

# Council Assessment Panel Minutes

**23 January 2019**

## **Our Vision**

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

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

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City of  
Norwood  
Payneham  
& St Peters

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**VENUE** Mayors Parlour, Norwood Town Hall

**HOUR** 7pm

**PRESENT**

**Panel Members** Mr Terry Mosel  
Mr Phil Smith  
Ms Fleur Bowden  
Mr John Minney  
Ms Jenny Newman

**Staff** Mark Thomson Manager Development Assessment  
Ellen de Souza Development Officer Planning  
Nenad Milasinovic Senior Urban Planner

**APOLOGIES**

**ABSENT**

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT  
PANEL HELD ON 17 DECEMBER 2018**

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

*Seconded and carried*

## 2. STAFF REPORTS

### 2.1 DEVELOPMENT APPLICATION 155/678/2018 – MR NICK PAPAZHARIAKIS – 36 COLLEGE ROAD AND 43B FULLARTON ROAD, KENT TOWN

<b>DEVELOPMENT APPLICATION:</b>	<b>155/678/18</b>
<b>APPLICANT:</b>	<b>Mr Nick Papazahariakis</b>
<b>SUBJECT SITE:</b>	<b>36 College Road and 43B Fullarton Road, Kent Town (Certificates of Title: Volume: 5093, Folio: 104 Volume: 5093, Folio: 105)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Demolition of an existing single storey addition located at 43B Fullarton Road and construction of a replacement four storey addition comprising three levels of office and one level of apartments, including basement car parking, and the change of use of a restaurant to an office.</b>
<b>ZONE:</b>	<b>Mixed Use Historic (Conservation) Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 19 December 2017)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 3</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the demolition of an existing single storey addition located at 43B Fullarton Road and construction of a replacement four storey addition comprising three levels of office and one level of apartments, including basement car parking

Staff do not have delegated authority to determine the Application, as the application is Category 3 for public notification purposes.

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

#### **Subject Land Attributes**

Shape:	irregular
Frontage width:	65.35 metres to Fullarton Road
Depth:	113.33 metres
Area:	2105m <sup>2</sup>
Topography:	sloping from north-east to south-west
Existing Structures:	single storey restaurant and function centre
Existing Vegetation:	established gardens including several mature trees

The subject land is located on the north-western corner of The Parade and Fullarton Road. It has a stepped frontage to Fullarton Road of 65.35 metres, a frontage to Little Dew Street of 25.58 metres and a frontage of 8.85 metres to the end of College Road. The south-western boundary of the site is stepped and fronts a Council reserve in the form of a 1.7m (approx.) wide pedestrian access linking Fullarton Road with College Road. The reserve widens close to Fullarton Road and is landscaped.

The subject land contains a grand Victorian stone house with cast iron return verandah constructed in the mid 1880s, with a modern single storey addition to the rear (north). The original house is used as a restaurant and the addition is used as a function centre associated with the restaurant. The area between the restaurant and the corner of Fullarton Road and The Parade contains generous landscaped grounds and car parking for twelve (12) cars. The car parking is accessed from the end of College Road. An area is provided for additional informal parking and deliveries, adjacent to and with access from Little Dew Street. Further informal parking is available from the Fullarton Road frontage.

### Locality Attributes

Land uses: mix of residential and commercial  
Building heights (storeys): range of heights up to five (5) storeys

The subject land is bounded to the north by a single storey office building at 43A Fullarton Road and beyond that is a two storey office building at 43 Fullarton Road.

Located adjacent to the subject land to the south, is a two storey office complex at 27 College Road. This property includes a car parking area which mirrors the car parking associated with the subject land. To the north-west of this property is a large site which was formerly occupied by the Bureau of Meteorology and which is the subject of a development approval by the Development Assessment Commission (DAC) for the construction of construction of 3 residential flat buildings and 8 townhouses. The 8 townhouses front onto College Road and are 3 storeys in height. The 3 residential flat buildings are at the rear of the site, approximately 25 metres from College Road and range in height from 5 storeys to 7 storeys.

Located adjacent to the subject land to the west, is a single storey dwelling at 34 College Road, which is a Local Heritage Place. To the north-west of that is another single storey dwelling at 32 College Road and to the north-west of that is a four (4) storey residential flat building.

Located adjacent to the subject land on the eastern side of Fullarton Road, are large Victorian and Federation era villas used as offices and consulting rooms at 66 Fullarton Road, 1 The Parade and 3 The Parade; all of which are Local Heritage Places. The building at 66 Fullarton Road is two storey, while those at 1 and 3 The Parade are single storey.

A plan of the subject land and its surrounds is attached (**Attachment A**).

### Proposal in Detail

The Applicant seeks consent to demolish of an existing single storey addition located at 43B Fullarton Road and construction of a replacement four storey addition comprising three levels of office and one level of apartments, including basement car parking.

A basement level is proposed, providing car parking for thirty three (33) cars, of which twelve (12) are 'stacked' spaces. The basement is accessed via Little Dew Street at the rear of the site.

At ground floor level, 613m<sup>2</sup> of office space is proposed, together with amenities and bin storage. A link is proposed between the ground floor office and the existing building, which is also to be used as office space. The large garden area between the building and Fullarton Road is to be retained, as is the at-grade car parking for 12 cars, accessed from College Road. Courtyards are proposed between the existing building and the addition and between the addition and the at-grade parking. Landscaping is proposed between the addition and Fullarton Road.

At first floor level, 561m<sup>2</sup> of office space is proposed, together with amenities and a balcony adjacent to Fullarton Road.

At second floor level, 336m<sup>2</sup> of offices space is proposed, together with amenities and balconies on the eastern and southern sides.

At third floor level, two apartments are proposed, one with three (3) bedrooms and the other with four (4) bedrooms.

Plans and details of the proposed development are attached (**Attachment B**).

### **Notification**

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

3 representations were received in response to this notification, copies of which are attached (**Attachment C**). All representors are opposed to the development. The key issues raised by representors are, in summary:

- Increased pressure on on-street parking in the area;
- Increase in noise and 'busy-ness' in the area;
- Impact on heritage in the area;
- Increased air and noise pollution;
- The proposal will block views of the hills and suburbs from a nearby unit;
- Will feel 'hemmed in' by the development;
- Will impact on current open outlook;
- Overlooking;
- Increased risk of traffic accidents on the corner of Little Dew Street and College Road due to increased traffic; and
- Does not fit with the character of the area, due to the height.

The following representors desire to be heard personally by the Development Assessment Panel (DAP):

- *A Pace and A Castelanelli;*
- *Mr Bob Burgess; and*
- *Mr Greg and Mrs Jane Wilson*

The Applicant has responded to the representations received and a copy of their response is attached (**Attachment D**).

A summary of the response is provided below:

- the intensity of the use is decreasing from the existing restaurant use, due to reduced operating hours, reduced deliveries, reduced waste collection and reduced parking turn-over;
- the height is acceptable, because (amongst other reasons) there are other tall buildings in the immediate vicinity, the third and fourth levels are well set back from Fullarton Road, it will not lead to overshadowing and this is a unique corner site which is 'deserving' of a landmark building;
- the loss of views from the nearby unit are acceptable as the proposal will only partially block views in one direction, whereas the unit affected has dual aspect views;
- the proposal is consistent with the desired character for the zone;
- in terms of overlooking:
  - the development plan does not require overlooking controls for the bottom three levels; and
  - overlooking from the upper level apartments will be adequately minimised through orientation of living areas, location of balconies and separation distance from nearby residential properties.
- The proposed use will reduce the reliance on on-street car parking, compared to the existing use of the site;
- Traffic safety will improve, as the proposal will generate fewer vehicle movements than the existing use; and
- The proposal will generate less noise and air pollution than the existing use.

### **State Agency Consultation**

The Application was referred to the Commissioner of Highways, as the proposal will encroach within a road widening setback under the Metropolitan Adelaide Road Widening Plan Act 1972.

An earlier version of the proposal included basement car parking all the way out to the Fullarton Road boundary. In response to a direction given by the Commissioner of Highways, the application was amended, so that all built form and service infrastructure is now set back 4.5 metres from the Fullarton Road boundary.

The amended plans also resolve a concern which was raised by the Commissioner of Highways, regarding a solid wall along the northern boundary impacting on the driver sight lines of vehicles exiting the car park of the adjoining site to the north. The amended plans remove this wall within 4.5m of Fullarton Road, allowing for lines of sight.

A copy of the advice received from the Commissioner of Highways is contained in **Attachment E**.

### **Discussion**

The subject land is located within the Mixed Use Historic (Conservation) Zone of the Norwood, Payneham and St Peters (City) Development Plan. Within that zone, the subject land is located within The Parade/Fullarton Road Policy Area.

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:

Mixed Use Historic (Conservation) Zone Desired Character Statement

Mixed Use Historic (Conservation) Zone Objective 3

Mixed Use Historic (Conservation) Zone Principle of Development Control 4 & 9

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

*“The Mixed Use Historic (Conservation) Zone will continue to consist primarily of offices, consulting rooms, dwellings and other compatible uses, in both preserved and converted buildings which contribute positively to the historic character of the zone. Townhouses and residential apartment buildings of a scale consistent with the locality, will also be developed, other than in the Portrush Road Policy Area.”*

Objective 3 of the Mixed Use Historic (Conservation) Zone states:

*“Development primarily accommodating offices, consulting rooms, residential apartments and townhouses (except in the Portrush Road Policy Area) and also providing tourist accommodation in Dequetteville Terrace Policy Area.”*

Principles of Development Control 4 and 9 of the Mixed Use Historic (Conservation) Zone respectively state:

*“Development in the Mixed Use Historic (Conservation) Zone should be primarily for offices, consulting rooms and residential dwellings, generally utilising existing historic building stock, with the development of new residential apartments and townhouses in appropriate locations within each of the policy areas, except in the Portrush Road Policy Area.”*

and

“Residential development should only occur in original dwellings or:

- (a) in buildings of greater than one storey, where the ground level frontages to streets and other thoroughfares are preserved for the primary non-residential uses intended for the zone as expressed in the zone objectives;

- (b) where the provision of access, car parking and other functional requirements associated with residential development does not hinder the expected normal operation of non-residential uses primarily intended for the zone;
- (c) where sufficient design and siting measures have been put in place to ensure compatibility with the normal operation of nearby non-residential uses, taking into consideration the range of uses that are possible according to the primary intentions of the zone; and
- (d) where built form is compatible with the townscape and streetscape effect generally desired from non-residential development.

It is clear that the proposed office component of the proposal is an appropriate land use within the zone. That said, on one possible interpretation of the Desired Character Statement, offices should be limited to being within “preserved and converted buildings which contribute positively to the historic character of the zone”. However, that interpretation is inconsistent with Principle 4 of the zone, which states that offices will “generally” utilise existing historic building stock. This suggests that there will be other circumstances where offices may be developed, including within new buildings or new building additions.

Residential development is also clearly anticipated in the zone, and the proposal satisfies the circumstances under which residential development should occur, as set out in Principle 9 parts (a) to (d). In particular:

- the ground level is preserved for non-residential use;
- the access, parking and other functional requirements of the two proposed apartments does not hinder with the expected normal operation of the proposed office;
- the two apartments are considered to be compatible with the continued operation of nearby non-residential uses. There are no known particularly noisy or otherwise impactful uses likely to affect the amenity within the proposed apartments;
- the apartment floor level is compatible with the townscape and streetscape effect desired from non-residential development, in that it is in the same architectural vernacular as the remainder of the building.

The proposal is considered to be consistent with the relevant Development Plan policies with respect to land use.

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:

Mixed Use Historic (Conservation) Zone Desired Character Statement

Mixed Use Historic (Conservation) Zone Objective: 1

Mixed Use Historic (Conservation) Zone Principle of Development Control: 5, 6, 7, 11

The Parade/Fullarton Road Policy Area Desired Character Statement

The Parade/Fullarton Road Policy Area Objective: 1

The Parade/Fullarton Road Policy Area Principles of Development Control: 1, 2

City Wide Objective: 18, 19, 20, 62, 63, 64, 65

City Wide Principles of Development Control: 28, 29, 30, 32, 33, 35, 36, 37, 39, 40, 41, 42, 45, 46, 260, 262, 263, 265, 266, 267, 268, 269, 270

The Desired Character Statement for The Parade/Fullarton Road Policy Area, states:

*“Development in The Parade/Fullarton Road Policy Area will conserve and maintain the existing character created by a strongly cohesive and historically important built-form, primarily characterised by Victorian villas, large two storey mansion buildings, double-fronted houses and groups of two storey row houses.*

*Buildings which address Fullarton Road and The Parade have deep set-backs with substantial landscaped frontages. Development will continue to achieve this high standard of landscaping by incorporating large trees in order to reinforce the leafy avenue character of these roads.”*

Principle of Development Control 2 of The Parade/Fullarton Road Policy Area, states:

*“Development should not exceed two storeys in height above the natural ground level in The Parade/Fullarton Road Policy Area, except where indicated on Concept Plan Fig MUH(C)/1.”*

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

*“Extensions and additions to heritage places and contributory items, where possible, will be undertaken at the rear of a building and preferably not be visible from the primary street frontage. They will be in a style which reflects the form and detailing of the original sections of the building and will be similar in scale to the original building.”*

Principle of Development Control 6 of the Mixed Use Historic (Conservation) Zone states:

*“Development in the Mixed Use Historic (Conservation) Zone should:*

- (a) ensure coherence at street level and compatibility with adjacent buildings in the treatment of signage, canopies, shopfronts and level of visual interest (based on the consideration of the composition of the buildings and overhanging fabric such as cornices);*
- (b) be compatible with street frontage of adjacent buildings and the desired street frontage in the area;*
- (c) establish horizontal and vertical subdivisions and upper level setbacks compatible with the form and context of adjacent buildings;*
- (d) be of a high-quality, contemporary design that reinforces the siting and alignment patterns prevailing in the streetscape;*
- (e) be designed to be of a bulk, scale and visual interest at least equal to that of the adjacent buildings in the streetscape, where:*
  - (i) the development is situated on land in a strategic or prominent location, such as a corner;*
  - (ii) the development is at the termination of a vista; or*
  - (iii) a strong street presence is desirable; and**for each of the above, the heritage value or historic character of the locality is not diminished;*
- (f) locate car parking to the rear of buildings;*
- (g) be undertaken to street alignment with, where appropriate, verandahs constructed over the footpath on main-street frontages.*

Principle of Development Control 7 of the Mixed Use Historic (Conservation) Zone states:

*“New buildings should be designed and sited to maintain the prominence of existing heritage places and contributory items.”*

Strictly speaking, the proposal is a form of ‘addition’ to the Local Heritage Place on the subject land, as there is a 3 metre wide link proposed at ground floor level. However, due to the nature and location of this link, for all intents and purposes, the proposed addition appears as a new building located adjacent to the Local Heritage Place. The Council’s Heritage Advisor, David Brown, has commented that:

*“the new building will appear as virtually a separate building on Fullarton Road, and only on closer inspection be identified as being attached to the Local Heritage Place”.*

For this reason, it is considered that the design approach for additions, as set out in the Desired Character Statement of the zone, is not applicable to the proposal. In particular, it is not considered important in this instance that the building not be visible from the primary street frontage, be in a style which reflects the form and detailing of the original sections of the building, or be similar in scale to the original building.

That being the case, the relevant policies require that the proposed building be designed and sited to maintain the prominence of existing heritage places, including the Local Heritage Place on the subject land, as well as surrounding heritage places.

Advice on this consideration has been obtained from Mr Brown, who in summary has advised:

- while the proposed new building appears initially somewhat out of scale with the single storey Local Heritage Place, due to the stepping nature of the design and the setbacks it does not visually crowd or dominate the house when seen from the Parade, The Parade West and Fullarton Road.

- the approach of designing a connected, but visually separate addition, in a contemporary style with some reference back to the original building is a common and acceptable way to add on to old buildings and deal with the scale difference.
- the single level element along the Fullarton Road frontage is set to match the height of the ridge of the existing house, though will appear slightly taller due to the setback. This proposed design will present as slightly lower and set further back than the existing function room, with a more contemporary design and more appropriate materials;
- The revised design shows the single level eastern portion of the proposed new development with a setback to Fullarton Road behind the line of the side verandah of the Local Heritage Place, and several metres further back than the existing function room building. This will also mean the new setback will be behind the existing building on the adjacent site to the north, opening up more distant views through to the old house;
- The full 4 level portion of the proposal is located to the north west of the old house, meaning from all angles except the north west, the new building has a reasonable setback;
- The materials and finishes are generally appropriate, as they are contemporary, but still relate back to the existing house, picking up on the more traditional materials as features.
- from a heritage perspective the proposal achieves the desired result of allowing the prominence of the Local Heritage Place to remain the important element on the site.
- The combination of setbacks, complementary materials and a broken up overall form mean that the heritage value and setting of the Local Heritage Place are not significantly impacted by the proposed new development.

A copy of the advice received from Mr Brown is contained in **Attachment F**.

Having regard to Mr Brown's advice, it is considered that the proposal accords with the several policies contained within the Development Plan relating to buildings proposed on sites adjacent to heritage places.

Principle 2 of the policy area states that development should not exceed two (2) storeys in height, except for identified sites; which the subject land is not.

The applicant's planning consultant has suggested that Principle 6 part (e) of the Mixed Use Historic (Conservation) Zone, encourages a bulk and scale which is at least equal to that of adjacent buildings, therefore allowing greater height than 2 storeys. There are a number of difficulties with this suggestion. In order for Principle 6 part (e) to apply, one of three possible circumstances needs to apply and the heritage value or historic character of the locality may not be diminished.

The applicant's planning consultant has suggested that the applicable circumstance is that the development is situated on land in a strategic or prominent location, such as a corner. Whilst the subject land in its entirety is located on a corner, as previously stated, the proposal presents as a separate building on Fullarton Road, some 50 metres north of the corner of The Parade. In this context, the true corner element is the original Local Heritage Place, Therefore Principle 6 part (e) is not considered applicable to the proposal. Even if it was applicable, it is arguable as to whether the allowance for a larger bulk and scale necessarily amounts to an allowance to exceed the stated two storey height 'limit'.

Regardless, as explained by Mr Brown in his advice, the component of the proposal which exceeds two storeys in height, is located in the north-western corner of the subject land, such that the prominence of heritage places along Fullarton Road and The Parade is not significantly affected. With a setback of 23 metres from Fullarton Road to the third and fourth floor levels and with all other buildings along this portion of Fullarton Road being of generous proportions and sited relatively close to Fullarton Road, it is not expected that this element of the proposal would have a strong streetscape presence along Fullarton Road.

With respect to the impact of the proposal on the character of College Road, the most relevant policies are considered to be City Wide Principles of Development Control 45 and 46 which respectively state:

*"Development in non-residential zones abutting the Residential Zones or the Residential (Historic) Conservation Zones, should not prejudice the attainment of the Objectives relating to the residential zones."*

and

*“Development adjacent to the boundary of a Residential Historic (Conservation) Zone, should provide a transition down in scale and mass to complement the built form within the Residential Historic (Conservation) Zone.”*

Owners and occupants of dwellings located along the north-eastern side of Rundle Street, at 30, 32 and 34 Rundle Street, which are within the Residential Historic (Conservation) Zone, have raised concern that the proposal will prejudice the following objectives of that zone:

- maintenance of a pleasant and functional living environment broadly meeting the needs and expectations of local residents; and
- development that is sympathetic and compatible with the heritage value and historic character of the zone, but is also subordinate to the local historic character in terms of streetscape impact.

In relation to the latter of the above two dot-points, there is only one heritage place in Rundle Street within the locality. That heritage place is at 34 Rundle Street and is largely shielded from view from the street, by high fencing and dense vegetation. As a result, the locality does not have a strong theme of historic character, notwithstanding the zoning.

Even if Rundle Street did have a strong theme of historic character, the location of the proposed four storey building element, is at the termination of the street and off to the side, such that it would not likely impact significantly on the integrity of Rundle Street in any event.

In relation to the first of the above two dot-points, the occupant of Unit 9/ 30 Rundle Street is concerned that the proposal will completely block views from his unit. The building at 30 Rundle Street is a 4 storey residential flat building. Units have balconies along the south-eastern facade and also along the north-western facade.

The proposed building would impede some views from balconies along the south-eastern facade. In particular, there would be some reduction in views of the hills to the east. However, views from those balconies would remain to the south and west and views from the balconies on the north-western side of the building would be uninterrupted.

The Development Plan does not contain policies aimed at preserving views from residential premises. The most relevant policies would be those which generally relate to preservation of amenity. The loss of views to the extent which would occur from the proposal, is not considered to result in an unreasonable loss of amenity, particularly given the distance of the proposed building from the units at 30 Rundle Street (approximately 40 metres).

The owner of 34 Rundle Street is concerned that the bulk and scale of the proposal will cause them to feel ‘hemmed in’, as their open outlook would be impacted. In this respect, the front of the dwelling faces south-east towards the apex of Rundle Street and Little Dew Street. Therefore, primary views from the front of the dwelling or the front yard of the dwelling, would be unaffected, other than oblique views to the east. That said, any views from the front of the dwelling or the front yard are currently substantially blocked by dense vegetation, further reducing the impact of the proposal.

On balance, the proposal is not considered to prejudice the attainment of the Objectives relating to the adjacent Residential Historic (Conservation) Zone, consistent with City Wide Principle 45.

#### Setbacks and Site Coverage

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

Mixed Use Historic (Conservation) Zone Principle of Development Control: 10

The Parade/Fullarton Road Policy Area Desired Character Statement

City Wide Principles of Development Control: 50, 51

The Desired Character Statement for the policy area states:

*“Buildings which address Fullarton Road and The Parade have deep set-backs with substantial landscaped frontages. Development will continue to achieve this high standard of landscaping by incorporating large trees in order to reinforce the leafy avenue character of these roads.”*

Principle 10 of the zone, states:

*“Frontage and side boundary set-backs of development should be similar to the predominant pattern established by heritage places and contributory items in the immediate locality, with particular regard to adjacent heritage places and contributory items.”*

The proposed building is set back the same distance from Fullarton Road as the main façade of the Local Heritage Place on the subject land at the closest point and has elements set further back. By contrast, the existing building on the subject land is located approximately 2-3 metres closer to Fullarton Road. Therefore, the proposal is consistent with Principle 10 of the zone and will improve visibility of the Local Heritage Place compared to the current situation.

The proposed 10-12 metre setback from Fullarton Road is consistent with the deep set-backs of other heritage places along Fullarton Road and provides opportunity for substantial landscaping, as per the Desired Character Statement for the policy area. That said, the only opportunity for large tree planting would be within the first 4.5 metres, which the Minister for Transport has intentions to acquire for road widening. Beyond that, the basement car parking precludes the establishment of large trees, however a well landscaped forecourt is still possible and would represent a vast improvement over the existing paved car parking area in this location.

A detailed landscaping plan has not been prepared for the development. If the Panel determines to consent to the application, it is recommended that a condition be imposed, requiring a detailed landscaping plan to be provided to the reasonable satisfaction of Council, prior to the granting of Development Plan Consent.

The Development Plan does not specify any side boundary setback requirements for development in the Mixed Use Historic (Conservation) Zone. With respect to the proposed wall on the northern side boundary of the site, City Wide Principle of Development Control 263(c) applies to medium and high rise development (3 or more storeys) and states:

*“Buildings should:  
(c) ensure walls on the boundary that are visible from public land include visually interesting treatments to break up large blank facades.”*

There is an existing single storey building on the adjoining property at 43A Fullarton Road, which abuts the boundary of the subject land. Therefore, the proposed boundary wall will only be visible above this building. Consistent with Principle 263(c), the scale of this wall is broken down somewhat by contrasting colour concrete panels at staggered height as the building steps up in height.

#### Overshadowing/overlooking

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

City Wide Principles of Development Control: 11, 31, 35, 71, 195, 196 & 235

Due to the location of the proposal, overshadowing will be predominantly over the subject land to the south of the proposed building addition. The front yard area of the dwelling at 34 Rundle Street Some would likely be overshadowed in the early morning, however would be unaffected by the proposal for the majority of the day and therefore the proposal complies with City Wide Principle 196.

With respect to overlooking, the only adjacent residential property which is within line of sight of the upper level windows and balconies, is that at 34 Rundle Street. In particular, the front yard of that property would be subject to the possibility of overlooking from the upper level office and dwelling windows and balconies.

The front yard of the dwelling at 34 Rundle Street is currently private, with a high fence surrounding it. There are also private yard areas at the side of the dwelling adjacent Rundle Street and at the rear, where there is a verandah. The area of private open space available, excluding the front yard, is approximately 130m<sup>2</sup>. The Development Plan, through City Wide Principle of Development Control 222, states that private open space should not be located between the primary street frontage and the dwelling facade. This is especially true of Local Heritage Places, as set out in City Wide Principle of Development Control 376(e).

In this policy context, although the front yard is currently private, it is not considered appropriate to require the proposal to be undertaken with privacy treatment to protect the ongoing privacy of the front yard area. Therefore, it is not recommended that any conditions be imposed requiring privacy treatment.

#### Private open space

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

City Wide Principles of Development Control: 222, 223, 224, 226, 227, 228, 230

City Wide Principle of Development Control 226 states:

*“Residential development in the form of apartments within a multi storey building should have associated private open space of sufficient area and shape to be functional and capable of meeting the likely needs of the occupant(s) and should be in accordance with the following requirements:*

- (a) studio (no separate bedroom) or one bedroom, a minimum area of 10 square metres of private open space;*
- (b) two bedrooms, a minimum area of 12 square metres of private open space; or*
- (c) three bedrooms or greater; a minimum area of 15 square metres of private open space.”*

Accordingly, the proposed apartments are required to have at least 15m<sup>2</sup> of private open space each. This requirement is satisfied, as each apartment has a balcony of 18m<sup>2</sup> area. The dimensions of the balconies accord with City Wide Principle of Development Control 222, as they have a depth of at least 2.0 metres (Apartment 1 is 2.3m and Apartment 2 is 2.0m).

#### Carparking/access/manoeuvring

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

Mixed Use Historic (Conservation) Zone Desired Character Statement

Mixed Use Historic (Conservation) Zone Principle of Development Control: 17

The Parade/Fullarton Road Policy Area Desired Character Statement

City Wide Objective: 34

City Wide Principles of Development Control: 98, 102, 113, 115, 118, 120, 122, 123, 124, 130, 134

The Desired Character Statements for The Parade/Fullarton Road Policy Area and Mixed Use Historic (Conservation) Zone respectively state:

*“Vehicular movement is dominated by The Parade, Fullarton Road, Rundle Street and Little Dew Street, which will continue to provide primary access for delivery, service, visitors' and residents' vehicles, in preference to access via the adjoining residential areas.”*

and

*“Carparking will be sensitively positioned, preferably at the rear of the building so as not to detract from the established streetscape character.”*

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

*“Car parking and service areas in basements, part-basements or at-grade beneath occupied areas of buildings should not be included in development on allotments with frontages to Dequetteville Terrace, Fullarton Road (except at the Rundle Street corner), Payneham Road, Portrush Road or The Parade. Elsewhere, development may only include basement, part-basement or at-grade beneath-building car parking, where it does not interrupt the continuity of the streetscape in both the horizontal and vertical planes and such development should be sited so as to maintain the prominence of adjacent heritage places and contributory items in the streetscape.”*

The proposal is consistent with both of the above Desired Character Statement extracts, insofar as the car parking (with the exception of the existing at-grade parking which is being retained) is at the rear of the site, with access from Little Dew Street. However, the proposal is inconsistent with Principle 17, as the allotment fronts Fullarton Road and basement car parking is proposed.

It is understood that the policy intent behind Principle 17, is to avoid the streetscape impacts which can be associated with basement car parking. In particular, it is often the case that basement car parking is ventilated from the primary street frontage, resulting in a poor streetscape outcome at ground level.

In this case, the basement would not be evident in the streetscape. The existing Local Heritage Place has a floor level which is approximately 1.5 metres above the level of Fullarton Road adjacent to where the new addition is proposed. A retaining wall approximately 1.2m high runs along the length of the boundary of Fullarton Road, with open style fencing above. In order to accommodate the basement car parking and the natural rise in ground level to the north, the ground floor level of the proposed addition is approximately 700mm higher than the floor level of the Local Heritage Place.

The proposed basement begins 4.5m from the Fullarton Road frontage, at which point a retaining wall of up to approximately 1.6m height is proposed. This retaining wall has been designed to integrate with the alignment of the existing retaining wall across the Fullarton Road frontage. The first 5 metres (closest to the existing retaining wall) is stepped, so that the portion closest to Fullarton Road is at the same height as the existing retaining wall and increases in height further back, with landscaping in between. In this way, it is considered that the retaining wall would not appear unusual, nor would it be apparent that its purpose is to accommodate basement parking.

With respect to the adequacy of the proposed amount of car parking spaces, City Wide Principles of Development Control 120 and 122 respectively state:

*“Development should provide off-street vehicle parking in accordance with rates contained in Tables NPSP/8 and 9.”*

and

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

- (a) development includes affordable housing or student accommodation; or*
- (b) sites are located within 200 metres walking distance of a convenient and frequent service fixed public transport stop; or*
- (c) mixed use development including residential and non-residential development has respective peak demands for parking occurring at different times; or*
- (d) the proposed development is on or adjacent to the site of a heritage place, or includes retention of a desired traditional building and its features, which hinders the provision of on-site parking or the most effective use of the spaces within the site; or*
- (e) the parking shortfall is met by contribution to a Car Parking Fund (where one is available); or*
- (f) the development qualifies for certification under the Green Energy rating program, or similar program; or*
- (g) where it can be demonstrated that it would not result in a greater demand for on-street car parking on existing streets in the locality.”*

The following table outlines the car parking demand and supply associated with each element of the proposal. The calculations below include the use of the existing Local Heritage Places as an office. It appears that the Applicant's traffic consultant has not included this floor area in their calculations.

Element	Tables NPSP/8 and 9	Required
Office	4 spaces per 100m <sup>2</sup>	67
Apartment occupants	2 (1 covered) spaces per 2 or 3 bedroom dwelling 3 (2 covered) spaces per 4+ bedroom dwelling	5
Apartment visitors	1 space (exclusive of vehicle manoeuvring areas) for every 2 dwellings	1
<b>Total Demand</b>		<b>73</b>
<b>Proposed</b>		<b>47</b>

As the subject land is located directly adjacent to the Urban Corridor Zone, it is considered reasonable to apply the car parking rates which apply to development within that zone. The following table outlines the car parking demand and supply associated with each element of the proposal, if the Urban Corridor Zone rates were applied:

Element	Table NPSP/9A	Required
Office	3 spaces per 100m <sup>2</sup>	51
Apartment occupants	1.25 per 3 + bedroom dwelling	2.5
Apartment visitors	0.25 per dwelling	0.5
<b>Total Demand</b>		<b>54</b>
<b>Proposed</b>		<b>47</b>

The proposal qualifies for discounting of car parking in accordance with clauses (b), (c) and (d) of Principle 122, as:

- the site is located within 200 metres walking distance of a convenient and frequent service fixed public transport stop; and
- the proposal is a mixed use development including residential and non-residential development with respective peak demands for parking occurring at different times; and
- the proposed development is on the site of a heritage place, which hinders the provision of on-site parking or the most effective use of the spaces within the site. In particular, the large space dedicated to landscaping forward of the Local Heritage Place hinders the ability to provide additional parking.

While Principle 122 does not quantify the amount of discounting which should apply, the shortfall of 7 spaces (against the Urban Corridor Zone rates) represents a 13% shortfall, which is considered acceptable.

Another approach to the assessment of car parking adequacy, is to consider City Wide Principle of Development Control 121, which states:

*“Development in the nature of additions to existing non-residential premises should provide on-site car parking in accordance with the principles of development control to serve new floor area while maintaining existing car parking numbers for the existing floor area.”*

The intent behind Principle 121, is to ensure enable any existing on-site car parking shortfalls associated with an existing non-residential site, carry through when additions are undertaken, provided that those existing shortfalls are not worsened.

The current restaurant has a seating capacity of 200 seats and a total licensed capacity for the restaurant and function centre of 370 persons (Restaurant Licence number 50602713). Table NPSP/9 provides a rate of 1 parking space per 3 seats for restaurants. No rate is provided for a function centre. Based on the restaurant alone, the current peak demand for the site is 67 spaces. With 24 spaces currently provided on site, the current peak car parking shortfall is at least 43 spaces. This is less than the shortfall projected using the rates in Tables NPSP/8 and 9 and significantly less than the shortfall projected using the rates in NPSP/9A.

On balance, the amount of car parking proposed is considered appropriate.

With respect to the impact of traffic associated with the proposal, the applicant's traffic consultant has considered the difference in impact, compared to the impacts associated with the existing use rights of the property. They have calculated that the existing use rights generate in the order of 480 daily trips. In comparison, the proposed development is calculated to generate in the order of 190 daily trips.

As such, the applicant's traffic consultant has advised that daily traffic volumes on the adjacent street network are expected to reduce as a result of the proposed development. A copy of the applicant's traffic consultant's report is contained in **Attachment G**.

It should be noted that this approach to assessment is based on the existing use rights associated with the property and not necessarily the current operating conditions. This is considered the appropriate approach, because whilst the current restaurant and function centre may not be currently operating at its maximum capacity, there is nothing legally preventing a change in circumstances which could result in the maximum capacity being achieved at any time.

### Summary

The proposal is to demolish existing additions to a Local Heritage Place, construct a new 4 storey addition to be used as an office and apartments, and change the use of the Local Heritage Place to an office.

The height of the proposed addition is double that which should occur within the Mixed Use Historic (Conservation) Zone. However, the design and siting of the elements which exceed two storeys is such that the objectives of the policy area are achieved. The streetscape character of Fullarton Road is not compromised by the proposal, nor is the integrity of adjoining and adjacent heritage places.

The siting of the 4 storey portion of the building in the north-western corner of the site, places it nearest to dwellings within the adjacent Residential Historic (Conservation) Zone. However, the context within which those dwellings are currently sited, is influenced by several other large, bulky buildings, such that the proposal would not appear out of place. The siting of the proposal is also such that it would not have an unreasonable impact on the outlook or overshadowing of any of the nearby dwellings.

The proposal is likely to result in some shortfall in on-site parking. The shortfall is likely to be less than the current situation and is considered acceptable, given the constraints associated with retaining the existing Local Heritage Place on the site and the availability of public transport in close proximity.

Accordingly, 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 155/678/18 by Mr Nick Papazahariakis to demolish an existing single storey addition located at 43B Fullarton Road and construct a replacement four storey addition comprising three levels of office and one level of apartments, including basement car parking, and the change of use of a restaurant to an office. on the land located at 36 College Road and 43B Fullarton Road, Kent Town 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 by Mavtect, Drawing Numbers PL01-PL09, Revision B, dated 28 September 2018

### Conditions

1. A final detailed landscaping plan shall be provided to the reasonable satisfaction of the Council or its delegate, prior to the issuing of Development Approval.
2. All landscaping shall be established prior to occupation of the premises and thereafter maintained in good condition, with any dead or dying plants being replaced.
3. A stormwater management plan shall be provided to the reasonable satisfaction of the Council or its delegate, demonstrating that post-development discharge rates will not exceed pre-development discharge rates, prior to the issuing of Development Approval.

### 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.

*Moved*

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan, Development Application No. 155/678/18 by Mr Nick Papazahariakis to demolish an existing single storey addition located at 43B Fullarton Road and construct a replacement four storey addition comprising three levels of office and one level of apartments, including basement car parking, and the change of use of a restaurant to an office on the land located at 36 College Road and 43B Fullarton Road, Kent Town is deemed to insufficiently accord with the Development Plan such that it does not warrant consent in its current form and as such, consideration of the Application is **deferred**, to enable the Applicant to consider:*

- Redesigning the two upper floors of the proposal to significantly reduce the impact and scale of the building as viewed from Little Dew Street and College Road streetscapes.

*Seconded and carried*

**3. OTHER BUSINESS**

Nil

**4. CONFIDENTIAL REPORTS**

Nil

**5. CLOSURE**

The Presiding Member declared the meeting closed at 7:43pm.

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**Terry Mosel**  
Presiding Member

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**Mark Thomson**  
Manager Development Assessment