

# Council Assessment Panel Agenda & Reports

**17 September 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.*

---

City of Norwood Payneham & St Peters  
175 The Parade, Norwood SA 5067

Telephone 8366 4555  
Facsimile 8332 6338  
Email [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au)  
Website [www.npsp.sa.gov.au](http://www.npsp.sa.gov.au)



City of  
Norwood  
Payneham  
& St Peters

12 September 2018

**To all Members of the Council Assessment Panel:**

- Mr Terry Mosel (Presiding Member)
- Ms Jenny Newman
- Mr Phil Smith
- Ms Fleur Bowden
- Mr John Minney

**NOTICE OF MEETING**

I wish to advise that pursuant to Section 56A of the *Development Act 1993*, the next Ordinary Meeting of the Norwood Payneham & St Peters Council Assessment Panel, will be held in the Mayor's Parlour, Norwood Town Hall, 175 The Parade, Norwood, on:

**Monday 17 September 2018, commencing at 7.00pm.**

Please advise Jeanette McKay on 8366 4508 or email [jmckay@npsp.sa.gov.au](mailto:jmckay@npsp.sa.gov.au) if you are unable to attend this meeting or will be late.

Yours faithfully

Mario Barone  
**CHIEF EXECUTIVE OFFICER**

---

City of Norwood Payneham & St Peters  
175 The Parade, Norwood SA 5067

Telephone 8366 4555  
Facsimile 8332 6338  
Email [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au)  
Website [www.npsp.sa.gov.au](http://www.npsp.sa.gov.au)



City of  
**Norwood  
Payneham  
& St Peters**

1.	CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 20 AUGUST 2018.....	1
2.1	DEVELOPMENT APPLICATION 155/268/2018 – MR J SILCOCK – 37 GEORGE STREET, NORWOOD.....	2
2.2	DEVELOPMENT APPLICATION 155/354/2018 – MR D CONDINA – 19A GEORGE STREET, NORWOOD .....	8
2.3	DEVELOPMENT APPLICATION 155/409/2018 – MR MARK WILLIAMS – 80 SIXTH AVENUE, ST PETERS .....	17
2.4	DEVELOPMENT APPLICATION 155/549/2018 – OOH! MEDIA ASSETS PTY LTD – 1 KENSINGTON ROAD, NORWOOD .....	27
3.	OTHER BUSINESS .....	30
4.	CONFIDENTIAL REPORTS .....	30
5.	CLOSURE .....	30

**VENUE**                      Mayors Parlour, Norwood Town Hall

**HOUR**

**PRESENT**

**Panel Members**

**Staff**

**APOLOGIES**

**ABSENT**

1.     **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT  
PANEL HELD ON 20 AUGUST 2018**

## 2. STAFF REPORTS

### 2.1 DEVELOPMENT APPLICATION 155/268/2018 – MR J SILCOCK – 37 GEORGE STREET, NORWOOD

<b>DEVELOPMENT APPLICATION:</b>	155/268/18
<b>APPLICANT:</b>	Mr J Silcock
<b>SUBJECT SITE:</b>	37 George Street, Norwood (Certificates of Title Volume: 5395 Folio: 206 Volume: 5395 Folio: 185)
<b>DESCRIPTION OF DEVELOPMENT:</b>	Change of use from a dwelling to an office (non-complying)
<b>ZONE:</b>	Residential Character (Norwood) Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 30 May 2017)
<b>PUBLIC NOTIFICATION CATEGORY:</b>	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 involving the change of use from a dwelling to an office.

Staff do not have delegated authority to determine the Application, as it was subject to Category 3 public notification.

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:	Rectangular
Frontage width:	12.19 metres
Depth:	42.95 metres
Area:	523.92m <sup>2</sup>
Topography:	essentially flat
Existing Structures:	single storey dwelling and a freestanding garage.
Existing Vegetation:	small trees and grassed areas.

The subject land is located on the northern corner of George Street and Harris Street, Norwood. It contains a vacant villa, constructed of concrete blocks, likely between 1900 and 1920. A large flat roof garage measuring 9.25m wide and 12.19 metres long, is located at the rear of the land, accessed from Harris Street.

#### **Locality Attributes**

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

Harris Street is the boundary between the Mixed Use (B) Zone to the south and the Residential Character (Norwood) Zone to the north.

Accordingly, the locality north of Harris Street is characterised by residential land uses, comprising dwellings of various forms and densities. Together with a reasonably high concentration of character cottages and villas, there are also several examples of 'infill' development, including two storey town houses and residential flat buildings.

South of Harris Street and north of Webb Street, properties fronting George Street are former dwellings (cottages and villas) which are used for office and consulting rooms, with car parking at the rear, accessed from Harris Street and Webb Street. These properties are all located in the Mixed Use (B) Zone.

Other commercial properties in the locality include the car parking area of the cinema complex at 185 The Parade and the public car park between Harris Street and Webb Street, both of which are located in the District Centre (Norwood) Zone.

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

### **Proposal in Detail**

The Applicant seeks change the use of the building from a dwelling to an office. No increase to the floor area of the building is proposed. The existing carport and concrete paved driveway areas are proposed to be retained for on-site parking.

It is proposed that the existing buildings be repaired and renovated, including exterior painting, new guttering, new roofing, repair or replacement of the front verandah, painting/repair of fences and render or texture paint garage walls.

Plans and details of the proposed development, including a Statement of Effect pursuant to Regulation 17(4) of the *Development Regulations 2008*, are contained in **Attachment B**.

### **Notification**

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

Two representations were received (both opposed), copies of which are contained in **Attachment C**. The key issues raised by representors are, in summary:

- Concern that an approved commercial use would create a precedent for other properties in the Residential Character (Norwood) Zone;
- The subject land does not meet any of the criteria for commercial use, as it:
  - is not located on an arterial road;
  - does not have a recent history of non-residential use; and
  - was not originally constructed for non-residential use.
- Approving the proposed non-residential use may provide grounds for a subsequent approval for a more intensive non-residential use on the subject land.

Neither of the representors wish to be heard in support of their representations by the Panel.

Mr Marcus Rolfe of URPS, has responded to the representations on behalf of the Applicant. A copy of Mr Rolfe's response 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 Residential Character (Norwood) Zone of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is a non-complying form of development. Council staff determined to proceed to assess the application, pursuant to Regulation 17(3) of the *Development Regulations 2008*.

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

### Land Use

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

Residential Character (Norwood) Zone Objective: 1, 2 & 3  
Residential Character (Norwood) Zone Desired Character Statement  
Residential Character (Norwood) Zone PDC: 1 & 2

City Wide Objectives: 1, 2, 3, 5, 7, 12, 26 & 27  
City Wide PDC's: 1, 2, 3, 4, 5, 6, 12, 80, 82, 85 & 87

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

*'Non-residential development will be limited in size and nature and will generally only occur in locations along arterial road frontages, or where there is a recent history of lawful non-residential use, or where the building was originally constructed for non-residential use (such as original corner shops).'*

The use of the term 'generally' in the above statement provides for some flexibility in approach, consistent with the following first of the ten 'tests' established by the Supreme Court (Town of Gawler v Impact Investment Corporation (2007) SASR 115), that the relevant authority should use, when considering a proposal that is at variance with a clearly expressed policy

*"The language of the principle or principles concerned – whether it is direct or contemplates some flexibility in approach"*

The use of the term 'generally' in the Desired Character Statement, suggests that there may be some instances where it may be appropriate for a non-residential land use to be established where it is not on an arterial road, replacing a recent non-residential use, or re-using a building which was originally constructed for a non-residential use.

Principle of Development Control 2 of the Residential Character (Norwood) Zone states:

*'Non-residential development such as shops, offices and consulting rooms should be of a nature and scale that:*

- (a) serves the local community;*
- (b) is consistent with the desired character of the locality; and*
- (c) does not detrimentally impact on the amenity of nearby residents.'*

Residential Character (Norwood) Zone Principle of Development Control 2 anticipates non-residential development of a nature and scale that serves the local community but which is not incompatible with the desired character of the locality and does not detrimentally impact on the amenity of surrounding residents.

City Wide Objective 26 and 27 and City Wide Principle of Development Control 80(parts 'b' and 'h') and 82(a) state respectively:

*'Development located and designed to minimise adverse impact and conflict between land uses.'*

*'Protect community health and amenity from the adverse impacts of development and support the continued operation of all desired land uses.'*;

*'Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:*

*(b) noise;*

*(h) traffic impacts.'*; and

*'Non-residential development in residential zones should:*

*(a) not detrimentally impact on the amenity of nearby residents.'*

The proposed office use is of a small scale. The building has a gross leasable floor area of just 120m<sup>2</sup>.

Traffic movements associated with an office are typically less frequent than other non-residential uses such as consulting rooms. In any event, traffic to and from the proposed office would be via Harris Street, which carries a relatively high volume of traffic, due to its function in providing access to the public car park in the District Centre (Norwood) Zone. Therefore, any traffic movements to and from the subject land are not likely to adversely impact on the amenity of nearby residential properties.

Similarly, offices are typically a low-noise generating land use by comparison to other non-residential land uses. Therefore, any noise generated is not likely to adversely impact on the amenity of nearby residential properties.

The representors are concerned that, if approved, the proposal would create a precedent for future non-residential land uses in the Residential Character (Norwood) Zone. To some extent, that concern is justified. Hypothetically speaking, there would be increased justification for approving a change of use of the property to the north at 35 George Street to a non-residential use, if the subject land at 37 George Street was being lawfully used as an office, than would be the case if it was still being used as a dwelling.

That said, in that hypothetical scenario, it would still be necessary to assess all relevant considerations for that change of use. One such consideration would be that 35 George Street has vehicular access from George Street, unlike the subject land which has access from Harris Street. It would also be necessary to consider the type and scale of any such proposed non-residential use. In this respect, the property at 35 is much larger than the subject property and would accommodate a larger, more intensive land use.

Accordingly, any future application for the change of use of 35 George Street or any other residential property in the Residential Character (Norwood) Zone, would be assessed on its individual merits, regardless of whether or not the proposed change of use of 37 George Street is approved.

#### Streetscape/bulk/scale/height/character

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

Residential Character (Norwood) Zone Objectives: 3

Residential Character (Norwood) Zone PDC's: 9, 14 & 15

City Wide Objectives: 8, 18 – 20, 111 & 113

City Wide Principles of PDC's: 28, 29, 30, 32, 33, 35, 38, 39, 346, 348, 350, 351, 352, 353, 356 & 358

No substantive changes are proposed to the existing buildings on the land. The applicant has indicated an intention to undertake a range of repair and restoration works and a willingness to be guided by the Council's Heritage Advisor when finalising the details of those works.

If the Panel determines to grant consent to the application, it is recommended that a condition be imposed, requiring the final details of the proposed repair and restoration works to buildings on the land to be agreed to by the Council's Heritage Advisor, 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: 31, 32 & 34  
City Wide PDC's: 98, 101, 113, 120, 121, 122, 123, 124, 126, 127, 129 & 130

It is proposed to provide eight (8) car parking spaces on the subject land, comprising six (6) spaces at the rear of the property within and in front of the existing garage and two spaces immediately behind the villa, using an existing driveway crossover in this location. Four of the proposed eight spaces are 'stacked' insofar as access to them would be restricted by an other parking space in front of them. As such, they would be allocated as staff parking spaces.

With a gross leasable floor area of 120m<sup>2</sup>, the proposal generates a theoretical parking demand of five (5) parking spaces, based on a rate of 4 spaces per 100m<sup>2</sup> in Table NPSP/9. The proposal is therefore consistent with the off street parking provisions of the Development Plan.

Access to all proposed off-street parking is via existing crossovers and considered reasonably safe and convenient.

### Trees (significant, mature & street) and landscaping

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

City Wide Objectives: 24, 120 & 121  
City Wide PDC's: 73, 74, 75, 76, 77, 78, 409 - 411

The applicant has indicated that existing areas dedicated for landscaping are to remain, with a plant schedule to be confirmed. If the Panel determines to grant consent to the application, it is recommended that a condition be imposed, requiring a final landscape plan to be provided to the reasonable satisfaction of the Council or its delegate.

### Signage

No signage has been proposed. Therefore, if the application is granted consent, the applicant would need to lodge a separate application for signage. Pursuant to principle of Development Control 21 of the Residential Character (Norwood) Zone, any such signage will need to be for identification purposes only and be complementary to the architecture and scale of the building. In this respect, the scale of signage seen on the commercial properties to the south within the Mixed Use (B) Zone, would likely not be appropriate.

### **Summary**

The proposed office use is small in scale and expected to have minimal to no adverse impact on the amenity of nearby residential properties.

Adequate on-site parking is available and vehicle movements are via Harris Street, using existing driveway crossovers.

The proposed development is considered to be a suitable re-use of the villa, which is likely to result in an improved streetscape contribution and longevity of the character building.

The application is not considered to be seriously at variance with the Development Plan and is considered to sufficiently accord 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 155/268/18 by Mr J Silcock, to change the use from a dwelling to an office, 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 prepared by URPS, site plan dated 5 June 2018, floor plan dated 23 May 2018 and parking plan, dated 5 June 2018.
- Statement of Effect prepared by URPS, dated June 2018.

### Conditions

1. Final details of all repair and restoration works to buildings on the land shall be agreed to by the Council's Heritage Advisor, to the reasonable satisfaction of the Council or its delegate, prior to the granting of Development Approval. All such agreed works shall be undertaken prior to the commencement of operation of the office.
2. A final landscape plan shall be provided to the reasonable satisfaction of the Council or its delegate, prior to the granting of Development Approval. The approved landscaping shall be implemented prior to the commencement of operation of the office.

### Notes to Applicant

1. 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.
2. 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.
3. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
4. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

## 2. STAFF REPORTS

### 2.2 DEVELOPMENT APPLICATION 155/354/2018 – MR D CONDINA – 19A GEORGE STREET, NORWOOD

<b>DEVELOPMENT APPLICATION:</b>	155/354/18
<b>APPLICANT:</b>	Mr D Condina
<b>SUBJECT SITE:</b>	19A George Street, Norwood (Certificate of Title Volume: 5504 Folio: 472)
<b>DESCRIPTION OF DEVELOPMENT:</b>	Construction of a single storey dwelling
<b>ZONE:</b>	Residential Historic (Conservation) Zone (Norwood 4 Policy Area) - Norwood, Payneham and St Peters (City) Development Plan (dated 30 May 2017)
<b>PUBLIC NOTIFICATION CATEGORY:</b>	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 dwelling.

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

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

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

#### **Subject Land Attributes**

Shape:	regular
Frontage width:	14.86 metres
Depth:	36.58 metres
Area:	544m <sup>2</sup>
Topography:	slight fall (300mm) from front to back
Existing Structures:	single storey dwelling
Existing Vegetation:	lawn areas and shrubs

The subject land is occupied by a conventional hipped roof dwelling likely to have been constructed in the 1960's. A driveway provides access to a carport on the southern side of the dwelling. The land is essentially flat in topography. A low painted corrugated iron fence is situated on the front property boundary.

#### **Locality Attributes**

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

The locality is considered to extend approximately 100 metres north and south of the subject land along George Street. The streetscape in the locality is characterised to a large extent by mature London Plane trees along the western side of the road and White Cedar trees along the eastern side. On the western side of the road, dwellings are generally Victorian era cottages and villas. The adjacent dwelling to the south at 21 George Street is a Local Heritage Place, in the form of a Victorian Sandstone Villa. The eastern side of the road contains more varied dwelling stock, including some federation era, inter-war era and post-war dwellings. All are single storey.

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

**Proposal in Detail**

The Applicant seeks consent to demolish the existing dwelling and construct a single storey dwelling.

The dwelling has four bedrooms, an open-plan living/dining/kitchen area and wet areas. A carport is proposed on the southern side of the dwelling.

The dwelling has a traditional appearance resembling the general form and proportions of a double-fronted cottage. The roof is hipped at 30 degrees as viewed from the street (beyond which it is 21 degrees). The facade is to be clad with sandstone veneer and side and rear walls are to be rendered.

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	544m <sup>2</sup>	600m <sup>2</sup>
Allotment Width	14.86m	18.0m
Allotment Depth	36.58m	N/A
External Wall Height*	3.6m	N/A
Maximum Overall Height (to roof apex)*	6.0m	N/A
Floor Area (footprint, all buildings excluding swimming pool)	338m <sup>2</sup>	N/A
Site Coverage	62%	N/A
Private Open Space	132m <sup>2</sup> 24% of site area	20% of site area
Street Set-back	6.0m (facade) 4.5m (verandah)	No further forward than the adjacent heritage place (4.5m)
Side Set-back	0.5m and 1.0m	N/A
Rear Set-back	4.9m	N/A
Car Parking Provision	1 undercover & 1 visitor	2 (1 covered) spaces per dwelling; whereby the covered space is set back no less than 5.5 metres from the primary street frontage

*\* 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 Development Application has been identified and processed as a Category 1 form of development for public notification purposes.

As such, no public notification was undertaken.

## State Agency Consultation

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

## Discussion

The subject land is located within Norwood 4 Policy Area of the Residential Historic (Conservation) Zone of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is neither a complying, nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

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

### Land Use

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

Norwood 4 Policy Area Desired Character Statement	
Norwood 4 Policy Area Objectives:	1
Norwood 4 Policy Area PDC's:	2, 3, 5
RH(C)Z Desired Character Statement	
RH(C)Z Objectives:	1.
RH(C)Z PDC's:	1, 2, 7 & 8.
City Wide Objectives:	1, 2, 7, 8 & 10.
City Wide PDC's:	1, 2, 3, 4, 16, 18 & 19.

Principle of Development Control 8 of the Residential Historic (Conservation) Zone states:

*"The introduction of new dwellings in the zone should only occur where:*

- (a) land is vacant or under-utilised and the development can be achieved without adverse impact on the established residential amenity and the historic character of the relevant policy area;*
- (b) it replaces a building or use of land which does not contribute significantly to the heritage value, historic character and the desired character of the zone; or*
- (c) it involves the conversion of an existing building to row dwellings, or semi-detached dwellings, where such conversion will enhance the historic character of the zone."*

The proposal is consistent with part (b) of Principle 8, in that the proposal seeks to replace a building which does not contribute significantly to the heritage value, historic character or desired character of the zone. The existing dwelling is a conventional 1960's dwelling, while Principle of Development Control 4 of the Norwood 4 Policy Area states that buildings constructed prior to 1940 contribute to the desired character of the zone and policy area.

The proposal is therefore considered appropriate from a land use perspective.

### streetscape/bulk/scale/height/character/heritage

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

Norwood 4 Policy Area Desired Character Statement

Norwood 4 Policy Area PDC's: 1, 4

Residential H(C)Z Desired Character Statement

Residential H(C)Z Objectives: 1 & 5.

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

City Wide Objectives: 18, 19 & 20.

City Wide PDC's: 29-35, 39, 41, 43, 48 & 196.

Principle of Development Control 4 of Norwood 4 Policy Area states:

*"Development in Norwood 4 Policy Area should not exceed two storeys in height above natural ground level"*

The proposed single storey dwelling is therefore consistent with the height policy for the Policy Area.

The design of the proposed dwelling references historic buildings within the locality, comprising a similar double-fronted design with a front verandah element and hipped roof form.

Overall, the street presentation of the dwelling:

- has a bulk and scale, which is akin to the nearby buildings within the locality;
- reflects (without directly replicating) traditional design; and
- has a relatively simple overall form, which does not compete with the surrounding historic building stock and incorporates materials and finishes which complement dwellings in the locality.

Earlier plans which were submitted included replica detailing to fine design elements such as roof finials, verandah brackets and decorative quoins. These were removed as they were inconsistent with the following paragraph of the Desired Character Statement for the zone:

*"(development 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"*

Given that the subject land is located within a Historic (Conservation) Zone, advice was sought from the Council's Heritage Advisor regarding the heritage aspects of the proposal. The Heritage Advisor is generally supportive of the proposal, advising that:

*"Overall now the proposed design is a better infill dwelling than the earlier proposed replica design. This design still maintains the traditional form and scale of the earlier design, but with the applied detail removed, it is now a simple contextual design. The revised design is considered an acceptable building adjacent to the Local Heritage Place and in this general historic streetscape."*

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

Setbacks and Site Coverage

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

Maylands Policy Area PDC's: 6 & 8.

RH(C)Z PDC's: 10, 11 & 12.

City Wide PDC's: 212, 216 & 221.

Principle of Development Control 10 and 11 of the Residential Historic (Conservation) Zone respectively state:

*“Dwellings should be setback from the allotment boundary on the primary street frontage:*

- (a) the same distance as one or the other of the adjoining dwellings (or any distance in between), provided the difference between the setbacks of the two adjoining dwellings is not greater than 2 metres; or*
- (b) not less than the average of the setbacks of the adjoining dwellings, if the difference between the setbacks of the adjoining dwellings is greater than 2 metres.*

and

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

Principle 11 is considered of greatest relevance, as there is no consistent setback evident in the locality. Therefore, as the adjacent dwelling at 21 George Street is a Local Heritage Place, the proposed dwelling should be set back at least in line with that dwelling (ie. 4.5m from the street). The proposed dwelling is set back 4.5 metres to the verandah and 6.0m to the facade, consistent with Principle 11.

The proposed side setbacks are considered to be reasonably reflective of the pattern established by adjoining dwellings. The open carport on the southern side, set back 500mm from the boundary and a 1 metre setback on the northern side, combine to create a suitable sense of space around the dwelling.

With respect to site coverage, the proposed dwelling covers 62% of its site. There is no quantitative maximum site coverage for the Norwood 4 Policy Area. It is therefore required that the site coverage of buildings, be compatible with the site coverage of those buildings in the locality which contribute significantly to the historic character, in accordance with Principle 12 of the zone. The proposal is considered to be reasonably consistent with this principle.

It is also noted that the policy area allows for 2 storey development. A two storey dwelling with a smaller footprint would have a greater impact on the character and amenity of the area than the proposed single storey dwelling with relatively high site coverage.

#### Overshadowing/overlooking

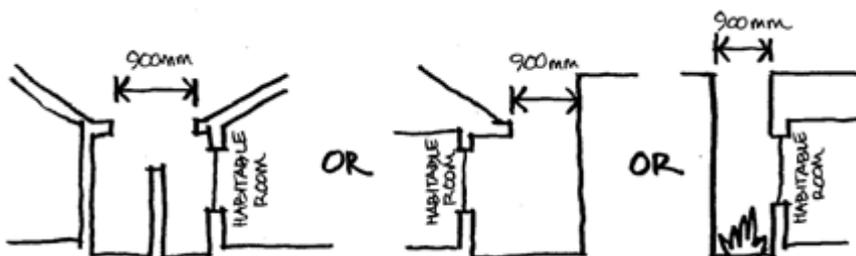
The following Development Plan provisions provide guidance with respect to overshadowing and overlooking considerations:

City Wide PDC's:

11, 32, 37, 200 & 201.

The proposed dwelling will not unreasonably overshadow adjoining properties, due to being single storey. The majority of overshadowing caused by the proposed dwelling would be over the northern side windows of the dwelling at 21 George Street. Principle of Development Control 194 is of relevance in this situation and states:

*“habitable rooms should at least one window with a minimum horizontal distance, between any facing building and the face of the wall containing the window (ie the distance between the eaves, fascias or gutters), of no less than 900 millimetres which is clear to the sky (refer Figure 7)”*



A boundary identification survey has been provided and shows that the side wall of the dwelling at 21 George Street is located 400mm from the boundary of the subject land, with the gutter being just 60mm from the boundary. The gutter of the proposed carport is 500mm away from the boundary. Therefore, the distance between gutters is 560mm, whereas Principle 194 states that 900mm should be provided.

There is one window in the northern side of the dwelling at 21 George Street which would be affected by the reduced access to light. It is not known what room this is, however it is likely to be a bedroom window given its location. In any event, it is considered that setting the carport back 500mm from the boundary as proposed, is a reasonable compromise in the circumstances where the dwelling at 21 George Street was constructed 500mm closer to the boundary than what the current building code allows. The proposed carport was originally proposed on the boundary and was amended to 500mm off the boundary at the request of Council's Planning staff, so as to provide what was considered a reasonable degree of access to light to the window of the dwelling at 21 George Street.

#### Private open space

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

City Wide PDC's: 225, 241, 243, & 248.

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

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

- (a) *a dwelling with a site area of 250 square metres or greater, 20 per cent of the site area should be private open space, of which one portion should be equal to or greater than 10 per cent of the site area and have a minimum dimension of 4 metres; or*
- (b) *a dwelling with a site area of less than 250 square metres, a minimum of 35 square metres should be private open space, of which one portion should have an area of 16 square metres and a minimum dimension of 4 metres; and*

The proposed dwelling has access to 132m<sup>2</sup> of private open space, equating to 24% of the site area, consistent with Principle 225. Also consistent with Principle 225, no more than 50% of the private open space is covered.

#### 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 PDC's: 101, 116, 123, 237, 238 & 265.

Table NPSP/8.

Table NPSP/8 states that a detached dwelling should provide 2 car parking spaces, whereby one of the spaces is covered and set back no less than 5.5 metres from the primary street frontage.

The proposed carport is to be set back 10.2 metres from the street, allowing for a visitor parking space in front, consistent with Table NPSP/8.

#### Finished floor levels/flooding/retaining/fencing

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

City Wide PDC's: 60, 61, 140, 151, 165, 166 & 171.

The proposed floor level of the dwelling matches that of the existing dwelling on the subject land, being approximately 350mm above top-of-kerb level and between 150mm and 450mm above existing ground levels on the land. No new fencing is proposed.

Trees (significant, mature & street) and landscaping

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

Residential H(C)Z PDC's:	36 & 37.
City Wide Objectives:	24, 117 & 119.
City Wide PDC's:	76, 239, 240, 422 & 426.

There are no regulated trees on the subject land. No street trees are affected by the proposal.

A basic outline of a landscaping plan has been provided, however no species have been nominated. No further details are considered necessary. Considerable space is available in the front yard for soft landscaping, given that vehicular access is limited to a single-width driveway.

Environmental Sustainability

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

City Wide Objectives:	23 & 42.
City Wide PDC's:	70, 71, 72, 73, 149, 153 & 161.

The side of the dwelling has a northern aspect, allowing for passive heating in winter of all rooms along that side, including the 'Family' living area and the alfresco.

No details of rainwater collection are provided. If the Panel determines to grant consent to the application, it is recommended that a condition be imposed requiring a 2000 litre rain water tank, consistent with City Wide Principle of Development Control 159.

Overall, it is considered that the design of the dwelling has a reasonable focus on environmentally sustainable principles.

**Summary**

The proposal for a detached dwelling on the subject land is consistent with the land use objectives of the Residential Historic (Conservation) Zone and Norwood 4 Policy Area.

The design of the dwelling has been considered in the context of the existing built form character of the locality and is supported by the Council's Heritage Advisor.

On balance, it is considered that the proposal reflects a similar bulk and scale as buildings in the locality by way of incorporating common architectural elements, and uses materials and finishes which complement the built form in the locality. It is considered that the design will not detract from the historic streetscape character in the immediate or broader locality.

It is considered that the proposal is not seriously at variance with the Development Plan and sufficiently accords 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 155/354/18 by Mr D Condina to construct a single storey dwelling, on the land located at 19A George Street, Norwood, subject to the following requirements, conditions and notes:

### Relevant Plans

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

- plans prepared by New Dimension Design and Drafting, Drawing No's 2017/373/01 - 2017/373/04, dated April 2017 and received by the Council on 17 July 2018.

### Conditions

1. A rainwater tank with a storage capacity not less than 2 kilolitre (2000 litres) shall be installed for the dwelling herein approved, and 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.
2. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix of trees, shrubs and ground covers, prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.

### 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.

**2. STAFF REPORTS**

**2.3 DEVELOPMENT APPLICATION 155/409/2018 – MR MARK WILLIAMS – 80 SIXTH AVENUE, ST PETERS**

<b>DEVELOPMENT APPLICATION:</b>	<b>155/409/18</b>
<b>APPLICANT:</b>	<b>Mr Mark Williams</b>
<b>SUBJECT SITE:</b>	<b>80 Sixth Avenue, St Peters (Certificate of Title Volume: 6182 Folio: 718)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Construction of a two storey dwelling, a freestanding garage and swimming pool, together with associated site works, retaining walls and fencing</b>
<b>ZONE:</b>	<b>Residential Historic (Conservation) Zone (The Avenues Policy Area) - Norwood, Payneham and St Peters (City) Development Plan (dated 30 May 2017)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

**Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a two storey dwelling, a freestanding garage and swimming pool, together with associated site works, retaining walls and fencing.

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

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

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

**Subject Land Attributes**

Shape:	regular
Frontage width:	17.37 metres
Depth:	45.72 metres
Area:	803m <sup>2</sup>
Topography:	essentially flat
Existing Structures:	tennis court
Existing Vegetation:	large non-regulated pine tree in front of property

The subject land is occupied by a tennis court associated with an adjacent dwelling at 82-84 Sixth Avenue, commencing approximately 12 metres back from Sixth Avenue and extending all the way to Seventh Lane at the rear. Within the 12 metre setback from Sixth Avenue is garden area, including a small shade structure. The portion of the land occupied by the tennis court is flat in topography, with a level that is approximately 600mm higher than Seventh Lane and retained by a concrete retaining wall. The tennis court level is approximately 700mm lower than Sixth Avenue and the garden area between the tennis court and Sixth Avenue.

**Locality Attributes**

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

The locality is considered to extend to approximately Joslin Reserve to the north-east and Winchester Street to the south-west. This part of Sixth Avenue has a high level of amenity, created through mature dense street tree plantings, wide verges and character dwellings set back consistently from the street with landscaped front gardens. The predominant dwelling type in the locality is Victorian era villas, as well as some inter-war bungalows within the suburb of Joslin. An exception is a two storey residential flat building constructed around the mid-twentieth century at 85 Sixth Avenue.

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

**Proposal in Detail**

The Applicant seeks consent to demolish the existing dwelling and construct a two storey detached dwelling, freestanding garage and swimming pool together with associated site works, retaining walls and fencing.

The ground floor level of the dwelling is stepped, with the rear portion being set down 720mm (4 steps) lower than the front portion. The upper floor level is located towards the rear of the dwelling, approximately 18 metres from the street. A cellar is proposed below a rear alfresco area. A single-car carport is proposed on the south-western side of the dwelling, to be accessed via the existing driveway crossover on Sixth Avenue.

A double garage is proposed at the rear of the site, to be accessed via Seventh Lane. The garage is to be sited on the south-western side boundary and has an associated verandah area with shower and toilet. A swimming pool is proposed adjacent to the garage/verandah structure at the rear of the site.

Retaining walls and new corrugated profile colorbond fencing (woodland grey) are proposed along side and rear boundaries. The height of the retaining varies, however is generally less than 400mm above existing ground levels.

A rendered pillar and plinth front fence is proposed, with black steel blade infill, together with automatic black steel blade driveway gates.

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
<b>Site Area</b>	803m <sup>2</sup>	600m <sup>2</sup>
<b>Allotment Width</b>	17.37m	18.0m
<b>Allotment Depth</b>	45.72m	N/A
<b>External Wall Height*</b>	6.2m	N/A
<b>Maximum Overall Height (to roof apex)*</b>	6.2m	N/A
<b>Floor Area (footprint, all buildings excluding swimming pool)</b>	331m <sup>2</sup>	N/A
<b>Site Coverage</b>	41%	50%
<b>Private Open Space</b>	312m <sup>2</sup> 39% of site area	20% of site area
<b>Street Set-back</b>	8.5m (facade) 7.8m (verandah)	greater of the two adjoining dwellings

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

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
<b>Side Set-back</b>	varies from 1.0m to 3.8m. Garage on boundary	N/A
<b>Rear Set-back</b>	1.3m to garage	N/A
<b>Car Parking Provision</b>	3 undercover & 1 visitor	2 (1 covered) spaces per dwelling; whereby the covered space is set back no less than 5.5 metres from the primary street frontage

*\* 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 Development Application has been identified and processed as a Category 1 form of development for public notification purposes.

As such, no public notification was undertaken.

**State Agency Consultation**

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

**Discussion**

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

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

Land Use

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

- The Avenues Policy Area Desired Character Statement
- The Avenues Policy Area Objectives: 1
- The Avenues Policy Area PDC's: 2, 3 5 & 7
  
- RH(C)Z Desired Character Statement
- RH(C)Z Objectives: 1.
- RH(C)Z PDC's: 1, 2, 7 & 8.
  
- City Wide Objectives: 1, 2, 7, 8 & 10.
- City Wide PDC's: 1, 2, 3, 4, 16, 18 & 19.

Principle of Development Control 8 of the Residential Historic (Conservation) Zone states:

*“The introduction of new dwellings in the zone should only occur where:*

- (d) land is vacant or under-utilised and the development can be achieved without adverse impact on the established residential amenity and the historic character of the relevant policy area;*
- (e) it replaces a building or use of land which does not contribute significantly to the heritage value, historic character and the desired character of the zone; or*
- (f) it involves the conversion of an existing building to row dwellings, or semi-detached dwellings, where such conversion will enhance the historic character of the zone.”*

The proposal is consistent with part (a) of Principle 8, in that the subject land is currently occupied by a tennis court and is therefore ‘under-utilised’.

The proposal is therefore considered appropriate from a land use perspective.

streetscape/bulk/scale/height/character/heritage

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

The Avenues Policy Area Desired Character Statement

The Avenues Policy Area PDC’s: 1, 4 & 9.

Residential H(C)Z Desired Character Statement

Residential H(C)Z Objectives: 1 & 5.

Residential H(C)Z PDC’s: 1, 2, 13-19, 22, 23, 25 & 26.

City Wide Objectives: 18, 19 & 20.

City Wide PDC’s: 29-35, 39, 41, 43, 48 & 196.

Principle of Development Control 4 of The Avenues Policy Area states:

*“Development in The Avenues Policy Area should not be more than one storey above natural ground level, except where the predominant height in the immediate locality is two storey. In this instance development should not be more than two storeys above the natural ground level”*

The predominant height of buildings in the immediate locality is single storey. The proposal is therefore not in accordance with Principle 4 of the policy area.

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

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

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

The proposal is consistent with part (b) of Principle 17, as the second storey is located at the rear of the building. Considerations (i) to (v) of part (c) are discussed below.

The proposed dwelling presents to Sixth Avenue as a single storey building, with the upper floor level likely to be largely indiscernible in the streetscape. This is achieved through:

- the slope of the site, allowing the rear portion of the dwelling to be stepped; and
- the high walls and large, steeply pitched roof over the front single storey section of the dwelling obscuring views of the upper level behind.

As the roof of the carport on the side of the dwelling is lower than the main dwelling roof, this creates the most likely vantage point of the upper level behind. That said, due to the distance of the upper level from the street (15 metres) and the dark colour proposed for the cladding of the upper level, any views of the upper level beyond the carport roof are not likely to dominate the streetscape or detract from the prominence of the adjacent Local Heritage Place.

It is considered that the proposal achieves the intent of the zone and policy area with respect to maintaining a single storey streetscape presentation, which is compatible with the appearance of surrounding single storey dwellings.

Parts (ii), (iii) and (v) of Principle 17 are intended to ensure that development greater in height than one storey does not impact unreasonably on the amenity of adjoining property occupants.

The proposed upper level extends to within 18 metres of the rear boundary (Seventh Lane). By comparison, the rear of the dwelling to the south-west at 76-78 Sixth Avenue, is located approximately 20 metres from the rear boundary. Therefore, the proposed upper level would not significantly impede the outlook of residents from that dwelling.

The dwelling to the north-east at 82-84 Sixth Avenue is set back approximately 6 metres from the boundary with the subject land and there appears to be an outlook from that dwelling in the direction of the subject land. However, the proposed upper level is set back 8.1 metres from the boundary of 82-84 Sixth Avenue and therefore, is not likely to result in an excessive mass or scale that would adversely affect the visual outlook from that dwelling or its private open space.

Consistent with part (v) of Principle 17, the total width of second storey windows does not exceed 30 per cent of the total roof width along each elevation.

The design of the proposed dwelling references historic buildings within the locality, comprising a similar double-fronted design with a front verandah element and hipped roof form.

Overall, the street presentation of the dwelling:

- has a bulk and scale, which is akin to the nearby buildings within the locality;
- reflects (without directly replicating) traditional design; and
- has a relatively simple overall form, which does not compete with the surrounding historic building stock and incorporates materials and finishes which complement dwellings in the locality.

Given that the subject land is located within a Historic (Conservation) Zone, advice was sought from the Council's Heritage Advisor regarding the heritage aspects of the proposal. The Heritage Advisor is generally supportive of the proposal, advising that:

*“the revised proposed design is now an acceptable infill house design for this site, sitting between two character homes that are both unusual for the immediate Sixth Avenue streetscape.”*

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

Principle of Development Control 9 of The Avenues Policy Area states:

*“Fencing along the front street boundary (including any secondary street frontage up to the alignment of the main face of the dwelling) should maintain the scale of existing historic development and should:*

- (a) not detract from the character or restrict the visibility of the building;*
- (b) utilise original design and materials such as timber picket, timber dowelling, masonry and cast iron palisade, or corrugated iron or mini orb within timber framing; and*

- (c) *not exceed 1.2 metres in height for materials such as masonry or a maximum of 1.5 metres in height for all other materials.*"

The proposal is consistent with Principle 9. Mr Brown is supportive of the front fence.

#### Setbacks and Site Coverage

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

The Avenues Policy Area PDC's:	6 & 8.
RH(C)Z PDC's:	10, 11 & 12.
City Wide PDC's:	212, 216 & 221.

Principle of Development Control 8 of The Avenues Policy Area states:

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

The site of the proposed dwelling is located adjacent to a Local Heritage Place at 76-78 Sixth Avenue, which is set back from Sixth Avenue approximately 8.3 metres. The proposed facade setback of 8.5 metres is therefore consistent with Principle 8.

The proposed side setbacks are considered to be reasonably reflective of the pattern established by adjoining dwellings. The open carport on the south-western side and a 1 metre setback on the north-eastern side, combine to create a suitable sense of space around the dwelling.

With respect to site coverage, the proposed dwelling covers 41% of its site. The Avenues Policy Area Principle of Development Control 6 states that buildings should not cover more than 50 per cent of the total area of the site. The extent of site coverage for the proposed dwelling is therefore appropriate.

#### Overshadowing/overlooking

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

City Wide PDC's:	11, 32, 37, 200 & 201.
------------------	------------------------

The proposed dwelling and garage will not unreasonably overshadow adjoining properties, due to the orientation of the subject land. The majority of overshadowing caused by the proposed dwelling would be over the north-eastern side windows of the dwelling at 76-78 Sixth Avenue. Principle of Development Control 194 is of relevance in this situation and states:

*"habitable rooms should at least one window with a minimum horizontal distance, between any facing building and the face of the wall containing the window (ie the distance between the eaves, fascias or gutters), of no less than 900 millimetres which is clear to the sky"*

With a side boundary setback of 2.7 metres, the proposal is consistent with Principle 194.

The proposed garage is sited on the boundary with 76-78 Sixth Avenue. The boundary wall is 3.2m high and 6.2 metres long, generally consistent with City Wide Principle of Development Control 207. It's location at the rear of the allotment is not considered to cause an unreasonable visual outlook from 76-78 Sixth Avenue and is consistent with the siting of many other garages in the locality.

Overlooking is proposed to be controlled via external privacy screens to a height of 1700mm above floor level, located approximately 600mm away from the upper level windows. The screening material is proposed to be 'Metrix 3D Strata', an illustration of which is provided on plan number PL04-B in Attachment B. The screening material is considered appropriate for restricting views to adjacent properties.

Two bedroom windows in the rear (north-west) elevation are not proposed to have any form of privacy treatment, other than wing-walls to prevent views into properties on either side of the subject land. They are located 18 metres from the rear boundary and taking into account the width of the lane, approximately 22 metres from properties on the other side of the lane. The closest affected property is 73 Seventh Avenue, which has car parking adjacent the lane. Angled views from the windows to the rear yards of 71 and 75 Seventh Avenue are likely to be reasonably restricted by the proposed wing walls.

Private open space

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

City Wide PDC's: 225, 241, 243, & 248.

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

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

- (c) *a dwelling with a site area of 250 square metres or greater, 20 per cent of the site area should be private open space, of which one portion should be equal to or greater than 10 per cent of the site area and have a minimum dimension of 4 metres; or*
- (d) *a dwelling with a site area of less than 250 square metres, a minimum of 35 square metres should be private open space, of which one portion should have an area of 16 square metres and a minimum dimension of 4 metres; and*

The proposed dwelling has access to 312m<sup>2</sup> of private open space, equating to 39% of the site area, consistent with Principle 225.

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 PDC's: 101, 116, 123, 237, 238 & 265.

Table NPSP/8.

Principle of Development Control 32 of the Residential Historic (Conservation) Zone states:

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

The proposal is consistent with Principle 32, however also includes a carport to be accessed via Sixth Avenue. This is considered reasonable, as the driveway is single-width and leading to an open carport. This is a common arrangement in the locality for historic dwellings. Providing a driveway access from Sixth Avenue also provides a convenient location for visitors to park, where otherwise they would be required to park in the street.

Finished floor levels/flooding/retaining/fencing

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

City Wide PDC's: 60, 61, 140, 151, 165, 166 & 171.

City Wide Principle of Development Control 53 states:

*“Development and associated driveways should be sited and designed to integrate with the natural topography of the land and minimise the need for earthworks.”*

The proposal is consistent with Principle 53, as the ground floor level has been stepped down in accordance with the slope of the land towards the rear. This has resulted in minimal requirement for retaining walls at boundaries and a reduced visual impact of the upper floor level on the streetscape and adjoining properties.

Trees (significant, mature & street) and landscaping

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

Residential H(C)Z PDC's:	36 & 37.
City Wide Objectives:	24, 117 & 119.
City Wide PDC's:	76, 239, 240, 422 & 426.

There are no regulated trees on the subject land. No street trees are affected by the proposal.

A landscaping plan has been provided for the front and rear gardens, comprising lawn, hedges and semi-mature Silver Birch trees. The proposed landscaping is considered appropriate.

Environmental Sustainability

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

City Wide Objectives:	23 & 42.
City Wide PDC's:	70, 71, 72, 73, 149, 153 & 161.

With a north-west facing rear living area, the dwelling is orientated to gain from passive warming in the cooler months, while the rear verandah provides sun protection from the higher sun angle in the warmer months.

A 2000 litre rain water tank is proposed behind the carport, consistent with City Wide Principle of Development Control 159.

Photovoltaic panels are shown on the north-west side of the hipped roof over the single storey portion of the dwelling.

Overall, it is considered that the design of the dwelling has a reasonable focus on environmentally sustainable principles.

**Summary**

The proposal for a detached dwelling on the subject land is consistent with the land use objectives of the Residential Historic (Conservation) Zone and The Avenues Policy Area.

The design of the dwelling has been considered in the context of the existing built form character of the locality and is supported by the Council's Heritage Advisor.

On balance, it is considered that the proposal reflects a similar bulk and scale as buildings in the locality by way of incorporating common architectural elements, and uses materials and finishes which complement the built form in the locality. It is considered that the design will not detract from the historic streetscape character in the immediate or broader locality.

It is considered that the proposal is not seriously at variance with the Development Plan and sufficiently accords 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 155/409/18 by Mr Mark Williams to construct a two storey dwelling, a freestanding garage and swimming pool, together with associated site works, retaining walls and fencing, on the land located at 80 Sixth Avenue, St Peters, subject to the following requirements, conditions and notes:

### Relevant Plans

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

- plans prepared by Cube Architects, plan numbers PL01-B, PL02-B, PL03-B and PL04-B, dated 10 August 2018.

### Conditions

1. All stormwater from buildings and paved areas shall be disposed of to Sixth Avenue (not Seventh Lane) in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building.
2. A rainwater tank with a storage capacity not less than 2 kilolitre (2000 litres) shall be installed for the dwelling herein approved, and 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.
3. All areas nominated as landscaping or garden areas on the approved plans shall be planted prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.

### 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.

## 2. STAFF REPORTS

### 2.4 DEVELOPMENT APPLICATION 155/549/2018 – OOH! MEDIA ASSETS PTY LTD – 1 KENSINGTON ROAD, NORWOOD

<b>DEVELOPMENT APPLICATION:</b>	<b>155/549/2018</b>
<b>APPLICANT:</b>	<b>Ooh! Media Assets Pty Ltd</b>
<b>SUBJECT SITE:</b>	<b>1 Kensington Road, Norwood (Certificate of Title Volume: 5133 Folio: 756)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Replacement of an existing double sided roof-mounted static 'billboard' sign with a single-sided LED display (non-complying)</b>
<b>ZONE:</b>	<b>Business Zone (West Norwood Policy Area) Norwood, Payneham and St Peters (City) Development Plan (dated 19 December 2017)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 3</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a resolution to be made on whether or not to proceed with an assessment of a non-complying development application involving the replacement of an existing double sided roof-mounted static 'billboard' sign with a single-sided LED display.

Whilst the Council's Planning 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 Panel to do so. As such, the Council's Planning 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**

A non-complying Development Application (155/188/2015) was lodged by Ooh! Media Assets Pty Ltd on 24 March 2015, for the replacement of an existing double sided roof-mounted static 'billboard' sign with a double-sided LED display on the roof of an existing State Heritage listed Britannia Hotel. On 13 August 2015, staff determined to refuse to proceed to an assessment for the following reason:

*"The proposed development is a non-complying form of development within the Business Zone and the Council has determined to refuse the Application without proceeding to an assessment of the application, pursuant to Section 39(4)(d) of the Development Act 1993."*

The Applicant subsequently lodged an appeal with the Environment, Resources and Development (ERD) Court. The ERD Court heard the appeal on 10 April 2018 and his Honour, Judge Costello, dismissed the appeal and stated that the Council was correct to treat the proposed development as a non-complying form of development. Accordingly, the Council's decision was upheld and the appeal was dismissed.

The Applicant is in the process of appealing the decision of the ERD Court to the Supreme Court of South Australia.

In the meantime, the applicant lodged a separate Development Application that was processed as non-complying (Development Application 155/129/2016) whereby the Council's Planning staff determined to proceed with an assessment. This Application comprised the replacement of the existing double sided roof-mounted static 'billboard' sign with a single-sided LED display on the roof of the Britannia Hotel. Development Application 155/129/2016 was considered by the Panel at its 18 December 2017 meeting. The Panel determined to refuse the application for the following reason:

*"That the change in message of the sign will cause a distraction to motorists presenting a traffic safety concern."*

A copy of the relevant section of the minutes of the Panel meeting held on 18 December 2017 and the refused plans are contained in **Attachment A**.

### **Discussion**

Regulation 17(3) of the *Development Regulations 2008* 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.

### Current Proposal

The existing double sided 'billboard' sign has dimensions in the order of 9.1 metres wide x 4.4 metres high, resulting in 40.04m<sup>2</sup> of advertising area on each side of the 'billboard'. In the case of Development Application 155/129/2016, the proposed south-west facing single-sided LED display was intended to be 8.78 metres wide x 4.39 metres high, providing a surface area of 38.54m<sup>2</sup>. In the case of Development Application 155/549/2018, the proposed single-sided southwest facing LED display is intended to be 8.78 metres wide x 2.93 metres high, providing a surface area of 25.73m<sup>2</sup>.

Aside from the reduction in the surface area of the LED display, the proposal remains essentially the same as the previous proposal considered by the Panel at its 18 December 2017 meeting with respect to dwell times, illumination, and removal of the existing north-eastern facing static advertising.

Plans and details of the proposed LED sign and supporting documentation are contained in **Attachment B**.

Reason for Refusal - *That the change in message of the sign will cause a distraction to motorists presenting a traffic safety concern.*

The Applicant's planning consultant, Mr Garth Heynen, has stated in his Statement of Support that the current application ought to be considered favourably, mainly on the basis that the current proposal represents a reduction in total LED advertising area from 40.04m<sup>2</sup> to 25.73m<sup>2</sup>.

The Panel refused the previous development application on the basis that the introduction of an LED sign would cause a distraction to motorists and therefore, present potential traffic and safety concerns. Mr Heynen has argued that the reduction in the size of the proposed LED display would lessen the likelihood of any driver distraction and associated traffic impacts of the current proposal compared to the previously proposed LED display.

If the Panel determines that staff should proceed to assess Development Application 155/549/2018, the application would be referred to Tonkin Consulting, in order to determine whether the reduced advertising surface area is likely to lessen the possibility of driver distraction occurring. That said, an advertising display is intended to be seen, and as such, regardless of the reduced dimensions of the proposed display, the concern and the reason for refusal raised by the Panel as part of Development Application 155/129/2018, is still considered to be applicable.

## Summary

The proposal before the Panel is generally the same as the proposal that was refused by the Panel at its meeting on 18 December 2017, with the exception of a reduction of surface area of the LED advertising display area. The Applicant has sought to address the reason for refusal through the reduction of the LED advertising display area. The Council's Planning staff were of the opinion that the previous proposal (DA 155/129/16) did not represent an unacceptable risk to drivers. The Panel did not agree with that opinion and determined to refuse the application. As the current proposal is for a smaller advertisement, it is the Council staff's view that the application warrants further assessment. That said, the Panel may equally form the view that the application does not address its reasons for refusing DA 155/129/16 and determine not to proceed with an assessment. The Panel's reason for refusal relating to driver distraction that was identified as part of Development Application 155/129/2016, remains valid.

On this basis, it is recommended that the Panel determine not to proceed with an assessment of Development Application 155/549/2018.

## RECOMMENDATION

That the Council's Assessment Panel resolves not to proceed with an assessment of Development Application No 155/549/2018 by Ooh! Media Assets Pty Ltd to replace an existing double sided roof-mounted static 'billboard' sign with a single-sided LED display, on the land located at 1 Kensington Road, Norwood, pursuant to Regulation 17(3)(b) of the *Development Regulations 2008*.

3. **OTHER BUSINESS**  
(Of an urgent nature only)
4. **CONFIDENTIAL REPORTS**  
Nil
5. **CLOSURE**