

Council Assessment Panel Minutes

18 February 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
Kathryn Clausen Senior Urban Planner

APOLOGIES Nil

ABSENT Nil

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 23 JANUARY 2019**

*Motion was put that the minutes of the Meeting of the Council Assessment Panel, held on
23 January 2019 be taken as read and confirmed.*

Seconded and carried

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/C071/2018 – D’ANDREA & ASSOCIATES – 12-14 ELIZABETH STREET, NORWOOD

DEVELOPMENT APPLICATION:	155/C071/18
APPLICANT:	D’Andrea & Associates
SUBJECT SITE:	12-14 Elizabeth Street, Norwood (Certificate of Title Volume: 5088 Folios: 717 and 718)
DESCRIPTION OF DEVELOPMENT:	Community Title land division (creating fifteen lots from two existing allotments), demolition of two dwellings and construction of a two-storey residential flat building (comprising fifteen dwellings) with basement car parking
ZONE:	Residential Character (Norwood) Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 17 December 2017)
PUBLIC NOTIFICATION CATEGORY:	Category 2

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on a development applications for a Community Title land division (creating fifteen lots from two existing allotments) and construction of a two-storey residential flat building (comprising fifteen dwellings) with basement car parking.

Staff do not have delegated authority to determine the application, as it is a Category 2 development application for public notification purposes, and there are representors opposed to the development application.

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:	24.53 metres
Depth:	59.74 metres
Area:	1,465m ²
Topography:	the land falls approximately 1.5 metres from back to front (east to west)
Existing Structures:	there are two vacant early cottages on the land, together with a range of outbuildings
Existing vegetation:	scattered vegetation comprising trees, shrubs and groundcovers, none of which is regulated

There are nine two-bedroom apartments proposed and six three-bedroom apartments.

The two two-level apartments are located at the rear of the building and, along with all ground level apartments, have private open space at ground level. The seven single-level first floor apartments have balconies for private open space.

The proposed finished floor level (FFL) of the ground floor level is approximately;

- 200mm and 300mm lower than the FFL's of the existing dwellings to be demolished at 12 and 14 Elizabeth Street respectively;
- 500mm above footpath level;
- equivalent to natural ground level at the location where the building is proposed to begin (ie. 5 metres from the street);
- 450mm below natural ground level at the mid-point (ie. 30 metres back from the street); and
- 700mm below natural ground level at the location where the building is proposed to end (ie. 54 metres from the street).

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	Residential Flat Building	Development Plan Merit Assessment Quantitative Guideline
Site Area	98m ² per dwelling averaged across the subject land, including common areas	No minimum
Site Width	24.53m	18m (total development site frontage)
Site Depth	59.74m	N/A
External Wall Height*	6.85m (outer parapet) 7.10m (central parapet)	N/A
Maximum Overall Height (to roof apex)*	6.85m (outer parapet) 7.10m (central parapet)	Two-storey
Floor Area	2 bedrooms – 85m ² – 96m ² 3 bedrooms – 103m ² – 146m ²	2 bedrooms - 70m ² minimum 3 bedrooms – 100m ² minimum
Site Coverage	74% (based on basement floorplate)	N/A
Private Open Space	2 bedrooms – 9m ² – 46m ² 3 bedrooms – 9m ² – 102m ²	2 bedrooms - 12m ² minimum 3 bedrooms – 15m ² minimum
Street Set-back	5.0m (main face of building) 3.7m (balconies) 2.0m (arbour)	N/A
Side Set-back	1.0m – 4.4m (southern side) 1.1m – 4.6m (northern side)	N/A
Rear Set-back	6.0m	N/A
Car Parking Provision	31 spaces plus 4 visitor spaces	30 spaces plus 6 visitor spaces Based on 2 (1 covered) spaces per dwelling, plus 1 visitor space per 2 dwellings for a development up to 10 dwellings, plus 1 visitor space for every additional 4 dwellings exceeding 10 dwellings.

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

Notification

The proposal has been identified and processed as a Category 2 form of development.

Nine (9) representations were received (7 opposed, 2 not specified). The following is a summary of the issues and concerns raised in the representations:

- concern that the proposal is inconsistent with the Desired Character Statement for the zone, particularly in terms of compatibility with pre-1940's dwellings;
- Overlooking from upper level windows and balconies across Elizabeth Street into the front yard of 13 Elizabeth Street;
- Insufficient on-site visitor parking;
- disturbance of adjacent dwellings from headlights of vehicles exiting the site;
- overshadowing of 16 Elizabeth Street;
- insufficient landscaping;
- undercroft parking is not supported in the zone, other than on the western side of Osmond Terrace;
- the proposal is inconsistent with the Desired Character Statement with respect to incorporating large expanses of glass and/or walling and use of monochromatic colour schemes;
- vehicle access should be from the rear of the site;
- preservation of the mature street trees during construction will require care, advice and assistance from a professional arborist, as well as monitoring from Council;
- overshadowing of 11 Hampton Grove;
- visual impact from 11 Hampton Grove;
- impact of earth works on structural condition of adjacent property;
- impact of increase in traffic, noise and foot traffic;
- overlooking of 11 Hampton Grove;
- impacts/disruption during construction;
- loss of privacy to 9 Hampton Grove;
- loss of privacy to 4A Essery Street;
- overshadowing of 4A Essery Street;

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

The following representors desire to be heard by the Panel in support of their representation:

- Mr Michael Bickford and Ms Lesley Baker;
- Mr Trevor and Ms Jenni Paynter; and
- Mr Jack and Ms Alina Berketa.

A response to the representations has been prepared by Mr Tony Kelly of Future Urban on behalf of the applicant, a copy of which is contained in **Attachment D**. Together with the written response, the application was amended to address some of the concerns raised in the representations. In particular:

- the setbacks from the southern boundary were increased to reduce shadowing of 16 Elizabeth Street;
- a portion of the undercroft car park was made unsecure, to provide free and unrestricted access to visitor parking; and
- the facade design was amended, to reduce the extent of glass and increase the variety of building materials and colours.

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 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:

Residential Character (Norwood) Zone Objective: 1, 2 & 3
Residential Character (Norwood) Zone Desired Character Statement
Residential Character (Norwood) Zone PDC: 1 & 10

City Wide Objectives: 1, 2, 3, 5 & 7
City Wide PDC's: 1, 2, 3, 4, 5, 6, 12, 20, 21, 23-26, 364 & 366

The following are the objectives for the Residential Character (Norwood) Zone:

Objective 1:

"A residential zone that continues to include a mix of housing from different eras of development and, in identified localities, ensures the continuation of the character derived from pre-1940s dwellings. "

Objective 2:

"Infill development in specified localities, including affordable housing, providing a variety of housing types and densities, which enhances the character of the locality."

Objective 3:

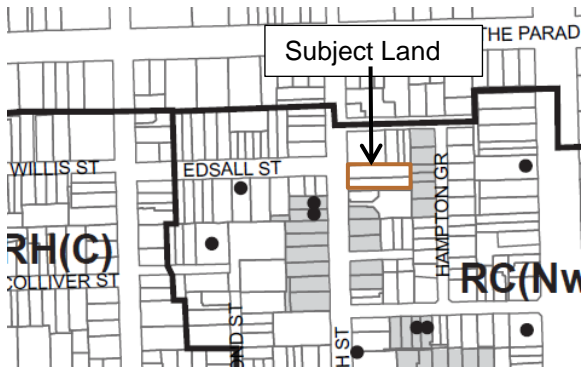
"Development that contributes to the desired character of the zone."

Also of assistance in considering the type and density of residential development that is envisaged within the zone, are the following extracts of the Desired Character Statement:

"The zone will continue to support a mix of old and new development and provide opportunities for a range of housing types and allotment sizes. The remaining pockets of housing pre-dating 1940 that make an important contribution to the mixed character of Norwood are identified (by site) on Concept Plan Fig RC(N)/1. Additional development guidelines will apply to new development within these identified localities and further land division will not occur, except where it involves the redevelopment of an existing multi-unit site or the conversion of an existing dwelling into two (or more dwellings) where the building and the front yard maintain the original external appearance to the street."

"Outside of the localities identified on Concept Plan Fig RC(N)/1, opportunities will be provided for increasing the density of a site."

The following is an extract from Concept Plan Fig RC(N)/1, showing that the subject land is not located within an identified 'character pocket' of housing pre-dating 1940:



This means that a number of development guidelines which apply to development within ‘character pockets’ do not apply to development on the subject land. These guidelines which do not apply include those which:

- prevent further sub-division;
- restrict development to having a single storey appearance from the street;
- require new buildings to reference the architectural detail of pre-1940’s dwellings, including roof forms, verandahs, window proportions, materials and finishes.

Principle of Development Control 10 sets out minimum site area and frontage requirements for sites containing residential flat buildings. In particular, Principle 10 states that there is no minimum site area per dwelling, provided that the development site has a minimum frontage of 18.0 metres.

The subject land has a frontage width of 24.53 metres, consistent with Principle 10.

Principle of Development Control 11 states that dwellings contained within a residential flat building with two and three bedrooms, should have a minimum floor area per dwelling of 70m² and 100m² respectively. In this respect, the proposed two bedroom dwellings range in floor area from 85m² to 96m² and the three bedroom dwellings range in floor area from 103m² – 146m²

To summarise, the Residential Norwood (Character) Zone policies allow for further subdivision of sites outside of ‘character pockets’. The subject land is located outside of a ‘character pocket’. Sites outside of ‘character pockets’ with a frontage width greater than 18m may accommodate residential flat buildings with no minimum site area per dwelling, provided that each dwelling meets certain minimum floor area guidelines. The subject land exceeds the site frontage and floor area per dwelling requirements. The proposal is therefore consistent with the Development Plan from the perspective of land use and density.

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:	5, 7, 9, 12, 15 & 18
City Wide Objectives:	8, 18 – 20 & 114
City Wide Principles of PDC’s:	28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 346, 349, 359, 360 & 361

Residential Character (Norwood) Zone Principle of Development Control 12 allows for the development of buildings fronting a public road to be up to two-storeys in height. Unlike development in ‘character pockets’, there is no requirement for the building to maintain a mostly single storey appearance along the primary street frontage. The proposal is consistent with Principle 12.

The Desired Character Statement states (in part):

“Building heights of up to two (2) storeys may occur, however, where proposed, consideration will be given to the impact of second storey walls from neighbouring properties. In this context, it will be important that the height and length of upper storey walls are minimised and finished and articulated in such a way so that they are visually recessive and do not create any unreasonable overshadowing impacts. In some cases, this may limit the extent of upper level floor area in new dwellings or dwelling extensions. The design of buildings will be innovative and contemporary, however, large unbroken expanses of glass or walling and monochromatic colour schemes will not occur where it will be highly visible in the streetscape or from surrounding properties.”

The rectilinear design of the residential flat building is distinctly contemporary in its form, consistent with the Desired Character Statement. It is also consistent in this respect with the adjacent building to the north at 6-10 Elizabeth Street.

The Desired Character Statement states that the height and length of upper storey walls are to be minimised, finished and articulated, so as to be visually recessive and not create unreasonable shadowing. Overshadowing will be discussed under the relevant heading later in this report. The height of the building is considered to be reasonably ‘minimised’, insofar as the ground floor level is up to 700mm below natural ground level, reducing the overall height of the building relative to the ground level of surrounding properties, particularly adjacent to the rear of the site.

The upper level walls have not been ‘minimised’ in length, however they are well articulated and finished so as to be visually recessive. In particular, the proposed building is highly articulated across the street facade, as well as along the side elevations, both at ground and first floor levels. The extent of articulation is considered to sufficiently avoid ‘large unbroken expanses of glass or walling’ consistent with the Desired Character Statement. The range of materials and colours proposed is considered to sufficiently avoid monochromatic colour schemes, also consistent with the Desired Character Statement.

By contrast, the rear elevation contains very little articulation, however is set back 6 metres from the rear boundary and has different cladding treatments at the upper level, as well as alfresco structures which break up the vertical mass of the building.

Despite the very large perimeter of the subject land, there are relatively few adjoining properties which have a direct outlook onto it. The following points summarise those outlooks and an assessment of the visual impact;

10 Elizabeth Street

The adjoining townhouse at 10 Elizabeth Street has blank walls on the boundary, including a high courtyard wall for their central private open space, restricting any direct outlook onto the proposal.

2A, 2B, 4 & 4A Essery Street

The semi-detached dwellings at 2A, 2B, 4 & 4A Essery Street, do have a direct outlook onto a section of the proposed building which is set back 2.6-2.8m at ground level and 4.6m at upper level, with a balcony set back 3.0m adjacent the rear of 2A Essery Street (Refer Photos 1 and 2 in **Attachment E**).

The Development Plan provides quantitative guidance with respect to side and rear boundary setbacks for dwellings on a ‘battleaxe, hammerhead or similar configuration allotment’. The proposed plan of division is not considered to comprise a lot layout in a battleaxe, hammerhead or similar configuration, particularly as there are different lots at different floor levels. Therefore, City Wide Principle 206 is considered most relevant, and states:

“..the set-back of dwellings from their side and rear boundaries should be progressively increased as the height of the building increases:

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

As with the Desired Character Statement of the Residential Character (Norwood) Zone, Principle 206 requires a subjective assessment.

As the subject land is located to the south of 2A, 2B, 4 & 4A Essery Street, it would not result in any overshadowing. Overlooking is proposed to be addressed by way of high level windows and obscure glazing to a height of 1700mm above floor level, with overlooking from balconies controlled with solid 1700mm high balustrades. In this respect, it is only the dwelling at 2A Essery Street which is adjacent to a proposed balcony.

The proposed upper level setback of 4.6 metres, is the same distance from the boundary as the dwellings at 4 & 4A Essery Street, which were approved in 2011. In this context, it is considered that a building with an upper level located 4.6m from the boundary could be reasonably anticipated.

The balcony extending closer to the boundary (3.0m), adjacent to the rear of 2A Essery Street, is less reasonably expected, particularly as this is the only private open space of the relevant apartment and will therefore be used more frequently than would otherwise be the case. Noting that the dwelling at 2A Essery Street is set back 8.5 metres from the boundary and that there are trees proposed to be planted adjacent to the balcony (prunus cerasifera to 6.0m and magnolia grandifolia to 4.0m), the impact of the balcony is considered reasonable, subject to a requirement that the trees be planted at a height of at least 3.0 metres prior to occupation of the dwellings.

9, 11 and 13 Hampton Grove

The semi-detached dwellings at 9, 11 and 13 Hampton Grove do have a direct outlook onto the rear of the proposed building, which is set back 6.0m at ground and first floor level. These dwellings currently have an outlook onto olive trees on the subject land. The proposal includes the planting of trees (prunus cerasifera to 6.0m and magnolia grandifolia to 4.0m) adjacent to the rear boundary.

Importantly, there are no upper level balconies adjacent to 9, 11 and 13 Hampton Grove, as the rear dwellings are two-level, with private open space at ground level.

The proposed setback of 6.0m is considered to result in an acceptable visual impact on the properties at 9, 11 and 13 Hampton Grove, particularly with the proposed tree plantings.

1/16A Elizabeth Street

The dwelling at 1/16A Elizabeth Street, has a blank wall on the boundary. The rear yard is adjacent to the rear yards of the proposed dwellings and therefore unaffected. The front yard of this dwelling is not private (refer Photo 3 in **Attachment E**) and any outlook from this space would be oblique in any event.

16 Elizabeth Street

the dwelling at 16 Elizabeth Street has an outlook from side windows. The outlook is currently predominantly of the side of the villa at 14 Elizabeth Street, the side wall of which is less than 1m from the boundary and approximately 4m high (refer Photos 4-6 in **Attachment E**). There is no outlook from the rear alfresco of this dwelling, as it is enclosed with what appears to be a dense shade cloth material (refer Photo 7 in **Attachment E**). Behind the alfresco is a small service courtyard used for clothes drying and growing herbs, from which there would be an outlook (refer Photo 8 in **Attachment E**)

Having regard to the above circumstances, the level of articulation and finishing to the walls, their length and height and setbacks from boundaries, it is considered that the impact of the proposed second storey walls from neighbouring properties, is acceptable.

Residential Character (Norwood) Zone Principle of Development Control 18 states that undercroft or below garaging should only be developed on the western side of Osmond Terrace. It is understood that this policy was adopted as undercroft garaging has the potential to have an impact on the streetscape, by creating large voids forward of dwellings, in place of traditional at-grade driveways. The western side of Osmond Terrace was excluded from the policy, as there are several examples of existing undercroft garaging in that location.

The proposed inclusion of an undercroft garage is therefore at odds with Principle 18. However, the impact of the proposed undercroft garaging on the streetscape has been minimised through design details including:

- the provision of a near-flat (1:20 grade) driveway for the first 5.9 metres, so that the steep section begins beyond the building facade; and
- Landscaping on either side of and over (via an arbour) the near-flat section of the driveway.

Together, these design elements are considered to limit views of the undercroft garaging to directly in front of driveway, and even then the steep section or 'void' would not dominate views of the development.

A more conventional approach to vehicular access to more than one new dwelling on the subject land, would be to provide a separate driveway for each dwelling, which would potentially be more disruptive to the streetscape. For example, the subject land has sufficient frontage and area for four (4) row dwellings, each of which could have its own driveway.

On balance, the proposed residential flat building is considered to be acceptable from a bulk, and scale perspective, the building is considered to sit reasonably comfortably within the Elizabeth Street streetscape and result in acceptable visual impacts to adjacent properties.

Street Setback and Site Coverage

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

Residential Character (Norwood) Zone PDC: 12
City Wide PDC's: 50, 204, 205, 206 & 208.

The Residential Character (Norwood) Zone does not specify minimum front setbacks. As such, City Wide Principle of Development Control 205 applies.

City Wide Principle of Development Control 205 states:

"Where the Zone and/or Policy Area does not specify a minimum distance, dwellings should be set back 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;*
- (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; or*
- (c) the same distance as the greater of the two adjoining dwelling setbacks, in all circumstances where a new dwelling comprising of 2 or more storeys is being introduced, and one or both of the adjoining properties are single storey."*

The adjoining dwelling at 16 Elizabeth Street is set back 2.5 metres from the street. The building at 6-10 Elizabeth Street has a varied setback of approximately 1.0m to 3.5m. The proposed setback of 5.0m to the main facade and 3.7m to the balconies is therefore consistent with Principle 205.

The Residential Character (Norwood) Zone does not prescribe any quantitative site coverage assessment criteria. The proposed building has a site coverage of 74% based on the basement floor plate. Based on the ground floor plate, the site coverage is 67%. Existing development in the locality has widely varying extents of site coverage. The building at 6-10 Elizabeth Street covers approximately 80% of its site. the dwellings at 16 and 16A also occupy a high percentage (approximately 60-70%) of their sites. Other dwellings in the locality occupy as little as 30%. Given the range in the locality and the lack of guidance on site coverage in the development plan, the extent of site coverage is considered acceptable.

Private open space

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

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

In terms of visual privacy from the proposed dwellings, all upper level windows and balconies are proposed to have sill heights or be permanently screened to a height of not less than 1.7m from upper floor level. This is clarified in the response to the representations by Mr Kelly. If the Panel determines to consent to the application, it is recommended that this be reinforced by way of a condition.

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

Table NPSP/8

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

This results in a requirement for 30 occupant spaces and 6 visitor spaces. The proposal includes 31 occupant spaces and 4 visitor spaces. There is therefore a slight (1 space) over-supply of occupant spaces and slight (2 space) under-supply of visitor parking. Given that only one driveway crossover is proposed along the wide street frontage, there will be opportunity for any occasional visitor demand which exceeds the capacity of the 4 on-site spaces, to be catered for on street adjacent to the subject land.

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 - 415

There are no regulated trees on the subject land.

There are two mature, non-regulated street trees located adjacent to the subject land, either side of the proposed driveway crossover. The proposed driveway crossover would be no closer to the southern street tree than the existing driveway crossover which services 14 Elizabeth Street and would be approximately 3.5 metres away from the northern street tree.

The proposed building setback (approximately 7.4m to the southern tree) is greater than the setback of the existing dwelling at 14 Elizabeth Street, such that there is unlikely to be any impact on the tree roots as a result of construction. The setback from the northern tree is slightly less than that of the existing dwelling at 12 Elizabeth Street, however is still approximately 7.4 metres and well outside of the Structural Root Zone (SRZ) of the tree. Both tree canopies are unaffected by the proposed building setbacks, aside from some possible very minor pruning to assist with construction.

If the Panel determines to consent to the application, it is recommended that a condition be imposed, requiring tree protection zones to be established around each of the street trees during construction, to assist in minimising any potential impact on their health during demolition and construction activities.

Finished floor levels/flooding/retaining

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

City Wide Objectives: 42, 43 & 44.
City Wide PDC's: 147, 148, 149, 151, 154, 155, 157, 160 & 161.

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

The proposed levels are set out in the section of this report describing the proposed development. As the ground floor level is below natural ground level, retaining up to 850mm high is proposed alongside and rear boundaries. This would not affect the outlook from neighbouring properties.

Environmental Sustainability

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

City Wide Objectives: 23 & 42.
City Wide PDC's: 67-72, 147, 148, 151, 154, 159 & 160.

Having regard to the orientation of the subject land it is considered that the siting of the residential flat building and the proposed floor and balcony area layouts, the proposal will only optimise exposure to northern sunlight for those dwellings on the northern side of the building.

With regard to Principle 69, which seeks that development minimises energy consumption by incorporating, where practicable, energy efficient building design elements, it is noted that the western (street) facing windows are shaded through the parapets above balconies. No shading is provided to the east facing (rear) upper level windows, leaving them susceptible to morning heat loading. Upper level north facing windows are similarly unprotected, although some of the windows are high-level and therefore minimised in area.

City Wide Objective 42 seeks development that is designed to maximise the harvest and use of stormwater and Principle of Development Control 159 prescribes that new dwellings should be provided with a 2000 litre rainwater tank, or a communal 30,000 litre tank, which is plumbed to the dwellings for reuse. The Applicant has not indicated the size or location of rainwater tanks on the proposed plans. Space would be available for this purpose in part of the area designated as communal space.

As such, it is recommended that if the Panel determine to approve the proposed development, that a condition be imposed to require the Applicant to install a 2,000 litre rainwater tank for each proposed dwelling, or a communal 30,000 litre tank, in accordance with Principle 159.

Waste Management

A waste management plan has been submitted, outlining the proposed method of storage and collection of waste from the site. In short, a commercial contractor is proposed to collect the waste. Due to the steep driveway access associated with the undercroft parking, it is understood that the intended contractor services similar developments, by using a forklift to transfer bins from the undercroft to the flat section of the driveway, where they are then emptied into the garbage truck.

Summary

The Residential Character (Norwood) Zone is intended to accommodate infill development comprising a mix of housing forms at varying densities, in areas not designated as 'character pockets'. The subject land is not located in a 'character pocket'.

The proposed dwelling density is considered to be acceptable, as the proposed dwellings all exceed the minimum dwelling floor area requirements for two and three bedroom dwellings.

The zone anticipates development up to two-storeys in height and does not require a single-storey streetscape presentation outside of 'character pockets'.

The proposed residential flat building is considered to result in a compatible streetscape fit, being of a similar scale to the building at 6-10 Elizabeth Street, but with a greater street setback and higher levels of articulation and material variety.

The building is generally well articulated and is considered to result in acceptable outlooks from adjacent properties, for the reasons set out in this report.

Notable shortcomings of the proposal include undercroft parking, a shortfall of two visitor car parking spaces and a shortfall in private open space provision for two of the fifteen dwellings.

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

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application Number 155/C071/18 by D'Andrea & Associates for a Community Title land division (creating fifteen lots from two existing allotments), demolition of two dwellings and construction of a two-storey residential flat building (comprising fifteen dwellings) with basement car parking on the land located at 12-14 Elizabeth Street, Norwood, subject to the imposition of the following 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, except where varied by the following conditions of consent:

- Plan of Division prepared by Cavallo Forest & Associates, plan numbers 64395_pland_1_V01 to 64395_pland_4_V01, dated 29 January 2019.
- plans and elevations by D'Andrea Architects, Sheet 1 Rev C, Sheet 2 Rev C, Sheet 3 Rev E, Sheet 4 Rev D and Sheet 5 Rev D
- Waste management plan by D'Andrea Architects, dated 22 January 2019

Conditions

1. A Stormwater Management Plan shall be prepared and provided to the reasonable satisfaction of the Council prior to the issuing of development approval, which demonstrates stormwater discharge from the subject land being maintained at pre-development levels. Sufficient storage (above or below ground) shall be provided to safely contain stormwater runoff from the contributing catchments for a 5 year ARI rainfall event.
2. Tree protection zones (TPZ's) shall be established around the two street trees adjacent the land, in accordance with advice obtained from the Council's City Arborist, prior to demolition and shall be maintained throughout construction.
3. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.
4. The trees to be planted adjacent to the balconies of Dwellings 13 and 14, shall have a minimum height at the time of planting, of 3.0 metres.
5. Each dwelling shall be installed with a rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres), or alternatively, a 30 kilolitre (30,000 litres) communal rainwater tank shall be installed, with each dwelling contributing rainwater from at least 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.

6. The portion of the upper floor windows and balconies on the northern, eastern and southern sides, less than 1.7 metres above the floor levels, shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person from the balcony to the reasonable satisfaction of the Council or its delegate.

Notes to Applicant

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

The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
4. The Applicant'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.
5. 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.
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.

Ms Alina Berketa addressed the Panel from 7:04pm until 7:10pm

Ms Lesley Baker addressed the Panel from 7:11pm until 7:16pm

Ms Jenni Paynter addressed the Panel from 7:16pm until 7:22pm

Mr Tony Kelly from Future Urban Group addressed that Panel from 7:23pm until 7:25pm

Moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application Number 155/C071/18 by D'Andrea & Associates for a Community Title land division (creating fifteen lots from two existing allotments), demolition of two dwellings and construction of a two-storey residential flat building (comprising fifteen dwellings) with basement car parking on the land located at 12-14 Elizabeth Street, Norwood, subject to the imposition of the following 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, except where varied by the following conditions of consent:

- Plan of Division prepared by Cavallo Forest & Associates, plan numbers 64395_pland_1_V01 to 64395_pland_4_V01, dated 29 January 2019.*
- plans and elevations by D'Andrea Architects, Sheet 1 Rev C, Sheet 2 Rev C, Sheet 3 Rev E, Sheet 4 Rev D and Sheet 5 Rev D*
- Waste management plan by D'Andrea Architects, dated 22 January 2019*

Conditions

- 1. A Stormwater Management Plan shall be prepared and provided to the reasonable satisfaction of the Council prior to the issuing of development approval, which demonstrates stormwater discharge from the subject land being maintained at pre-development levels. Sufficient storage (above or below ground) shall be provided to safely contain stormwater runoff from the contributing catchments for a 5 year ARI rainfall event.*
- 2. Tree protection zones (TPZ's) shall be established around the two street trees adjacent the land, in accordance with advice obtained from the Council's City Arborist, prior to demolition and shall be maintained throughout construction.*
- 3. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.*
- 4. The trees to be planted adjacent to the balconies of Dwellings 13 and 14, shall have a minimum height at the time of planting, of 3.0 metres.*
- 5. Each dwelling shall be installed with a rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres), or alternatively, a 30 kilolitre (30,000 litres) communal rainwater tank shall be installed,*

with each dwelling contributing rainwater from at least 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.

6. *The portion of the upper floor windows and balconies on the northern, eastern and southern sides, less than 1.7 metres above the floor levels, shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person from the balcony to the reasonable satisfaction of the Council or its delegate.*
7. *That the upper level set back of the southern wall adjacent to 16 Elizabeth Street be increased to reduce the overshadowing impact to the reasonable satisfaction of the Council's Manager Development Assessment.*

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

Seconded and lost

Moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **refused** to Development Application Number 155/C071/18 by D'Andrea & Associates for a Community Title land division (creating fifteen lots from two existing allotments), demolition of two dwellings and construction of a two-storey residential flat building (comprising fifteen dwellings) with basement car parking on the land located at 12-14 Elizabeth Street, Norwood, for the following reasons:*

1. The application is not consistent with the desired character of the zone
2. The proposal does not achieve a mostly single storey appearance to the street
3. The height and length of upper level walls have not been minimised
4. The proposal includes undercroft garaging whereas the development plan states that undercroft should only be on the western side of Osmond Terrace
5. The bulk and scale of the proposal will have an unreasonable overshadowing and visual impact variously on the properties immediately to the south and east of the subject land.

Seconded and carried.

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/531/2018 – D’ANDREA & ASSOCIATES – 27 GARDINER AVENUE, ST MORRIS

DEVELOPMENT APPLICATION:	155/531/18
APPLICANT:	D’Andrea & Associates
SUBJECT SITE:	27 Gardiner Avenue, St Morris (Certificate of Title; Volume: 5812 and Folio: 737)
DESCRIPTION OF DEVELOPMENT:	Construction of a pair of two-storey semi-detached dwellings and associated fill to level the site and combined height of fencing and retaining of up to 2.4 metres (along northern, western and southern boundaries)
ZONE:	Residential Character Zone – Trinity Gardens/St Morris Policy Area – Norwood, Payneham and St Peters (City) Development Plan (dated 17 December 2017)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a pair of two-storey semi-detached dwellings and associated fill to level the site and combined height of fencing and retaining of up to 2.4 metres (along northern, western and southern boundaries).

Staff have delegated authority to determine the application, as it is Category 1. However, prior to being amended, the application was Category 2 and a representation was received, in opposition to the application. The representor wishes to be heard in support of their representation, notwithstanding the amendments to the application. In the circumstances, staff have determined not to exercise their delegation.

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:	18.29 metres
Depth:	50.29 metres
Area:	919.80m ²
Topography:	gently sloping from the front (east) to the rear (west)
Existing Structures:	single-storey detached dwelling and a single-storey outbuilding within the rear yard area
Existing Vegetation:	several small mature trees both within the front and rear yard areas

TABLE 1: DEVELOPMENT DATA:

Consideration	Dwelling 1 (southern dwelling)	Dwelling 2 (northern dwelling)	Development Plan Merit Assessment Quantitative Guideline
Site Area	459m ²	459m ²	400m ²
Allotment Width	9.14m	9.15m	9.0m
Allotment Depth	50.29m	50.29m	N/A
External Wall Height*	3.3 – 3.5m (single-storey) 6.5 – 7.0m (two-storey)	3.3 – 3.5m (single-storey) 6.5 – 7.0m (two-storey)	N/A
Maximum Overall Height (to roof apex)*	8.5m	8.5m	N/A
Floor Area (total)	324.3m ²	324.3m ²	N/A
Floor Area (footprint)	244m ²	244m ²	N/A
Site Coverage	53%	53%	50%
Private Open Space	119m ² 26% of site area 76% uncovered	119m ² 26% of site area 76% uncovered	20% of site area and 50% uncovered
Front Set-back	5.3m (canopy) 6.0m (facade) 20.5m (garage) 22m (upper level)	5.3m (canopy) 6.0m (facade) 20.5m (garage) 22m (upper level)	N/A
Side Set-back	1.1 and 3.5 – 5.5m and boundary development (ground level) 2.9 – 4.0m (upper side)	1.1 and 3.5 – 5.5m and boundary development (ground level) 2.9 – 4.0m (upper side)	1m - for walls with a vertical height of up to 3 metres measured from natural ground level 1m plus one-third of the increase in vertical wall height above 3m - for walls with a vertical height exceeding 3 metres measured from natural ground level 1.9m plus one-third of the increase in vertical wall height above 3m - for upper level walls located on the southern side of a site, with a vertical height exceeding 3m measured from natural ground level
Rear Set-back	9.3m (ground level/alfresco) and 12.9m (upper level)	9.3m (ground level/alfresco) and 12.9m (upper level)	4m single-storey 6m upper storey
Car Parking Provision	2 undercover and in excess of 2 visitor	2 undercover and in excess of 2 visitor	2 - one of which is covered

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

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

Notification

The proposed development was processed as a Category 2 form of development. This is because the application, when initially lodged, included a combination of a fence and retaining wall exceeding 2.4m in height.

However, the application was subsequently amended, such that it no longer includes a combination of a fence and retaining wall exceeding 2.4m in height. As such, the amended application is a Category 1 form of development and is not subject to public notification requirements.

Prior to the application being amended, public notification was undertaken. In response to the notification process, two (2) representations were received (one opposed and undecided). A copy of the representations is contained in **Attachment C**. The key issues raised by representor in opposition are, in summary:

- the combined height of the retaining wall and fencing;
- overall height of the dwellings; and
- stormwater drainage from the proposed development.

Ms Karen Murphy and Mr Greg Wright desire to be heard personally by the Panel in support of their representation. Ms Murphy has been advised of the amendments to the application and that the amended application is Category 1, however still wishes to be heard by the Panel.

The Applicant has provided a response to the representations received. A copy of the response to the representations received is contained in **Attachment D**.

State Agency Consultation

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

Discussion

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

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

Land Use and Density

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

Trinity Gardens/St Morris Policy Area Desired Character Statement
Trinity Gardens/St Morris Policy Area Objective: 1
Trinity Gardens/St Morris Policy Area PDC's: 1

Residential Character Zone Desired Character Statement
Residential Character Zone Objectives: 1.
Residential Character Zone PDC's: 1.

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

Residential Character Zone Principle of Development Control 1 states (in part):

“The following forms of development, or combinations thereof, are envisaged in the zone:

Dwelling”

The proposal is consistent with this principle, insofar as the proposed semi-detached dwellings are a type of dwelling.

The density of the proposal has been determined by the approved land division, which was assessed having regard to the minimum allotment size of 400m² set out in Principle of Development Control 2 of the Trinity Gardens/St Morris Policy Area. Furthermore, the type of dwellings proposed (ie. semi-detached dwellings) are encouraged in the policy area by the fact that a minimum site area (ie. as detailed above) and minimum frontage requirements are stipulated for semi-detached dwellings in Policy Area Principle 2.

Accordingly, the proposed semi-detached dwelling type is considered appropriate.

Streetscape/bulk/scale/height/character

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

Trinity Gardens/St Morris Policy Area Desired Character Statement
Trinity Gardens/St Morris Policy Area Objective: 1
Trinity Gardens/St Morris Policy Area PDC's: 1 & 2.

Residential Character Zone Desired Character Statement
Residential Character Zone PDC's: 1, 7, 8 & 10-13.

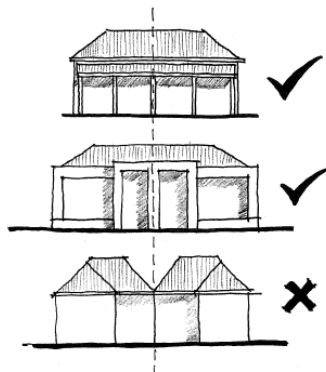
City Wide Objectives: 18, 19 & 20.
City Wide PDC's: 28-32, 37, 39, 41, 190, 201 & 209-216.

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

'Development will be designed to have a single-storey appearance from the primary street frontage, however, in localities where the streetscape character has already been influenced to a large degree by two-storey development, consideration may be given to carefully designed 'outwardly' two-storey development..'

City Wide Principle of Development Control 190 states:

'The roof form and design of semi-detached dwellings in localities where the predominant dwelling type is detached dwellings should achieve the form of a single integrated building (Refer to Figure 5) and be of a bulk and scale that is consistent with the predominant pattern of development.'



City Wide Principle of Development Control 216 states:

'Garaging in association with semi-detached dwellings should generally not be placed side by side. In instances, where it may be considered appropriate, the garages should be set back from the main face of the dwellings and designed to provide visual separation between each garage'

The proposed semi-detached dwellings present to the street as a single cohesive building when viewed from Gardiner Avenue, which is enhanced by the fact that garaging to service the dwellings is set well back from the front facades. More specifically, the semi-detached dwellings have a single integrated roof form over the single-storey components with attached garages on the outside and set back 14.5 metres behind the facade. This is considered to result in an appropriate design response that is consistent with the intent of Principles 190 and 216.

In terms of the two-storey components, Trinity Gardens/St Morris Policy Area Principle of Development Control 3 (in part) and Residential Character Zone Principle of Development Control 6 states (in part) state respectively:

“Maximum building height above natural ground level: 2 storeys (provided that it maintains a mostly single-storey appearance along the primary street frontage)”

And

“Unless otherwise stated in the relevant Policy Area, or in localities where the streetscape character has already been influenced to a large degree by two-storey development, development should be designed to achieve a mostly single-storey streetscape appearance, consistent with any of the following:

- (c) *in new or existing dwellings, a second storey component which is set back sufficiently behind a single storey component, so as to achieve a mostly single-storey appearance from the primary street frontage (refer to Figure 17 below).”*



Figure 17

The proposed dwellings present to the street with single-storey forms set back 6 metres from the street, with upper level components set back 22 metres from the street boundary. Accordingly, whilst the upper levels would be visible from the street, they would not have a strong presence in the streetscape and therefore not detract from the established predominantly single-storey built form character of the locality. Accordingly, it is considered that the two-storey form of the proposal is acceptable and accords with Principle 6(c), which seeks to ensure that two-storey development achieves a mostly single-storey appearance from the primary street frontage.

In general terms, the proposed semi-detached dwellings can be described as being contemporary and simple in style, with traditional design elements in the form of pitched corrugated roof forms, the use of eaves, well-proportioned window openings and an overall balance to the built form outcome as a whole. In addition, the proposed materials and finishes are considered to be of a traditional nature and good quality and it is anticipated that this will result in a development that will make a positive contribution to the character of Gardiner Avenue. Specifically, the single-storey design response to the street is considered to be of a scale that reinforces the character of traditional buildings such as bungalows along Gardiner Avenue. Accordingly, the proposed development is considered to satisfy City Wide Principle of Development Control 29, with regard to the architectural design.

Trinity Gardens/St Morris Policy Area Principle of Development Control 2 states that where a double garage/carport fronting the primary street is proposed a 12.5 metre wide frontage is required. Each of the proposed allotments have a 9 metre frontages.

The setback of both garages from the front property boundary is 20.5 metres. The single-storey component of each dwelling partially obscures the garages when viewed directly from the street. The roof areas over the garages are flat concealed roofs that are lower than the underside of the eaves of the dwellings. In this context, the proposed garages will not read readily when viewed from Gardiner Avenue. As such, whilst the garaging does not accord with Policy Area Principle 2, the proposed double garages are considered acceptable in this instance.

In overall terms, the architectural design response undertaken by the Applicant, it is considered that the proposed dwellings accord with the relevant provisions of the Development Plan that relate to bulk, scale and appearance.

Setbacks and Site Coverage

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

City Wide PDC's: 204, 205, 206, 207 & 208.

City Wide Principle of Development Control 205 states (in part) the following:

“Where the Zone and/or Policy Area does not specify a minimum distance and where there is a consistent front set-back pattern evident within a locality, dwellings should be set back from the allotment boundary on the primary street frontage:

- (c) the same distance as the greater of the two adjoining dwelling setbacks, in all circumstances where a new dwelling comprising of 2 or more storeys is being introduced, and one or both of the adjoining properties are single storey.”*

In terms of front setbacks, there is a relatively consistent pattern of front setbacks evident on the western side of Gardiner Avenue, between 23 and 37 Gardiner Avenue. The single-storey detached dwelling (bungalow) to the north of the subject land (29 Gardiner Avenue) has a front setback ranging from 4.0 – 6.0 metres to its staggered facade. Directly to the south at 25 Gardiner Avenue is a vacant parcel of land. Further to the south at 23 Gardiner Avenue is a single-storey detached dwelling that has a front setback ranging from 7.0 – 10 metres to its staggered facade.

The front setback of the proposed dwellings is 5.3 metres to the canopy and 6.0 metres to the front facade. Beyond this, the garages of each dwelling are setback 20.5 metres. Whilst these front setbacks and in particular, the setback to the facade, is closer to the street than the neighbouring dwelling at 23 Gardiner Avenue, the proposed front setbacks are considered to be complementary to these neighbouring dwellings given the well-modulated vertically proportioned facades and the well-setback garages, insofar, the proposed dwellings are not considered to ‘read’ as being set forward when viewed from the street.

With regard to ground level side setbacks, both dwellings propose elements of boundary to boundary development at ground level. In particular, each garage is to have the outer walls situated on the existing external side boundaries.

Trinity Gardens/St Morris Policy Area Principle of Development Control 3 anticipates single-storey boundary development occurring on one side boundary for a garage/carport. The boundary walls of the garage components begin 14.5 metres behind the facade, which when combined with the proposed landscaping adjacent both the northern and southern side boundaries, gives the impression of space around the dwellings when viewed from the street. In this context, the ‘boundary to boundary’ nature at ground level is considered acceptable.

City Wide Principle of Development Control 207 states the following:

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

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

Consideration has been given to whether the proposed side boundary wall of the northernmost dwelling will impact unreasonably in terms of visual outlook upon the adjacent occupiers to the north at 29 Gardiner Avenue. The garage boundary wall comprises a length of 6.6 metres and an overall height ranging from 2.8 – 2.9 metres. In this context, the proposed garage boundary wall dimensions are consistent with Principle 207.

In terms of side setbacks, Trinity Gardens/St Morris Policy Area Principle of Development Control 3 prescribes a quantitative formula that requires walls with a vertical height of up to 3.0 metres (measured from natural ground level) to have a setback of 1.0 metre. For walls with a vertical height exceeding 3.0 metres (measured from natural ground level) a setback of 1.0 metre, plus one-third of the increase in vertical wall height above 3.0 metres is required. Furthermore, for walls located adjacent a southern side boundary with a vertical height exceeding 3.0 metres (measured from natural ground level) a setback of 1.9 metres, plus one-third of the increase in vertical wall height above 3.0 metres is required.

Applying the formula in Principle 3, the required setback is 1.3 metres from both side boundaries. The side setback of the ground level walls and in particular, the rear portion of the dwelling is 1.1 metres. Whilst the side setbacks do not satisfy the criterion (ie. by 200mm), the occupants of 29 Gardiner Avenue will retain a relatively open outlook from their rear yard area such that their visual amenity is not considered to be unreasonably compromised.

The height of the outer external upper level walls of the dwellings varies between 6.4 - 6.8 metres on the northern side and between 6.4 – 6.9 metres on the southern side. Applying the formula for walls exceeding 3.0 metres, the required setback is between 2.0 – 2.1 metres on the northern side and 2.9 – 3.1 metres on the southern side. The upper level side setback of the dwellings varies between 2.9 – 4.0 metres. The upper level northern and southern side setbacks satisfy this policy requirement.

With respect to rear setbacks, Trinity Gardens/St Morris Policy Area Principle of Development Control 3 prescribes that single-storey and upper-storey walls should be setback 4.0 metres and 6.0 metres respectively. The rear setback of the semi-detached dwellings varies between 9.3 metres to the alfresco at ground level and 12.9 metres at upper level. The proposed rear setbacks satisfy the criteria prescribed in Principle 3.

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

Trinity Gardens/St Morris Policy Area Principle of Development Control 3 provides a quantitative figure of 50% for the maximum site coverage of semi-detached dwellings. The proposed dwellings result in a site coverage of 53%. Whilst the proposed site coverage is inconsistent with Principle 3 it is not considered to be fatal to the Application as the dwellings include covered outdoor living areas such that further applications for additional roofed structures is unlikely.

Accordingly, the site coverage of the proposed dwellings is considered to be acceptable.

Overshadowing/overlooking

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

City Wide PDC's:

11, 31, 71, 72, 195, 196, 235 & 236.

Shadow diagrams (contained in **Attachment B3**) have been provided to demonstrate the extent of overshadowing from the proposed dwellings.

City Wide Principle of Development Control 196 states:

'Unless otherwise specified in the relevant Zone and/or Policy Area, development should ensure that the north-facing windows of habitable rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9am and 5pm on the winter solstice (21 June).'

The directly neighbouring land to the south at 25 Gardiner Avenue is currently vacant. Nevertheless, the Applicant has prepared shadow diagrams to demonstrate the extent of anticipated shadowing from the proposed development.

Notwithstanding that the neighbouring land is vacant, the diagrams demonstrate that a future dwelling could be designed at 23 Gardiner Avenue with a private open space area that would receive two hours of direct sunlight to at least 50% of its private open space.

In terms of the upper level windows, all of the northern, western and southern facing windows are have either sill heights of 1.7 metres when measured above the internal upper floor level, or, obscured glazing below 1.7 metres. Accordingly, this will prevent any unreasonable overlooking of the adjoining yard areas from these windows.

As such, the proposed development is considered to be consistent with City Wide Principle of Development Control 11, in that no unreasonable overlooking or overshadowing will result from the development.

Private open space

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

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

City Wide Principle of Development Control 225(a) states that for dwellings with a site area of greater than 250m², 20% of the site area should be private open space. Both semi-detached dwellings are proposed to have 119m² (or 26% of their individual site areas) of private open space with 76% of the private open space area for each dwelling open to the sky which exceeds the 50% requirement called for in City Wide Principle Development Control 229.

The private open space areas are of good dimensions and are linked to the covered alfresco areas and the internal open plan living/kitchen/dining areas.

Car parking/access/manoeuvring

City Wide Objectives: 34.
City Wide PDC's: 98, 101, 104, 118, 120, 181, 198, 211, 212 & 214.

Table NPSP/8

The northern dwelling requires the creation of a new crossover (ie. south of the existing stobie pole) whereas southern dwelling is to utilise the existing crossover.

Table NPSP/8 prescribes that a semi-detached dwelling should be provided with two on-site car parking spaces, of which at least one should be covered. Each proposed dwelling is to accommodate two car parking space in the garage with room for in excess of two visitor parks in the driveway. The proposed on-site car parking provision exceeds the criteria in Table NPSP/8.

The internal dimensions of the garages satisfy the criteria in City Wide Principle of Development Control 212, in that a two vehicle garage should have a minimum internal dimension of 5.8 metres by 6.0 metres.

Vehicle access and egress in association with each dwelling is considered to be safe and convenient.

Finished floor levels/flooding/retaining

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

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

The subject land is not situated within a recognised flood plain identified within the Council's Development Plan.

The finished floor levels for both dwellings have been nominated at a level which is 223mm below the adjacent midpoint top-of-kerb level in Gardiner Avenue and 80mm lower than the existing dwelling on the site.

The proposed finished floor level of the dwellings will be below ground level for the front portion of the dwellings and at-or above ground level for the rear portions, adjacent the northern, western and southern boundaries.

Since the original proposal underwent public notification, the Applicant has amended the proposed development such that the finished floor levels are lower which in turn, has resulted in a reduction in the retaining wall heights. Specifically, the retaining walls were to 810mm in height resulting in a combined height of fencing and retaining of up to 2.61 metres, whereas the amended proposal before the Panel has retaining up to a maximum of 700mm (ie. a small section along the southern boundary) and a maximum combined height of fencing and retaining of 2.4 metres. The resulting combined retaining wall and fencing heights is not considered to be unreasonable, and is consistent with City Wide Principle of Development Control 58, which states:

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

Stormwater from the roofs of the proposed dwellings and garages can be drain to the Gardiner Avenue watertable.

Given that the finished paving level surrounding the dwellings is to be below adjacent top-of-kerb level, a sump and pump system will be required to dispose of surface stormwater to the street water table.

Trees (regulated, mature & street) and landscaping

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

Residential Character Zone PDC: 15.
City Wide Objectives: 24, 98, 117, 118 & 119.
City Wide PDC's: 220, 221, 396, 398- 400.

There are no regulated or mature trees on the subject land.

In terms of landscaping, the Applicant has provided a landscaping plan and schedule, which specifies a range of hedge plantings, shrubs and turf. More specifically, the front yard areas of each dwelling and the adjacent the external side boundaries along with front lawn areas are to be planted with a combination of 'Nandina Domestica' (Heavenly Bamboo), 'Verbena bonariensis" and 'Spider Plants'.

The proposed landscaping is considered to enhance the amenity of the proposed dwellings, particularly given the extent of hard paved areas as part of the development proposal. In this context, the proposed landscaping scheme and schedule is considered to provide for a reasonable level of amenity for future occupants of the dwellings, as specified by City Wide Principle of Development Control 221(a).

Environmental Sustainability

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

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

The subject land is orientated east-west and the proposed dwellings are therefore to be sited east-west on the subject land. The main living areas and private open space provision is located on the western side of the subject land. The private open space areas (ie. rear yards) of both dwellings will have a reasonable degree of access to northern sunlight primarily from midday onwards over the course of both the summer and winter months. In terms of gaining access to northern light for the internal living areas of the dwellings, the proposal is considered to achieve a poor outcome. This is mainly due the orientation of the subject land and subsequent configuration of the dwellings.

The Applicant has designed the dwellings so that the windows at both ground and upper floor level on the western elevation are protected from direct sunlight (ie. heat loading). At ground level, the alfresco areas provide protection to the western facing glazing adjacent the living room and at upper level, the 700mm wide eaves afford reasonable protection to the four western facing windows.

The proposal includes the installation of 2,000 litre rainwater tanks for each dwelling, which exceeds the mandatory Building Code of Australia requirement and satisfies the rainwater tank quantum specified in City Wide Principle of Development Control 159.

Summary

The two-storey semi-detached dwellings are considered to result in a built form appearance that is of an acceptable bulk and scale in the context of the existing building character within the Gardiner Avenue locality. Furthermore, the development incorporates a good degree of articulation and a subtle combination of quality finishes and construction materials. The dwellings are considered to achieve functional links between the internal living areas and their private open space areas.

Both dwellings are considered to have appropriate front, side and rear setbacks with existing residential development in the locality. From a quantitative perspective, the proposed overall site coverage of the dwellings marginally exceeds the quantitative requirement for the policy area, however, this shortcoming is not considered to be fatal to the Application.

Each dwelling is provided with adequate onsite undercover car parking provision. Vehicular access and egress can be achieved in a safe and convenient manner from the proposed garages.

Whilst the orientation of the proposed private open space areas nominated for each of the proposed dwellings is not ideal given the orientation of the subject land, the private open space areas are considered to be of an appropriate size and are well linked to the internal living areas.

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

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/531/18 by D'Andrea & Associates, to construct a pair of two-storey semi-detached dwellings and associated fill to level the site and combined height of fencing and retaining of up to 2.4 metres (along northern, western and southern boundaries), on the land located at 27 Gardiner Avenue, 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 and elevations and landscaping plan prepared by D'Andrea & Associates and received by the Council on 13 February 2019.

Conditions

1. The portion of the upper floor windows on the northern, southern and western elevations which are less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwellings in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
2. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.
3. Pump and Sump Configuration
 - a) the pump system shall be designed to ensure that at a minimum the 1 in 20 year ARI event is safely discharged to the street watertable without overflowing onto neighbouring properties. This can be achieved by pumping the peak rainfall intensity duration in full to the street watertable or utilising onsite storage (above or below ground) and pumping a smaller flow rate;
 - b) where the pump system relies on surface storage for flood peaks, ponding of water shall only occur for events having a 1 in 5 year ARI or greater;
 - c) sufficient storage (above or below ground) shall be provided to safely contain runoff from the contributing catchments for a 10 year, 30 minute duration rainfall event in the event of power failure; and
 - d) pump systems shall incorporate two pumps each capable of discharging the design flow (to cater for the failure of one of the pumps).
4. A rainwater tank with a storage capacity not less than 2 kilolitres (2,000 litres) shall be installed for each dwelling 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.
5. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, herein approved, prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
6. All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council 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.

Ms Karen Murphy addressed the Panel from 8:08pm until 8:12pm

Mr Greg Vincent addressed the Panel from 8:12pm until 8:20pm

Moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/531/18 by D'Andrea & Associates, to construct a pair of two-storey semi-detached dwellings and associated fill to level the site and combined height of fencing and retaining of up to 2.4 metres (along northern, western and southern boundaries), on the land located at 27 Gardiner Avenue, 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 and elevations and landscaping plan prepared by D'Andrea & Associates and received by the Council on 13 February 2019.*

Conditions

1. *The portion of the upper floor windows on the northern, southern and western elevations which are less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwellings in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)*
2. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.*
3. Pump and Sump Configuration
 - a) *the pump system shall be designed to ensure that at a minimum the 1 in 20 year ARI event is safely discharged to the street watertable without overflowing onto neighbouring properties. This can be achieved by pumping the peak rainfall intensity duration in full to the street watertable or utilising onsite storage (above or below ground) and pumping a smaller flow rate;*
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 - c) *sufficient storage (above or below ground) shall be provided to safely contain runoff from the contributing catchments for a 10 year, 30 minute duration rainfall event in the event of power failure; and*
 - d) *pump systems shall incorporate two pumps each capable of discharging the design flow (to cater for the failure of one of the pumps).*
4. *A rainwater tank with a storage capacity not less than 2 kilolitres (2,000 litres) shall be installed for each dwelling 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.*
5. *All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, herein approved, prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.*
6. *All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council 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.*

Seconded and carried

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/876/2017 – HAMMOND ESTATES PTY LTD – 2 DUDLEY ROAD, MARRYATVILLE

DEVELOPMENT APPLICATION:	155/876/2017
APPLICANT:	Hammond Estates Pty Ltd
SUBJECT SITE:	2 Dudley Road, Marryatville (Certificate of Title Volume: 6022 Folio: 604)
DESCRIPTION OF DEVELOPMENT:	Construction of a two (2) storey residential flat building comprising two (2) dwellings and associated landscaping and fencing
ZONE:	Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 30 May 2017)
PUBLIC NOTIFICATION CATEGORY:	Category 2

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 (2) storey residential flat building comprising two (2) dwellings and associated landscaping and fencing.

Staff do not have delegated authority to determine the Application, as it is a Category 2 application for public notification purposes and there are representors opposed to the application.

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:	12.8 metres
Depth:	36.52 metres
Area:	467m ² (includes 2m wide portion of adjoining allotment which is subject to a right of way and forms part of the shared driveway)
Topography:	essentially flat
Existing Structures:	vacant
Existing Vegetation:	no vegetation of note

The subject land is zoned Neighbourhood Centre and comprises two (2) allotments and a portion of a third allotment, which are all part of the adjacent Woolworths supermarket site. It is currently utilised as an overflow car parking area for Woolworths and is accessed via the larger car park to the east. There is no crossover to provide vehicle access onto or egress from the subject land to/from Dudley Road and bollards are in place to further prevent vehicles from entering or exiting the supermarket car park via Dudley Road. That said, allowance is made for vehicles to enter via Dudley Road (by removing a bollard) in order to access the rear of the property at 238-240 Kensington Road, which has a right of way over the subject land. It is understood that when doing so, such vehicles traverse the upright kerbing.

Locality Attributes

Land uses: mixed use
 Building heights (storeys): several two storey
 Streetscape amenity moderate due to traffic and activity from nearby commercial development and Kensington Road

The locality contains a mix of residential and non-residential land uses, being the interface between the Neighbourhood Centre and Residential Character Zones. Dudley Road is relatively narrow and amenity at this end of the street is somewhat compromised by the proximity of commercial development along Kensington Road.

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

Proposal in Detail

The Applicant seeks consent to construct a two storey residential flat building comprising two (2) dwellings with associated landscaping and fencing.

The dwellings are of a contemporary design with a skillion roof and wide eave overhang presenting to Dudley Road, with finishes include a mix of brick, render and timber cladding.

Each dwelling has a double garage accessed from a common driveway, which is shared with the adjacent commercial tenancies at 238 and 240 Kensington Road.

Both dwellings have 39.24m² of floor area at ground level, comprising 2 bedrooms and 2 bathrooms. At the upper level Dwelling 1 has 80.97m² of floor area comprising the kitchen/living/dining area and the outdoor terrace. Dwelling 2 has 70.24m² of floor area comprising the kitchen/living/dining area and the outdoor terrace.

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	Dwelling 1	Dwelling 2	Development Plan Merit Assessment Quantitative Guideline
Site Area	167m ²	227m ²	Not less than 120m ²
Allotment Width	8.8m	2m handle 8.8m-10.8m	N/A
Allotment Depth	18.98m	17.46 (excluding handle)	N/A
External Wall Height*	5.11-7.20m	5.11-7.20m	N/A
Maximum Overall Height (to roof apex)*	7.2m	7.2m	N/A
Floor Area (total)	Ground floor 78.21m ² (including garage and porch) Upper floor 80.97m ² (including balcony)	Ground floor 78.21m ² (including garage and porch) Upper floor 70.24m ² (including balcony)	N/A
Floor Area (footprint)	80.97m ²	70.24m ²	N/A
Site Coverage	48%	31%	N/A

TABLE 1: DEVELOPMENT DATA *continued...*

Consideration	Dwelling 1	Dwelling 2	Development Plan Merit Assessment Quantitative Guideline
Private Open Space	12m ² (ground level) 28.31m ² (terrace) 40.3m ² (total)	21m ² (ground level) 24.43m ² (terrace) 45.43m ² (total)	35m ²
Street Set-back	2.43 - 3m	N/A	N/A
Side Set-back (southern bdy)	ground level nil, 1.14m, 1.7m upper level 1.14m	ground level nil, 1.14m, 1.7m upper level 1.14m	N/A
Rear Set-back	N/A	.94m	N/A
Car Parking Provision	2 undercover	2 undercover	2 (1 covered) space & 1 visitor space

** 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, including a planning report and copy of the approved land division, are attached (**Attachment B**).

Notification

The proposal has been identified and processed as a Category **2** form of development.

One (1) representation was received (opposed) in response to this notification, a copy of which is attached (**Attachment C**). The key issues raised by the representor are, in summary:

- The development will visually dominate the neighbouring dwelling
- Stormwater run-off
- Set-backs are not sufficient and will cause overshadowing and loss of natural light
- Visual impact from neighbouring property
- Garage walls on the boundary
- Privacy (regarding the upper level terrace and windows)
- Noise impact from the upper level terrace and possible transfer from the garages on the boundary

The Panel should note that the representor initially wished to be heard by the Panel, however, has since advised that they no longer wish to be heard. As such, no representors desire to be heard personally by the Development Assessment Panel (DAP):

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:

- Two storey development is envisaged within the zone and is common within the locality – the dwellings are of a relatively low scale for a two-storey form and include features which reduce the bulky appearance (e.g. variation in wall lines, materials and colours and fenestration)
- Roof run-off will be via guttering along the southern side of the dwellings
- The garages will be constructed to high standards therefore noise transfer should not be an issue. The current use of the land is as a commercial car park so there is a higher turnover of vehicles than what would occur with a residential use. Amendments have been made to the height of the privacy wall on the terrace by 300mm to further mitigate noise

- Set-backs are considered to be acceptable – the upper level provides good articulation and visual interest.
- With regard to overshadowing, it is agreed that the north facing window (kitchen window) will not receive the required amount of direct sunlight during the winter solstice, as is currently the case. The same situation would occur if a single two-storey development which complies with the height and side set-back guidelines of the Residential Character Zone were to be built on the site. The upper level of Dwelling 2 has been set back so as to not worsen the extent of overshadowing of the private open space of the neighbouring dwelling. Furthermore the level of overshadowing will not impact on the 2 skylights through the middle of the day at the winter solstice when they would get direct sunlight.
- With regard to noise, the height of the terrace privacy wall has been increased to 2m which is taller than most people and would significantly aid noise attenuation on the occasions that the terraces are used for social gatherings
- With regard to privacy, the upper level windows and balcony include treatments in accordance with the D/Plan.

State Agency Consultation

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

Discussion

The subject land is located within the Neighbourhood Centre 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:

Neighbourhood Centre Zone Objective:	1
Neighbourhood Centre Zone PDCs:	1, 10
City Wide Objectives:	1, 2, 7, 26, 56, 57
City Wide PDCs:	1, 2, 3, 4

With regard to land use, both Objective 1 and PDC 1 of the Neighbourhood Centre Zone are silent on residential land use, with both provisions stating that development should be primarily for small-scale specialty and convenience shops, restaurants, consulting rooms and offices.

Notwithstanding this, Neighbourhood Centre Zone PDC 10 provides a minimum site area requirement for residential development within the Zone. Additionally, no forms of residential development are listed as non-complying within the zone.

In this regard, it would be reasonable to conclude that the zone does anticipate residential land use where it is unlikely to compromise the primary intent of the zone for the stated uses. In this case, the suitability of the subject land for non-residential development would potentially be limited by its size, lack of arterial road exposure and proximity to a residential zone.

As the land is currently vacant of buildings (being an overflow car parking area for the adjacent supermarket complex), and borders the Residential Character Zone to the south, it is considered that the proposed residential land use is an acceptable and more preferable land use option, which would not compromise the land use objectives of the Neighbourhood Centre Zone.

Streetscape/bulk/scale/height/character

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

Neighbourhood Centre Zone PDCs:	3, 9
City Wide Objectives:	18, 19 & 20
City Wide PDCs:	28-33, 37, 39 & 41

The two storey height of the proposed dwellings is in accordance with PDC 9 of the Neighbourhood Centre Zone, which allows development of up to two storeys.

The policies of the Neighbourhood Centre Zone relating to streetscape and character are mostly relevant to development along the main road frontages and are not considered to provide any significant guidance for the subject site which fronts a residential side street.

The following City Wide PDCs 28-30 are considered relevant in that they provide general guidance on the fit of the development within its locality in terms of design and appearance.

City Wide PDC 28:

The appearance of land and buildings should not impair the amenity of the locality in which they are situated.

City Wide PDC 29:

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

- (a) may be of a contemporary appearance and exhibit an innovative style;*
- (b) should complement the urban context of existing buildings on adjoining and nearby land in terms of:
 - (i) maintenance of existing vertical and horizontal building alignments*
 - (ii) architectural style, building shape and the use of common architectural elements and features;*
 - (iii) consistent colours, materials and finishes; and**
- (c) should not visually dominate the surrounding locality.*

City Wide PDC 30

Buildings should be designed to minimise their visual bulk and provide visual interest through design elements such as:

- (a) articulation;*
- (b) colour and detailing;*
- (c) materials, patterns, textures and decorative elements;*
- (d) vertical and horizontal components;*
- (e) design and placement of windows;*
- (f) window and door proportions;*
- (g) roof form and pitch;*
- (h) verandahs and eaves; and*
- (i) variations to facades.*

The northern end of Dudley Road is characterised by the back end of commercial development fronting Kensington Road, whilst the remainder of the street is characterised by one and two- storey dwellings which display a range of styles and design elements. As such, it is considered that the proposed residential building with a contemporary presentation to the street is unlikely to have a negative impact on the existing streetscape character.

Concern was raised by the neighbour that the development will visually dominate and detract from the character of their home. Whilst the introduction of a building on a previously undeveloped site is likely to have a visual impact on the streetscape, the proposed bulk and scale of the dwellings is not inconsistent with buildings within the locality (including a prominent two-storey heritage listed building at 6 Clapton Road) and

two-storey townhouses on the opposite side of Dudley Road and as such should not overly dominate its surrounds.

Setbacks and Site Coverage

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

City Wide PDCs: 50, 202-207 & 208

The Neighbourhood Centre Zone provides no set-back guidance other than for commercial development on main roads.

City Wide PDC 206 provides front set-back guidance but only where the subject site is adjoining dwellings on both sides, which is not the case for this proposal.

City Wide PDC 50 provides more general guidance stating that:

'The setback of buildings should be similar to, or compatible with, the set-back of buildings on adjoining land and the predominant set-back of buildings in the locality...'

The adjoining commercial building is built to the Dudley Road frontage. The set-back of the adjoining dwelling is approximately 3.4m. Front set-backs along the remainder of Dudley Road are varied but generally close to the street.

In this regard the proposed front set-back of between 2.4-3m is considered to be acceptable.

With regard to side set-backs, at ground level the dwellings have garage walls built on the southern boundary, with the remainder of the ground level being set back being 1.14 – 1.7m. The upper level set-back of the dwellings from the southern boundary is 1.14m.

The rear (eastern boundary) set-back of Dwelling 2 is approximately 900mm at ground level and 4.1m at the upper level.

The proposed side and rear set-backs of Dwelling 2 do not accord with City Wide PDCs 202 and 203 which state respectively:

'The distance between any portion of a single-storey dwelling or any single-storey component of a two storey dwelling (including a verandah, garage or carport, which is an integrated part of the development) on a battleaxe, hammerhead or similar configuration allotment or site (including those accommodating group dwellings), and a side or rear boundary of the parent development site, should be no less than 2.5 metres.'

'The distance between any two-storey component of a dwelling on a battleaxe, hammerhead or similar configuration allotment, and the side or rear boundary of the parent development site, should be no less than 4.5 metres.'

The intent of this policy is to minimise the possible visual impact of hammerhead style developments within residential areas. Having regard to the location of the subject land within the Neighbourhood Centre Zone and the fact that these quantitative set-back requirements would not apply to the type of non-residential development anticipated within the zone, it is considered that these quantitative requirements are less relevant than the more qualitative guidance of City Wide PDCs 206 and 207 which state respectively:

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

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

'A wall or structure on a side or rear boundary should generally be limited to a height of 3 metres above natural ground level and a length of 8 metres. A greater height or length may be considered where:
(a) there is an existing abutting boundary wall or structure on the adjoining land: or
(b) there will be no unreasonable visual outlook impact or overshadowing impact on the occupants of the adjoining property.'

The potential overshadowing impact of the proposed dwellings will be discussed in the following section of this report.

Given that the subject land is currently undeveloped, the proposed dwellings will have an impact on the visual outlook of the neighbours to the south. The visual impact of Dwelling 1 would be minimal given that it is adjacent to the front section and boundary wall of the neighbouring dwelling which has no windows and no outlook to the north.

Dwelling 2 would be adjacent to the rear section of the neighbouring dwelling, which comprises the main living/kitchen area and the rear yard. The neighbouring dwelling has a kitchen window facing north, a bedroom door facing east and the main living area glass doors facing east. For the benefit of the Panel, some photographs are included at **Attachment E**, which show the existing outlook from the kitchen window and from within the rear yard area.

Much of the rear yard and the main living area are under a verandah which limits the outlook to the north. The outlook from the kitchen window is also limited by the 2.4m high boundary fence, which has additional height from vegetation growing on the fence. The proposed garage wall of Dwelling 2 would replace a 5.8m length of this fence in front of the kitchen window. The height of this wall has been reduced from the original proposal to a height of 2.55m, which is relatively consistent with the height of the existing fence and vegetation. In this regard, the proposed height and length of the garage wall would not exceed the 3m maximum height of PDC 207 and overall it is considered that the replacement of the fence with a structure of essentially the same height would not be unreasonable in terms of outlook.

The proposed upper level of Dwelling 2 is set back 1.41m from the southern boundary and 4.1m from the eastern (rear) boundary. Whilst the outlook from the neighbouring land is currently limited by the existing fence and verandah and also by the high wall of the existing supermarket development to the east, the upper level of Dwelling 2 would further impair the existing outlook and is therefore a negative aspect of the proposal.

The proposed siting of the building closer to the southern boundary is due to the need to retain the existing right of way which provides vehicular access for a commercial property fronting Kensington Road (240 Kensington Road). This has resulted in the available land for building being limited to the southern portion of the site.

Whilst the set-back of Dwelling 2 from the southern boundary of the subject land is a negative aspect of the proposal, it is not considered to be in itself fatal to the proposal in the context of the type and siting of commercial building which could be anticipated in the Neighbourhood Centre Zone.

Overshadowing/overlooking/noise

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

City Wide PDCs: 11, 31, 71, 195 & 196, 235

With regard to overshadowing, the Applicant has provided shadow diagrams which demonstrate the pre-development and post-development levels of overshadowing at the winter solstice.

The March and September equinox has also been included for post-development levels. A copy of the shadow diagrams are contained in **Attachment F**.

City Wide PDCs 195 and 196 (respectively) provide the following quantitative guidance:

'Unless otherwise specified in the relevant Zone and/or Policy Area, development should ensure that the north-facing windows of habitable rooms of dwelling(s) on adjacent sites receive at least 3 hours of direct sunlight over a portion of their surface and in the case of the main living area windows, a minimum of 50% of their surface, between 9am and 5pm on the winter solstice (21 June). Development should not increase the overshadowed area in cases where overshadowing from existing structures, fences and non-deciduous vegetation already exceeds this requirement.'

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

With regard to PDC 195, the kitchen window on the neighbouring dwelling is the only north facing window. The Applicant has prepared an elevation of the existing shadowing of this window during the winter solstice, which demonstrates that currently only a portion of this window receives direct sunlight for 3 hours during the winter solstice. The proposed development would increase the level of overshadowing such that this window would receive no direct sunlight during the winter solstice, which is not in accordance with PDC 195. The main living area windows are located beneath the existing verandah and do not currently receive any direct sunlight, so would not be further affected by the proposal.

In considering whether the potential additional shadowing impact on the kitchen window would be fatal to the application, further shadow assessment was undertaken by staff using the set-back requirements of the Residential Character Zone. This demonstrated that a dwelling which satisfied the upper level side set-back requirement of this zone (for a southern boundary), would also fail this PDC in that the kitchen window would still receive no direct sunlight during the winter solstice. A further assessment of shadowing during the spring and autumn equinox, demonstrated that the window would be unaffected by the closer set-back of the proposed building at these times.

Consideration was also given to what might be reasonably anticipated to be constructed on the subject land, given the neighbourhood centre zoning. In this respect, the zone anticipates two storey commercial buildings, with no further guidance on scale or form provided (other than for main road frontages). Whilst Principle of Development Control 5 of the zone, provides guidance for the scale of development adjacent to the Kensington 1 Policy Area of the Residential Historic (Conservation) Zone, no guidance is provided for development adjacent to the Residential Character Zone.

Given the confined dimensions of the subject land and the intent of the zone to accommodate commercial buildings up to 2 storeys in height, it is considered reasonable to expect a development outcome which has a similar level of overshadowing and visual impact on the adjoining property to the south, as what is proposed in the subject residential application.

On balance, it is considered that the proximity of the upper level of Dwelling 2 to the southern side boundary is a negative aspect of the proposal, however is considered to be acceptable.

With regard to PDC 196, the private open space area does not currently receive the required amount of direct sunlight during the winter solstice. The proposed development would only marginally increase the level of overshadowing such that it is not considered to offend this provision.

The neighbour has raised concerns with the potential noise transfer from the garage wall on the boundary and also from the upper level terraces. With regard to the garage wall on the boundary, the neighbouring dwelling also has a bedroom/living wall located on the boundary which would be adjacent to the garage wall. Given that the walls are brick and aerated concrete construction, it is not considered that there would be any unusual or significant noise transfer between the proposed domestic garage and the bedroom/living space, beyond that which could ordinarily be anticipated in a built-up urban area. With regard to the potential noise transfer from the upper level terraces, the Applicant has amended the original proposal to increase the height of the privacy wall on the southern side of the terrace so that the overall height is 2m. The top 300mm is proposed to be glass, which would provide additional noise attenuation without further limiting light.

Given the proposed height and construction of the terrace walls, it is not considered that the noise transfer would be unreasonable in an everyday residential setting. It is also noted that the terrace is adjacent to the side of the neighbouring dwelling which has few openings (being the kitchen window and a door which leads into the bedroom/living area). Whilst there is the potential for the occupants to host parties or the like from time to time, it would be no different than in any other residential property where there is potential for unreasonable noise disturbance from such events.

With regard to overlooking, the outlook to the north from upper level windows and the terraces would be over commercial development where there are no privacy issues. On the southern elevation, the upper level windows have sill heights of 1.7m above the floor level in accordance with City Wide PDC 235. The terraces include privacy walls at the southern end to a height of 1.7m above the floor level, which is also in accordance with this PDC. Notwithstanding this, the neighbour has requested that the additional 300mm of glass (which has been included to provide further acoustic attenuation) be frosted in order to provide additional privacy. Whilst this is over and above the requirement of PDC 235, the Applicant has agreed to this as a condition, should the Panel determine to support the application.

Private open space

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

City Wide PDCs: 222-225 & 229

Both dwellings are proposed to be designed with the main living areas at the upper level, with roof terraces above the garages providing the main outdoor living areas.

As both dwelling sites are less than 250m², PDC 225(b) requires that each has a minimum of 35m² of private open space of which one portion should be equal to or greater than 10% of the site area and have a minimum dimension of 4 metres.

Dwelling 1 has a total private open space area of 40.3m², comprising 12m² at ground level and 28.31m² at the upper level, which satisfies PDC 225(b).

Dwelling 2 has a total private open space area of 45.43m², comprising 21m² at ground level and 24.43m² at the upper level, which satisfies PDC 225(b).

The terraces are directly accessible from the main living areas of both dwellings and have good access to northern sunlight in accordance with PDC 224.

Carparking/access/manoeuvring

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

City Wide Objectives: 34
City Wide PDCs: 98, 101, 120, 122-124, 181, 212

Table NPSP/8

Table NPSP/8 prescribes that dwellings within a residential flat building should provide 2 spaces (1 covered) per 2 or 3 bedroom dwelling plus 1 visitor space for every 2 dwellings.

The subject land is currently part of the Woolworths supermarket site and is utilised as an overflow car park in association with the supermarket site. The recently approved land division which created the subject allotments was granted consent by the City of Norwood, Payneham and St Peters and the City of Burnside, as the land straddles both Local Government Areas. The City of Burnside considered the loss of the car parking spaces through its assessment of the land division (a traffic report was provided to the City of Burnside by the Applicant). The City of Burnside concluded that the loss of 14 on-site car parking spaces was acceptable and would not have any significant impact on traffic and parking in the surrounding streets. With regard to the impact on this Council, the proposed closure of the existing access between the Dudley

Road site and the larger supermarket site was considered to be a positive aspect, as it would address the ongoing issue of unauthorised vehicles traversing the upright kerb to exit onto Dudley Road. This has been the subject of ongoing complaints by residents of Dudley Road.

The proposal includes two (2) undercover spaces for each dwelling, however provides no on-site visitor parking, resulting in a 1 space visitor parking shortfall. Currently there is one (1) on-street car parking space adjacent to the subject land. This should not be affected by the proposed new 6m wide driveway access. The Council's Regulatory Services Department has advised that a 500mm clearance zone from the edge of driveways is usual practice, which in this case, would still leave 5.8m for an on-street car parking space.

Whilst the 1 space visitor shortfall is a negative aspect of the proposal, the subject land is located within a 'designated centre' and as such is recognised as a location with good access to high frequency public transport routes and an area where some discounting of car parking rates is considered acceptable.

In this context, the shortfall is considered acceptable given the proximity to Kensington Road, the size of the dwellings (being only 2 bedrooms) and the ability to retain the existing on-street car parking space adjacent to the subject land.

With regard to vehicle manoeuvring, as discussed previously in this report, the subject land is subject to and together with existing rights of way. These rights of ways together form the 6m wide driveway which would serve the proposed dwellings as well as the tenancies located at 238 and 240 Kensington Road. Given the unusual circumstance whereby the dwellings would share the driveway with commercial properties, the Applicant has provided a report from traffic engineer, a copy of which is attached (**Attachment G**). The advice contained in the report raises no concern with the proposed shared driveway or vehicle manoeuvring arrangements.

Finished floor levels/flooding/retaining

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

City Wide PDCs: 53-58, 79, 148 & 164

The latest flood mapping which has been prepared by Tonkins on behalf of the Council indicates that the land is no longer within an identified flood affected location.

Currently some surface drainage from the undercover carpark belonging to the adjacent supermarket flows through the subject land to Dudley Road. The land division for the subject land which was approved in 2018 included a condition of approval requiring that these surface flows should be stopped and diverted to a sump and pump for discharge to either Tusmore Road or Kensington Road. The supermarket site retains a 2m wide strip of land along the northern side of the subject land for the purpose of maintaining existing underground drainage to Dudley Road.

The proposed finished floor levels are between 425mm and 475mm above the top of kerb level along Dudley Road and 75mm below the finished floor level of the adjacent dwelling. These levels are consistent with advice received from Ken Schalk of Tonkins in seeking confirmation regarding the latest flooding status of the land. They are also considered acceptable from a streetscape and neighbour amenity perspective in that they are relatively consistent with the finished floor levels of the neighbouring dwelling and other dwellings along Dudley Road.

Retaining walls are not proposed and should not be required with the proposed bench and finished floor levels.

A copy of the site works and engineering plan is contained in **Attachment H**.

The proposal includes 2.4m high Colorbond good neighbour fencing to the boundaries with the neighbour to the south, which is consistent with the existing fence height.

Trees (regulated, mature & street) and landscaping

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

City Wide Objectives:	24 & 98
City Wide PDCs:	220 & 221

There are no regulated trees situated on, or in close proximity to, the subject land.

The subject site is currently devoid of vegetation and is mostly hard paved and impermeable. The proposed development includes areas for landscaping along both sides and at the end of the driveway. It also proposes landscaping between the street and Dwelling 1, which would assist in softening the appearance of Dwelling 1 from the street.

Although a high percentage of the site is proposed for the shared driveway arrangement, it is intended to pave the driveway with a light coloured herringbone paver, which would be a substantial improvement on the current bitumised surface. This, along with small but reasonably meaningful areas proposed for landscaping (including at least four ornamental trees), is considered to be a positive outcome.

Environmental Sustainability

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

City Wide Objectives:	23 & 42
City Wide PDCs:	67-72, 147, 148, 151 & 159

The proposed dwellings have been designed with their living areas and terraces at the upper level, which should provide the occupants with a good outlook and northerly aspect, in accordance with City Wide PDC 68. Timber pergolas are proposed over the terraces, which will provide opportunity for planting to increase summer shade.

A 2000 litre rainwater tank is proposed to be installed to each dwelling in accordance with City Wide PDC 159.

As discussed in the previous section, whilst there is a relatively high percentage of hard paving proposed, it is an improvement on the current situation whereby most of the site is hard paved.

Summary

The proposal is for the construction of a two-storey residential flat building on an undeveloped site with the Neighbourhood Centre Zone (adjacent to the Residential Character Zone).

Whilst the Neighbourhood Centre Zone does not specifically list dwellings as a desired use, they are not listed as non-complying and therefore can be considered on merit. The subject land is undeveloped and is unlikely to be suitable for commercial development due to its size, lack of main road exposure and adjacency to residential development.

The proposed residential development will have a shared driveway arrangement which retains existing rights of way for two commercial premises fronting Kensington Road. The Applicant has provided a report from a traffic engineer who concludes that the shared driveway and manoeuvring arrangements should not pose any significant issues with regard to safety and convenience.

The proposal would result in a one (1) visitor car parking space shortfall, which is considered acceptable within a designated centre where discounting of car parking rates is generally acceptable and given that there is an existing on-street car parking space which can be retained.

A negative aspect of the proposal is the additional shadowing of the north facing kitchen window which would occur during the winter solstice, resulting in this window receiving no direct sunlight during at this time of the year. Notwithstanding this, some consideration has been given to what might be reasonably anticipated to be constructed on the subject land, given the neighbourhood centre zoning and the fact that a two-storey dwelling, which meets the upper level side set-back requirements of the Residential Character Zone, would also result in this window receiving no direct sunlight during the winter solstice. Overall, it is considered that the potential overshadowing is not in itself sufficiently serious to warrant refusal of the Application having regard to the zoning, locality and the significance of the additional shadow impact.

Concern was by the neighbour regarding noise transfer due to the location of the garage wall on boundary adjacent to a bedroom/living area wall also on the boundary. Given the solid construction of both walls (brick and aerated concrete) it is unlikely that noise transfer would be an issue. With regard to noise from the upper level terraces, the Applicant has increased the height of the privacy wall at the southern end of the terrace by 300mm to make it a total height of 2m, which would provide additional acoustic attenuation. Given the proposed height and construction of the terrace walls, it is considered that the noise transfer would not be unreasonable on the basis of what could be anticipated in a built-up urban area.

Accordingly, it is considered that the proposal **is not** seriously at variance with the Development Plan and **does** sufficiently accord 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 155/876/2017 by Hammond Estates Pty Ltd to construct a two-storey residential flat building comprising two (2) dwellings and associated landscaping and fencing on the land located at 2 Dudley Road, Marryatville, subject to the following requirements, conditions and notes:

Relevant Plans

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

- Site plan, floor plans and elevations (as amended) and received by the Council on 6 February 2019
- Siteworks plan prepared by Residential Commercial Industrial (Revision B) dated 25/1/2019 and received by the Council on 29 January 2019.
- Landscaping Plan prepared by LCS Landscapes (Revision B) received by the Council on 6 February 2019

Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.
2. The 300mm glass addition to the top of the terrace privacy wall of Dwellings 1 and 2 shall be obscure glazing.
3. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate
4. All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.

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.
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/exist 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.
3. Certain activities on construction site are noisy. Although some noise may be unavoidable, it can often be controlled using improved work practices. The responsible person, who is the owner, occupier or contractor, must take all reasonable and practicable measures to minimise noise resulting from the activity and to reduce its impact.

Construction noise that causes an adverse impact on amenity is only permitted between 7am and 7pm, Monday to Saturday. If you have any further queries, please contact the Council on 8366 4555.
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. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
7. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/876/2017 by Hammond Estates Pty Ltd to construct a two-storey residential flat building comprising two (2) dwellings and associated landscaping and fencing on the land located at 2 Dudley Road, Marryatville, 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:

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- *Landscaping Plan prepared by LCS Landscapes (Revision B) received by the Council on 6 February 2019*

Conditions

1. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.*
2. *The 300mm glass addition to the top of the terrace privacy wall of Dwellings 1 and 2 shall be obscure glazing.*
3. *All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate*
4. *All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.*

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.*
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/exist 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.*
3. *Certain activities on construction site are noisy. Although some noise may be unavoidable, it can often be controlled using improved work practices. The responsible person, who is the owner, occupier or contractor, must take all reasonable and practicable measures to minimise noise resulting from the activity and to reduce its impact.*

Construction noise that causes an adverse impact on amenity is only permitted between 7am and 7pm, Monday to Saturday. If you have any further queries, please contact the Council on 8366 4555.

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

Seconded and carried

2. STAFF REPORTS

2.4 DEVELOPMENT APPLICATION 155/589/2018 – CONSTRUCTION SERVICES AUSTRALIA PTY LTD – 1-4/ 21 THORNTON STREET, KENSINGTON

DEVELOPMENT APPLICATION:	155/589/2018
APPLICANT:	Construction Services Australia Pty Ltd
SUBJECT SITE:	1-4/21 Thornton Street, Kensington (Certificates of Title: Volume 5034: Folio 838-840, Volume 5946:Folio 928
DESCRIPTION OF DEVELOPMENT:	Construction of three (3) single storey group dwellings and associated retaining walls, fencing and landscaping
ZONE:	Residential Historic (Conservation) Zone, Kensington 1 Policy Area - Norwood, Payneham and St Peters (City) Development Plan (dated 19 December 2017)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of three (3) single storey group dwellings and associated retaining walls, fencing and landscaping.

Staff do not have delegated authority to determine the Application, as it comprises the construction of new dwellings 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:	16.76 metres
Depth:	45.72 – 46.1metres
Area:	765m ²
Topography:	slope of approx. 790 from east to west
Existing Structures:	vacant
Existing Vegetation:	no vegetation

The subject land previously contained a single-storey residential flat building comprising four (4) dwellings, which was demolished in 2018. During the demolition of the building, the level of the land was changed, with the rear of the site being excavated to approximately 600mm below the pre-demolition level.

Locality Attributes

Land uses:	mostly residential
Predominant dwelling era:	pre-war and post-war
Extent of consolidation/infill:	medium - high
Dwelling heights (storeys):	1-2 storeys
Streetscape amenity	moderate

The locality comprises a mix of housing type and styles on allotments of varying sizes, including a number of post war infill sites interspersed amongst heritage listed buildings. The subject land is located between a Local Heritage Place and a Contributory Item. The nearby Kensington Hotel and Mary McKillop College and Convent, have some impact on the locality in terms of traffic and on street parking.

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

Proposal in Detail

The Applicant seeks consent to construct three (3) single storey group dwellings, with associated retaining walls, fencing and landscaping. The land is vacant after the recent demolition of a single storey residential flat building comprising four (4) dwellings. A Community Title land division has been recently approved to re-divide the subject land from four (4) Community Title allotments to three (3) Community Title allotments. The land is owned by the Trustee of the Sisters of St Joseph and the redevelopment of this site is part of their upgrading of their independent accommodation for the Sisters.

The dwellings each have two bedrooms, one bathroom, a living/kitchen/dining area, entry and laundry. Dwelling 1 has a double carport and Dwellings 2 and 3 have single garages with a second open air car park.

The dwellings are relatively standard 'project home' designs, with the front dwelling being slightly modified to provide a more traditional symmetrical façade to the street, including a front verandah and 25 degree roof pitch. The dwellings are of brick veneer construction with brick selection being PGH 'Grampian Blue'. Roof sheeting is to be Colorbond 'Windspray' in a corrugated profile. Windows are proposed to be aluminium (off white), with the front dwelling being semi-commercial. Some final detail of colour selection is yet to be finalised, therefore if the Panel determines to approve the Application a condition has been recommended to address this.

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 1	Proposed Dwelling 2	Proposed Dwelling 3	Development Plan Merit Assessment Quantitative Guideline
Site Area	186m ²	167m ²	180m ²	400m ² (unless the site of the development does not contribute positively to the historic character in which case it should not be inconsistent with the predominant pattern)
Allotment Width	16.76m			N/A
Allotment Depth	45.72m – 46.1m			N/A
External Wall Height*	2.7			N/A
Maximum Overall Height (to roof apex)*	Single storey			2 storey height limit
Floor Area (total) (including carport and garages)	100.49m ²	95.57m ²	106.21m ²	N/A

TABLE 1: DEVELOPMENT DATA *continued...*

Consideration	Proposed Dwelling 1	Proposed Dwelling 2	Proposed Dwelling 3	Development Plan Merit Assessment Quantitative Guideline
Site Coverage	40%			Compatible with the site coverage of those buildings which contribute significantly to the historic character
Private Open Space	22m ² 12% of site area 100% uncovered	45m ² 27% of site area 100% uncovered	35m ² 19% of site area 100% uncovered	35m ²
Street Set-back	4.36 – 6m	N/A	N/A	Consistent with the historic pattern but not projecting forward from an adjacent Contributory Item
Set-backs				
- northern	910mm	2.5m	2.5m	Dwelling 1 – consistent with the historic pattern
- western	n/a	n/a	nil – 3.2m	Dwellings 2 & 3 – 2.5 (ground level) from parent title boundaries
Car Parking Provision	2 undercover	1 undercover & 1 uncovered	1 undercover & 1 uncovered	2 (1 being covered) plus 1 visitor space for every 2 dwellings

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

Plans and details of the proposed development are attached (**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 Residential Historic (Conservation) Zone of the Norwood, Payneham and St Peters (City) Development Plan and within that, the Kensington 1 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 and Density

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

Kensington 1 Policy Area Desired Character Statement
Kensington 1 Policy Area Objective: 1

Kensington 1 Policy Area PDCs:	1, 2, & 4.
RH(C)Z Desired Character Statement	
RH(C)Z Objectives:	1
RH(C)Z PDCs:	1, 2, 7 & 8.
City Wide Objectives:	1, 2, 7, 8, 10, 19, 20 & 55-57.
City Wide PDCs:	1, 2, 3 & 4.

The continuation of the subject land for residential use is consistent with Objective 4 of the Residential Historic (Conservation) Zone and PDC 2 of the Kensington 1 Policy Area.

The proposal for group dwellings is consistent with PDC 2 of the Kensington 1 Policy Area which provides for a 'range of types and forms of housing'.

PDC 4 of the Policy Area provides the following guidance on density:

*"The average site area per dwelling unit for residential development in the Kensington 1 Policy Area should not be less than 400 square metres except where:
The site of the development does not contribute positively to the historic character of the Policy Area and is not identified in Tables NPSP/5, 6 or 7. In this instance, a lesser site area per dwelling may be considered provided that the development is not inconsistent with the predominant pattern of development in the immediate locality."*

The subject land has a total site area of 765m², with site areas of 186m² (Dwelling 1), 167m² (Dwelling 2) and 180m² (Dwelling 3) being recently approved through the land division application on the basis that the site did not contribute to the historic character of the Policy Area and the proposed density was not inconsistent with the predominant pattern of development in the immediate locality which contains a number of post-war infill sites.

streetscape/bulk/scale/height/character

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

Kensington 1 Policy Area Desired Character Statement	
Kensington 1 Policy Area Objective:	1.
Kensington 1 Policy Area PDCs:	1, 2 & 3.
Residential H(C)Z Desired Character Statement	
Residential H(C)Z Objectives:	1 & 5.
Residential H(C)Z PDCs:	1, 2, 13-19, 22, 23, 25 & 26.
City Wide Objectives:	18, 19 & 20.
City Wide PDCs:	28-32, 37, 39, 41, 201 & 209-216.

The proposed dwellings are single-storey and are unlikely to present any issues regarding bulk and scale. The design of Dwelling 1 has been modified to provide a better streetscape fit from a heritage perspective. This has included incorporating a front verandah and increasing the roof pitch and ceiling heights. A streetscape elevation is provided at **Attachment C**.

David Brown has provided advice on the proposed development. A copy of his report is contained in **Attachment D**. In summary, he states:

"While the approach for the three dwellings on the site is somewhat unusual in this area, the front dwelling is really the only one that will read prominently from the street. The modified design now has high eaves, a sympathetic roof form, symmetrical plan seen from the street, and generally traditional materials. These changes mean that the proposed design is now an acceptable infill building in this streetscape."

Setbacks and Site Coverage

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

RH(C)Z PDCs:	10, 11 & 12.
City Wide PDCs:	50, 202, 204 - 206, 207 & 208.

With regard to the front and side set-backs of Dwelling 1 (fronting Thornton Street), PDC 11 of the Residential Historic Conservation Zone states:

“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.”

As a consistent building set-back is not particularly evident in the locality, regard has been given to the front set-backs of the adjacent heritage places. The proposed front set-back of Dwelling 1 is 4.4m to the front verandah and 5.6 - 6m to the main face. The adjacent Contributory Item has a front set-back of 3.6m to the verandah and 5.5m to the main face. The adjacent Local Heritage Place has a front set-back of 6.5m to the verandah and 8m to the main face. In this regard, whilst the front set-back of Dwelling 1 is not inconsistent with other front set-backs in the locality, it does project forward of the adjacent Local Heritage Place, which is not in accordance with PDC 11. Notwithstanding this, it is considered that the proposed new driveway width of 6m is sufficiently wide to provide separation from the southern boundary and the adjacent Local Heritage Place such that Dwelling 1 is unlikely to have a negative impact on the appearance or visibility of the Local Heritage Place.

With regard to side set-backs, Dwelling 1 has a set-back of 910mm from the northern boundary of the subject land. The 6m wide driveway separates it from the southern side boundary. These side set-backs are consistent with other set-backs in the locality which generally have a driveway on one side and a small side set-back on the other.

The side and rear boundary set-backs of Dwellings 2 and 3 which are sited behind Dwelling 1, are guided by City Wide Principle of Development Control 202, which states:

‘The distance between any portion of a single-storey dwelling or any single-storey component of a two storey dwelling (including a verandah, garage or carport, which is an integrated part of the development) on a battle-axe, hammerhead or similar configuration allotment or site (including those accommodating group dwellings), and a side or rear boundary of the parent development site, should be no less than 2.5 metres.’

Both Dwellings 2 and 3 have a side set-back of 2.5m from the northern boundary, which accords with this PDC.

Dwelling 3 a section of boundary wall proposed along the eastern boundary, with the remainder of this elevation being less than the minimum requirement of 2.5m. The section of boundary wall is however, located adjacent to a two-storey boundary wall on the neighbouring land and as such, the failure of the proposal to meet the set-back requirement is not considered to be critical.

With regard to site coverage, the Residential Historic (Conservation) Zone – Kensington 1 Policy Area does not provide quantitative guideline for site coverage. The proposal results in approximately 40% site coverage. Site coverage within the locality is varied, however, it is considered that a figure of around 50% site coverage is relatively consistent with the site coverage of the nearby Contributory Items. As such, it is considered that the proposed site coverage the site coverage satisfies Residential Historic (Conservation) Zone Principle of Development Control 12 which states:

“The site coverage of buildings resulting from the erection or alteration of, or addition to, a building, should be compatible with the site coverage of those buildings in the locality which contribute significantly to the historic character.”

Overshadowing/overlooking

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

City Wide PDCs: 11, 31, 71, 72, 195, 196, 235 & 236.

The proposed single storey nature of the development would not result in any overshadowing or privacy impacts.

Private open space

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

City Wide PDCs: 222-225 & 229, 230.

City Wide PDC 225 requires that sites with an area of less than 250m² should provide a minimum of 35m² of private open space of which one portion should be at least 16m² and a minimum dimension of 4m.

In this regard, Dwelling 1 has 22m² of private open space, Dwelling 2 has 45m² of private open space and Dwelling 3 has 35m² private open space. Whilst Dwellings 2 and 3 meet this minimum requirement, Dwelling 1, does not. Whilst this is a negative aspect of the proposal, it is noted that the proposed open sided double carport could easily be utilised as a covered outdoor area if the future occupant(s) have only one vehicle. Given that the dwellings are likely to be sole occupancy units, it is considered to be a reasonable outcome which is unlikely to have any real impact beyond the site.

The private open space areas have good access to northern sunlights and are directly accessible from the main living areas.

Accordingly, it is considered that the proposal sufficiently accords with the relevant policies relating to the amount, access and useability of private open space.

Car-parking/access/manoeuvring

City Wide Objectives: 32, 34.
City Wide PDCs: 92, 98, 101, 104, 115, 118, 120, 122, 123 & 189

Table NPSP/8

City wide PDC 120 states that development should include on-site vehicle parking in accordance with the rates set out in Table NPSP/8. In relation to group dwellings, the rate for 2 bedroom group dwellings is 2 spaces per dwelling, of which at least one space should be covered. In addition, one (1) visitor space should be provided for every 2 dwellings (rounded up). The proposal would need to provide a total of eight (8) on-site vehicle parking spaces in order to satisfy this requirement.

The proposal includes two (2) undercover spaces for Dwelling 1 (carport) and one (1) undercover space each for Dwellings 2 and 3 (single garages). Dwelling 2 has an additional uncovered space allocation within its curtilage. Dwelling 3 does not indicate any second occupant space. No on-site visitor parking is provided within the common area. In this regard, the proposed development would result in a shortfall of one (1) occupant space and two (2) visitor spaces, when considered against the requirement of Table NPSP/8.

In further deliberating whether this shortfall is, in itself, fatal to the Application, consideration has been given to City Wide PDC 122 which, in part, provides some ability to consider discounting the rates set out in Table NPSP/8 where:

- the site of the development is located within 200 metres walking distance of a convenient and frequent service fixed public transport stop; or
- 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 development site is located approximately 170m from Kensington Road, which is a high frequency bus route, which satisfies the first criteria. With regard to the second criteria, the proposed dwellings are intended as sole occupancy units for the Sisters of St Joseph and it is unlikely that each household would have more than one vehicle. It is also noted that the proposed development would not result in the loss of any on street parking and that there is space in front of the subject land to cater for at least one vehicle.

Overall, whilst the proposal would result in an on-site car parking shortfall, it is considered that there is sufficient rationale to accept that such a shortfall is unlikely to have any significant impact on the availability of on-street parking in Thornton Street.

With regard to vehicle manoeuvring, the proposed 6m wide driveway would allow for efficient access and egress of vehicles to the carports and garages, in accordance with the Australian Standards.

Finished floor levels/flooding/retaining

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

City Wide PDCs: 53-58, 159, 160, 164

The subject land is not within an identified flood plain.

The subject land has a slope of approximately 790mm from the front of the site to the rear of the site. It is noted that an existing retaining wall of approximately 600mm high is located along the western (rear) boundary. Whilst the proposed finished floor levels have been stepped to better work with the slope of the land, they would still require that the bench level for the rear dwelling is raised to the height of this existing retaining wall.

In discussing the proposed bench levels with the Applicant, it was concluded that the site previously had a higher bench level and that during the demolition of the residential flat building which previously stood on the site, the excavation lowered the bench level and exposed the retaining wall at the rear. At some time since the excavation it appears that a new fence was constructed along the northern boundary of the subject land, at the lower bench level. The proposal is now to raise the bench level to the pre-demolition level, which would require the fence on the northern boundary to be re-built on top of a new retaining wall (up to 600mm high). The overall height of the proposed fencing and retaining is unlikely to exceed 2.4m, which is in accordance with City Wide PDC 58 and is considered to be an acceptable height for fencing in a residential setting.

With regard to the streetscape impact of the finished floor level of Dwelling 1, the level is approximately the same as the adjacent Local Heritage Place to the south and approximately 370mm higher than the adjacent Contributory Item to the north. It is noted that the finished floor level of the Contributory Item is lower than the street level, which with regard to streetscape presentation, provides a better balance between the proposed new and older dwelling.

Surface stormwater run-off will be via a pump and sump system due to the fall of the land. The site works and engineering plan indicates that 1000 litre rainwater tanks are proposed to be installed to each dwelling. City Wide PDC 159 requires that all new dwellings should have a 2000 litre rainwater tank.

Further to this, City Wide PDC 160 requires that development of three (3) or more dwellings should:

“...incorporate an on-site stormwater detention system (either above or below ground) to ensure that stormwater discharged from the site and/or combined sites does not exceed the capacity of the existing or planned 1 in 5 year Average Recurrence Interval stormwater system and increase the risk of flooding to downstream properties or add any significant pollutant load to the downstream stormwater system.”

At this time, engineering has not been provided which calculates or confirms that the proposed stormwater system accords with this policy. As such, if the Panel determines to grant Planning Consent then it is recommended that a condition of approval is included to require that an appropriate system is designed to meet this requirement prior to Development Approval.

A copy of the site works and drainage plan is contained in **Attachment E**.

Trees (significant, mature & street) and landscaping/fencing

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 PDCs:	36 & 37
City Wide Objectives:	24
City Wide PDCs:	73, 220 & 221

There are no regulated or mature trees on the subject land, or any other vegetation of note.

The Applicant has provided a landscaping plan, which indicates a planting scheme for the front yard of Dwelling, including three (3) ornamental trees and a range of understorey plantings. The common driveway also incorporates plantings along the southern boundary, including a creeper along the fence and small raised planter beds adjacent to Dwellings 1 and 2.

A copy of the landscaping plan is contained in **Attachment F**.

A low picket fence is proposed along the Thornton Street frontage, which includes electronic gates for security. The Council's Heritage Advisor has advised that he supports the proposed fence.

An adjacent street tree (Queensland Box) is unlikely to be impacted by the construction of a lightweight picket fence or the alteration of the driveway crossover.

Environmental Sustainability

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

City Wide Objectives:	23 & 42.
City Wide PDCs:	67-72, 147, 148, 151 & 159.

The proposed development has been designed with the driveway on the southern side of the site, which provides a good northerly aspect for private open space areas and main living areas.

The dwellings are proposed to be of brick veneer construction with small eaves. Whilst they do not display any significant merit in terms of energy efficiency, minimum requirements of the Building Code would be required to be met for Development Approval.

With regard to general waste, green waste and recycling bins, the proposal requires sufficient verge space on Thornton Street for the placement of up to six (6) bins at any given time.

Summary

The proposal is considered to satisfy the land use and density provisions of the Kensington 1 Policy Area.

The proposal has an on-site vehicle parking shortfall of one (1) occupant space and two (2) visitor spaces, when considered against the requirement of Table NPSP/8. Having regard to the proximity of the subject land to a high frequency public transport route and the likely sole occupancy of these small two bedroom units, the proposed shortfall is not in itself, considered to be fatal to the proposal.

The set-back of Dwelling 3 from the rear (western) boundary does not satisfy the minimum set-back requirement for dwellings sited behind dwellings fronting the street. In this instance, the adjacent property also has a two-storey wall on the boundary and as such the lesser set-backs are considered to be acceptable.

Dwelling 1 does not provide the minimum 35m² of private open space, which is partly due to negotiations over the front set-back which resulted in the set-back being increased by 1m and therefore reducing private open space. This is not considered to be fatal to the application, given that there is potential to utilise part of the open sided double carport for outdoor activity on occasions.

On balance, the shortfalls in the proposal are unlikely to have any serious streetscape or amenity impacts and as such, it is considered that the proposal **is not** seriously at variance with the Development Plan and sufficiently accords with the Development Plan to merit consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/589/2018 by Construction Services Pty Ltd, to construct three (3) single storey group dwellings and associated retaining walls, fencing and landscaping, at 1-4/21 Thornton Street, Kensington, 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:

- Floor plans and elevations prepared by Statesman Homes (Dwellings 1 and 2 Revision C, and Dwelling 3 Revision B) received by the Council on 22 November 2018.
- Siteworks and drainage plan prepared by Herriot Consulting (Revision A dated January 2019) received by the Council on 29 January 2019.
- Landscaping Plan prepared by LCS Landscapes (amended 4/2/19) and received by the Council on 5 February 2019.
- Streetscape elevation (including front fence) prepared by Statesman Homes (amended 6/2/19) and received by the Council on 7 February 2019.

Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.
2. A final stormwater design is to be provided to the satisfaction of the Council or its delegate prior to Development Approval, which incorporates an on-site detention system (either above or below ground) to ensure that stormwater discharged from the site does not exceed the capacity of the existing or planned 1 in 5 year Average Recurrence Interval stormwater system and increase the risk of flooding to downstream properties or add any significant pollutant load to the downstream stormwater system.
3. That the final schedule of colours be provided to the satisfaction of the Council or its delegate prior to Building Rules Consent.
4. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, herein approved, prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
5. All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council 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.

Moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/589/2018 by Construction Services Pty Ltd, to construct three (3) single storey group dwellings and associated retaining walls, fencing and landscaping, at 1-4/21 Thornton Street, Kensington, 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:

- *Floor plans and elevations prepared by Statesman Homes (Dwellings 1 and 2 Revision C, and Dwelling 3 Revision B) received by the Council on 22 November 2018.*

- *Siteworks and drainage plan prepared by Herriot Consulting (Revision A dated January 2019) received by the Council on 29 January 2019.*
- *Landscaping Plan prepared by LCS Landscapes (amended 4/2/19) and received by the Council on 5 February 2019.*
- *Streetscape elevation (including front fence) prepared by Statesman Homes (amended 6/2/19) and received by the Council on 7 February 2019.*

Conditions

1. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.*
2. *A final stormwater design is to be provided to the satisfaction of the Council or its delegate prior to Development Approval, which incorporates an on-site detention system (either above or below ground) to ensure that stormwater discharged from the site does not exceed the capacity of the existing or planned 1 in 5 year Average Recurrence Interval stormwater system and increase the risk of flooding to downstream properties or add any significant pollutant load to the downstream stormwater system.*
3. *That the final schedule of colours be provided to the satisfaction of the Council or its delegate prior to Building Rules Consent.*
4. *All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, herein approved, prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.*
5. *All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council 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.*

Seconded and carried

2. STAFF REPORTS

2.5 DEVELOPMENT APPLICATION 155/117/2018 – MR G CHIN – 10 WELLINGTON STREET, KENSINGTON

DEVELOPMENT APPLICATION:	155/117/18
APPLICANT:	Mr G Chin
SUBJECT SITE:	10 Wellington Street, Kensington (Certificate of Title: Volume 5663 Folio 702)
DESCRIPTION OF DEVELOPMENT:	Demolition of a single-storey detached dwelling and ancillary structures; construction of a two-storey detached dwelling, an inground swimming pool, front fencing and boundary fencing (adjacent Wellington Street)
ZONE:	Residential Historic (Conservation) Zone – Kensington 1 Policy Area – Norwood, Payneham and St Peters (City) Development Plan (dated 17 December 2017)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for comprising the demolition of a single-storey detached dwelling and ancillary structures; construction of a two-storey detached dwelling an inground swimming pool, front fencing and boundary fencing (adjacent Wellington Street).

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

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

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

Subject Land Attributes

Shape:	regular
Frontage width:	14.73 metres
Depth:	27.13 – 27.84 metres
Area:	387.26m ²
Topography:	relatively flat
Existing Structures:	single-storey detached dwelling with several outbuildings and masonry fencing (along front and secondary boundaries)
Existing Vegetation:	small trees and turf to both front and rear yard areas

The subject land is a regular shaped allotment situated at the junction of Wellington Street and Bridge Street. The subject land is occupied by a single-storey hipped roof 1950's era dwelling with several outbuildings/structures located within the rear yard area. Two (2) mature street trees are located on the Council verge area adjacent the Wellington Street frontage of the subject land.

Locality Attributes

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

Most of the buildings within the locality are either Local Heritage Places or Contributory Items, with cottages and villas the most common architectural styles. In terms of prominent Local Heritage Places (LHP's) within the locality, the former 'Freemason's Arms' Rendered Masonry Colonial Hotel is located at 17-19 Welling Street and the St Matthews Hall is located at 67 Bridge Street. Directly to the southwest at 151, 153 and 155 Kensington Road, are three Victorian Bluestone Terraces, all of which are identified as LHP's. Directly to the southeast at 157 Kensington Road, is a bluestone dwelling identified as a State Heritage Place.

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

Proposal in Detail

The Applicant seeks consent to demolish the existing detached dwelling and all of the ancillary structures on land. A new a two-storey detached dwelling is intended to replace the existing dwelling. In addition, an associated inground swimming pool is also proposed along with front fencing and north-eastern side boundary fencing (adjacent Wellington Street).

The proposed dwelling has a symmetrical hipped roof over a front single-storey pavilion which is to front Bridge Street. The two-storey portion of the dwelling is set back behind the single-storey pavilion and incorporates a hipped roof form.

The proposed dwelling is to be constructed of traditional building materials such as 'vintage' red brickwork, rendered masonry (colour "off-white"), traditionally proportioned window frames, with corrugated colorbond (colour woodland grey) roofing. A copper front entry door is to face Bridge Street. A projecting front canopy is to be situated over the front entrance area of the dwelling.

Internally, the proposed dwelling comprises a combined kitchen/dining/living room, two bedrooms, a bathroom, a laundry and a store at ground level; with a master bedroom with walk-in-robe and ensuite at the first floor level. A two vehicle garage is integrated into the rear of the dwelling with vehicular access/egress from Wellington Street via an existing crossover.

A 1.8 metre high fencing comprising 'vintage' red brick and anodised vertically slatted metal pickets is proposed along the Bridge Street frontage and is to return along a portion of the Wellington Street frontage. The remainder of the fencing along the Wellington Street frontage is to be 2.1 metres in height and is to comprise the same 'vintage' a red brickwork as a base, with corrugated colorbond sheeting (colour woodland grey) above.

The proposed inground swimming pool is to be situated within the internal yard area adjacent the south-western side boundary.

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

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

TABLE 1: DEVELOPMENT DATA:

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
Site Area	387.26m ²	400m ² – St Peters Policy Area PDC 5
Allotment Width	14.09m	N/A
Allotment Depth	27.13 – 27.84m	N/A
External Wall Height*	3.1 – 6.1m	N/A

TABLE 1: DEVELOPMENT DATA *continued...*

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
Maximum Overall Height (to roof apex)*	6.2m (single-storey component) 8.2m (two-storey component)	Two-storey – Kensington Policy Area PDC 3
Floor Areas	243m ² - footprint 326m ² - total floor area	N/A
Site Coverage	63%	N/A
Private Open Space	83m ² (21%) of which 91% is uncovered	20% - City Wide PDC 225(a) 50% open to the sky – City Wide PDC 229
Street Set-back (Bridge Street)	1.7m – verandah 2.9 – 4.0m – facade 11.1m – upper level	N/A
Side Set-back	<u>North- eastern (Wellington Street)</u> 1.0 – 7.1m – ground level 2.2 - 5.8m – upper level <u>South-western</u> 1.0 -1.4m – ground level 2.1 – 2.8m – upper level	N/A
Rear Set-back	NIL – ground level 2.1 – 2.4m – upper level	N/A
Car Parking Provision	2 undercover	2 on-site parking spaces per dwelling (Table NPSP/8)

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

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

Notification

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

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

Accordingly, no public notification was undertaken.

State Agency Consultation

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

Discussion

The subject land is located within the Kensington 1 Policy Area of the Residential Historic (Conservation) Zone, as identified within the Norwood Payneham and St Peters (City) Development Plan. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

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

Land Use and Density

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

Kensington 1 Policy Area Desired Character Statement

Kensington 1 Policy Area Objective: 1
Kensington 1 Policy Area PDC's: 1, 2 & 4

Residential Historic (Conservation) Zone Desired Character Statement

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

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

Kensington 1 Policy Area Principle of Development Control 2 states:

“Development should provide a range of types and forms of residential accommodation, offering a wide range of housing choice.”

The construction of a detached dwelling, with an ancillary swimming pool is consistent with Principle of Development Control 2 of the Kensington 1 Policy Area.

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

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

- (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;”*

As the subject land is occupied by a dwelling (ie. constructed in the 1950's) that does not contribute to the significantly to the heritage value, historic character or the desired character of the zone, the proposed dwelling is consistent with Principle 8(b) of the Residential Historic (Conservation) Zone.

Streetscape/bulk/scale/height/character

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

Kensington 1 Policy Area Desired Character Statement

Kensington 1 Policy Area Objective: 1
Kensington 1 Policy Area PDC's: 1 & 3

Residential Historic (Conservation) Zone Desired Character Statement

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

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

As the dwelling is located within the Residential Historic (Conservation) Zone, the Application was referred to the Council's Heritage Advisor, David Brown. Mr Brown has concluded that the proposed dwelling will result in a contextually acceptable design response, in that the new dwelling incorporates simple roof forms, sympathetic materials and an overall articulated form.

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

When viewed from Bridge Street, the proposed dwelling essentially appears as a simple single-storey symmetrical hipped roof dwelling. When viewed from Wellington Street the proposed two-storey component becomes more evident.

The proposed dwelling design is a relatively conservative approach to a new dwelling in an Historic (Conservation) Zone, with minimal detailing, which is considered to result in a design which complements, without competing with, surrounding character buildings, in particular the neighbouring Local Heritage Places located at 8 Wellington Street, 155 Kensington Road and 67 Bridge Street.

In terms of scale, Kensington 1 Policy Area Principle of Development Control 3 states:

“Development in the Kensington 1 Policy Area should not exceed two storeys in height above natural ground level.”

The proposed dwelling is two-storey in height and as such, is consistent with Principle 3.

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

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

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

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

In terms of the single-storey component, the proposed dwelling has wall heights, an overall scale and roof form that is compatible with existing single-storey development in the zone when viewed from the street. The proposed dwelling will not unreasonably overshadow or cause overlooking of adjacent properties (this will be discussed in further detail under the relevant heading later in the report); and the dwelling will result in a generally single-storey appearance from the primary street frontage, as called for by Principle 17. With respect to the part (iv) of this principle, the upper level window areas on the north-eastern elevation (ie. Wellington Street frontage) equates to only 26% of the total roof width criteria which is less than the 30% prescribed. In this context, the proposed dwelling design is also consistent with part (c) of Residential Historic (Conservation) Zone Principle of Development Control 17.

Residential Historic Conservation Zone Principle of Development Control 32 states:

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

An existing crossover provides vehicular access/egress to and from Wellington Street. A two vehicle garage with vehicular access/egress to and from Wellington Street is proposed. This aspect of the proposal is consistent with the above policy and results in the proposed dwelling having all of its vehicular access from the existing crossover.

The Applicant has prepared a streetscape perspective of the proposed dwelling, which provides a reasonable illustration of the bulk and scale of the proposed dwelling and its relationship with the adjacent St Matthews Hall (which is akin to a two-storey building in height) and the single-storey dwelling at 67 Bridge Street and 155 Kensington Road. The streetscape perspective is contained in **Attachment B8**.

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

Residential Historic (Conservation) Zone Desired Character Statement states (in part):

“Fencing will complement the design of the dwelling and will be used to link the new dwelling into the streetscape. High solid fencing was not characteristic of the historic patterns of development in these areas. Preference will be given to low fencing rather than high solid masonry walls, as quite often these do not contribute to the historic streetscape character and in most cases obstruct views.”

The proposed 1.8 metre high front fence consists of slatted anodised steel pickets and a solid section of ‘vintage’ red brickwork. Of the 14.73 metre Bridge Street frontage, the steel open picket section is to span approximately 10.9 metres (ie. 74% of the frontage) with the brickwork spanning the remaining section of the front boundary. The anodised steel pickets return along the Wellington Street frontage for a length of approximately 3.7 metres.

In terms of the anodised steel reference on the proposed plans, the Council’s Planning staff are unclear as to the exact nature of the proposed material and have not been able to clarify this with the Applicant prior to the staff report being finalised for the agenda. In this regard, if the Panel determine to approve the proposed development, it is recommended that a condition be imposed requiring that further details of the steel pickets be provided to the Council subject to the satisfaction of the Council’s Heritage Advisor, prior to Development Approval being granted.

The use of steel pickets results in a predominantly ‘open’ front fencing design and is considered to be a positive design approach as the front of the dwelling and the front yard areas have the ability to “link the dwelling into the streetscape” as called for by the Desired Character Statement as well as enable casual surveillance to occur from both the private and public realm. As the portion of solid masonry fencing comprises a relatively small (25% of the property frontage) section of the fence only, the proposed fence is not considered to have a detrimental impact within the streetscape.

Setbacks and Site Coverage

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

Residential H(C)Z PDC’s:	10, 11 & 12
City Wide PDC’s:	50, 204-206, 208 & 218

The facade of the new dwelling is proposed to be set back 2.9 – 4.0 metres from the Bridge Street property boundary, with a verandah element extending to 1.7 metres from the street boundary.

Residential Historic (Conservation) Zone Principle of Development Control 10 states:

“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.”*

The adjacent Victorian Bluestone Terrace at 155 Kensington Road has a setback (ie. when measured to the closest point) to Bridge Street of approximately 1.7 metres. To the northeast at 67 Bridge Street, the St Matthews Hall is built on its Bridge Street property boundary.

The proposed dwelling has a greater front setback than both the adjacent Local Heritage Places and in this context, the proposed front setback to Bridge Street is consistent with Principle of Development Control 8.

On the north-eastern side (ie. Wellington Street frontage), the proposed dwelling is to have side setbacks ranging from 1.0 – 7.1 metres at ground level and 2.2 – 5.8 metres at the upper level. On the south-western side, the proposed dwelling is to have side setbacks ranging from 1.0 – 1.4 metres at ground level and 2.1 - 2.8 metres at the upper level.

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

In terms of the neighbouring dwelling at 155 Kensington Road, the proposed upper level set back of 2.1 – 2.8 metres is likely to have some impact on the visual outlook of the occupants of this dwelling. Whilst this is a negative aspect of the proposal, due to the configuration of the dwelling and the main private open space area at 155 Kensington Road, the two-storey component of the proposed dwelling is not expected to have a significant impact on amenity, either by way of visual outlook or overshadowing.

In particular, the northern section of the dwelling at 155 Kensington Road has a rear addition (approved as part of Development Application Number 150/1090/84) that incorporates an open plan living/family/meals area. More specifically, the dwelling addition has three timber-framed French doors on the eastern elevation that face directly to the east. Conversely, there is only one window (low-level 600mm x 450mm) on the northern elevation. In this context, the outlook from the rear of the internal living area of the dwelling at 155 Kensington Road is therefore focused towards the side (east) over the rear yard area, whereas views of the proposed two-storey section of the dwelling would be more peripheral.

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

In terms of the north-eastern side boundary, the neighbouring St Matthews Hall located at 67 Bridge Street is built to the Wellington Street boundary. The proposed dwelling's upper level is setback between 2.2 – 5.8 metres from the north-eastern side boundary/Wellington Street frontage.

In a streetscape context, the portion of the upper level setback of 2.2 metres is relatively close and in this regard, this aspect of the development will be relatively prominent. However, of the 14.1 meter length of the upper level north-eastern elevation, 9.4 metres (ie. two-thirds) is setback 5.8 metres from the Wellington Street frontage. In this context, it is considered that the proposed upper level setback is acceptable and will provide the building form with a reasonable level of modulation, which will assist in reducing the visual mass and dominance of the two-storey component, whilst achieving the intent of City Wide Principle of Development Control Principle 34 and 192, of reinforcing and complementing the primary and secondary frontages with articulated building forms.

The proposed garage is to incorporate an 11.4 metre long boundary wall that is to be situated directly adjacent to an existing carport/garage associated with 153 Kensington Road. This carport/garage is also situated on the boundary and is approximately 10 metres in length. In this context, the visual outlook from the rear yard area of 153 Kensington Road onto the proposed garage boundary wall is considered to be acceptable.

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

In terms of site coverage, the proposed dwelling covers 63% of the site area.

There are no quantitative site coverage guidelines within the Kensington 1 Policy Area or the Residential Historic (Conservation) Zone. In terms of qualitative guidance, Residential Historic (Conservation) Zone Principle of Development Control 12 states:

“The site coverage of buildings resulting from the erection or alteration of, or addition to, a building, should be compatible with the site coverage of those buildings in the locality which contribute significantly to the historic character.”

The existing Contributory Items and Local Heritage Places within the immediate area which are located at 5, 9, 11, 17, 19 and 21 Wellington Street, and 153 and 155 Kensington Road, cover approximately 65%, 45%, 54%, 61%, 66%, 67%, 51% and 50% of their sites respectively.

In this context, the site coverage of the proposed dwelling is considered to be compatible with the site coverage of other buildings in the locality which contribute significantly to the historic character consistent with Residential Historic (Conservation) Zone Principle of Development Control 12.

Overshadowing/overlooking

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

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

City Wide Principle of Development Control 196 states:

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

The Applicant has provided shadow diagrams that illustrate both the existing and proposed levels of overshadowing each hour of the day from 9.00am, through to 3.00pm on 21 June (the winter solstice). The shadow diagrams illustrate that the adjacent properties at 153 and 155 Kensington Road will experience varying degrees of overshadowing as follows:

- 153 and 155 Kensington Road - overshadowing to a portion of the rear yard area of 153 Kensington Road and the whole of the rear yard and some of the side yard of 155 Kensington Road during the morning.
- 153 Kensington Road – no overshadowing from midday nor the afternoon period is anticipated;
- 155 Kensington Road – a lesser degree of shadowing is anticipated during the midday period to the north-eastern of the rear yard area; and
- 155 Kensington Road – the extent of shadowing is anticipated to be decrease further between 1:00 – 3:00pm.

The shadow diagrams demonstrate that the extent of shadowing does not offend Principle 196, insofar as at least 50% of the private open space areas for the two directly adjacent dwellings at 153 and 155 Kensington Road will receive at least 2 hours of direct sunlight. As such, the degree of overshadowing caused by the proposed dwelling will not have an unreasonable impact on adjacent dwellings or their occupants. Furthermore, it is important to recognise that some overshadowing will occur within localities where density is relatively high and siting of buildings is generally compact.

A copy of the shadowing illustration is contained in **Attachment B9-B10**.

In terms of visual privacy from the proposed dwelling, all of the upper level windows either incorporate high sill levels in excess of 1.7 metres or contain fixed obscure glazing to all portions of the windows below 1.7 metres above the internal upper floor level. The proposed first floor window treatment accords with the requirements specified in City Wide Principle of Development Control 235, which seeks privacy treatment to a height of 1.7 metres.

In any event, if the Panel determine to approve the proposed development, it is recommended that a condition be imposed reiterating that the upper floor dwelling windows be fixed and obscured.

Private open space

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

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

The proposed dwelling includes approximately 83m² of private open space. The private open space area comprises two internal courtyard areas. An open courtyard (35m²) is situated adjacent the Wellington Avenue frontage and a partially covered internal courtyard (48m²), containing the proposed inground swimming pool, is situated adjacent the south-western side boundary. The north-eastern facing courtyard is well oriented for access to northern sunlight and has good links with the internal open plan kitchen/dining/living areas of the dwelling.

The proposed area of private open space equates to 21% of the dwelling's proposed site area, therefore satisfying the minimum provision of 20%, prescribed by City Wide PDC 225(a).

Car parking/access/manoeuvring

Residential H(C)Z PDC's: 32

City Wide Objectives: 34

City Wide PDC's: 98, 101, 104, 118, 120, 181, 198 & 217

Table NPSP/8

Table NPSP/8 prescribes that the proposed dwelling should be provided with two (2) on-site car parking spaces, of which at least one should be covered.

The proposed dwelling includes two undercover car parks within a garage, with access/egress via an existing crossover from Wellington Street at the rear of the property.

City Wide Principle of Development Control 217 states:

"Unless the desired character of an area provides otherwise, garages and carports fronting the secondary street on a corner allotment, should be set back a minimum of 0.9m from the secondary street frontage and should be sited so as to minimise the visual impact of the structure when viewed from the street or the neighbouring dwelling."

The proposed garage is setback 1.0 metres from the secondary (Wellington Street) frontage and is consistent with the setback criteria prescribed in Principle 217.

Given that the garaging is to be from the secondary frontage and two onsite spaces can be achieved with a minimum setback in excess of 900mm to the garage from the secondary, the on-site car parking provision in Table NPSP/8 is satisfied.

City Wide Principle of Development Control 212 prescribes that a two vehicle garage should have an internal dimension of 5.8 metres x 6.0 metres. The proposed garage has internal dimensions of 6.4 – 6.8 metres x 6.2 metres. In this regard, Principle 212 is satisfied.

Access to and from the garage area has been determined to be safe and convenient.

Finished floor levels/flooding/retaining

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

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

The subject land is not within a recognised flood plain.

The subject land is relatively flat, over the 27.13 – 27.84 metre length of the site. Stormwater is able to be discharged to the Wellington Street water table by gravity.

The finished floor level of the existing dwelling is RL75.92 whereas the proposed finished floor level of the new dwelling is to be RL75.45 which in turn will range between 6 and 250 millimetres above the relative natural ground level and 170 millimetres below the adjacent mid top-of-kerb of Bridge Street.

In this context, minimal retaining walls are required along external south-western side and north-western rear boundaries of the land. The Applicant has not proposed any south-western side or north-western rear fencing (albeit for a small portion given that that garage is to be situated on the majority of the rear boundary) as part of the development proposal. That said, fencing within a Historic (Conservation) Zone would require approval and as such, should new side and/or rear fencing be proposed in the future, a fresh Development Application will be required to be submitted to the Council for consideration.

Assuming the Applicant elects to propose typical 1.8-metre high fencing at a later stage, the combined height of retaining walls and fencing would be consistent with City Wide Principle of Development Control 58, which states:

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

Trees (regulated, mature & street) and landscaping

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

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

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

In terms of landscaping, the Applicant has provided a landscaping plan and schedule, which identifies a range of small trees that will enhance the garden setting of the proposed dwelling, which is a characteristic of the locality. A copy of the landscaping plan and schedule is contained in **Attachment B3**.

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

Environmental Sustainability

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

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

The private open space areas are situated internally on both the north-eastern and south-western sides of the proposed dwelling. Whilst solar access to the south-western section will be compromised throughout the year, the north-eastern section of private open space will receive direct solar access throughout the morning and within the early afternoon period.

City Wide Principle of Development Control 159 prescribes that new dwellings should be provided with a 2,000-litre rain water tank in order to maximise the use of stormwater collected from roof areas. The Applicant has not nominated a rainwater tank as part of the proposed development.

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

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

Summary

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

The proposed dwelling displays a single-storey facade to the primary street frontage (ie. Bridge Street) that is sympathetic to the basic scale and proportions of existing single-storey character dwellings within the locality. The dwelling demonstrates a compatible visual relationship with buildings that contribute to the historic character of the Kensington 1 Policy Area by way of integrating a two-storey design component within the single-storey footprint of the building. Furthermore, the contemporary architectural design approach is considered to complement the historic building stock, without replicating the original dwellings within the locality.

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

On balance, the proposed dwelling will not unreasonably impact upon the living amenity of occupiers of adjacent residential properties.

The provision of private open space and the resulting site coverage are considered to be acceptable. The provision of on-site car parking is adequate for a detached dwelling and is considered to be safe and convenient.

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

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

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/117/18 by Mr G Chin, to demolish the existing detached dwelling and ancillary structures; construct a two-storey detached dwelling an inground swimming pool; front fencing and boundary fencing (adjacent Wellington Street), on the land located at 10 Wellington Street, Kensington, subject to the following requirements, conditions and notes:

Relevant Plans

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

- plans and elevations prepared by Juxt Architects and received by the Council on 1 February 2019; and

Conditions

1. Details of the 1.8 metre high steel pickets along the south-eastern front boundary and the north-eastern side boundary shall be provided to the Council subject to the satisfaction of the Council's Heritage Advisor, prior to Development Approval being granted.

2. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.
3. The portion of all upper floor windows less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwelling in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
4. A 2,000 Litre rainwater tank shall be plumbed into a toilet, water heater and/or laundry cold water outlet by a licenced plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with the application for Building Rules Consent.
5. That the associated filter pump be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.
6. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
7. All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council 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.

Moved

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **granted** to Development Application No 155/117/18 by Mr G Chin, to demolish the existing detached dwelling and ancillary structures; construct a two-storey detached dwelling an inground swimming pool; front fencing and boundary fencing (adjacent Wellington Street), on the land located at 10 Wellington Street, Kensington, subject to the following requirements, conditions and notes:*

Relevant Plans

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

- *plans and elevations prepared by Juxt Architects and received by the Council on 1 February 2019; and*

Conditions

1. *Details of the 1.8 metre high steel pickets along the south-eastern front boundary and the north-eastern side boundary shall be provided to the Council subject to the satisfaction of the Council's Heritage Advisor, prior to Development Approval being granted.*
2. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent kerb & water table or a Council underground pipe drainage system.*
3. *The portion of all upper floor windows less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwelling in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)*
4. *A 2,000 Litre rainwater tank shall be plumbed into a toilet, water heater and/or laundry cold water outlet by a licenced plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with the application for Building Rules Consent.*
5. *That the associated filter pump be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.*

6. *All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.*
7. *All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council 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.*

Seconded and carried

2. STAFF REPORTS

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

DEVELOPMENT APPLICATION:	155/678/18
APPLICANT:	Mr Nick Papazahariakis
SUBJECT SITE:	36 College Road and 43B Fullarton Road, Kent Town (Certificates of Title: Volume: 5093, Folio: 104 Volume: 5093, Folio: 105)
DESCRIPTION OF DEVELOPMENT:	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.
ZONE:	Mixed Use Historic (Conservation) Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 19 December 2017)
PUBLIC NOTIFICATION CATEGORY:	Category 3

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application which was previously considered and deferred by the Panel, at its meeting held on 23 January 2019. The Applicant has submitted amended plans and it is necessary for the Panel to determine whether or not the proposal sufficiently accords with the Development Plan to merit consent.

Background

The Applicant is seeking consent 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.

At its meeting held on 23 January 2019, the Panel determined:

*“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.”*

A copy of the relevant section of the Minutes of the Panel meeting held on 23 January 2019, including attachments, is contained in **Attachment A**.

Discussion

The applicant has amended the proposal in response to the concern raised by the Panel. In particular, the following amendments have been made:

Ground Level

- the setback of the amenities block in the north-west corner from Little Dew Street, has been increased from 4.0m to 4.3m;
- landscape beds have been added adjacent to Little Dew Street;

First Floor Level

- the setback of the amenities block in the north-west corner from Little Dew Street, has been increased from 4.0m to 4.3m;
- the setback of the main facade from Little Dew Street has been marginally increased from 1.93m/2.17m to 2.2m;

Second Floor Level

- the setback of the amenities block in the north-west corner from Little Dew Street, has been increased from 4.0m to 4.3m;
- the setback of the main facade from Little Dew Street has been increased from 1.74m/2.17m to 4.0m, with a balcony added, extending to 2.2m from Little Dew Street;

Third Floor Level

- the setback of the main facade from Little Dew Street has been increased from 1.74m/2.17m to 4.0m/4.3m;
- both apartments are now 3 bedroom apartments, whereas previously one had 4 bedrooms and the other had 3 bedrooms and a study; and
- Apartment 1 is now set back 1.2m from the whole of the northern boundary, whereas previously a section was on the boundary.

A copy of the amended plans and a supporting letter from Mr Chris Vounasis of Future Urban on behalf of the applicant, is contained in **Attachment B**.

City Wide Principle of Development Control 50 states:

“The setback of buildings should:

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

For the reasons given in the previous staff report, it was considered that the previous proposal was adequately set back from Little Dew Street. That said, the proposed changes will reduce any potential negative visual impact resulting from the scale of the building, for users of Little Dew Street and College Road, as well as nearby residential properties.

The addition of landscaping at ground level is also an improvement to the proposal, as it will assist in creating a more pleasant interface with the street at ground level.

Summary

The Applicant has given consideration to the areas of concern which were raised by the Panel at the meeting held on 18 January 2017. The Applicant has amended the plans to increase setbacks from Little Dew Street and provide additional landscaping.

It remains the opinion of staff that the proposed development application is not seriously at variance with the Development Plan and sufficiently accords with the relevant provisions of 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 155/678/18 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 C, dated 7 February 2019.

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.
4. Access to buildings and designated accessible car parking spaces shall be designed and provided in accordance with the provisions contained in Australian Standard AS1428.

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 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:*

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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.*
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4. *Access to buildings and designated accessible car parking spaces shall be designed and provided in accordance with the provisions contained in Australian Standard AS1428.*

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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.*

Seconded and carried

3. OTHER BUSINESS

Nil

4. CONFIDENTIAL REPORTS

Nil

5. CLOSURE

The Presiding Member declared the meeting closed at 8:52pm

Terry Mosel
Presiding Member

Mark Thomson
Manager Development Assessment