

Council Assessment Panel Agenda & Reports

21 March 2022

Our Vision

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

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

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

Telephone 8366 4555
Facsimile 8332 6338
Email townhall@npsp.sa.gov.au
Website www.npsp.sa.gov.au



City of
Norwood
Payneham
& St Peters

17 March 2022

To all Members of the Council Assessment Panel:

- Mr Terry Mosel (Presiding Member)
- Ms Jenny Newman
- Mr Mark Adcock
- Mr Ross Bateup
- Mr John Minney

NOTICE OF MEETING

I wish to advise that pursuant to Clause 7.4 of the Terms of Reference, the next Ordinary Meeting of the Norwood Payneham & St Peters Council Assessment Panel, will be held in the Council Chambers, Norwood Town Hall, 175 The Parade, Norwood, on:

Monday 21 March 2022, commencing at 7.00pm.

Please advise Kate Talbot on 8366 4562 or email ktalbot@npsp.sa.gov.au if you are unable to attend this meeting or will be late.

Yours faithfully



Mark Thomson
ASSESSMENT MANAGER

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

Telephone 8366 4555
Facsimile 8332 6338
Email townhall@npsp.sa.gov.au
Website www.npsp.sa.gov.au



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Page No.

1.	CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 21 FEBRUARY 2022	1
2.	STAFF REPORTS	2
2.1	DEVELOPMENT APPLICATION 155/D017/21 – NICHOLAS JAKE PEACOCK – 5 FOSTER STREET, NORWOOD	2
3.	OTHER BUSINESS	10
4.	CONFIDENTIAL REPORTS	10
5.	CLOSURE	10

VENUE Council Chambers, Norwood Town Hall

HOUR

PRESENT

Panel Members

Staff

APOLOGIES

ABSENT

- 1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 21 FEBRUARY 2022**

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/D017/21 – NICHOLAS JAKE PEACOCK – 5 FOSTER STREET, NORWOOD

DEVELOPMENT APPLICATION:	155/D017/21
APPELLANT:	Nicholas Jake Peacock
SUBJECT SITE:	5 Foster Street, Norwood (Certificate of Title Volume: 5826 Folio: 105)
DESCRIPTION OF DEVELOPMENT:	Torrens Title land division (1 into 2), the demolition of an existing dwelling and the construction of two detached dwellings
ZONE:	Residential Historic (Conservation) Zone (Norwood 4 Policy Area) - Norwood, Payneham and St Peters (City) Development Plan (dated 11 February 2021)
PUBLIC NOTIFICATION CATEGORY:	Category 2

Purpose of Report

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

Background

Development Application 155/D017/21 was lodged in March 2021 for Torrens Title land division (1 into 2), the demolition of an existing dwelling and the construction of two detached dwellings.

The Panel considered the Development Application at its meeting held on Monday 18 October 2021 and determined to refuse the Application for the following reasons:

- 1. The existing dwelling proposed for demolition makes a positive contribution to the Foster Street streetscape and whilst it has some structural deficiencies, the extent of rehabilitation work required to address the damage is reasonable, such that demolition is not justified.*
- 2. The proposed land division is of an insufficient width to allow for the construction of dwellings which adequately satisfy the provisions of the Development Plan.*
- 3. The proposed dwellings are not acceptable infill dwellings within a Residential Historic (Conservation) Zone.*

A copy of the relevant section of the Minutes of the Panel meeting held on 18 October 2021, including the refused plans and attachments, is contained in **Attachment A**.

Following the refusal of the Application by the Panel, the applicant lodged an Appeal with the ERD Court. A preliminary conference was held at the ERD Court on Thursday 2 December 2021, at which the Court directed the matter into the pending track at the request of the appellant, to provide an opportunity to seek to resolve the issues of contention and to gain the Panel's support of the proposal.

The Panel considered a compromise proposal (the first compromise) at its meeting held on 19 December 2021. The first compromise proposal involved the provision of further information, and made amendments to the proposal. The further information included:

- an opinion on the Planning merits of the proposal by the Appellant's Planning Consultant, Mr Vounasis from Future Urban;
- an Appraisal of Building Damage by Wallbridge Gilbert Aztec; and
- an Order of Probable Cost estimate (QS Report) by WT

The proposed amendments to the proposal included:

- Introduction of a secondary gable roof form to the facade of each dwelling
- Separation of the garages associated with each dwelling
- Inclusion of a setback between the proposed dwellings and northern boundary.
- A reduction in crossover flaring to provide a 2 metre clearance between the driveway associated with Lot 102 and the street tree

The Panel resolved to not accept the compromise, referring to the reasons for refusal of the initial application. A copy of the relevant section of the Minutes of the Panel meeting held on 19 December 2021, including the compromise plans and attachments, is contained in **Attachment B**.

The Panel considered a second compromise proposal (the second compromise) at its meeting held on 21 February 2022. This compromise included the provision of additional information and made amendments to the proposal including:

- A description of the proposal by the Appellant's Planning Consultant, Mr Vounasis from Future Urban; and
- Photographs showing further movement of the bedroom wall of the existing dwelling.

The proposed amendments to the proposal include:

- increase in front setback of southern dwelling (at ground floor)
- reduction in length of garage boundary wall and lower carport introduced to southern dwelling
- introduction of a verandah element to garage and dwelling gable
- increase in solid to void ratio to dwelling facades
- colour change to a light beige render and shale grey roof
- additional hedge planting along pedestrian path

The Panel resolved to not accept the compromise, and provided the following reasons:

- a) *Contrary to Norwood 4 Policy Area Objective 1, the proposal does not enhance the historic character of the Norwood 4 Policy Area.*
- b) *Contrary to Norwood 4 Policy Area Principle of Development Control 3, the proposal involves the demolition of an existing buildings originally constructed prior to 1940 which contributes to the desired character of the Zone and the Policy Area.*
- c) *Contrary to the Residential Historic (Conservation) Zone Desired Character Statement, the development will not preserve and enhance the historic character and ambience of localities by providing for a range of high-quality residential accommodation which reinforces the historic character and residential amenity of the policy area.*
- d) *Contrary to the Residential Historic (Conservation) Zone Desired Character Statement, the development will not preserve and enhance the historic character and ambience of localities by providing for a range of high-quality residential accommodation which reinforces the historic character and residential amenity of the policy area.*

- e) *Contrary to the Residential Historic (Conservation) Zone Desired Character Statement, the development will not reinforce the existing streetscape and historic building stock, the new dwellings will not be of a complementary nature and will compete and stand out against the historic elements for streetscape prominence.*
- f) *Contrary to Residential Historic (Conservation) Zone Principles of Development Control 3 and 7(d), the existing dwelling which contributes to the historic character and desired character of the zone is not proposed to be retained and conserved/rehabilitated.*
- g) *Contrary to Residential Historic (Conservation) Zone Principle of Development Control 7(a), the proposed dwellings are not at a density which is reflective of the historic development patterns of the locality.*
- h) *Contrary to Residential Historic (Conservation) Zone Principle of Development Control 16, the proposed dwellings do not demonstrate a compatible visual relationship with the buildings that contribute to the historic character of the relevant policy area through consideration of the following:*
 - i. *bulk and scale;*
 - ii. *width of site frontage, front and side boundary setback patterns, wall height and window placement;*
 - iii. *the form and level of visual interest present in a building (as determined by the height of eaves, the length and size of unbroken walling, treatment of openings and depths of reveals, roof form and pitch, external colour and texture of materials used, as well as detailing, landscaping and fencing); and*
 - iv. *design elements such as verandahs, balconies and eaves.*
- i) *Contrary to Residential Historic (Conservation) Zone Principle of Development Control 19, the height of the proposed new buildings is not consistent with the prevailing building heights.*

A copy of the relevant section of the Minutes of the Panel meeting held on 21 February 2022, including the second compromise plans and attachments, is contained in **Attachment C**.

The Appellant has subsequently submitted amended plans for the consideration of the Panel, together with further supporting information, which are the subject of this report and are contained in **Attachment D**. Aspects relating to the demolition of the dwelling, and land division widths (which were raised as concerns by the panel) have remained the same in this compromise, which seeks to resolve concerns through amendments to the built form aspect of the application.

The further information, and changes to the proposal include:

- A description of the amendments to the compromise and discussion around the central garage door (northern dwelling) by the Appellant's Planning Consultant, Mr Vounasis from Future Urban

The proposed amendments to the proposal include:

- Redesign of the façade of the dwellings, to give the appearance of one cohesive building
- A common roof line and prominent verandah
- Removal of upper level living area for each dwelling to increase the upper level setback
- Removal of the southern boundary protrusion by recessing the garage of residence 2 to behind the main face of the dwelling.
- Colour changes to the lower façade of the dwelling – including garage doors and verandah

Discussion

Demolition of existing dwelling

No additional information has been provided on the demolition of the existing dwelling. Previous panel reports both on the original application, and subsequent compromise proposals (including further information submitted related to the demolition aspect) have been included in the attachments in sequential order (marked as Attachments A, B and C).

It remains the opinion of Council's Planning staff that the dwelling is able to be rehabilitated and that the likely cost to do so is reasonable having regard to the policies of the Development Plan which seek the retention of pre 1940's dwellings. That said, it is acknowledged that this is not a clear-cut consideration, as the extent and cost of remediation required differs substantially between experts and the Development Application needs to be considered as a whole, such that demolition may be able to be supported if the objectives of the Development Plan being achieved on balance.

The width of land division

The appellant's planning consultant, Mr Vounasis has referenced the frontage widths of the adjacent dwellings at 7 Foster Street, and also references dwellings at 13 and 15 Foster Street, which have frontages of 8.8 metres, as justification for the proposed site frontage widths.

This has been discussed within previous CAP reports however to summarise, while it is acknowledged that the allotments at 7 Foster Street are less than those proposed, the dwellings are not examples of historic dwellings and are a poor example of infill development which should not be replicated. The dwellings at 13 and 15 Foster Street are historic dwellings have 8.8 metre frontages, significantly larger than that proposed by this compromise (1.18 metres - 15.48%) which allows sufficient frontage width for the provision of a vehicle parking space, entry door and window to a habitable room (discussed in more detail below).

No further comments have been made by the appellant or their consultant regarding the width of the proposed land division. Rather, it is understood that the intent of the compromise is to demonstrate that the allotments are of a sufficient width to accommodate two new dwellings which enhance the historic character of the Norwood 4 Policy area (Norwood 4 Objective 1), and which do not compete or stand out against the historic elements for streetscape prominence (Residential Historic (Conservation) Zone Desired Character Statement).

Advice from Alexander Symonds has been obtained by the appellant with regard to the revised roof form and interface between the dwellings, which concludes that they are confident that the Torrens Title division is able to accommodate the compromise dwelling design and roof forms. This advice is contained within **Attachment D**.

The Proposed Dwellings

Changes have been made to the proposal in an attempt to address the concerns of the Panel with respect to the design of the replacement development.

Whilst previous resolutions of the Panel have not detailed the specific nature of concerns with the proposed replacement dwellings, it is understood that concerns with previous versions of the application related to:

- the overall scale of the development,
- the prominence of the upper levels in the streetscape,
- the prominence of garaging, and
- the incompatibility of the façade composition with the established streetscape.

The compromise presents an entirely new façade to Foster Street, designed to present as a single building and limit views of the second building level. Whilst being contemporary in nature, it references features of a bungalow in the ground floor roof form, with a front verandah element extending across the façade of both dwellings.

The upper floor area has been reduced by removing the living areas, in order to provide a greater upper level setback to Foster Street, which now presents as a mostly single level building. The southern-most garage (Dwelling 2) has been separated from the main roof, which is a more appropriate response that it reflects the traditional nature of ancillary outbuildings on historic houses, located to the side of the main dwelling. These aspects are considered a positive aspect of the proposal.

The revised compromise also reduces the southern boundary walling protrusion as viewed from the Foster streetscape, due to the setback of the southern-most garage increasing. While this continues to be contrary to Historic (Conservation Zone) PDC 20, this aspect is considered an improvement over previous designs. The effect of this is the reduction in vehicle parking length within the garage, which is now 10.6 metres. While the Development Plan does not prescribe a length for stacked vehicle parking, it does specify a

minimum setback for garages of 5.5 metres from the primary street frontage, which can serve as a defacto visitor space (Table NPSP/8) and thus a minimum distance of 11 metres for two stacked spaces.

With the exception of the increase in setback to the southern dwellings garage from Foster Street (discussed above) all other ground level setbacks from front, side and rear boundaries remain unchanged and many of the built form concerns remain which relate to the narrow width of the proposed allotments. In particular, the design retains elements which are symptomatic of the narrowness of the allotments, in that the dwellings feature an entry door (amended to double doors) and a garage, with insufficient allotment width for a habitable room with widow facing the street. An unavoidable aspect also continues to be the centrally located garage under the main roof of the northern dwelling, which is the only way of providing undercover vehicle access to the northern dwelling while minimising the impact of the development to the adjacent street tree. Regardless, the driveway construction is still proposed ~500mm inside the Structural Root Zone of the adjacent tree.

The amended façade design results in the proposal presenting to Foster Street as a single cohesive building, however the garage door and vehicle driveway leading up to the middle of the building remains a negative aspect of the proposal, which results from the need to avoid a street tree. Principle of Development Control 31 of the Residential (Historic) Conservation Zone states:

“Development of carports and garages or other outbuildings should, without necessarily replicating the historic detailing of the surrounding Heritage Places or Contributory Items:

- (a) be set behind the main face of the dwelling and may be freestanding;*
- (b) be designed and sited to ensure garage doors do not visually dominate the primary or secondary street frontage of the dwelling;*
- (c) not extend design elements such as verandahs, roof forms or historic detailing at the same alignment as the main face of the principal building;*
- (d) exhibit architectural and roof form designs, and exterior finishes to enhance and not diminish the historic character of the locality; and*
- (e) not incorporate undercroft parking or other parking or access arrangements that are not in keeping with the historic character of the area.”*

The garage door under the main roof/verandah is contrary to part (c), in that design elements extend in front of the garage at the same alignment of the principle building. The impact of this on the historic character of the street is discussed by David Brown in his report.

Residential Historic (Conservation) Zone Principle 26 states:

“Development within the Residential Historic (Conservation) Zone should be carried out, where applicable, in accordance with the Design Guidelines for Heritage Places and Development in Historic (Conservation) Zones contained in Table NPSP/4.”

Table NPSP/4 Design Guidelines 3.3 (related to the construction of new dwellings) states that: *“Openings in walls adjacent to a road frontage should generally have proportions similar to historic dwellings within the locality.”*

Reviewing existing dwellings within Foster Street, it is noted that even dwellings on narrower allotments at 6 and 8 Foster Street have a single entry door and window/habitable room facing the street. In this respect, the proposed dwelling design with its double entry doors and lack of window within the front facade is inconsistent with surrounding dwellings which all feature, at a minimum a single width entry door and window facing Foster Street.

In this respect, there are also no dwellings within the locality which have a garage door within the front façade of the dwelling. The impact of this is discussed in detail by David Brown.

Heritage Advice

The compromise proposal was referred to Council’s Heritage Advisor, Mr David Brown for comment. Mr Brown remains concerned with the compatibility of the proposed replacement dwellings with the historic character of Foster Street.

In particular, David Brown has advised:

- *“The latest revised design for the proposed new dwellings now have a single level front portion that loosely borrows from the Bungalow styling of the house it replaces. With the new façade design the upper floor is partly hidden by the strong transverse gable of the roof, and the lowered roof pitch to the upper floor is helpful in reducing the impact of this structure from the street. The upper level will still be visible from the street, but this design is more successful in terms of attempting to reduce the impact of the first floor volume than all of the earlier proposals.”*
- *“The revised façade still has the same outcome as the earlier designs that there are no rooms at the front of the house, so the façade is made up of two sets of French doors, and some veneered stone with a garage door in the middle of the combined structure. This does not present as a traditional façade composition that will fit well into the historic streetscape where all other buildings have garaging on the sides of the dwellings and at least one room that addresses the street.”*
- *“The streetscape in Foster Street is that of generally single storey buildings. The Local Heritage Place to the south is single level, and all the other original character dwellings in the street were single level when constructed. The adjacent house to the north being the exception with its somewhat unsympathetic later upper-level rear addition. The two storey nature of the proposed development will still be visible from the street, though with a lower pitch roof this will assist in it not being as obvious. It is however still going to be the tallest house in the street, which is not a desirable outcome in a historic area where the new development should be subservient to the more important older houses.”*
- *“The garage doors are now set back sufficiently behind the respective facades of the dwellings. However the garage to the northern dwelling is under the main roof of the house, which is not recommended in the Development Plan.”*

Mr Brown’s report summarises that:

“The proposed replacement dwellings appear to not consider enough of the provisions in the Development Plan. While some of these are able to be resolved with some modification to the design, there are a few that I do not see being able to be overcome with the current proposal. Essentially the blocks of land do not appear to be wide enough to allow for the construction of a suitable house design that will adequately satisfy the provisions of the Development Plan. In heritage terms the proposed new two-level dwellings would not be a successful replacement for the existing bungalow on the site if demolition was approved. They would also not take into account the general streetscape context of Foster Street of detached dwellings with driveways and open carparks to the side with front rooms that address the street. While the change to a pseudo Bungalow design will assist with the front portion of the house fitting better in the context, the high upper level and central garage door are problematic in this area.”

Residential Historic (Conservation) Zone Principle 8(a) states that the introduction of new dwellings in the zone should only occur where (amongst other considerations) the development can be achieved without adverse impact on the established residential amenity and the historic character of the relevant policy area.

Therefore, in this context, although the compromise proposal is considered to be a substantial improvement over previous iterations of the proposal, it is considered that Residential Historic (Conservation) Zone Principle of Development Control 8(a) is not achieved, as the replacement development would have an adverse impact on the established residential amenity and the historic character of the relevant policy area.

A copy of Mr Browns Heritage Advice is contained in **Attachment 4**

Summary

The amended façade has assisted the pair of dwellings to appear as a single building, and the reduction in upper floor level and altered roof forms has reduced the dominance of the upper level to the Foster Street streetscape, which are positive aspects of the proposal.

Negative aspects of the proposal which have been previously identified and which have not been resolved in the second compromise include:

- Demolition of a pre-1940's dwelling which contributes positively to the historic character of the policy area;
- inadequate setbacks to side boundaries, thereby not demonstrating compatible relationship with the side boundary setback patterns of buildings that contribute to the historic character of the policy area;
- absence of a habitable room window facing the street; and
- the incorporation of side boundary development contrary to Residential Historic (Conservation) Zone Principle of Development Control 20.

These are aspects which are considered a reflection of the insufficient width of the allotments, in that site frontages are too narrow to accommodate dwellings which accord with the policy intent of the Residential Historic Conservation Zone, and that the development will not *enhance the historic character* of the Norwood 4 Policy Area (Norwood 4 Policy Area Objective 1).

The compromise does not demonstrate *a compatible visual relationship with the buildings that contribute to the historic character* (Residential Historic (Conservation) Zone Principle of Development Control 16) in either *bulk and scale* (a) or *width of site frontage* (b), rather the compromise will result in dwellings which *compete or stand out against the historic elements* for streetscape prominence (Residential Historic (Conservation) Zone Desired Character Statement) which is contributed in part, to the height of the *buildings, which should be consistent with the prevailing building heights* (Residential Historic (Conservation) Zone Principle of Development Control 19).

Contrary to Residential Historic (Conservation) Zone Principle of Development Control 3, the proposed development does not retain the existing building which contributes to the desired historic character of the zone. To the extent that the demolition of the existing dwelling may be able to be justified due to its structural condition, the replacement development is not considered to *enhance the historic character and ambiance of the locality* (Residential Historic (Conservation) Zone Desired Character Statement).

The amended (second compromise) proposal is a substantial improvement over previous iterations of the proposal, however is not considered to sufficiently accord with the Development Plan to warrant consent, for the reasons set out in the previous report and the further analysis provided in this report.

RECOMMENDATION

1. The Council Assessment Panel orders pursuant to Regulation 13(2)(a) of the *Planning Development and Infrastructure Regulations 2016*, that the public, with the exception of the Assessment Manager and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to discuss, consider and determine in confidence, information contained within the report at Item 2.1 of the agenda submitted by the Assessment Manager.
2. That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan, the Environment Resources & Development Court be advised that Development Application No 155/D017/21 by Nicholas Jake Peacock to undertake a Torrens Title land division (1 into 2), the demolition of an existing dwelling and the construction of two detached dwellings, on the land located at 5 Foster Street, is not accepted for the following reasons:
 - a) Contrary to Norwood 4 Policy Area Objective 1, the proposal does not enhance the historic character of the Norwood 4 Policy Area.
 - b) Contrary to Norwood 4 Policy Area Principle of Development Control 3, the proposal involves the demolition of an existing buildings originally constructed prior to 1940 which contributes to the desired character of the Zone and the Policy Area.
 - c) Contrary to the Residential Historic (Conservation) Zone Desired Character Statement, the development will not preserve and enhance the historic character and ambiance of localities by providing for a range of high-quality residential accommodation which reinforces the historic character and residential amenity of the policy area.

- d) Contrary to the Residential Historic (Conservation) Zone Desired Character Statement, the development will not preserve and enhance the historic character and ambience of localities by providing for a range of high-quality residential accommodation which reinforces the historic character and residential amenity of the policy area.
- e) Contrary to the Residential Historic (Conservation) Zone Desired Character Statement, the development will not reinforce the existing streetscape and historic building stock, the new dwellings will not be of a complementary nature and will compete and stand out against the historic elements for streetscape prominence.
- f) Contrary to Residential Historic (Conservation) Zone Principles of Development Control 3 and 7(d), the existing dwelling which contributes to the historic character and desired character of the zone is not proposed to be retained and conserved/rehabilitated.
- g) Contrary to Residential Historic (Conservation) Zone Principle of Development Control 7(a), the proposed dwellings are not at a density which is reflective of the historic development patterns of the locality.
- h) Contrary to Residential Historic (Conservation) Zone Principle of Development Control 16, the proposed dwellings do not demonstrate a compatible visual relationship with the buildings that contribute to the historic character of the relevant policy area through consideration of the following:
 - i. bulk and scale;
 - ii. width of site frontage, front and side boundary setback patterns, wall height and window placement;
 - iii. the form and level of visual interest present in a building (as determined by the height of eaves, the length and size of unbroken walling, treatment of openings and depths of reveals, roof form and pitch, external colour and texture of materials used, as well as detailing, landscaping and fencing); and
 - iv. design elements such as verandahs, balconies and eaves.
- i) Contrary to Residential Historic (Conservation) Zone Principle of Development Control 19, the height of the proposed new buildings is not consistent with the prevailing building heights.

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