

# Council Assessment Panel Minutes

**18 September 2023**

## **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** Council Chambers, Norwood Town Hall

**HOUR** 7:00pm

**PRESENT**

**Panel Members** Mr Terry Mosel  
Mr Mark Adcock  
Mr Ross Bateup  
Ms Jenny Newman  
Mr Kester Moorhouse

**Staff** Geoff Parsons, Manager Development Assessment  
Ned Feary, Urban Planner  
Tala Aslat, Planning Assistant

**APOLOGIES** Cr Christel Mex

**ABSENT**

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT  
PANEL HELD ON 21 AUGUST 2023**

**Moved by Mr Adcock and Seconded by Ms Newman  
CARRIED**

4. **DECLARATION OF INTERESTS**

**5. DEVELOPMENT APPLICATIONS – PDI ACT**

**5.1 DEVELOPMENT NUMBER 22035098 – ALEXANDER WILKINSON – 112 OSMOND TERRACE, NORWOOD**

|   |   |
|---|---|
| <b>DEVELOPMENT NO.:</b>                   | 22035098  |
| <b>APPLICANT:</b>                         | ALEXANDER WILKINSON   |
| <b>ADDRESS:</b>                           | 112 OSMOND TCE NORWOOD SA 5067  |
| <b>NATURE OF DEVELOPMENT:</b>             | Variation to Planning Consent 22017221, comprising the inclusion of a first floor level above the garage, to be used as ancillary accommodation.  |
| <b>ZONING INFORMATION:</b>                | <p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Established Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Character Area</li> <li>• Heritage Adjacency</li> <li>• Hazards (Flooding - General)</li> <li>• Local Heritage Place</li> <li>• Local Heritage Place</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Traffic Generating Development</li> <li>• Urban Tree Canopy</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Minimum Frontage (Minimum frontage is 14m)</li> <li>• Minimum Site Area (Minimum site area is 700 sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 1 level)</li> </ul> |
| <b>LODGEMENT DATE:</b>                    | 21 October 2022   |
| <b>RELEVANT AUTHORITY:</b>                | Assessment panel  |
| <b>PLANNING &amp; DESIGN CODE VERSION</b> | 21 October 2022   |
| <b>CATEGORY OF DEVELOPMENT:</b>           | Code Assessed - Performance Assessed  |
| <b>NOTIFICATION:</b>                      | Yes   |
| <b>RECOMMENDING OFFICER</b>               | Mark Thomson<br>Consultant Planner  |
| <b>REFERRALS STATUTORY:</b>               | Nil   |
| <b>REFERRALS NON-STATUTORY:</b>           | Heritage Advisor  |

**CONTENTS:**

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| <b>ATTACHMENT 1:</b> | Planning Consent 22017221  | <b>ATTACHMENT 6:</b> | Representations             |
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## BACKGROUND:

On 20 July 2022, Planning Consent was granted by the Assessment Manager's delegate to Development Application 22017221, for:

*“single-storey alterations and additions to an existing detached dwelling (Local Heritage Place); modifications to an existing masonry and palisade front fence; erection of 1.5 metre high timber-framed corrugated profile fencing along a section of the southern side boundary; and installation of horizontal timber slat screening to sections of both the northern side and eastern rear boundaries (on top of existing concrete block walls)”*

A copy of the Planning Consent plans is contained in **Attachment 1**. On 9 February 2023, Development Approval was granted to DA 22035098 and construction has since substantially commenced, with the concrete footings of the dwelling addition having been constructed and the timber slat screening above the northern side boundary wall having been installed.

Development Application 22035098, which is the subject of this report, was submitted in October 2022. Public notification was first undertaken between 16 November 2022 and 06 December 2022. At that time, the development application included the construction of a balcony. The balcony was approximately 5m long and 2.4m wide, giving a floor area of 12m<sup>2</sup>. A combination of timber screening and steel 'fins' were proposed at the edges of the balcony to mitigate overlooking of the adjoining property to the south.

In response to concerns raised by representors and Council's Planning staff, the applicant varied the development application in July 2023. The changes comprised the deletion of the balcony and the installation of vertical timber battens across the upper level facade, including 250mm deep battens in front of the windows.

Pursuant to Section 119 (9) of the *Planning, Development and Infrastructure Act 2016*, a relevant authority may permit an applicant to vary an application, provided that the essential nature of the proposed development is not changed. The nature of the variations (deletion of balcony and changes to the facade) were not considered to change the essential nature of the proposed development and the applicant was permitted to vary the application.

When an application which has previously undergone public notification is varied, there is a requirement pursuant to Regulation 35(3) of the *Planning, Development and Infrastructure (General) Regulations 2017* to subject the varied application to public notification, unless the variations are not substantial. In this respect, the deletion of the balcony was considered to be a substantial change and as such, public notification of the varied application took place between 1 August 2023 and 21 August 2023.

## DETAILED DESCRIPTION OF PROPOSAL:

The applicant is seeking to vary Planning Consent 22017221, through the inclusion of ancillary accommodation at first floor level, above the garage. The ancillary accommodation is proposed to comprise a bedroom/study with ensuite and kitchenette. Direct access to the ancillary accommodation is proposed via a stair leading from the new garage.

The proposed upper level has a skillion roof with a curved interface between the roof and wall. Vertical timber battens are proposed across the upper level facade, including 250mm deep battens in front of the windows

A copy of the application documents is contained in **Attachment 2**.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 112 OSMOND TCE NORWOOD SA 5067

**Title ref.:** CT  
6124/191

**Plan Parcel:** D92572  
AL500

**Council:** THE CITY OF NORWOOD PAYNEHAM AND  
ST PETERS

The subject land is an irregular shape allotment with a frontage to Osmond Terrace of 24.23m and an area of approximately 920m<sup>2</sup>. It contains a large symmetrical cottage which is listed as a Local Heritage Place.

An attached carport extends between the southern wall of the cottage and the southern side property boundary. A swimming pool is located in the north-eastern corner of the property.

## Locality

The locality of the subject land contains a mix of large historic detached dwellings amongst recent infill development. The adjoining property to the south at 114 Osmond Terrace contains a single storey detached dwelling which appears to have been constructed around the 1980's. To the south of that at 114A Osmond Terrace is a federation era Local Heritage Place dwelling.

Two storey townhouses front Brown Street on sites located behind 112 Osmond Terrace and 114A Osmond Terrace.

Osmond Terrace is a wide, tree lined boulevard, with a distinctly different built form character on each side. The western side is characterised by large modern two storey dwellings with little to no space in between them, while the eastern side is characterised by single storey character dwellings, with generous side setbacks.

First Creek is located in between 114 and 114A Osmond Terrace to the south of the subject land. Flood mitigation works to the creek network undertaken by the Council following a flood event in 2005 have provided effective flood protection to nearby properties, including the subject land.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Dwelling addition: Code Assessed - Performance Assessed  
Dwelling alteration or addition
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
P&D Code

## PUBLIC NOTIFICATION

- **REASON**  
Table 5 - Procedural Matters (PM) - Notification  
Any development involving any of the following (or of any combination of any of the following):  
(g) dwelling addition - Except development that exceeds the maximum building height specified in Established Neighbourhood Zone DTS/DPF 4.1 (ie. one level).
- **LIST OF REPRESENTATIONS**

| Given Name | Family Name | Address                        | Position on Application | Wishes to be Heard |
|------------|-------------|--------------------------------|-------------------------|--------------------|
| Nic        | Minicozzi   | PO Box 182, Stepney            | Opposed                 | No                 |
| Judith     | Brine       | 114 Osmond Terrace,<br>Norwood | Opposed                 | No                 |

In addition to the two valid representations received, there were three invalid representations lodged by:

- Brown St Seven Pty Ltd Minicozzi;
- Brown St Five Pty Ltd Minicozzi; and
- Minicozzi Osmond Terrace Pty Ltd Minicozzi

Pursuant to Regulation 50(b) of the *Planning, Development and Infrastructure (General) Regulations 2017*, a representation must include the name of the person (or persons) who are making the representation. These three representations are made by companies, not persons.

- **SUMMARY**

Mr Minicozzi explained in his representation that he has not seen the varied application because he was “unable to download or identify the variations in the application”. In this respect, it is noted that:

- by email on 28 July, after receiving notice of the varied application Mr Minicozzi asked Council staff to explain the difference between the varied application and the original application;
- by return email on 28 July, the Council’s Consultant Planner advised Mr Minicozzi that the current (varied) application details are available for inspection and that it would be inappropriate to attempt to explain the changes in case they were misrepresented in any way;
- Mr Minicozzi had until 21 August to view and familiarise himself with the varied application and submit a representation;
- Mr Minicozzi did not seek any assistance from the Council with respect to accessing or downloading a copy of the varied application.
- Mr Minicozzi submitted his representation on 1 August 2023.

Despite not having seen the varied application, Mr Minicozzi raised a number of concerns in relation to the application. These concerns are summarised below:

- Inadequate upper level rear setback;
- Length of development on rear boundary;
- Size and scale of upper level is inconsistent with the streetscape;
- Additions should not be closer to the side boundaries than the existing building;
- Two storey development should not occur or be visible from the street; and
- Proximity of the air conditioner to the rear neighbour.

Ms Brine has expressed concern in her representation that:

- the drawings submitted do not accurately depict the location of her dwelling and swimming pool;
- occupants of a bedroom of her dwelling, will be able to see light from the windows of the proposed upper level ancillary accommodation, despite the timber battens;
- overlooking from the windows of the proposed ancillary accommodation will be possible, into a bedroom of her dwelling;
- the proposed addition will cause overshadowing of her swimming pool; and
- the proposed addition will detract from the heritage value of the existing dwelling.

## AGENCY REFERRALS

Nil

## INTERNAL REFERRALS

The application was referred to the Council's Heritage Advisor, David Brown, for advice on the impact of the proposal on the heritage value of the Local Heritage Place dwelling. The advice received is discussed within the assessment below under the heading of Heritage.

## PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

### Building Height

The subject land is located within the Character Area Overlay. According to Desired Outcome 1, this overlay contains policies which are intended to ensure:

*"Valued streetscape characteristics and development patterns are reinforced through contextually responsive development, design and adaptive reuse that responds to the attributes expressed in the Character Area Statement."*

In relation to building height, the Character Area Statement states:

*"Generally single storey streetscape appearance."*

Performance Outcome 3.1 of the Character Area Overlay states:

*"Additions and alterations do not adversely impact on the streetscape character."*

The associated Designated Performance Feature (DPF 3.1) states:

*"Additions and alterations:*

- a) are fully contained within the roof space of a building with no external alterations made to the building elevation facing the primary street*
- or*
- b) meet all of the following:*
  - i. do not include any development forward of the front façade building line*
  - ii. any side or rear extensions are no closer to the side boundary than the existing building*
  - iii. do not involve the construction or alteration of a second or subsequent building level."*

Performance Outcome 4.2 of the Established Neighbourhood Zone also states:

*"Additions and alterations do not adversely impact on the streetscape character."*

In this instance, the associated Designated Performance Feature (DPF 4.2) states:

*"Additions and alterations:*

- a) are fully contained within the roof space of a building with no external alterations made to the building elevation facing the primary street*
- or*
- b) meet all of the following:*
  - i. do not include any development forward of the front façade building line*
  - ii. where including a second or subsequent building level addition, does not project beyond a 45 degree angle measured from ground level at the building line of the existing building."*

Pursuant to the rules of interpretation of the Planning and Design Code, to the extent that there is inconsistency between zone and overlay policies, the overlay policy takes precedence. Therefore, the



criteria contained in DPF 3.1 of the Character Area Overlay are of greater relevance than the criteria contained in DPF 4.1 of the Established Neighbourhood Zone.

The proposal is inconsistent with DPF 3.1 because the ancillary accommodation is not proposed within the roof space and involves the construction of a second building level.

That said, Designated Performance Features are not requirements. They are guides as to what is generally considered to satisfy the corresponding performance outcome but do not need to necessarily be satisfied to meet the relevant performance outcome and do not derogate from the discretion to determine that the outcome is met in another way.

The critical question therefore from a building height perspective, is whether the proposed upper level building element would adversely impact on the streetscape character.

In this respect, the proposed upper level building element would have minimal impact on streetscape character, due to being located 26 metres from the front boundary and having a maximum height equivalent to that of the existing dwelling. The existing carport to the side of the dwelling would further detract from the prominence of the proposed upper level.

Although the proposed upper level would result in a vertical wall height which is greater than that of the existing dwelling, the design is such that the upper level wall would appear from the street as if it was a gable roof of a single level building. The vertical timber battens in front of the window act as a veil, making them less apparent, particularly considering their distance from the street.

The image overleaf, included in the application documents, demonstrates the minimal streetscape impact of the proposed upper level.



Therefore, despite the Code containing an applicable Designated Performance Feature specifying that upper level additions should only be located within roof spaces, the proposal is considered to achieve the relevant performance outcome of not adversely impacting on the streetscape character.

## Setbacks

The proposal does not alter the ground level setbacks, as they are all approved in Planning Consent 22017221.

In relation to upper level side setbacks, Designated Performance Feature 8.1 of the Established Neighbourhood Zone states:

*“for a wall that is south facing and the wall height exceeds 3m measured from the lower of natural or finished ground level - at least 1.9m from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the lower of natural or finished ground level.”*

With the curved interface between the wall and the roof of the proposal, it is difficult to apply the criteria in DPF 8.1. As the wall is only 2.9 metres in height before it begins to curve, it is arguable that there is no wall height exceeding 3 metres facing a southern boundary.

The performance outcome which DPF 8.1 is intended to achieve (PO 8.1) states:

*“Buildings are set back from side boundaries to provide:*

- a) separation between buildings in a way that complements the established character of the locality*
- b) access to natural light and ventilation for neighbours.”*

Part (b) of PO 8.1 is discussed under the heading of Adjoining Owner Impact below.

Part (a) is a streetscape character consideration, intended to ensure that the space between buildings facing a street is complementary to the established character. Given the siting of the proposal at the rear of the building and behind a carport, it will have minimal impact on the impression of space between buildings within the streetscape.

## Adjoining Owner Impact

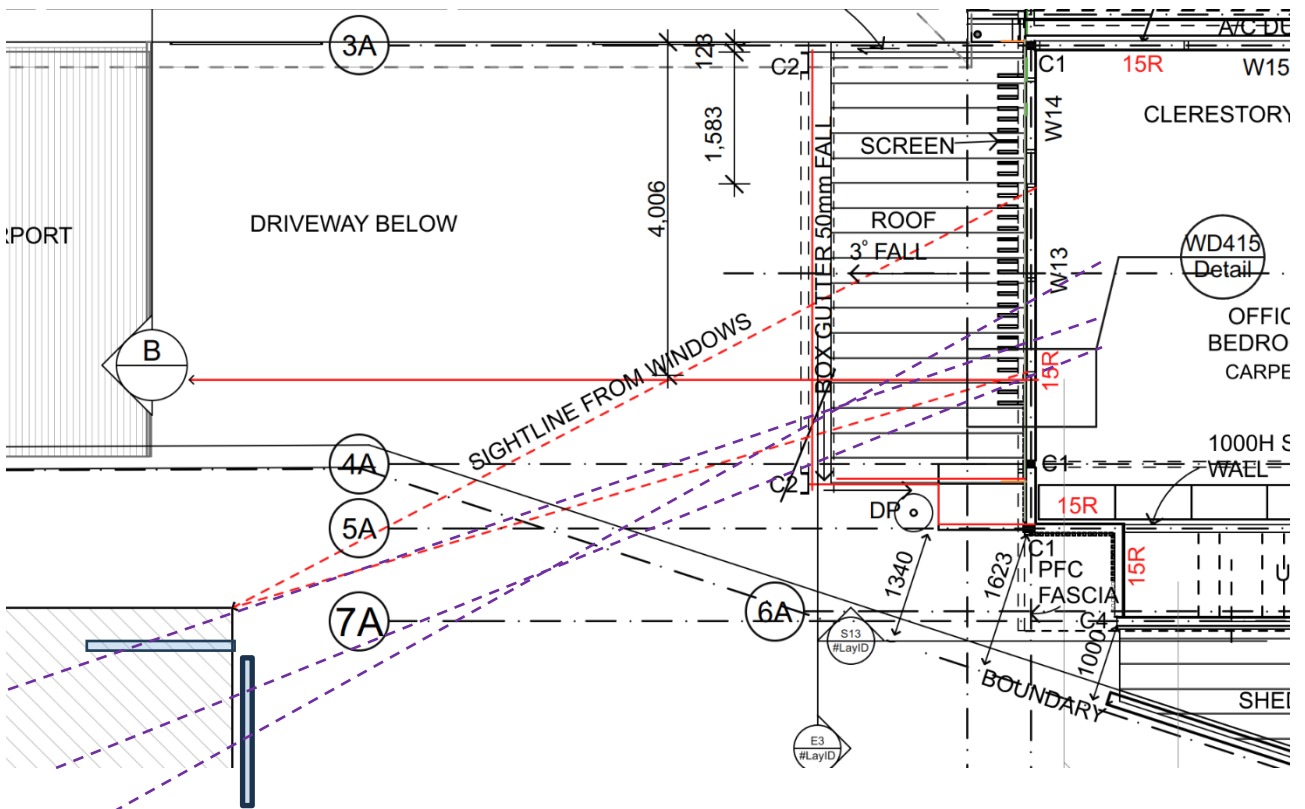
The owner of the adjoining property to the south at 114 Osmond Terrace is concerned that the proposed upper level will result in overlooking into her bedroom window and that light from the windows of the proposed upper level will be visible from her bedroom window. Concern was also raised that the proposal would cause overshadowing of the representor’s swimming pool.

Performance Outcome 10.1 of the Design in Urban Areas section of the General Development Policies addresses overlooking and states:

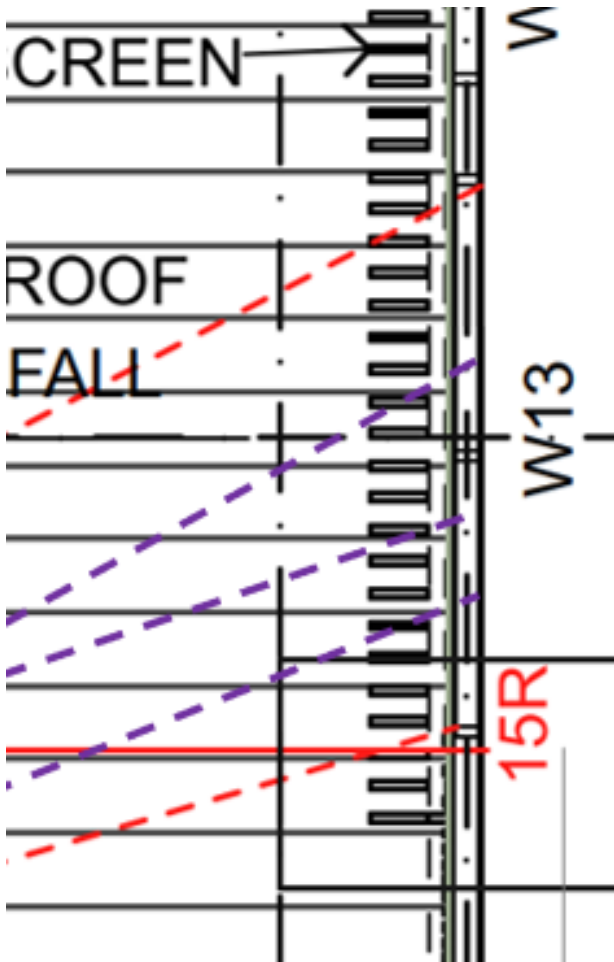
*“Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.”*

The applicant has provided a line of sight diagram to demonstrate the effectiveness of the proposed vertical timber battens at mitigating overlooking of the representor’s bedroom window. In response to concern raised in the adjoining owner’s representation that the location of her bedroom window was inaccurately depicted, the diagram was re-drawn by the applicant.

Below is a copy of the amended line of sight diagram with additional lines of sight added (in purple colour) by the author of this report, for a more thorough assessment of the various possible vantage points and resultant overlooking angles.



The below close-up view of the intersection of the sight lines and battens assists in understanding their intended efficacy:



This diagram is considered to adequately demonstrate that the proposed timber battens suitably mitigate direct overlooking from the upper level window to the bedroom window of the adjoining property.

The issue of light spilling from the proposed upper level window is not addressed by the Planning and Design Code. Light spill impact is typically managed between neighbours through window furnishings (eg. curtains or blinds). In this instance, the proposed timber battens would also provide additional relief from light spill, compared to more conventional privacy treatments such as obscure glazing.

Overshadowing is addressed in the Interface Between Land Uses section of the General Development Policies. In relation to overshadowing of private open space, Performance Outcome 3.2 states:

*“Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:*

- a. a neighbourhood type zone is minimised to maintain access to direct winter sunlight*
- b. other zones is managed to enable access to direct winter sunlight.”*

The associated Designated Performance Feature (DPF 3.2) states:

*“Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following:*

- a. for ground level private open space, the smaller of the following:*
  - i. half the existing ground level open space*
  - or*
  - ii. 35m<sup>2</sup> of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m)”*

Shadow diagrams show that on 21 June, approximately two thirds of the private open space at 114 Osmond Terrace would receive direct sunlight and this would be reduced to less than a quarter of the private open space area by 12:00 midday. On this basis, at least half of the private open space is likely to receive direct sunlight between the hours of 9:00am and 10:30am (1.5 hours). The diagrams show that by 3:00pm, slightly more than half of the private open space receives direct sunlight. Therefore, at least half of the private open space is likely to receive direct sunlight between 2:30 and 3:00pm.

Accordingly, the diagrams show that over the course of the day on 21 June, at least half of the private open space is likely to receive direct sunlight for 2 hours between 9:00am and 3:00pm, consistent with DPF 3.2.

## **Heritage**

As the existing dwelling is a Local Heritage Place, the Local Heritage Place Overlay is applicable. In relation to alterations and additions, Performance Outcome 2.1 states:

*“Alterations and additions complement the subject building and are sited to be unobtrusive, not conceal or obstruct heritage elements and detailing, or dominate the Local Heritage Place or its setting.”*

The application was referred to the Council’s Heritage Advisor for advice on whether the proposal achieves this performance outcome.

Mr Brown has advised that impact of the proposal on the heritage value of the Local Heritage Place is not significant because it is set well back from the street and at the rear of the existing dwelling.

However, Mr Brown has advised that the design and materials are not sympathetic to the existing house. In particular, he has advised that the unfinished timber blades and beam are not a traditional material seen in historic areas where all timber finishes are painted and sealed. In addition, he has advised that the curved roof form and low roof pitch are not sympathetic to the Local Heritage Place.

Despite these concerns, Mr Brown has advised that the impact on the setting of the Local Heritage Place is only marginally detrimental.

Mr Brown has also expressed an opinion on the suitability of a two level building when *“this area has a maximum building height of 1 level”*. As discussed under the heading of Building Height, the one level designated performance features are not requirements but rather guides as to how a performance feature can be achieved. In any event, these performance features relate to streetscape character outcomes, not Local Heritage Place impact, which Mr Brown has advised is “not significant” and “only marginally detrimental”.

Having regard to Mr Brown's advice, the marginal impact which the materials and form may have on the setting of the Local Heritage Place is considered acceptable. The proposal does not conceal or obstruct any of the heritage elements or detailing and is sufficiently separated and set back from the heritage place so as not to be obtrusive or dominate its setting.

## CONCLUSION

The proposed variation to Planning Consent 22017221 to include ancillary accommodation above the garage is considered to have minimal streetscape and heritage compatibility impacts and acceptable impacts on the adjoining property by way of overlooking and overshadowing.

Due to the high level of consistent built form character in this part of the locality, the 'standard' way to achieve compatibility of new development, is for it to contain only one building level, as stated in relevant Designated Performance Features.

The proposal achieves compatibility with the streetscape character, despite comprising a second building level. It also effectively mitigates impacts on the adjoining property to the south.

## RECOMMENDATION

It is recommended that the Council Assessment Panel/SCAP resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22035098, by ALEXANDER WILKINSON is granted Planning Consent subject to the following reasons/conditions/reserved matters:

## CONDITIONS

### Planning Consent

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).
2. All stormwater from buildings and paved surfaces shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb and water table or a Council underground pipe drainage system.
3. The timber battens along the western elevation of the ancillary accommodation (as shown on the *First Floor Plan* and *West Elevation*) shall be maintained in good condition at all times to the reasonable satisfaction of the Assessment Manager, to prevent / minimise overlooking.

## ADVISORY NOTES

### Planning Consent

#### Advisory Note 1

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

#### Advisory Note 2

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

#### Advisory Note 3

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au). Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

#### Advisory Note 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 pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

#### Advisory Note 5

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

#### Advisory Note 6

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

#### Advisory Note 7

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.

#### Advisory Note 8

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

Advisory Note 9

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.

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*Mr Wilkinson responded to questions from the Panel from 7:02pm until 7:07pm*

**Moved by Mr Bateup**

1. *Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and*
2. *Development Application Number 22035098, by ALEXANDER WILKINSON is granted Planning Consent subject to the following reasons/conditions/reserved matters:*

CONDITIONS

*Planning Consent*

1. *The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).*
2. *All stormwater from buildings and paved surfaces shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb and water table or a Council underground pipe drainage system.*
3. *The timber battens along the western elevation of the ancillary accommodation (as shown on the First Floor Plan and West Elevation) shall be maintained in good condition at all times to the reasonable satisfaction of the Assessment Manager, to prevent / minimise overlooking.*

ADVISORY NOTES

*Planning Consent*

*Advisory Note 1*

*Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.*

*Advisory Note 2*

*No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.*

*Advisory Note 3*

*Consents issued for this Development Application will remain valid for the following periods of time:*

1. *Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;*



2. *Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;*
3. *Works must be substantially completed within 3 years of the date on which Development Approval is issued.*

*If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au). Whether or not an extension of time will be granted will be at the discretion of the relevant authority.*

*Advisory Note 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 pursuant to the Local Government Act 1999 prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.*

*Advisory Note 5*

*The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.*

*The Applicant's attention is particularly drawn to the requirements of the Fences Act 1975 regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.*

*Advisory Note 6*

*The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.*

*Advisory Note 7*

*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.*

*Advisory Note 8*

*The Applicant is advised that construction noise is not allowed:*

1. *on any Sunday or public holiday; or*
2. *after 7pm or before 7am on any other day*

*Advisory Note 9*

*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 by Ms Newman**  
**CARRIED**



**6. DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT**

**7. REVIEW OF ASSESSMENT MANAGER DECISIONS**

**8. ERD COURT APPEALS**

**Hearing of Representations**

*Ms Grenfell and Mr Hirt addressed the Council Assessment Panel from 7:21pm until 7:38pm*

*Mr and Mrs Jervis addressed the Council Assessment Panel from 7:45pm until 7:51pm*

*Mr McDonald addressed the Council Assessment Panel from 7:52pm until 8:40pm*

*Mr Moore addressed the Council Assessment Panel from 8:05pm until 8:07pm*

*Mr Twine addressed the Council Assessment Panel from 8:30pm until 8:31pm*

**Moved by Ms Newman**

*That pursuant to Regulation 13(2)(a)(viii) and (ix) and Regulation 13(2)(b) of the Planning, Development & Infrastructure (General) Regulations 2017, together with Clause 8.9 of the Council Assessment Panel Meeting Procedures, the Council Assessment Panel orders that the public, with the exception of Council's Manager Development Assessment, Urban Planner and Planning Assistant, be excluded from the meeting.*

**Seconded by Mr Adcock**

**CARRIED**

**Moved by Ms Newman**

- Pursuant to section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the Compromise Proposal against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
- The Council Assessment Panel grant permission to the Assessment Manager or its delegate to inform its solicitors and the Environment, Resources and Development Court that the Panel is satisfied that the Compromise Proposal warrants Planning Consent; and
- That in so doing, the following conditions be recommended to be imposed on any Court Order that grants Planning Consent:

**CONDITIONS**

*Planning Consent*

*Condition 1*

*The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).*

*Condition 2*

*The Recommendations and Tree Protection measures suggested by Arborman Tree Solutions on page 8 of their report (dated 10 March 2023) included within the stamped plans and documentation shall be strictly implemented and adhered to at all times during construction. Further:*

- *there shall be no changes to ground levels within the Tree Protection Zones; and*
- *there shall be no storage or dumping of materials, substances, equipment, machinery or vehicles within the Tree Protection Zones; and*
- *no persons shall enter the Tree Protection Zone without consent of the Project Arborist; and*
- *nothing shall be attached to any trees on the subject land.*

*If, during construction, observations made on site differ to the assumed circumstances on which Arborman Tree Solutions' report was based, and the Project Arborist is of the opinion that further arboricultural assessment is required in respect of the development, the Assessment Manager or its delegate shall be notified immediately and construction should cease until such further assessment has taken place.*

*Condition 3*

*All existing and proposed external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Assessment Manager.*

*Condition 4*

*All waste collection from the site shall be restricted to the following times:*

- *Monday to Saturday, 07:00am to 07:00pm*
- *Sunday and Public Holidays, 09:00am to 07:00pm*

*Condition 5*

*Lighting associated with the "Payneham Tavern" sign shall be of an intensity not to cause an unreasonable light over spill nuisance to adjacent occupiers, or be an undue distraction to motorists. Further, this sign shall not flash, scroll, fade or otherwise move.*

*Condition 6*

*No live music is permitted to be played within the two proposed beer gardens. Any music played in these areas is to be limited to background music only, the volumes of which shall be maintained at a level that does not cause an unreasonable nuisance to adjacent occupiers of land.*

*Condition 7*

*The hours of operation of the proposed beer garden additions and children's' play area shall be restricted to the following times:*

- *Southern beer garden:*
  - *Sunday to Thursday: 07:00am to 10:00pm*
  - *Friday and Saturday: 07:00am to 12:00am*
- *Northern beer garden and children's play area:*
  - *07:00am to 10:00pm, 7 days a week*

**Condition 8**

*All acoustic treatments recommended by Sonus:*

- *on pages 8 and 9 of their Environment Noise Assessment (S6318C8, dated November 2022); and*
- *in their supplementary report (S6318C12, dated 4 August 2023)*

*shall be installed and maintained at all times to the reasonable satisfaction of the Assessment Manager. Details of such treatments shall be included in the documentation for building consent.*

**Condition 9**

*The acoustic boundary fence along the South Western boundary as shown on the Sonus supplementary report (S6318C12, dated 4 August 2023) shall be constructed such that it is sealed airtight with the ground and shall be maintained in good condition at all times subject to the reasonable satisfaction of the Assessment Manager.*

**Condition 10**

*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 within the next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, 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.*

**Condition 11**

*All car parking spaces shall be line marked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.*

**Condition 12**

*Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.*

**Condition 13**

*All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.*

**Condition 14**

*The maximum number of patrons to be in the hotel at any one time will be in accordance with the following:*

- *Northern Beer Garden – 132 patrons*
- *Southern Beer Garden – 122 patrons*
- *Internal – 635 patrons*
- *Total 889 patrons*

**Conditions imposed by Commissioner of Highways under Section 122 of the Act**

**Condition 15**

*All access shall be in accordance with Proposed Site Plan, Project No AVC0011, Revision 4, dated 24/11/2022.*

## **ADVISORY NOTES**

### *Planning Consent*

#### *Advisory Note 1*

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*Advisory Note 9*

*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.*

**Advisory Notes imposed by Commissioner of Highways under Section 122 of the Act**

*Advisory Note 10*

*All signage should be accordance with the Department for Infrastructure and Transport's "Advertising Signs - Assessment Guidelines for Road Safety" (August 2014). The document is available via the following link: [https://dit.sa.gov.au/\\_data/assets/pdf\\_file/0019/145333/DIT-Advertising-Signs-Assessment-Guidelines.pdf.pdf](https://dit.sa.gov.au/_data/assets/pdf_file/0019/145333/DIT-Advertising-Signs-Assessment-Guidelines.pdf.pdf)*

*Advisory Note 11*

*It is recommended that the applicant contact Mr. Wayne Stewart, Senior Project Officer, South Australian Public Transport Authority (SAPTA), on ph. (08) 7109 7240 if bus stop adjacent to the site is impacted during construction.*

*And further the Council Assessment Panel delegates the authority to the Assessment Manager to settle the appeal on the basis of the above mentioned resolution subject to any minor variations/amendments that maybe required.*

**Seconded by Mr Bateup  
CARRIED**

**Moved by Mr Moorhouse**

*That the public be allowed to return to the meeting and that pursuant to Regulation 14(4) of the Planning, Development & Infrastructure (General) Regulations 2017 and clause 8.9 of the Council Assessment Panel Meeting Procedures, the discussion and documentation shall remain confidential.*

**Seconded by Mr Adcock  
CARRIED**

**9. OTHER BUSINESS**

Terry Mosel advised CAP members he will be an apology at the next meeting which will be held on Monday 16 October 2023.

Geoff Parsons advised CAP members October meeting might include 9 items and may need to be scheduled over two nights but will be confirmed closer to the time.

**10. CONFIDENTIAL REPORTS**

**11. CLOSURE**

The Presiding Member declared the meeting closed at 9:30pm

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Terry Mosel  
**PRESIDING MEMBER**

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Geoff Parsons  
**MANAGER DEVELOPMENT ASSESSMENT**