types.

The three buildings are well spaced and sited on the land and have been designed with a reasonably good level of visual interest and include a range of different materials and finishes. The orientation of the buildings would allow a reasonable level of northern light to living areas and private open space.

The configuration of the proposed common driveways and the inclusion of rear-loading garages for the dwellings fronting Marden Road will minimise the impact of such structures on the Marden Road streetscape.

Ten of the sixteen proposed dwellings fail to meet the minimum quantitative provisions of the Development Plan for private open space areas for each dwelling which is a negative aspect of the proposal.

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

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/C069/17 by Rivergum Homes to undertake a combined Application comprising a Community Title Land Division creating sixteen (16) Community Lots, the construction of three (3) two-storey residential flat buildings comprising sixteen (16) dwellings and associated fencing, retaining walls and landscaping, at 66, 68 and 70 Marden Road, Marden , subject to the following conditions:

Relevant Plans

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

- Plan of Community Division (Drawing Number A075117.0000) prepared by Alexander Symonds Surveying Consultants Pty Ltd and received by the Council on 23 March 2018.
- plans and elevations (Project Number: PRE-0604) prepared by Rivergum Homes and received by the Council on 11 April 2018 and 23 March 2018.
- Grading and Drainage Plan (Drawing Number 17-1625-003) prepared by Greenhill Engineers Pty Ltd and received by the Council on 23 March 2018.

Conditions

1. The portion of all upper floor windows on the north-western elevation of Building 3 and north-eastern elevation of Building 2, less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwellings in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
2. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.
3. A Stormwater Management Plan shall be prepared and provided to the Council with the documentation for Building Rules Consent, which illustrates stormwater discharge from the subject land at pre-development levels. On-site retention of stormwater may be required during high rainfall events. Sufficient storage (above or below ground) shall be provided to safely contain stormwater runoff from the contributing catchments for a 5 year ARI rainfall event.
4. A rainwater tank with a storage capacity not less than 2 kilolitre (2000 litres), shall be installed for each of the dwellings or alternatively, an 8 kilolitre communal rainwater tank shall be installed, with each dwelling contributing rainwater from at least 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.
5. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.
6. All existing redundant crossover inverts located along the Marden Road property boundary shall be reinstated to kerb and gutter prior to the occupation of the dwellings 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 general environmental duty, as required by section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause harm.
2. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.
3. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.

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

4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513.

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

5. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
6. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Ms Kaori Hase addressed the panel from 7:00pm until 7:03pm.

Mr Michael Richardson from Masterplan addressed the panel from 7:04pm until 7:15pm

moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/C069/17 by Rivergum Homes to undertake a combined Application comprising a Community Title Land Division creating sixteen (16) Community Lots, the construction of three (3) two-storey residential flat buildings comprising sixteen (16) dwellings and associated fencing, retaining walls and landscaping, at 66, 68 and 70 Marden Road, Marden , subject to the following conditions:*

Relevant Plans

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

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Conditions

1. *The portion of all upper floor windows on the north-western elevation of Building 3 and north-eastern elevation of Building 2, less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwellings in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)*
2. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.*
3. *A Stormwater Management Plan shall be prepared and provided to the Council with the documentation for Building Rules Consent, which illustrates stormwater discharge from the subject land at pre-development levels. On-site retention of stormwater may be required during high rainfall events. Sufficient storage (above or below ground) shall be provided to safely contain stormwater runoff from the contributing catchments for a 5 year ARI rainfall event.*
4. *A rainwater tank with a storage capacity not less than 2 kilolitre (2000 litres), shall be installed for each of the dwellings or alternatively, an 8 kilolitre communal rainwater tank shall be installed, with each dwelling contributing rainwater from at least 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.*
5. *All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.*
6. *All existing redundant crossover inverts located along the Marden Road property boundary shall be reinstated to kerb and gutter prior to the occupation of the dwellings to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the owner/applicant.*
7. *That a detailed landscaping plan be submitted showing the number and species of plants to be planted throughout the site including a suitable mix of trees, shrubs and ground covers to the reasonable satisfaction of the Council or its delegate.*

Notes to Applicant

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

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

4. *The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513.*

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

5. *This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.*
6. *The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.*

Seconded and carried

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/796/2017 – STEVENTONS CONSTRUCTIONS – 2/44 NELSON STREET, STEPNEY

| | |
|--------------------------------------|------------------------------------------------------------------------------------------------------------------|
| DEVELOPMENT APPLICATION: | 155/796/2017 |
| APPLICANT: | Steventons Constructions |
| SUBJECT SITE: | 2/44 Nelson Street, Stepney (Certificates of Title; Volume: 6178, Folio: 473) |
| DESCRIPTION OF DEVELOPMENT: | Dwelling comprising three (3) levels above a ground level shared carpark. |
| ZONE: | Light Industry Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 30 May 2017) |
| PUBLIC NOTIFICATION CATEGORY: | Category 3 |

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a dwelling comprising three (3) levels above a ground level shared carpark.

Staff do not have delegated authority to determine the Application, as it is non-complying - being a residential building of three (3) or more storeys in the Light Industry 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: | irregular |
| Frontage width: | 1.2 metres to Nelson Street (together with rights of way) |
| Area: | 257m ² |
| Topography: | sloping |
| Existing Structures: | none (open car parking area associated with adjacent commercial development) |
| Existing Vegetation: | none |

The subject land is an irregular shaped 'hammerhead' style allotment, which is located at the rear of a large development site on the corner of Nelson Street and Henry Street, Stepney. Access from Nelson Street is via a narrow handle (and utilising adjacent rights of way). The subject land also has vehicular access through to Henry Street via an existing right of way over 52A Henry Street. The topography of the land is sloping from east to west, with the main part of the allotment being lower than Nelson Street. Second Creek is located approximately 15 metres to the west of the subject land and a small part of the site is within the 1 in 100 year floodplain.

The subject land is vacant of buildings and is currently used as an open car parking area comprising eleven (11) vehicle spaces, which services the adjacent commercial development.

Locality Attributes

| | |
|-----------------------------|---------------------------------------------------------------------------------------|
| Land uses: | mix of residential and commercial |
| Building heights (storeys): | single storey to four-storey |
| Streetscape amenity: | moderate due to a mix of building forms, high traffic volumes and mature street trees |

The locality is characterised by a range of different land uses, including offices, warehouses and retail showrooms along the Nelson Street frontage and a child care centre and dwellings fronting Henry Street. A 3-4 storey medium density residential development (Distillery Apartments) is located to the west of the subject land at 52A Henry Street. A large mixed residential and commercial development is currently under construction at 42 Nelson Street. Whilst the subject land is located within the Light Industry Zone, no manufacturing premises were identified within the locality.

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

Proposal in Detail

The Applicant is seeking consent to construct a single dwelling comprising three (3) levels above the existing ground level car parking area. The dwelling is proposed to be constructed on top of a structural steel frame. The car park is to be retained, albeit with the loss of one (1) space.

The dwelling comprises a ground level entry and stairwell to access the first floor. The first floor includes two (2) bedrooms – both with an ensuite and a study. Three small balcony/courtyards provide light and ventilation. These are located on the northern, eastern and western elevations.

Lift and stair access is provided to the second level which comprises the main living area and kitchen. A balcony is accessed via the kitchen on the northern elevation of the building.

Lift and stair access is provided to a partially roofed garden/outdoor area with an outdoor kitchen, storage room, clothes drying area and housing for airconditioning, hot water service and solar battery units.

The proposal also provides an enclosed secure area (part of the ground floor entry area) for bins and bicycle storage under the landing of the stairs.

The dwelling has a simple contemporary design with a flat roof providing a walkable area for the roof-top garden. Materials and finishes include a mix of 'shadowline' colorbond cladding, render, recycled red brick and hardwood timber.

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 Development | Development Plan Merit Assessment Quantitative Guideline |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------|
| Site Area | 257m ² | N/A |
| External Wall Height* | 11.05 to 12.3 metres | N/A |
| Overall Height (to roof apex)* | 12.3 metres | N/A |
| Floor Area | Ground level = 16m ² First floor = 132m ² Second floor = 96m ² Rooftop = 96m ² Total = 340m² | N/A N/A |
| Site Coverage | 51.3% | N/A |

TABLE 1: DEVELOPMENT DATA *continued...*

| Consideration | Proposed Development | Development Plan Merit Assessment Quantitative Guideline |
|------------------------------|-----------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| Private Open Space | Rooftop (72m ² approx.) | 20% of site area |
| Street Set-back | | |
| - Nelson Street | 38m (approx) | N/A |
| - Henry Street | 34m (approx) | N/A |
| Rear Set-back | Nil to western boundary | N/A |
| Car Parking Provision | 10 spaces (shared with the adjacent commercial property) With two (2) of the space allocated after hours to the dwelling | 2 occupant spaces 4 spaces per 100m ² (office rate) for adjacent commercial property |

** 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 and a supporting Statement of Effect prepared by Access Planning are contained in **Attachment B**.

Notification

The proposal has been identified and processed as a Category 3 form of development.

One representation was received in favour of the proposal. The representor does not wish to be heard.

A copy of the representation is contained in **Attachment C**.

State Agency Consultation

N/A

Discussion

The subject land is located within the Light Industry Zone of the Norwood Payneham and St Peters (City) Development Plan. Principal of Development Control 5 of the Zone identifies that the proposed development is non-complying as it comprises a residential development of three (3) or more storeys and is located outside of the former Payneham Council Area.

Having considered the Applicant’s Statement of Support, staff determined that the proposal had sufficient merit to warrant proceeding to an assessment. The Applicant subsequently prepared a Statement of Effect and accordingly the proposal is now 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 land use and density considerations in the Light Industry Zone:

- Light Industry Zone Objectives: 1
- Light Industry Zone PDCs: 1 & 5

- City Wide Objectives: 1-3, 7, 10, 11, 13, 26, 27 & 60.
- City Wide PDCs: 1-5, 19, 83, 88 & 294.

PDC 5 of the Light Industry Zone lists most forms of residential development as non-complying. The primary intent of the Light Industry Zone as stated in Objective 1 and PDC 1 of the zone is as follows:

Objective 1

“A zone primarily accommodating industries which manufacture on a small scale and which do not create any appreciable nuisance or generate heavy traffic.”

and;

PDC 1

“Development undertaken in the Light Industry Zone should be, primarily, industries which manufacture on a small scale and which:

- (a) do not create any appreciable noise, smoke, smell, dust or other nuisance or generate heavy traffic; and*
- (b) without limiting the general application of (a) above, conform with the requirements of all the relevant Environment Protection Policies of the Environment Protection Authority.”*

In this locality, the Light Industry Zone contains no manufacturing businesses and has over time, been developed for predominantly commercial and residential uses, most notable being the large mixed commercial and residential development currently under construction at 42 Nelson Street and the Distillery Apartments located at 52A Nelson Street. In this locality, the establishment of manufacturing land uses in accordance with the objectives of the zone, even of a ‘light’ nature, could be problematic in such close proximity to established residential development. Furthermore, the small size and configuration of the allotment located at the rear of development fronting Nelson and Henry Streets, is unlikely to be conducive to establishing a light industrial or commercial use.

City Wide Objective 62 encourages *‘Development that is contextual and responds to its surroundings, having regard to adjacent built form and character of the locality and the Desired Character for the Zone and Policy Area.’*

Having established that development in accordance with the desired character of the zone may not result in a land use outcome which is compatible with the surrounding land uses, it is considered that the proposal for a residential building on the subject land does respond positively to the surrounding land use and built form context and is consistent with PDC 62 in this respect.

Accordingly, the proposed use of the land for residential purposes is considered to be the most appropriate land use ‘fit’, accepting that land uses in accordance with the zone objectives are unlikely to reflect the highest and best use of the subject land.

Streetscape/bulk/scale/height/character

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

| | |
|-----------------------|-----------------------------------------------------|
| City Wide Objectives: | 8, 18, 19, 20, 60, 61 & 62. |
| City Wide PDCs: | 11, 28, 29, 31, 35, 36, 38, 260, 266, 273, 274, 280 |

The provisions of the Light Industry Zone are silent regarding building heights and do not provide any policy guidance on built form outcomes – a likely reflection on the nature of the zone, whereby the anticipated industrial and commercial buildings are utilitarian in nature. That said, some guidance on built form is provided in the City Wide provisions of the Development Plan. In particular, City Wide Principle of Development Control 29 states:

“Except where the zone or policy area objectives, principles of development control and/or desired character of a locality provide otherwise, new buildings:

- (a) may be of a contemporary appearance and exhibit an innovative style;*
- (b) should complement the urban context of existing buildings on adjoining and nearby land in terms of:*

- (i) *maintenance of existing vertical and horizontal building alignments;*
- (ii) *architectural style, building shape and the use of common architectural elements and features;*
- (iii) *consistent colours, materials and finishes; and should not visually dominate the surrounding locality.”*

In this regard, the adjacent three (3) and four (4) storey mixed use and residential development, as well as the adjacent Local Heritage Place commercial building provide relevant context. The development currently under construction at 42 Nelson Street will be a prominent building on the large corner site. The proposed dwelling on the subject land would be sited mostly behind this building and therefore will have very little streetscape impact on either Nelson Street or Henry Street. The proposed height of the dwelling, resulting from being elevated above the open car parking area, would assist in ensuring that the dwelling is not ‘overwhelmed’ by the large building at 42 Nelson Street and also is considered to provide a good transition in scale to the adjacent Local Heritage Place and the Distillery Apartments located at 52A Henry Street.

The contemporary design of the proposed dwelling is considered to complement the palate of materials and finishes within the locality, including the old red brick of the adjacent Local Heritage Place.

Heritage

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

| | |
|-----------------------|----------|
| City Wide Objectives: | 113 |
| City Wide PDCs: | 359, 361 |

The subject land was previously part of the larger Tolley’s Distillery site. The adjacent allotment to the north of the subject land contains the only remaining building from the original complex (other than some facades fronting Henry Street, which have been retained in the current development of 42 Nelson Street.

The building at 1/44 Nelson Street is a Local Heritage Place and is currently occupied by office tenancies.

The Council’s Heritage Advisor was not consulted on this proposal, having already provided advice on the adjacent development at 42 Nelson St, which is currently under construction. His advice in regard to that development was that it would not affect the relationship of the old building with the neighbouring Local Heritage buildings along this section of Nelson Street which, as a group, provide some historic context along Nelson Street. As the proposed dwelling is set well back from the Nelson Street frontage (38m approximately) and would be mostly hidden from the street, it is unlikely to have any bearing on the streetscape setting of the Local Heritage Place.

Setbacks and Site Coverage

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

| | |
|-----------------|-------------------|
| City Wide PDCs: | 50, 206, 207, 208 |
|-----------------|-------------------|

The Light Industry Zone does not include any quantitative provisions for building setbacks or site coverage.

In terms of building setbacks from a qualitative perspective, City Wide Principle of Development Control 50 states:

“*The setback of buildings should:*

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

The proposed dwelling is set back approximately 38m from the Nelson Street frontage and approximately 34m from the Henry Street frontage and in this regard would have very little impact on the streetscape of either street, nor would it have a detrimental impact on the function, appearance or character of the locality. It is noted that boundary development is relatively common within the locality and that the development under construction at 42 Nelson Street is also built to the south-western boundary of its site.

City Wide PDCs 206 and 207 state respectively:

“Unless otherwise specified in the relevant Zone and/or Policy Area, the set-back of dwellings from their side and rear boundaries should be progressively increased as the height of the building increases:

- (a) to minimise the visual impact of the building from adjoining properties;*
- (b) to minimise the overshadowing of adjoining properties;*
- (c) to ensure adequate natural light and winter sunlight is available to the main activity areas and private open space of adjacent dwellings.”*

“A wall or structure on a side or rear boundary should generally be limited to a height of 3 metres above natural ground level and a length of 8 metres. A greater height or length may be considered where:

- (a) there is an existing abutting boundary wall or structure on the adjoining land: or*
- (b) there will be no unreasonable visual outlook impact or overshadowing impact on the occupants of the adjoining property.”*

The dwelling is proposed to be sited on the south western boundary of the subject land, adjacent to the common driveway and garages of the Distillery Apartments located at 52A Henry Street. In this regard siting of the building on the boundary is unlikely to have any unreasonable visual amenity or overshadowing impacts on the occupants of the neighbouring dwellings, considering the extent of separation between the proposed dwelling and the main living areas and private open space areas of the neighbouring apartments.

In terms of site coverage, the proposed footprint of the dwelling would cover approximately 51% of the site. Whilst there is no specific Development Plan guidance for site coverage in this particular circumstance, it is noted that the dwelling would be built on a site which is already completely bitumised. In this regard there would be no change to the aspect of site coverage which seeks to address the ratio of permeable to impermeable areas.

Private Open Space

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

City-wide PDCs 222 - 225

The private open space for the proposed dwelling comprises a partially covered roof-top garden/outdoor area of approximately 72m² which satisfies the requirement of PDC 225, being that sites with an area of 250m² or more should allocate at least 20% of the site as private open space (in this case the requirement would be 51m²).

City-wide PDC 222 allows a roof top garden/outdoor area to be counted as private open space provided it has a minimum dimension of 2.65m and is greater than 10m². The roof-top space satisfies this requirement.

PDC 224 requires that private open space should be directly accessible from the internal living areas of the dwelling. In this instance, the main living area is on the floor below and therefore the private open space is not directly accessible, which is considered to be a negative but not fatal aspect of the proposal.

The rooftop is well orientated with good access to northern light and is partially roofed which would provide summer shading.

The rooftop area also has a separate dedicated clothes drying area and an enclosed area for utilities (airconditioning, hot water service and solar battery).

The subject land is also within easy walking distance to Linde Reserve and the Linde Community Garden, which both provide high quality outdoor recreating opportunities for future occupants.

Privacy

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

City Wide PDC: 11, 234

In terms of privacy and overlooking, City Wide Principle of Development Control 234 states:

“In areas where buildings of 3 or more storeys are contemplated, direct overlooking into habitable room windows or onto the useable private open spaces of other dwellings from upper level windows, external balconies, terraces and decks should be minimised through the adoption of one or more of the following methods and may be supplemented by landscaping:

- (a) building layout;*
- (b) location and design of windows and balconies;*
- (c) screening devices; or*
- (d) adequate separation.”*

The proposed dwelling has a number of balconies and upper level windows, as well as a roof-top outdoor area, all with some potential for overlooking neighbouring dwellings. Whilst the plans nominate some screening of these areas (colorbond and timber slat screening and green walls), it is not clear to what extent this might be required or whether it would be of sufficient height to satisfy the above provision, particularly as the adjacent residential apartments are still under construction. Staff have discussed this aspect of the proposal with the Applicant who has advised that a condition of approval requiring all upper level windows, balconies and roof-top garden to be screened would be acceptable, on the understanding that if, during construction, it becomes apparent that overlooking will not be an issue, then the Applicant could submit a variation Application to the Council to remove (or alter) the relevant condition of consent.

As such, if the Panel determines to approve the proposed development, it is recommended that a condition be imposed requiring the screening of the balconies, upper floor windows and roof-top outdoor area to the reasonable satisfaction of the Council or its delegate.

Car-parking/access/manoeuvring

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

City Wide Objectives: 34
City Wide PDCs: 104, 112, 113, 115, 122-123, 133
Tables NPSP/8

Currently the subject land accommodates eleven (11) car parking spaces – ten (10) dedicated for use by 1/44 Nelson Street and one (1) being exclusively for the adjoining development at 42 Nelson Street. The Applicant has advised that the exclusive use of this one space by the owner/developer of 42 Nelson Street is an informal historical arrangement and is not mandated by the current Development Approval relating to 42 Nelson Street.

The construction of the ground floor entry for the proposed dwelling would result in the loss of the southern-most existing car parking space, which is the space allocated for use by 42 Nelson Street. The remaining ten (10) spaces are proposed to be shared by the occupants of the proposed dwelling and the existing commercial tenancies at 1/44 Nelson Street. An email submitted by the Access Planning confirms that two (2) of these spaces would be sign-posted, mandating exclusive use by the occupants of the dwelling after hours.

Tables NPSP/8 and NPSP/9 set out the relevant on-site car parking rates for residential and non-residential development. Table NPSP/8 requires a rate of 2 spaces (1 covered) per a 2 or 3 bedroom dwelling, plus one (1) additional visitor space. Accordingly, the requirement for the proposed dwelling is three (3) spaces. As the adjacent commercial (office) development already has an existing on-site car parking shortfall of eight (8) spaces, consideration has been given to whether the additional demand imposed by the dwelling is likely to be significant. Certainly, if the resident vehicles occupy these spaces for a large part of the working week day, then the impact could be untenable, however, it is generally accepted that different peak demands apply to residential and commercial development.

This notion is supported by City Wide PDCs 122 (part (c)) and 133 which state respectively:

“A lesser on-site car parking rate may be applied to applicable elements of a development in any of the following circumstances:

(c) mixed use development including residential and non-residential development has respective peak demands for parking occurring at different times;”

“In mixed use buildings, the provision of vehicle parking may be reduced in number and shared where the operating hours of commercial activities complement the residential use of the site.”

In this circumstance, it is considered that the likely different peak demands for the proposed residential use and the existing office uses would not significantly change the current car parking arrangement for the subject land and within the local streets.

Additionally, the location is within close proximity to frequent public transport routes along Magill and Payneham Roads, as well as district level shopping (The Avenues) and recreation facilities (Linde Reserve), which provides further justification for discounting the required rates.

With regard to on-site vehicle manoeuvring, the Applicant has provided email advice confirming that the dimensions of the car parking spaces (2.3m x 5m) are in accordance with the Australian Standard and that the placement of the steel supporting frame for the dwelling structure would not obstruct convenient vehicle manoeuvring.

The proposal also provides an enclosed secure area (part of the ground floor entry area) for bins and bicycle storage under the landing of the stairs. The Applicant has advised that waste removal for the dwelling would be via the standard Council kerb-side collection service via Henry Street.

Finished floor levels/flooding/retaining

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

| | |
|-----------------------|-----------------------|
| City Wide Objectives: | 42, 46, 51. |
| City Wide PDCs: | 7, 149-151, 164, 171. |

The subject land is located adjacent to the Second Creek culvert, which runs parallel with the western boundary of the subject land, beneath the driveway area at 52A Henry Street.

In a 100 year ARI event, a small portion of the subject land would be affected by flooding. As the dwelling is to be constructed above the existing car parking area, there is no possibility of the dwelling being affected by floodwaters.

No fencing or retaining is proposed.

Stormwater

The ground floor plan indicates that stormwater from the proposed dwelling will be directed into the existing stormwater system in accordance with the Council's requirements.

Trees (significant, mature & street) and landscaping

There are no regulated or mature trees on the subject land, nor are there any significant or mature trees on adjacent land that would be affected by the proposed development.

Environmental Sustainability

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

| | |
|-----------------------|-----------------|
| City Wide Objectives: | 23 & 63. |
| City Wide PDCs: | 67-70, 279, 280 |

The dwelling includes balconies, sliding doors and windows to enable ventilation and to reduce the reliance on artificial heating and cooling. The partially roofed outdoor area includes provision for solar panels, which is a positive aspect of the proposal.

Stormwater discharge from the site is not expected to increase as the site is already predominantly impervious.

Summary

The subject land is currently vacant of buildings and provides eleven (11) car parking spaces serving adjacent commercial development.

The proposal is to construct a three-level residential building on a steel frame above these car parking spaces, resulting in the loss of one (1) car parking space.

The proposal is identified as non-complying in the Light Industry Zone as it involves the construction of a residential building of three or more levels outside of the former Payneham Council area. Notwithstanding this, Staff consider that the proposal warrants further consideration given the nature of the existing surrounding land uses, which are predominantly residential and commercial.

The proposed built form is considered to have a scale and form which is consistent with the surrounding built form and is unlikely to cause any unreasonable overshadowing or visual amenity impacts. The dwelling has a number of upper level windows, balconies and a roof-top outdoor area, which may have an impact on the privacy of neighbouring residential properties. Given that it has been difficult to accurately assess the extent of overlooking, the Applicant has advised that the imposition of a condition requiring all upper level windows, balconies and the roof-top garden to be screened would be acceptable.

The proposed loss of one (1) of the existing car parking spaces and the sharing of the spaces between the residents and the commercial tenancies has been considered in terms of its impact on the existing on-site shortfall of eight (8) spaces. Whilst this is a negative aspect of the proposal, it is not considered to be fatal, given the different peak demands of the residential and commercial uses and its proximity to public transport, shopping and community facilities.

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

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be granted to Development Application No 155/796/2017 by Steventons Constructions to construct a three (3) level dwelling above a ground level shared car park, on the land located at 2/44 Nelson Street, Stepney, 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:

- Site plan, floor plan and elevations prepared by Steventons Construction Group (issued 9 August 2017) and received by the Council on 20 October 2017.

Conditions

1. All first and second level windows, balconies and roof-top garden balustrades, which are less than 1.7 metres in height above the finished floor level shall be treated, prior to the occupation of the building, in a manner that permanently restricts views being obtained by a person to any adjacent or nearby residential property, to the reasonable satisfaction of the Council or its delegate.
2. Driveways, car parking spaces and manoeuvring areas shall not be used for the storage or display of any goods, materials or waste at any time.
3. All of the car parking spaces, driveway and vehicle manoeuvring areas shall be constructed of concrete or bitumen and drained in accordance with recognised engineering practices prior to occupation of the premises.
4. All car parking spaces shall be linemarked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.
5. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.

Advice Notes:

1. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development are likely to be at the Applicant's cost.
2. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.
3. The 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 granting of this consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.

5. 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.
 6. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
-

moved

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be granted to Development Application No 155/796/2017 by Steventons Constructions to construct a three (3) level dwelling above a ground level shared car park, on the land located at 2/44 Nelson Street, Stepney, subject to the following requirements, conditions and notes:

Relevant Plans

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- *Site plan, floor plan and elevations prepared by Steventons Construction Group (issued 9 August 2017) and received by the Council on 20 October 2017.*

Conditions

1. *All first and second level windows, balconies and roof-top garden balustrades, which are less than 1.7 metres in height above the finished floor level shall be treated, prior to the occupation of the building, in a manner that permanently restricts views being obtained by a person to any adjacent or nearby residential property, to the reasonable satisfaction of the Council or its delegate.*
2. *Driveways, car parking spaces and manoeuvring areas shall not be used for the storage or display of any goods, materials or waste at any time.*
3. *All of the car parking spaces, driveway and vehicle manoeuvring areas shall be constructed of concrete or bitumen and drained in accordance with recognised engineering practices prior to occupation of the premises.*
4. *All car parking spaces shall be linemarked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.*
5. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.*

Advice Notes:

1. *The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development are likely to be at the Applicant's cost.*
2. *The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.*
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4. *The granting of this consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.*
5. *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.*
6. *This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.*

Seconded and carried

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/27/2018 – MEDALLION HOMES PTY LTD – 1 & 2/ 104 FOURTH AVENUE, JOSLIN

| | |
|--------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DEVELOPMENT APPLICATION: | 155/27/18 |
| APPLICANT: | Medallion Homes Pty Ltd |
| SUBJECT SITE: | 1/104 & 2/104 Fourth Avenue, Joslin (Certificate of Title: Volume 5046 Folio 108) (Certificate of Title: Volume 5046 Folio 109) (Certificate of Title: Volume 5046 Folio 110) |
| DESCRIPTION OF DEVELOPMENT: | Construction of a single-storey detached dwelling |
| ZONE: | Residential Historic (Conservation) Zone – Joslin/Royston Park Policy Area – Norwood, Payneham and St Peters (City) Development Plan (dated 19 December 2017) |
| PUBLIC NOTIFICATION CATEGORY: | Category 1 |

Purpose of Report

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

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: | irregular |
| Frontage width: | 15.24 metres |
| Depth: | 47.85 metres |
| Area: | 654.11m ² |
| Topography: | essentially flat |
| Existing Structures: | single-storey residential flat building comprising two (2) dwellings |
| Existing Vegetation: | small areas of landscaping to the front and rear of the Site. |

The subject land is an irregular shaped allotment on the north-western side of Fourth Avenue. A single-storey residential flat building (comprising two dwellings) exists on the land with small areas of landscaping located at the front and rear of the site. Vehicular access to the subject land is via two crossovers from Fourth Avenue.

Locality Attributes

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

The locality is considered to comprise the section of Fourth Avenue situated between Lambert Road and 94 Fourth Avenue and is characterised by single-storey detached dwellings and a few examples of recently constructed two-storey detached dwellings. Apart from the residential flat building on the subject land, the 14 remaining dwellings fronting Fourth Avenue are Contributory Items, comprising bungalow style dwellings and cottages.

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

Proposal in Detail

The Applicant seeks consent to construct a single-storey detached dwelling.

The proposed dwelling is of a contemporary design with a symmetrical hipped roof form over a cantilevered front verandah with a steel edge beam, and a carport off to one side. This roof form continues to the rear portion including the outdoor living area. The front elevation of the dwelling incorporates vertically oriented windows with some stone feature elements on the front façade.

The proposed dwelling utilises traditional building materials such as sandstone piers (a veneer cladding), rendered masonry piers and face in 'New Desert Sand', Western Red Cedar shiplap entrance door and traditionally proportioned aluminium 'Anodoc Natural Matt' window frames to the facade, and 25 degree pitched 'Woodland Grey' corrugated sheet metal roofing.

Internally, the proposed dwelling comprises a combined kitchen/dining/living room, a master bedroom (with an ensuite and walk-in-robe), two additional bedrooms, a study, a bathroom a laundry and storage room.

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

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 | 654.1m ² | 600m ² – Joslin/Royston Park Policy Area PDC 5 |
| Allotment Width | 15.24m – 12.8m – 15.24m | 18.0m – Joslin/Royston Park Policy Area PDC 7 |
| Allotment Depth | 47.85m | N/A |
| External Wall Height* | 2.7m - 3.01m | N/A |
| Maximum Overall Height (to roof apex)* | 5m | Single-storey – Joslin/Royston Park Policy Area PDC 4 |
| Floor Areas | 329m ² | N/A |
| Site Coverage | 50.24% | 50% - Joslin/Royston Park Policy Area PDC 6 |
| Private Open Space | 182.3m ² (27.9%) | 20% - City Wide PDC 225(a) |
| Street Set-back | 7.4m – verandah 10.2m – facade | Reflect the pattern Of adjoining dwellings and sited equal or greater than the main face of any adjacent LHP or CI – or where between two CI's, the greater setback of the two Joslin/Royston Park Policy Area PDC 8 |

TABLE 1: DEVELOPMENT DATA *continued...*

| Consideration | Proposed Dwelling | Development Plan Merit Assessment Quantitative Guideline |
|------------------------------|-----------------------------------------------------------|----------------------------------------------------------------------------|
| Side Set-back | <u>North-eastern</u> Boundary development and 990mm | Reflect the established pattern – Joslin/Royston Park Policy Area PDC 8 |
| | <u>South-western</u> Boundary development and 900mm | |
| Rear Set-back | 6.98m | N/A |
| Car Parking Provision | 2 undercover & 2 uncovered | 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 single-storey detached dwelling is Category 1, pursuant to Schedule 9, Part 1, 2 (a) 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 Joslin/Royston Park 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:

Joslin/Royston Park Policy Area Desired Character Statement
 Joslin/Royston Park Policy Area Objectives: 1
 Joslin/Royston Park 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

Joslin/Royston Park Policy Area Principle of Development Control 2 states:

“Development should comprise the erection, construction, conversion, alteration of, or addition to a Detached Dwelling”

The construction of a detached dwelling is consistent with Principle of Development Control 2 of the Joslin/Royston Park Policy Area.

Joslin/Royston Park 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 Joslin/Royston Park Policy Area, with a more sympathetic style of development.”

And

“Due to the high degree of intactness displayed in the Joslin/Royston Park Policy Area, limited opportunity exists for redevelopment. New dwellings will be restricted to the replacement of non-contributory items or the re-use of underutilised allotments.”

The existing Residential Flat Building on the subject land was constructed in the mid-20th Century and therefore does not contribute to the historic character of the Joslin/Royston Park Policy Area. The Desired Character Statement for the Joslin/Royston Park Policy Area states that sites which contain buildings that contribute to the desired character of the policy area are shown on Figs Her/6, 7 and 11. The subject land is not shown in Figs Her/6, 7 or 11 as containing such a building.

As the subject land is currently occupied by a non-contributory item, 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:

Joslin/Royston Park Policy Area Desired Character Statement

Joslin/Royston Park Policy Area Objectives: 1
Joslin/Royston Park 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, & 209-215

The locality is considered to have a high level of residential amenity and heritage value. The proposed dwelling has been designed in the context of the historic nature of dwellings in the locality, including the use of pitched corrugated roof form, cantilevered front verandah and vertically oriented windows with stone feature elements on the front façade. The front facade incorporates rendered masonry and sandstone piers which are traditional building materials, and have been typically used in the construction of historic dwellings in the locality.

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

“New development will complement and reinforce the traditional colours and materials such as stone, brick and rendered masonry. It will be set in a sympathetic landscaped setting and will emulate the general scale and form of traditional building elements such as fences, verandahs and hipped and gabled roofs, instead of attempting to reproduce the finer architectural detail of the historic building stock.”

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 the proposed replacement dwelling has many positive features that will assist it to fit in the streetscape better than the buildings it replaces and that overall, the proposed house will be a much more appropriate house in the streetscape than the existing dwellings.

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

The proposed dwelling has wall heights, and overall scale and roof form that are compatible with existing bungalow style dwellings when viewed from the street as is evidenced in the streetscape elevation of the proposed dwelling, which provides a reasonable illustration of the bulk and scale of the proposed dwelling and the relationship with the two directly adjacent dwellings. The streetscape elevation is contained in **Attachment B8**.

Mr Brown is satisfied that the proposal does not include excessive reproduction of finer architectural detail. For example, no lacework, finials or other applied decoration is proposed, and states that "The main bulk, scale and form are based on the surrounding houses, through the styling and details do not copy these, presenting as a clearly new house".

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:

Joslin/Royston Park Policy Area PDC's: 6 & 8

The adjoining allotments at 102 and 106 Fourth Avenue contain contributory items and have front setbacks of 10.2 and 12.2 metres.

"Dwellings will maintain a setback from the primary street boundary at a distance equal to or greater than, the alignment of the main face of the adjacent heritage place or contributory item (and where a site is between two heritage places or contributory items the greater of the two set-backs will be applied)."

The adjacent bungalow located at 102 Fourth Avenue is a Contributory Item and has a front setback of 10.2 metres. North east of the subject site at 106 Fourth Avenue is another bungalow listed as a Contributory Item which has a front setback of 12.2 metres. The proposed dwelling has a lesser front setback than the adjacent item at 106 Fourth Avenue, and as such, the proposal does not accord with the Joslin/Royston Park Policy Area Principle of Development Control 8. In order to do so, the dwelling would need to be set back 12.2 metres or 2 metres further than that proposed.

That said, the front setback of 106 Fourth Avenue is an anomaly in terms of other front setbacks patterns of detached dwellings along the north-western side of the Fourth Avenue locality. The detached dwellings located at 94, 96, 98, 100, 102, 108 and 110 Fourth Avenue all have relatively consistent front setbacks ranging from approximately 10.2- – 4.5 metres. The proposal's carport setback of 11.03m assists with the transition of front setbacks between the proposed 10.2 metre setback and the adjoining allotments 12.2 metre setback (106 Fourth Avenue).

In this context, the proposed front setback of the new dwelling is considered acceptable in this instance.

Residential Historic (Conservation) Zone Principle of Development Control 20 states:

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

With regard to side setbacks, the proposed dwelling incorporates boundary development along both side boundaries. The south-western proposed boundary wall is 5.15 metres in length and is setback 3.7 metres behind the front façade of the proposed dwelling, with a wall height of 3.0 metres. This boundary development is alongside the adjacent dwelling (102 Fourth Avenue) which has a side setback of 1.4 metres. The portion of boundary development is adjacent to a non-habitable room (wet area) obscure glazed window of the dwelling at 102 Fourth Avenue and is therefore not considered unreasonable.

Boundary development is also proposed on the north-eastern side of the site for a length of 2.75 metres and a height of 3.01 metres, located behind the double carport, 17 metres from the front boundary. This portion is shielded from view from the street by the proposed carport. The boundary development is in line with a walled portion of the adjoining dwelling (106 Fourth Avenue) set off the boundary by 1.7 metres with no window components, and as such, has no detrimental effect on the residential amenity of adjoining properties.

Because of the irregular shape of the allotment (wide frontage but narrow building area) the construction of portions of the dwelling on the boundary is not readily apparent from the streetscape, and due to the distance behind the front façade, it does not affect the siting of the dwelling from a streetscape perspective, nor is it likely to be visually prominent when viewed from the street. In this context, whilst the proposal is at odds with Principle 20, the proposed extent of boundary development is considered acceptable.

The remainder of the side setback from the north-eastern and south-western side boundaries ranges between 900mm and 990mm respectively. In the context of existing development within the locality, some of which incorporates single-storey walls close to side boundaries, and taking into consideration the relatively narrow width of the site, the proposed side setbacks are considered acceptable.

In terms of site coverage, Joslin/Royston Park 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 50.2%, which is inconsistent with this Principle, albeit by a small margin. The dwelling includes a covered outdoor living area such that there is unlikely to be a future need for further development on the site. Furthermore, there are examples of detached dwellings within the locality that have site coverage greater than 50%, notably properties located at 107, 112 and 115 Fourth 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

The proposed dwelling is not considered to present unreasonable overshadowing or overlooking issues for the occupiers of the adjacent properties, due to the single-storey nature of the dwelling combined with the relatively flat nature of the land and the setbacks from the side boundaries of the subject land.

As such, the proposal is considered to be consistent with City Wide Principles of Development Control 11 and 31.

Private open space

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

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

The proposed dwelling includes approximately 182.3m² of private open space. The main private open space area (located within the rear yard area) includes a rear verandah/covered alfresco area. The private open space areas have good links with the open plan kitchen/dining/living area of the dwelling.

The proposed area of private open space equates to 27.9% of the site area, therefore satisfying the minimum provision of 20%, prescribed by City Wide PDC 225(a).

Car-parking/access/manoeuvring

| | |
|--------------------------|----------------------------------------|
| Residential H(C)Z PDC's: | 32 |
| City Wide Objectives: | 34 |
| City Wide PDC's: | 98, 101, 104, 118, 120, 181, 198 & 218 |

Table NPSP/8

Table NPSP/8 prescribes that the proposed dwelling should be provided with two on-site car parking spaces, of which at least one should be covered.

The Applicant has proposed to construct an attached open carport setback 11.03 metres from the front boundary, which is 0.83 metres behind the main face of the dwelling. Access is attained through a new crossover from Fourth Avenue (in substantially the same place as the existing). Although the proposed carport does not meet minimum dimensions in accordance with City Wide PDC 212 of 5.8 metres by 3 metres, it meets the requirements of AS/NZS 2890.1 (Parking Facilities Part 1: Off-street car parking) and as such has been counted as two spaces. There is sufficient space behind the carport for two uncovered parking spaces with a length of 11.03 metres until the property boundary.

The total car parking provision is 2 undercover and 2 uncovered parks.

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, particularly adjacent to where the proposed dwelling is to be sited. In terms of stormwater from both the roof and ground surface areas, a gravity fed stormwater disposal system to Fourth Avenue can be achieved. The proposed finished floor level of the new dwelling is intended to be 200mm above relative natural ground level and 230mm above the adjacent top-of-kerb on Fourth Avenue.

Given that the proposed finished floor level of the dwelling is similar to that of the dwellings on adjacent and nearby allotments, the proposed development is likely to result in a need for only minor (such as a small plinth under fencing) retaining along boundaries.

The Applicant has not proposed any side or rear fencing as part of the development proposal. Development Approval for fencing within a Historic (Conservation) Zone is a required and as such, a separate Application will need to be lodged for any such future fencing.

That said, assuming the Applicant elects to propose typical 1.8 metre high side and/or rear fencing at a later stage, the combined height of retaining (ie. in this instance, no more likely than solitary single concrete plinth) and new fencing is likely to be no greater than 2.0 metres in height. The combined retaining wall and fencing heights that would result, 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 and shrubs, which 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 B7**.

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 subject land runs southeast to northwest, which ordinarily would allow for a reasonable orientation of the dwelling. The private open space is located to take advantage of northern sunlight, with the Alfresco area on the northern corner of the dwelling. A small courtyard is located on the north-eastern side of the dwelling, which provides natural light into the hallway areas through the use of large expanses of windows.

The main living areas are orientated to provide a direct link into the private open space areas, through the use of stackable bi-fold doors which open out on to the alfresco area, and in the case of the courtyard, sliding aluminium doors.

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 Applicant has not nominated a rainwater tank size, however has included on the floorplan an area for a water tank is to be provided as part of the proposal. Although the application contains expanses of soft landscaping which will reduce the existing relatively large areas of impervious surfaces, it is recommended that if the Panel determines to approve the proposed development, that a condition be imposed requiring that at 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 acceptable.

Summary

The proposed dwelling is an appropriate form of development in the Residential Historic (Conservation) Zone. The dwelling design reflects the basic scale and proportions of existing historic character dwellings within the locality. In addition, the proposed dwelling demonstrates a compatible visual relationship with buildings that contribute to the historic character of locality, through consistent setbacks with the majority of other dwellings and the incorporation of a traditional roof form, a canter levered front verandah and a combination of stone clad and rendered external masonry walls.

On balance, the proposed dwelling will fit comfortably into the existing streetscape and will not unreasonably impact on adjacent residential properties.

The provision of private open space and the resulting minor deviation from site coverage are considered to be acceptable.

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 155/27/2018 by Medallion Homes, to construct a single-storey detached dwelling, on the land located at 1/104 & 2/104 Fourth Avenue Joslin, 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 (Job No:M1738) prepared by Medallion Homes and received by the Council on 15 March 2018.

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. 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.

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.

moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/27/2018 by Medallion Homes, to construct a single-storey detached dwelling, on the land located at 1/104 & 2/104 Fourth Avenue Joslin, 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 (Job No:M1738) prepared by Medallion Homes and received by the Council on 15 March 2018.*

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. *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.*

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

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

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 relevant section of the minutes of the DAP meeting held on 10 May 2017 and 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 access and egress arrangements to the customer car parking area. In particular, no vehicular access to Barnett Avenue is proposed and egress onto Penna Avenue has been restricted to right turns only. A copy of the plans and supporting information lodged with DA 155/2/18 is contained in **Attachment C**.

The Panel will recall that a report was on the agenda for the meeting held on 18 January 2018, however was withdrawn from consideration at the request of the Applicant. Since that time, the Application has been amended by restricting vehicular egress to Penna Avenue, to right turns only, reducing the volume of traffic into local streets.

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.

Land Use

One of the reasons for refusing DA 155/154/2016, was that the proposed shop was not an anticipated land use within the Light Industry Zone. In particular, in the stated reason for refusal, it was noted that the proposal was not for ‘manufacturing on a small scale’.

This aspect of the proposal has not changed. For reasons given in the staff report to the DAP on 10 May 2017, contained in Attachment A, Council staff remain of the opinion that the proposed land use is acceptable at this location, despite being inconsistent with the primary intent of the zone.

Visual Impact

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 in part 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.

The DAP did not raise visual impact as a reason for refusing DA 155/154/16. Council staff remain of the opinion that the visual impact of the proposal is acceptable, for the reasons set out in the staff report to the DAP on 10 May 2017, contained in Attachment A.

Traffic Impact

The proposed changes to the access arrangements are likely to result in a reduced number of vehicles using nearby local streets. Preventing access to Barnes Road and restricting egress to Penna Avenue to right turns, means that any customers leaving the car park, would be required to do so either by turning right onto Penna Avenue or by turning either left or right onto Provident Avenue.

MFY Traffic Consultants undertook number plate data surveys in December 2017, to assist in understanding the distribution of traffic through the local streets. These surveys have assisted in estimating the likely traffic generation within local streets, resulting from the proposal. MFY have predicted that up to 10% of traffic generated by the proposal, would be distributed to local streets. In discussing this prediction with Ms Melissa Mellen of MFY, Ms Mellen explained that she considered 10% to be a very conservative estimate (ie. she considers it would in fact be considerably lower) and is likely to comprise a combination of:

- vehicles turning right onto Provident Avenue. Ms Mellen considers this would be infrequent, as it would be a circuitous route;
- vehicles turning right onto Penna Avenue, then left onto Glynburn Road, then left onto Lewis Road to avoid the signalised intersection with Payneham Road; and

- vehicles turning left onto Penna Ave, notwithstanding the prohibition of this movement. Ms Mellen estimates this to be maybe 1 per week, due to the difficulty of the movement which would be created by the proposed median treatment in Penna Avenue.

As number plate data surveys had not been undertaken prior to consideration of DA 155/154/16, Ms Mellen had not previously predicted the percentage of traffic associated with the proposal which would be generated in local streets. Ms Mellen considers that the proposed changes to the traffic access arrangements (particularly the restriction of left turns to Penna Avenue) would result in a significant reduction in local street traffic generation.

If the Panel determines to proceed to assess the Development Application, advice would be obtained from the Council's Traffic Consultants, Tonkin Engineers, on the likely effect of the changes to the access arrangements. That said, it appears likely based on the information provided by Ms Mellen, that the changes would result in a reduction, therefore potentially addressing the concern raised by the DAP when considering DA 155/154/16.

Summary

The current proposal is ostensibly the same as the one which was refused by the DAP on 10 May 2017, with the exception of vehicular access arrangements. Whilst the reason for refusal relating to inappropriate land use has not been addressed, there has been an attempt to address the concern regarding traffic generation in local streets.

It is recommended that the CAP determine to proceed with an assessment of DA 155/2/18, so that the impact of the changes to the vehicular access arrangements can be further assessed.

RECOMMENDATION

That the Council Assessment Panel resolves to proceed with an assessment of 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, pursuant to Regulation 17(3)(b) of the *Development Regulations 2008*.

moved

That the Council Assessment Panel resolves not to proceed with an assessment of 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, pursuant to Regulation 17(3)(b) of the Development Regulations 2008.

Seconded and carried

2. STAFF REPORTS

2.5 DEVELOPMENT APPLICATION 155/802/2016 – MR M MARRONE – 429 PAYNEHAM ROAD, FELIXSTOW

| | |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DEVELOPMENT APPLICATION: | 155/802/16 |
| APPLICANT: | Mr M Marrone |
| SUBJECT SITE: | 429 Payneham Road, Felixstow (Certificate of Title Volume: 5339 Folio: 550) |
| DESCRIPTION OF DEVELOPMENT: | Demolition of a single-storey detached dwelling and associated outbuildings, removal of a regulated tree and the construction of a residential flat building comprising four (4) dwellings (two two-storey and two three-storey) with associated common driveway areas and landscaping |
| ZONE: | Residential Zone – Medium Density Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016) |
| PUBLIC NOTIFICATION CATEGORY: | Category 3 |

Purpose of Report

The purpose of this report is to provide details to the Panel on a compromise proposal which has been submitted in relation to a Development Application that was refused by the Panel at its meeting held on 20 November 2017 and which is the subject of an Appeal to the Environment Resources and Development (ERD) Court. The Panel is required to consider the amended plans and advise the ERD Court as to whether or not the amended plans satisfactorily address the concerns identified with the Application, such that a consent would now be warranted.

Background

On 7 October 2016, a Community Title Land Division (Application No. 155/C069/16) creating four (4) lots was lodged by the owner and approved on 17 November 2017 under staff delegation as it met the relevant Development Plan land division criteria with respect to site areas frontage widths.

On 15 November 2016, a Development Application (Development Application No. 155/802/16) was lodged, for the demolition of a single-storey detached dwelling and associated outbuildings, removal of a regulated tree and the construction of a residential flat building comprising four (4) dwellings (two two-storey and two three-storey) with associated common driveway areas and landscaping.

The Panel considered Development Application No. 155/911/16 at its meeting held on 20 November 2017 and determined to refuse the Application for the following reasons:

The proposal has had insufficient regard to the provisions of the Development Plan that require:

- 1. Residential development to be designed in accordance with the slope of the land*
- 2. The overall proportions and design of the building to provide appropriate area for landscaping and a pleasant streetscape*
- 3. The protection of privacy of neighbouring dwellings*
- 4. Provide safe and convenient vehicular access to Payneham Road*

A copy of the relevant section of the Minutes of the Panel meeting held on 20 November 2017, including the refused plans, is contained in **Attachment A**.

Following the refusal of the Application by the Panel, the Applicant lodged an Appeal with the ERD Court. A conciliation conference is scheduled for 23 April 2018 at the ERD Court. The Applicant has prepared a compromise proposal, which is the subject of this report, in an attempt to gain the Panel's support of the proposal.

A copy of the amended plans that are the subject of this report are contained in **Attachment B**.

Discussion

The amended plans will be discussed in the context of the reasons for refusal given by the Panel at its meeting held on 20 November 2017. All other aspects of the proposal are addressed in the previous staff report contained in **Attachment A** and are not significantly affected by the amended plans.

Residential development to be designed in accordance with the slope of the land

In the original proposal considered by the Panel at its meeting in November 2017, all four dwellings had the same finished floor levels, split over three levels from front to rear. In the compromise plans, the finished floor levels have been amended to reduce the extent of retaining that will be required at the boundaries of the subject land. The rear sections of Dwellings 2, 3 and 4 have lower finished floor levels than was previously proposed, while Dwelling 1 is to retain the same rear floor level as previously proposed. In particular, the rear sections of Dwellings 2 and 3 are 450mm lower than was previously proposed, while the rear section of Dwelling 4 is 850mm lower than was previously proposed. As a result of this, internal retaining walls are proposed to be situated between the rear yard boundaries of each of the dwellings.

In terms of external boundary retaining walls and fencing heights, the original proposal resulted in a combined overall height ranging between 2.4 – 3.0 metres along the rear (northern) boundary and side (eastern) boundary. The compromise proposal results in a combined overall height ranging between 2.2 – 2.4 metres along the rear (northern) boundary, and between 2.0 – 2.8 metres along the side (eastern) boundary. The rear section of this eastern side boundary fencing has reduced in height the most significantly, from between 2.6 and 2.8 metres previously, to between 1.8 and 2.0 metres in the compromise plans.

A comparison of **Attachments A26** and **B12** best illustrates the impact of the amended floor levels on boundary retaining and fencing heights.

The proposed combined height of retaining and fencing along the northern rear boundary accords with the 2.4 metre height criteria in City Wide Principle of Development Control 58. Whilst the proposed combined height of retaining and fencing along the eastern side boundary still exceeds 2.4 metres, the reduction in overall height along this boundary improves the outlook for the occupants at 431 Payneham Road, particularly from the rear of that property. Accordingly, the combined height of the retaining walls and fencing along the northern rear and eastern side boundaries is considered acceptable.

The overall proportions and design of the building to provide appropriate area for landscaping and a pleasant streetscape

The front elevation of the residential flat building and its visual presentation to Payneham Road essentially remains unchanged. The siting has been amended however, with the setback from Payneham Road having been increased by 500mm.

The Applicant has chosen to amend the rear (northern) elevation of the residential flat building. The ground level rear elevations of Dwellings 2 and 3 have been brought closer to the rear boundary whilst the ground level rear elevations of Dwellings 1 and 4 have been stepped back 2.39 metres. The first floor areas of Dwellings 1 and 4 project towards the rear (northern) boundary and cantilever over the ground floor areas by 1.49 metres.

A projecting canopy has been introduced over the rear elevation living area glass external doors of Dwellings 2 and 3. The upper level windows are to maintain the projecting awning elements. The previous version included a monolithic rendered sandstone colour walls. The revised rear elevations now incorporates a two colour palate comprising "sandstone" and "charcoal" paint colours.

On both side elevations, the walling is broken up and recessed with two vertical sections of express jointed horizontally fixed feature panelling (Matrix panel or similar) in a charcoal colour.

The more modulated form of the rear elevation along with the revised colour scheme, as well as the articulated side elevations are considered to create a more visually interesting and improved outlook onto the residential flat buildings when viewed from neighbouring land. That said, the changes do not address the Panel's reason for refusal, which relates to the impact of the proposed design on the streetscape, not neighbouring land.

The 500mm increase to the street setback has not, of itself, resulted in additional landscaping. Rather, this increase has resulted in additional paved area for improved vehicular manoeuvring. However, the revised design has seen the introduction of two more ornamental pear trees, with a tree adjacent the junction of Dwelling 1 and 2 and Dwelling 3 and 4. In addition, three more ornamental trees are proposed within the landscaping bed situated between the common driveway and the front property boundary which in turn results in a total of 11 trees forward of the residential flat building as opposed to six trees originally proposed. This is considered to assist in softening the development within the common driveway area at the front of the development.

The protection of privacy of neighbouring dwellings

In terms of visual privacy from the proposed dwellings, all of the side and rear facing upper level windows either incorporate 1.7 metre high sill levels or contain fixed obscure glazing to all portions of the windows below 1.7 metres above the internal upper floor level.

In addition, the compromise plans include screening through the use of a green wall system, (Semper Greenwall), as was the case with the original proposal, to a height of 1.8 metres on the terraces areas. As part of the green wall system, a solid fixed framing system is installed behind the greenery that will preclude any opportunity for overlooking into directly neighbouring land to occur. Details of the green wall system are provided at **Attachments B13 to B22**.

Provide safe and convenient vehicular access to Payneham Road

The setback of Dwelling 1, when measured from the garage door to the Payneham Road property boundary, has been increased from 11.36 metres to 11.82 metres (ie. 460mm) in order to reduce the likelihood of conflict between a vehicle entering the site and vehicle exiting from the garage and/or visitor parking area of Dwelling 1.

Whilst the increased setback of Dwelling 1 does not fully resolve the concerns expressed by the Commissioner of Highways, it does assist somewhat.

Summary

The compromise proposal addresses the Panel's reasons for refusal of the original proposal.

The floor levels throughout the development now respond in a more considered way to the topography of the land. The increased front setback provides for improved on-site vehicle manoeuvring and reduced likelihood of conflict between on-site vehicle movements and vehicles entering the site from Payneham Road.

Visual privacy from the terrace areas has been addressed and additional landscaping in form of additional tree plantings has been proposed within the common areas.

The compromise proposal is considered to sufficiently accord with the relevant Development Plan provisions to warrant consent, for the reasons set out in the previous report and the further analysis provided in this report.

RECOMMENDATION

That the Environment Resources and Development Court be advised that the Development Assessment Panel is satisfied that the amended proposal sufficiently accords with the Development Plan to merit Development Plan Consent, subject to the following conditions (or any similar conditions deemed appropriate by the ERD Court):

Relevant Plans

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

- plans and elevations (Job Number: 2016-50) prepared by Mavtect Designs and received by the Council on 6 March 2018 and 9 April 2018.
- Retaining Wall Plan (Job Number 17/029) prepared by Axis Consulting Engineers and received by the Council on 8 March 2018.

Conditions

1. The portion of all upper floor windows on the northern, western and eastern elevations, less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwellings in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
2. All of the upper level terrace areas shown on the plans and elevations herein approved, shall have vertical green walls established to 1.7 metres in height above the respective terrace levels, prior to the occupation of the dwellings, in a manner that permanently restricts views being obtained by a person to any adjacent or nearby residential property, to the reasonable satisfaction of the Council or its delegate.
3. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.
4. A Stormwater Management Plan shall be prepared and provided to the Council with the documentation for Building Rules Consent, which illustrates stormwater discharge from the subject land at pre-development levels. On-site retention of stormwater may be required during high rainfall events. Sufficient storage (above or below ground) shall be provided to safely contain stormwater runoff from the contributing catchments for a 5 year ARI rainfall event.
5. A rainwater tank with a storage capacity not less than 2 kilolitre (2000 litres), shall be installed for each of the dwellings or alternatively, an 8 kilolitre communal rainwater tank shall be installed, with each dwelling contributing rainwater from at least 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.
6. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.

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That the Environment Resources and Development Court be advised that the Council Assessment Panel does not accept the amended proposal for the reasons previously given, with the exception of privacy which has now been satisfied.

Seconded and carried

3. OTHER BUSINESS

Nil

4. CONFIDENTIAL REPORTS

Nil

5. CLOSURE

The Presiding Member declared the meeting closed at 8:40pm

Terry Mosel
Presiding Member

Mark Thomson
Manager Development Assessment