

Council Assessment Panel Minutes

17 January 2024

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
Email townhall@npsp.sa.gov.au
Website www.npsp.sa.gov.au
Socials [f /cityofnpsp](https://www.facebook.com/cityofnpsp) [@cityofnpsp](https://www.instagram.com/cityofnpsp)



City of
Norwood
Payneham
& St Peters

1.	COMMENCEMENT AND WELCOME	1
2.	APOLOGIES	1
3.	CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 18 DECEMBER 2023.....	1
4.	DECLARATION OF INTERESTS	1
5.	DEVELOPMENT APPLICATIONS – PDI ACT	2
5.1	DEVELOPMENT NUMBER 23005863 - JONATHAN LEANEY - 10 GRAY STREET NORWOOD SA 5069	2
5.2	DEVELOPMENT NUMBER 22029884 - PAREE VERGIS AND MARK ANDERSEN - 26 MAYFAIR STREET MAYLANDS SA 5069.....	23
5.3	DEVELOPMENT NUMBER 23028657 - TOM CRAVEN - 64 AND 66 NINTH AVENUE JOSLIN SA 5070	34
6.	DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT.....	
7.	REVIEW OF ASSESSMENT MANAGER DECISIONS.....	43
8.	ERD COURT APPEALS	43
9.	OTHER BUSINESS	43
10.	CONFIDENTIAL REPORTS	43
11.	CLOSURE	43

VENUE Council Chambers, Norwood Town Hall

HOUR 7:00pm

PRESENT

Panel Members Mr Terry Mosel
Mr Mark Adcock
Mr Ross Bateup
Ms Jenny Newman
Cr Christel Mex

Staff Geoff Parsons, Manager Development Assessment
Kieran Fairbrother, Senior Urban Planner
Ned Feary, Senior Urban Planner
Tala Aslat, Planning Assistant

APOLOGIES

ABSENT

1. COMMENCEMENT AND WELCOME

2. APOLOGIES

**3. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 18 DECEMBER 2023**

Moved by Mr Adcock
Seconded by Mr Bateup
CARRIED

4. DECLARATION OF INTERESTS

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER 23005863 - JONATHAN LEANEY - 10 GRAY STREET NORWOOD

DEVELOPMENT NO.:	23005863
APPLICANT:	Jonathan Leaney
ADDRESS:	10 GRAY ST NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Demolition of an existing dwelling and the construction of two (2) two-storey semi-detached dwellings together with associated masonry fences and landscaping
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Historic Area • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Site Area (Minimum site area is 200 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	3 May 2023
RELEVANT AUTHORITY:	Assessment panel at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	3 May 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother - Senior Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Matthew Cole, City Arborist David Brown, Heritage Advisor

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 5:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Response to Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 7:	Internal Referral Advice (Heritage)
ATTACHMENT 3:	Zoning & Overlay Maps	ATTACHMENT 8:	Internal Referral Advice (Arborist)
ATTACHMENT 4:	Representation Map	ATTACHMENT 9:	Public Notification Documents (earlier version of proposal)

DETAILED DESCRIPTION OF PROPOSAL:

This development application seeks to demolish the existing dwelling and ancillary buildings located on the subject land, and in their place construct two semi-detached dwellings with associated fencing and landscaping. Both dwellings are two storeys, with the second levels recessed from both street frontages and constructed within the roof space of the building. One dwelling has been designed to reflect the single-fronted cottages that largely make up this historic area whereas the other dwelling resembles the villas that can also be seen within the historic area. The former dwelling will present to Gray Street while the latter presents to Rokeby Avenue. Both dwellings will obtain vehicle access via Rokeby Avenue.

Four (4) mature, established street trees surround the subject land – 2 on each street frontage. Both street trees on Rokeby Avenue are regulated Iron Barks and consequently the application is supplemented with a report from a qualified arborist who has undertaken exploratory arboricultural investigations to determine the feasibility of the proposal in respect of avoiding adverse effects being caused to one or both of these regulated trees.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 10 GRAY ST NORWOOD SA 5067

Title ref.: CT
5199/787

Plan Parcel: F100206
AL24

Council: THE CITY OF NORWOOD PAYNEHAM
AND ST PETERS

Shape:	regular
Frontage width:	15.16m to Gray Street / 23.47m to Rokeby Avenue
Area:	approx. 478m ²
Topography:	relatively flat
Existing Structures:	a single storey dwelling, an attached carport, an outbuilding and boundary fencing
Existing Vegetation:	low-lying grasses and shrubs, some smaller trees and plants

Locality

The locality is taken to be the area bound by The Parade to the south, the northern side of Gray Street and 100 metres east and west. This locality is characterised predominantly by historic residential dwellings, mainly in the form of single- and double-fronted cottages, and some villas, with later period single-storey dwellings interspersed within. Commercial land uses within the locality are restricted to those properties fronting The Parade, with the exception of the early learning centre at 33 Gray Street.

Although located close to both Fullarton Road and The Parade, the dwellings within this locality enjoy a relatively high level of amenity due to the predominantly residential character of the neighbourhood and the mature street trees that line these streets.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Tree-damaging activity: Code Assessed - Performance Assessed
Detached dwelling: Code Assessed - Performance Assessed
Fence: Code Assessed - Performance Assessed
Demolition: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Demolition of a building within the Historic Area Overlay
(Note: this development application was lodged prior to the *Miscellaneous Technical Enhancements Code Amendment*, which now provides a relevant authority with discretion to not publicly notify a proposal to demolish a building that does not conform with the historic characteristics of the historic area. Thus, no such discretion existed with respect to this development application).
- **LIST OF REPRESENTATIONS**

First Name	Surname	Address	Position	Wishes to be heard?
Charter Hall Social Infrastructure Ltd		33 Gray St Norwood SA 5067	Support, with concerns	No
Nastasja	Agerman		Opposed	No
Cordell	Whittle	6 Rokeby Ave Norwood SA 5067	Opposed	Yes
Ning	Gu	10 Rokeby Ave Norwood SA 5067	Opposed	No
Kate	Greenfield	8 Rokeby Ave Norwood SA 5067	Opposed	No
Beth	Scharnberg	104 West Parkway Colonel Light Gardens SA 5041	Support, with concerns	No
Nathaniel	Scharnberg	104 West Parkway Colonel Light Gardens SA 5041	Support, with concerns	No
Nadine	Welke	3B Rokeby Ave Norwood SA 5067	Opposed	No
Annette	Rothgrew	4 Rokeby Ave Norwood SA 5067	Opposed	Yes

- **SUMMARY**

The concerns raised by the representors can be briefly summarised as follows:

- That the construction work avoids causing nuisances by way of dust, noise and vehicle movements;

- That the construction work does not interfere with the childcare centre's (33 Gray Street) operations;
- That the subject land is not large enough for two dwellings;
- That the development will lead to an unacceptable loss of on-street car parking spaces, while also increasing demand for such.

INTERNAL REFERRALS

- Matthew Cole, City Arborist

Following the various revisions to the proposal and the hydrovac investigations undertaken by the Applicant's Arborist, the Council's arborist is supportive of the proposal from an arboricultural perspective.

- David Brown, Heritage Advisor

Council's Heritage Advisor is generally supportive of the proposal but with reservation, citing that the overall building height, roof form, and garaging under the main roof are not consistent with the surrounding historic character.

PLANNING ASSESSMENT

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

Demolition

Performance Outcome 7.3 of the Historic Area Overlay states:

"Buildings or elements of buildings that do not conform with the values described in the Historic Area Statement may be demolished."

The Historic Area Statement for the Overlay in which the subject land is located identifies "late 19th century (pre 1920s)" dwellings, and more specifically "single-fronted and double-fronted cottages", being those types of dwellings that make up the historic character of this historic area.

The subject dwelling is a circa-1935 conventional hipped roof dwelling of a simple form. The subject dwelling does not conform with the values described in the Historic Area Statement and therefore may be demolished in accordance with PO 7.3 above. Council's Heritage Advisor agrees that the subject dwelling is not representative of this historic area and therefore supports its demolition.

Density

Performance Outcome 2.1 of the Established Neighbourhood Zone states:

"Allotments/sites for residential purposes are of suitable size and dimension to accommodate the anticipated dwelling form and are compatible with the prevailing development pattern in the locality."

The corresponding Designated Performance Feature suggests that a minimum site area of 200m² will generally accord with this PO.

Performance Outcome 5.1 of the Historic Area Overlay states:

"Land division creates allotments that are:

- (a) Compatible with the surrounding pattern of subdivision in the historic area*
- (b) Of a dimension to accommodate buildings of a bulk and scale that reflect existing buildings and setbacks in the historic area."*

The proposed development will result in two allotments of 246m² and 232m² respectively, which certainly comply with the criteria in DPF 2.1 of the Zone (above).

An analysis of the surrounding pattern of subdivision within the immediate locality (i.e. within a 70m radius of the subject land) shows allotments for detached and semi-detached dwellings ranging from 172m² up to 439m² in size, with an average allotment size of 278m² and a median of 244m². In this context, the proposed allotments to result from this development are considered compatible with the surrounding pattern of subdivision in the historic area and therefore satisfy PO 2.1 of the Zone and PO 5.1 of the Historic Area Overlay. As will be demonstrated in the following sections of this report, the proposed development also results in allotments that are capable of accommodating dwellings of a bulk and scale reflective of the historic character of this area, consistent with the above Performance Outcomes.

Building Height

Performance Outcome 4.1 of the Established Neighbourhood Zone states:

“Buildings contribute to the prevailing character of the neighbourhood and complements the height of nearby buildings.”

The corresponding Designate Performance Feature sets a maximum building height TNV of 2 levels.

Performance Outcome 2.2 of the Historic Area Overlay states:

“Development is consistent with the prevailing building and wall heights in the historic area.”

Performance Outcome 1.1 of the Historic Area Overlay states:

“All development is undertaken having consideration to the historic streetscapes and built form as expressed in the Historic Area Statement.”

In respect of building heights, the Historic Area Statement states “*up to two storeys*”.

The proposed dwellings are two storeys in height, consistent with the TNV expressed in DPF 4.1 of the Zone and PO 1.1 of the Historic Area Overlay. Prevailing building heights within the historic area are single storey, however, and PO 2.2 of the Historic Area Overlay requires development to be consistent with this. Accordingly, when the applicant sought preliminary advice for this development from Council administration, they were advised that the dwellings should achieve a single storey appearance from both street frontages.

Although two storeys in height, the proposed dwellings have been designed in such a way as to appear primarily single storey from both street frontages; achieved by incorporating the second storeys into the roof space of the dwellings, which maintain a 30° pitch and use skylights instead of protruding dormer windows. The overall height of the dwellings is slightly taller than the adjacent industrial building at 8 Gray Street and the dwelling at 12 Gray Street. Notwithstanding, external wall heights of the dwellings measure 3.6m, which is consistent with the prevailing building stock in the historic area and so the dwellings will not appear out of place in either streetscape and accordingly are considered to sufficiently accord with PO 2.2 of the Historic Area Overlay and PO 4.1 of the Zone.

Site Coverage and Setbacks

Performance Outcome 3.1 of the Established Neighbourhood Zone states:

“Building footprints are consistent with the character and pattern of the neighbourhood and provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.”

The corresponding Designated Performance Feature states that a maximum site coverage of 50% is applicable. However, this does not represent the surrounding development pattern. Contrarily, site coverages within the immediate locality are typically over 50%, particularly along the southern side of Gray Street and along Rokeby Avenue.

House A (facing Gray Street) has a site coverage of 60.8% whereas House B (facing Rokeby Avenue) has a site coverage of 58.9%, both of which are consistent with the surrounding pattern of development.

It should be noted that the plans indicate a hard-surfaced area in the rear yard of each dwelling, presumably for a future covered outdoor entertaining area. However, no verandahs have been applied for with this application – the notation of a downpipe in the corner of these areas is considered to be a drafting error.

In respect of setbacks to neighbouring allotments, Performance Outcomes 8.1 and 9.1 of the Established Neighbourhood Zone state, respectively:

“Buildings are separated 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.”*

“Buildings are set back from rear 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*
- (c) Private open space*
- (d) Space for landscaping and vegetation.”*

Similarly, Performance Outcome 2.4 of the Historic Area Overlay states:

“Development is consistent with the prevailing front and side boundary setback pattern in the historic area.”

Side setbacks within the locality are generally contained to one side of an allotment, with many dwellings being in the form of semi-detached dwellings. Most of the detached dwellings within the locality are similarly built on, or very close to, one side boundary.

The proposed dwellings will be set back from the rear boundary by 3.5m at ground level which poses no visual outlook issues for the adjoining neighbour. Similarly, the second storeys being contained within the 30-degree-pitched roof space limits any visual impact that a second building level may otherwise pose.

With respect to the southern side boundary of House B, the dwelling will be set back 1.4m at ground level which, again, is considered reasonable to limit visual impact and is also consistent with the side setback pattern within the locality. Shadow diagrams provided by the Applicant demonstrate that overshadowing of the southern allotment is of little concern by virtue of the second building level being contained within the roof space. Accordingly, the proposal satisfies POs 8.1 and 9.1 of the Zone and PO 2.4 of the Historic Area Overlay.

With respect to setbacks from the primary and secondary streets, Performance Outcomes 5.1 and 6.1 of the Established Neighbourhood Zone state, respectively:

“Buildings are set back from primary street boundaries consistent with the existing streetscape.”

“Buildings are set back from secondary street boundaries to maintain the established pattern of separation between buildings and public streets and reinforce streetscape character.”

House A is set back 2.4m from Gray Street (primary street). The adjoining industry building at 8 Gray Street is constructed with a zero setback from the primary street (which is the anomaly in the street) and 12 Gray Street has a setback of approximately 2.8m, which more accurately reflects the general front setback pattern in the street. The proposed set back of 2.4m provides a good transition between the two neighbouring buildings and is consistent with the existing streetscape.

House A is set back 2.5m from Rokeby Avenue (secondary street). Designated Performance Feature 6.1(b) of the Zone suggests that the minimum secondary street setback is 900mm. Contextually, however, the opposite building at 12 Gray Street has a zero setback to Rokeby Avenue which arguably provides a precedent for similar. Notwithstanding, the proposed setback of 2.5m provides sufficient room for landscaping along this frontage and helps reinforce the streetscape character of the two dwellings (discussed in more detail later in this report). Accordingly, House A's setbacks to both street frontages is considered acceptable.

House B is similarly set back 2.5m from Rokeby Avenue (primary street). The west side of Rokeby Avenue has no real consistent set back pattern or streetscape character. The dwelling at 1 Rokeby Avenue is an historic villa with an approximate setback of 4.5m. From there, moving closer to the proposed dwelling, there exists a pair of semi-detached dwellings at 3A and 3B Rokeby Avenue, both of which have single-width carports constructed on the primary street boundary adjacent solid fencing, set well in front of the dwellings themselves. Then, at 5 Rokeby Avenue, is a residential flat building containing three dwellings that is constructed and sited at an angle of 25° off parallel to the primary street boundary. Accordingly, what is required for satisfaction of Performance Outcome 5.1 of the Zone is difficult to articulate given the inconsistent pattern on this side of Rokeby Avenue.

Therefore, cues can be taken from the more-consistent development pattern on the opposite side of Rokeby Avenue. As mentioned above, the secondary street setback of 12 Gray Street is 0m. Further south, the dwellings from 4 to 10 Rokeby Avenue have front setbacks ranging between 2.5m and 3.2m. In this context, the proposed front setback of 2.5m for House B is considered acceptable. Further, the consistency between Houses A and B in this respect will positively contribute to the Rokeby Avenue streetscape pattern, and will help provide further guidance for the reinforcement of the streetscape character for the future redevelopment of neighbouring allotments at 3A, 3B and 5 Rokeby Avenue when that transpires one day.

Design and Appearance (Heritage)

Performance Outcome 10.2 of the Established Neighbourhood Zone states:

“The appearance of development as viewed from public roads is sympathetic to the wall height, roof forms and roof pitches of the predominant housing stock in the locality.”

Performance Outcome 2.1 of the Historic Area Overlay states:

“The form and scale of new buildings and structures that are visible from the public realm are consistent with the prevailing historic characteristics of the historic area.”

Performance Outcome 2.3 of the Historic Area Overlay states:

“Design and architectural detailing of street-facing buildings (including but not limited to roof pitch and form, openings, chimneys and verandahs) complement the prevailing characteristics in the historic area.”

Performance Outcome 2.5 of the Historic Area Overlay states:

“Materials are either consistent with or complement those within the historic area.”

Performance Outcome 1.1 of the Historic Area Overlay states:

“All development is undertaken having consideration to the historic streetscapes and built form as expressed in the Historic Area Statement.”

In respect of design and appearance, and in the context of the other abovementioned Performance Outcomes, the Historic Area Statement identifies “single-fronted and double-fronted cottages” and “bluestone, sandstone, pise or brick” as constituting the historic fabric and materiality of this historic area. The historic area does also contain several historic villas.

Performance Outcome 20.2 of the Design in Urban Areas module states:

“Dwelling elevations facing public streets make a positive contribution to the streetscape...”

House A has a symmetrical façade and a cantilevered sloping front verandah, taking cues from the double-fronted cottages within the historic area. The use of sandstone on the primary façade is appropriate in this historic context, as is the use of off-white render on the secondary street elevation. From a streetscape perspective, the hipped roof is a simple roof form consistent with the historic roof forms seen along Gray Street. The roof form of the second level is more complex, with more valleys and ridges than typical of this historic area, but this is sufficiently set back from the primary street to not be readily visible.

House B, on the other hand, borrows design cues from the few villas within this historic area by including a similar front verandah adjacent a projecting room under a gable roof form. Like House A, the use of sandstone as the primary material for the projecting room is appropriate and will positively contribute to the Rokeby Avenue streetscape, while the use of an off-white render for the balance of the dwelling is also acceptable.

Where the two dwellings meet, the upper-level roof form has been modified from an earlier version to introduce a low point at the boundary, thus distinguishing one dwelling from the other and minimising the prominence of the second level. Although this is not consistent with the simple roof forms typical of this historic area, this section of roofing is set back sufficiently from the street and the façades of both dwellings such that it won't be readily visible from the street and therefore will not adversely affect the historic character of the area. Both roofs will be constructed of corrugated Colorbond sheet metal in “woodland grey” colour, which is appropriate in this historic context. The use of skylights within the second level is also appropriate and is a better outcome than dormer windows which would both draw attention to the second level and be inconsistent with the architectural styles and features of this historic area.

Performance Outcome 10.1 of the Established Neighbourhood Zone states:

“Garages and carports are designed and sited to be discrete and not dominate the appearance of the associated dwelling when viewed from the street.”

Performance Outcome 4.1 of the Historic Area Overlay states:

“Ancillary development, including carports, outbuildings and garages, complements the historic character of the area and associated buildings.”

Garages are not common streetscape elements in this historic area because most dwellings within the locality have no off-street parking facilities. Accordingly, achieving discrete garaging in this context (PO 10.1) is arguably not as simple as complying with the corresponding Designated Performance Feature that states that a garage should: be set back at least 5.5m from the street, set back at least 0.5m behind the building line of the associated dwelling and have an opening no greater than 30% of the width of the allotment. Instead, satisfying this Performance Outcome is more of a qualitative test.

That being said, both garages achieve the quantitative criteria set out in DPF 10.1 of the Zone, and in fact are set back 3.45m behind the building line of both dwellings. Both garages are set under the main roof of the dwelling, with that roof extending approximately 2.2m beyond the garage doors, thus providing shadowing to reduce the prominence of the garages in the street. However, garaging under the main roof is not a typical feature of dwellings in this historic area – where garages or carports do exist, they are usually constructed as an independent structure. Therefore, introducing this is not an ideal streetscape outcome. However, to require a separate garage structure would require substantial amendments to the proposal, including the likely loss of any second-storey element for both dwellings, and accordingly the proposed garages under the main roof are considered acceptable on balance.

Overall, the two dwellings have been designed in a manner that complements the historic character of the area by borrowing design elements and cues from the double-fronted cottages and the few villas that make up this historic area. The second level has been downplayed as much as may be possible for two allotments of this size, and the somewhat-complex roof form that results is not readily visible from either Gray Street or Rokeby Avenue and is therefore acceptable too. The colour and material choices for both dwellings are appropriate for this historic area. Finally, both garages are sufficiently set back from Rokeby Avenue to be discrete elements in the streetscape and therefore the two dwellings are reasonable outcomes in this regard.

Performance Outcome 4.4 of the Historic Area Overlay states:

“Fencing and gates closer to a street boundary than the elevation of the associated building are consistent with the traditional period, style and form of the associated building.”

The application proposes 1.2m tall steel picket fences for both dwellings, along with 1.5m masonry columns to delineate the pedestrian gate from the balance of the fence. This fence design is consistent with the low, open-style fencing seen throughout the historic area and is an appropriate, contemporary response in this context.

Performance Outcome 9.1 of the Design in Urban Areas module states:

“Fences, walls and retaining walls of sufficient height maintain privacy and security without unreasonably impacting visual amenity and adjoining land’s access to sunlight or the amenity of public places.”

A 3.5m section of fencing on Gray Street, west of proposed House A, will be comprised of 1.8m tall rendered masonry to provide sufficient privacy for the private open space associated with this dwelling. Solid, tall fencing on a primary street boundary is not an envisaged outcome in a historic area. However, given this fencing abuts the neighbouring industrial building (which is built of solid masonry and almost to the front boundary itself) it will not appear completely out of place. There is sufficient justification for the necessity of this fencing and it is therefore acceptable in the circumstances.

Quantitative Provisions

Performance Outcome 21.1 of the Design in Urban Areas module states:

“Dwellings are provided with suitable sized areas of usable private open space to meet the needs of occupants.”

The corresponding Designated Performance Feature prescribes a minimum requirement of 24m² of private open space for allotments under 300m² in area.

Performance Outcome 21.1 of the Design in Urban Areas module states:

“Private open space is positioned to provide convenient access from internal living areas.”

House A (facing Gray Street) will be provided with 46.2m² of private open space, directly accessible from the living area of the dwelling. Similarly, House B (facing Rokeby Avenue) will have 58.8m² of private open space, directly accessible from the living area of the dwelling. Thus, both dwellings satisfy the above Performance Outcomes.

Performance Outcome 22.1 of the Design in Urban Areas module states:

“Soft landscaping is incorporated into development to:

- (a) Minimise heat absorption and reflection*
- (b) Contribute shade and shelter*
- (c) Provide for stormwater infiltration and biodiversity*
- (d) Enhance the appearance of land and streetscapes*

The corresponding Designated Performance Feature states that for allotments between 200m² and 450m² in area, 20% of the site should be comprised of soft landscaping.

House A includes 43.5m² of soft landscaping, which equates to only 17.7% of the site; whereas House B includes only 30.2m² of soft landscaping, which equates to only 13% of the site. Thus, both sites fall short of the 20% expectation posed by DPF 22.1 above. Nonetheless, the site coverage of both dwellings is not inconsistent with that of the prevailing development pattern in the area, and the proposed extent of soft landscaping is similarly consistent. Both dwellings incorporate landscaping across both street frontages, which will aid in enhancing the appearance of the development in the streetscape. Condition No. 5 has been recommended to ensure that these areas are suitably planted to achieve this. In the context of the surrounding development within the locality and noting that the proposed density of two dwellings is acceptable, the proposed extent of soft landscaping is considered acceptable.

Environmental Factors

Designated Performance Feature 1.1 of the Urban Tree Canopy Overlay is applicable to this proposal, by virtue of *State Planning Commission Practice Direction 12 (Conditions) 2020*, and states that each dwelling must plant one small tree per the policy's definition of such (see **Appendix 1**). Each dwelling is provided with sufficient planting room for one small tree in the rear yard in accordance with this DPF, which is shown on the plans, and therefore the mandatory condition (No. 6 in the recommendation below) can be adhered with.

Similarly, Designed Performance Feature 1.1 of the Stormwater Management Overlay is equally applicable, meaning each dwelling will be required to install and maintain a 3000-litre rainwater tank (2000L retention +

1000L detention). This requirement is reinforced by way of the mandatory condition (No. 7 in the recommendation below).

Interface Issues

Performance Outcome 10.1 of the Interface Between Land Uses module states:

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

The upper-level windows of the two dwellings are oriented east towards Rokeby Avenue and west towards the industrial building located at 8 Gray Street, and therefore not directly south towards the only adjoining residential land use. As such, no overlooking issues arise from this development (notwithstanding they are skylights located 2.4m above the internal floor level).

Traffic Impact, Access and Parking

Performance Outcome 5.1 of the Transport, Access and Parking module states:

“Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as [a number of factors].”

The corresponding Designated Performance Feature states that a dwelling with 2 or more bedrooms is required to provide 2 on-site car parking spaces, one of which must be covered.

Each dwelling is provided with two (2) on-site car parking spaces by way of a single-car garage and a 5.5m long driveway. This satisfies the requirements in DPF 5.1 which is considered to equally satisfy the corresponding Performance Outcome.

Performance Outcome 23.4 of the Design in Urban Areas module states:

“Vehicle access is safe, convenient, minimises interruption to the operation of public roads and does not interfere with street infrastructure or street trees.”

Each dwelling will obtain vehicle access from Rokeby Avenue, by way of a double-width crossover half of which supports each respective dwelling. The crossover will be located well outside of the Structural Root Zones (**SRZ**) of both adjacent regulated street trees and its construction will not adversely affect their health. Council’s Arborist agrees with this outcome. There are no other street infrastructure or service utilities that will be affected by the proposed crossover location.

Performance Outcome 23.3 of the Design in Urban Areas module states:

“Driveways and access points are located and designed to facilitate safe access and egress while maximizing land available for street tree planting, domestic waste collection, landscaped street frontages and on-street parking.”

Rokeby Avenue is a narrow street and consequently permits on-street car parking on only one side of the road – the western side. The advantage of this, in respect of the proposed development, is that vehicle access and egress from the site is safe and convenient because there is a solid yellow line adjacent the kerb opposite the proposed crossovers, thereby preventing cars parking there and access and egress being otherwise impeded.

Unfortunately, however, the proposed development will result in the loss of two (2) off-street car parking spaces, which is a concern raised in several of the representations. In their response to representations (**Attachment 6**), the Applicant indicates that there will be sufficient room for an off-street car parking space on Rokeby Avenue adjacent House A, north of the proposed crossover location. This is not the case, as there is currently a yellow line that extends south from Gray Street, along the western side of Rokeby Avenue, and ends just south of the street tree. Council's Team Leader, Regulatory Services has confirmed that this yellow line cannot be reduced in length given the proximity to the intersection and the narrow width of Rokeby Avenue, and accordingly an off-street car parking space cannot be provided here.

As earlier mentioned, many historic dwellings within this locality have no off-street parking facilities and so on-street parking demand is high. Further, due to the proximity of these streets to The Parade, many of the on-street parking spaces are time-restricted (although residents can apply for a parking permit in some instances). With respect to Rokeby Avenue in particular, house numbers 6, 8 and 10 all have no off-street car parking facilities whereas the remainder of the dwellings on Rokeby Avenue do. Consequently, it is likely that it will be these three dwellings that will feel the effects of the removal of these two (2) spaces more than others. Council's Team Leader, Regulatory Services, has confirmed that these three dwellings do all possess a residential parking permit that allows them to park in Rokeby Avenue without being subject to the parking restrictions. Nonetheless, the occupiers of 8 and 10 have indicated in their respective representations that they often struggle to find a park on Rokeby Avenue anyway, and the removal of two of the limited spaces on this street will only exacerbate this situation.

Performance Outcome 23.6 of the Design in Urban Areas module states:

"Driveways and access points are designed and distributed to optimise the provision of on-street visitor parking."

The corresponding Designated Performance Feature states:

"Where on-street parking is available abutting the site's street frontage, on-street parking is retained in accordance with the following requirements:

- (a) Minimum 0.33 on-street spaces per dwelling on the site (rounded up to the nearest whole number) ..."*

According to DPF 23.6 (above), the development needs to retain only one (1) on-street parking space abutting the sites' frontages to be considered appropriate; and the development retains space for three (3) parks – one on Rokeby Avenue and two on Gray Street. However, given the previous discussion regarding on-street parking demand, satisfaction of DPF 23.6 does not automatically justify the removal of the two (2) spaces being removed. Notwithstanding, these losses are arguably justifiable noting that the proposed development accords with the envisaged net residential density for this Zone and historic area and each dwelling is provided with sufficient on-site car parking provisions. Council administration notes that this justification does nothing to appease the concerns of other residents in the area, and most importantly those at 6, 8 and 10 Rokeby Avenue, but recognises that this is an unfortunate circumstance of what is considered to be the reasonable development of the subject land.

Regulated Trees

The subject land is bordered by four (4) mature street trees, of which two (2) are regulated Ironbarks (*Eucalyptus sideroxylon*) located on Rokeby Avenue.

Although this application does not seek land division consent per se, Performance Outcome 3.1 of the Regulated and Significant Tree Overlay is highly relevant, which states:

“Land division results in an allotment configuration that enables its subsequent development and the retention of regulated and significant trees as far as is reasonably practicable.”

Additionally, Performance Outcome 2.1 of the Regulated and Significant Tree Overlay states:

“Regulated and significant trees, including their root systems, are not unduly compromised by excavation and/or filling of land, or the sealing of surfaces within the vicinity of the tree to support their retention and health.”

The footprint of both dwellings results in major encroachment into the Tree Protection Zones (TPZs) of both regulated trees. Accordingly, the Applicant was requested to engage a certified arborist and undertake hydrovac exploratory work along the nominated building setback line parallel to the Rokeby Avenue boundary to a depth of 600mm, to determine the extent of root presence and whether the proposed development can proceed without adversely affecting the health of these two trees.

The Applicant's arborist undertook this work (see **Attachment 1** pp. 26-28) and concluded that the development could proceed without adversely impacting these trees, on the basis that minimal roots >50mm (i.e. potentially structural roots) were discovered in the trenched areas. It is the opinion of both the Applicant's arborist and the Council's arborist that the roots discovered during exploratory works are unlikely to be structurally supportive, and thus their removal will not result in the destabilisation of the tree. Council's arborist is therefore supportive of the proposal from an arboricultural point of view, providing appropriate tree protection measures are imposed by way of conditions on any consent.

Accordingly, the proposed development sufficiently accords with Performance Outcomes 2.1 and 3.1 (above) and can proceed without adversely affecting the health of the two regulated trees, subject to appropriate conditions.

CONCLUSION

A complicated proposal that involves a multitude of complex considerations, the proposed development sufficiently accords, on balance, with the Planning & Design Code to warrant consent.

The proposed site areas accord with the minimum requirements envisaged within the Established Neighbourhood Zone and accord generally with the prevailing allotment pattern in the locality. Both dwellings present to their respective primary street frontages in a manner that is generally consistent with the historic building stock in the area, paying reference to the double-fronted cottages and villas through their design and use of sandstone as a primary façade material. The incorporation of the cantilevered front verandahs and the steel picket front fences are appropriate contemporary versions of these more traditional features of the historical housing within the area. Finally, in what is a predominantly single-storey neighbourhood, the second storeys of both dwellings are appropriately contained within the roof spaces and adequately set back from both street frontages to be considered somewhat discrete and a contextually responsive design.

Each dwelling is provided with sufficient off-street parking, although in the form of a garage under the main roof which is not an ideal outcome. Similarly, each dwelling is provided with sufficient private open space. Both sites fall short on soft landscaping expectations, but this is not inconsistent with the surrounding development pattern. Importantly, each dwelling still provides sufficient planting room for a small tree and other plants, shrubs and groundcovers to improve both the amenity of the occupants and enhance the streetscape appearance of both dwellings.

An unfortunate consequence of the development is that two (2) on-street car parking spaces will be lost on Rokeby Avenue, in an area where there is significant demand for on-street parking due to many houses having

no off-street car parking facilities. However, this one negative aspect should not condemn the proposal.

Finally, through the imposition of appropriate conditions, the development can proceed without adversely affecting the health of the two regulated street trees located adjacent to the site on Rokeby Avenue.

RECOMMENDATION

Grant planning consent

It is recommended that the Council Assessment Panel 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 23005863, by Jonathan Leaney is granted Planning Consent subject to the following reserved matter and conditions:

RESERVED MATTERS

Planning Consent

Reserved Matter 1

An updated Civil & Drainage Plan shall be prepared and provided to the reasonable satisfaction of the Assessment Manager that reflects the amended location and siting of the dwellings herein approved.

Note: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.

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

Adjacent to the development site are two (2) regulated Ironbark street trees (identified as Tree 3 and Tree 4 in the Arborist Report prepared by Alan Cameron). Each of these trees have a Structural Root Zone ("the Zones") of 3.1 metres radius, measured from the centre of the tree.

No works of any kind, except those approved, shall occur within the Zones during the construction of the dwellings herein approved. Further:

1. there shall be no changes to the natural ground level within the Zones;
2. no vehicles or machinery shall enter this Zones without consent of the Council.
3. no storage or dumping of material, fuel, chemicals, equipment or temporary building shall take place within the Zones.
4. nothing shall be attached to the trees.
5. supplementary watering must be provided to both trees through the whole construction process.
6. no trenching form for the installation of underground service is permissible within the Zones.
7. structural roots, that is, roots with a diameter greater than 25 millimetres, located outside the Zones should be retained during the construction. If such roots require removal they shall be severed under

the supervision of the Project Arborist by saw cutting, sharp axe or secateurs and not with a Backhoe or any machinery or blunt instrument. Wounds shall be dressed with a commercially available tree-wound healing compound.

8. excavations necessary for the construction of the fences within the Zones shall be constructed by hand digging and any structural roots, that is, roots with a diameter greater than 25 millimetres, encountered should be retained.

Condition 3

The existing vehicle crossover invert that is located adjacent the northern boundary of the site (Gray Street) shall be reinstated to upright kerb and gutter in accordance with Council's specifications, prior to the occupation of the dwellings, and to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the applicant/developer/owner.

Condition 4

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 5

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 Assessment Manager or its delegate.

Condition 6

Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.

Condition 7

The approved development must include rainwater tank storage which is:

1. connected to at least 60% of the roof area;
2. connected to one toilet and either the laundry cold water outlets or hot water service;
3. with a minimum retention capacity of 2000 litres;
4. because the site perviousness is less than 30%, with a minimum detention capacity of 1000 litres; and
5. where detention is required, includes a 20-25 mm diameter slow release orifice at the bottom of the detention component of the tank within 12 months of occupation of the dwelling(s).

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

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. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

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 4

A separate land division application will be required to formalise the division of land between the two proposed dwellings.

Advisory Note 5

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 6

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 7

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 8

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 9

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 10

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 Note 11

To assist in the interpretation of the Urban Tree Canopy condition noted above, where payment into a relevant off-set scheme is not possible or chosen, tree(s) must be planted in accordance with the requirements set out below. Further guidance and information can be obtained by visiting the Landscaping and Development webpage on the Council's website (https://www.npsp.sa.gov.au/planning_and_development/landscaping-and-development) or contacting the Council's Planning Department on (08) 8366 4555.

Lot Size Per Dwelling (m2) // Tree Size and Number Required

<450 // 1 small tree

450-800 // 1 medium tree or 2 small trees

>800 // 1 large tree or 2 medium trees or 4 small trees

Tree Size // Mature Height (minimum) // Mature Spread (minimum) // Soil Area Around Tree Within Development Site (minimum)

Small // 4m // 2m // 10m² and min. dimension of 1.5m

Medium // 6m // 4m // 30m² and min. dimension of 2m

Large // 12m // 8m // 60m² and min. dimension of 4m

Ms Greenfield addressed the Council Assessment Panel from 7:06pm until 7:12pm

Ms McGregor addressed the Council Assessment Panel from 7:17pm until 7:22pm

Mr Cameron addressed the Council Assessment Panel from 7:24pm until 7:25pm

Mr Leaney addressed the Council Assessment Panel from 7:26 until 7:27pm

Moved by Mr Adcock

Grant planning consent

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 23005863, by Jonathan Leaney is granted Planning Consent subject to the following reserved matter and conditions:

RESERVED MATTERS

Planning Consent

Reserved Matter 1

An updated Civil & Drainage Plan shall be prepared and provided to the reasonable satisfaction of the Assessment Manager that reflects the amended location and siting of the dwellings herein approved.

Note: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.

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

Adjacent to the development site are two (2) regulated Ironbark street trees (identified as Tree 3 and Tree 4 in the Arborist Report prepared by Alan Cameron). Each of these trees have a Structural Root Zone ("the Zones") of 3.1 metres radius, measured from the centre of the tree.

No works of any kind, except those approved, shall occur within the Zones during the construction of the dwellings herein approved. Further:

- 1. there shall be no changes to the natural ground level within the Zones;*
- 2. no vehicles or machinery shall enter this Zones without consent of the Council.*
- 3. no storage or dumping of material, fuel, chemicals, equipment or temporary building shall take place within the Zones.*
- 4. nothing shall be attached to the trees.*
- 5. supplementary watering must be provided to both trees through the whole construction process.*
- 6. no trenching form for the installation of underground service is permissible within the Zones.*
- 7. structural roots, that is, roots with a diameter greater than 25 millimetres, located outside the Zones should be retained during the construction. If such roots require removal they shall be severed under the supervision of the Project Arborist by saw cutting, sharp axe or secateurs and not with a Backhoe or any machinery or blunt instrument. Wounds shall be dressed with a commercially available tree-wound healing compound.*
- 8. excavations necessary for the construction of the fences within the Zones shall be constructed by hand digging and any structural roots, that is, roots with a diameter greater than 25 millimetres, encountered should be retained.*

Condition 3

The existing vehicle crossover invert that is located adjacent the northern boundary of the site (Gray Street) shall be reinstated to upright kerb and gutter in accordance with Council's specifications, prior to the occupation of the dwellings, and to the reasonable satisfaction of the Council or its delegate. All costs shall be borne by the applicant/developer/owner.

Condition 4

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 5

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 Assessment Manager or its delegate.

Condition 6

Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.

Condition 7

The approved development must include rainwater tank storage which is:

1. connected to at least 60% of the roof area;
2. connected to one toilet and either the laundry cold water outlets or hot water service;
3. with a minimum retention capacity of 2000 litres;
4. because the site perviousness is less than 30%, with a minimum detention capacity of 1000 litres; and
5. where detention is required, includes a 20-25 mm diameter slow release orifice at the bottom of the detention component of the tank within 12 months of occupation of the dwelling(s).

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

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. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

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 4

A separate land division application will be required to formalise the division of land between the two proposed dwellings.

Advisory Note 5

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 6

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 7

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 8

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 9

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 10

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 Note 11

To assist in the interpretation of the Urban Tree Canopy condition noted above, where payment into a relevant off-set scheme is not possible or chosen, tree(s) must be planted in accordance with the requirements set out below. Further guidance and information can be obtained by visiting the Landscaping and Development webpage on the Council's website (https://www.npsp.sa.gov.au/planning_and_development/landscaping-and-development) or contacting the Council's Planning Department on (08) 8366 4555.

Lot Size Per Dwelling (m2) // Tree Size and Number Required

<450 // 1 small tree

450-800 // 1 medium tree or 2 small trees

>800 // 1 large tree or 2 medium trees or 4 small trees

**Tree Size // Mature Height (minimum) // Mature Spread (minimum) // Soil Area Around Tree
Within Development Site (minimum)**

Small // 4m // 2m // 10m² and min. dimension of 1.5m

Medium // 6m // 4m // 30m² and min. dimension of 2m

Large // 12m // 8m // 60m² and min. dimension of 4m

Seconded by Ms Newman

CARRIED

**5.2 DEVELOPMENT NUMBER 22029884 - PAREE VERGIS AND MARK ANDERSEN –
26 MAYFAIR STREET MAYLANDS SA 5069**

DEVELOPMENT NO.:	22029884
APPLICANT:	Paree Vergis, Mark Andersen
ADDRESS:	26 MAYFAIR ST MAYLANDS SA 5069
NATURE OF DEVELOPMENT:	Demolition of a Dwelling (Representative Building) and all ancillary structures
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Historic Area • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 15m; semi-detached dwelling is 9m) • Minimum Site Area (Minimum site area for a detached dwelling is 300 sqm; semi-detached dwelling is 300 sqm) • Maximum Building Height (Levels) (Maximum building height is 1 level) • Site Coverage (Maximum site coverage is 50 per cent)
LODGEMENT DATE:	14 Sept 2022
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	14 Sept 2022
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother - Senior Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	David Brown, Council Heritage Advisor (Internal) Imparta Engineers, Structural Engineers (External) Robb Partners, Quantitative Surveyors (External)

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 5:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Response to Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 7:	Internal Referral Advice - Structural & QS

ATTACHMENT 3: Zoning Map

**ATTACHMENT 8: Internal Referral Advice -
Heritage**

ATTACHMENT 4: Representation Map

BACKGROUND:

This development application was first lodged in September 2022, and was supplemented with a structural engineering report by TMK Consulting Engineers (pages 2-17 of **Attachment 1**). To assist the administration with making an informed determination, the Council engaged Imparta Engineers to undertake their own structural assessment and provide them with a report of their findings. The application was placed on public notification while this occurred.

Following consideration of both structural assessment reports, the administration formed the view that demolition of the dwelling was not justified as the building was not considered to be “beyond reasonable repair”. The applicant was informed accordingly on 24 January 2023, and the application was effectively put on hold.

Following this, the applicant engaged with several builders to investigate the cost and extent of reparation and restoration works. Through these investigations, some of the plasterboard lining within the dwelling was removed and further cracking in the exterior walls were uncovered. The applicant then sought to engage another structural engineering firm – this time Magryn & Associates Pty Ltd – to undertake another structural assessment of the dwelling. Magryn formed the opinion that the dwelling was beyond reasonable repair and demolition was warranted (pages 18-30 of **Attachment 2**). The applicant provided this report to Council administration in August 2023 with the intent of re-livening this application.

Consequently, the Council engaged Imparta Engineers again and asked them to provide a new structural assessment given the further-exposed condition of the property (both Imparta reports are in **Attachment 7**). Following consideration of the two new structural assessment reports, Council administration then engaged a quantitative surveyor to determine the estimated costs of structural repairs to the dwelling, if it were to be retained (**Attachment 7**).

Now with four (4) structural engineering reports and a quantitative surveyor costing on the restoration works, this application is now being presented to the Council Assessment Panel for determination.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 26 MAYFAIR ST MAYLANDS SA 5069

Title ref.: CT
5328/978

Plan Parcel: D1307
AL39

Council: THE CITY OF NORWOOD PAYNEHAM AND
ST PETERS

Shape: regular

Frontage width: 15.24 metres

Area: approx. 603.8m²

Topography: relatively flat

Existing Structures: a single storey detached dwelling, an attached carport, an attached lean-to extension, an outbuilding and boundary fencing

Existing Vegetation: low-lying grasses and shrubs and one (not regulated) tree in the rear garden

Locality

The locality is characterised predominantly by single storey detached dwellings, with several group dwellings directly opposite the subject land being the only exceptions to this. Mayfair Street and Frederick Street (west) are captured by the Maylands Historic Area Overlay (see **Attachment 3**), and these streets contain a mix of villas and cottages that are representative of the historic building stock identified within this Overlay. Other streets within the locality form part of the Evandale/Maylands/Stepney Character Area. Consequently, the locality is comprised primarily of pre-1940s dwellings and represents a very intact part of the Council area in respect of historic building stock.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Demolition: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Table 5 of the Established Neighbourhood Zone
Involves the demolition of a building (except an ancillary building) in a Historic Area Overlay.

- **LIST OF REPRESENTATIONS**

First Name	Last Name	Address	Position	Wishes to be heard?
Mengshi	Jia	5 Janet Street MAYLANDS SA 5069	Support, with concerns	No
Jianjing	Zhang	5 Janet Street MAYLANDS SA 5069	Support, with concerns	No
Sandy	Wilkinson	112 Osmond Terrace NORWOOD SA 5067	Opposed	Yes
St Peters Residents' Association Inc		12 St Peters St ST PETERS SA 5069	Opposed	Yes

- **SUMMARY**

In respect of representors 1 and 2, their concerns lie in the costs of new boundary fencing (which is not proposed with this application). In respect of the other representors, they oppose the proposal because it involves the demolition of a Representative Building.

INTERNAL REFERRALS

- David Brown, Heritage Advisor

Council's Heritage Advisor is supportive of the proposed demolition given the condition of the property and the extensive costs required to restore it to a structural safe and reasonable condition.

- Imparta Engineers, Structural Engineers (External)
- Robb Partners, Quantitative Surveyors (External)

PLANNING ASSESSMENT

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

Heritage / Demolition

Performance Outcome 7.3 of the Historic Area Overlay states:

"Buildings or elements of buildings that do not conform with the values described in the Historic Area Statement may be demolished."

The Historic Area Statement identifies "double-fronted detached villas and cottages of modest proportions" constructed from the "late 1880s onwards" as being two of the architectural styles important to this historic area. Additionally, "sandstone and bluestone" are identified as materials representative of this era.

The subject dwelling is a double-fronted villa of sandstone construction, constructed circa-1900, and is therefore demonstrative of the historic characteristics as expressed in the Historic Area Statement. Hence, the subject dwelling is a Representative Building

Performance Outcome 7.1 of the Historic Area Overlay states:

"Buildings or structure, or features thereof, that demonstrate the historic characteristics as expressed in the Historic Area Statement are not demolished unless:

- (a) The front elevation of the building has been substantially altered and cannot be reasonably restored in a manner consistent with the building's original style*
Or
- (b) The structural integrity or safe condition of the original building is beyond reasonable repair."*

The front elevation of the building has not been substantially altered and so criterion (a) above is not applicable.

In respect of the structural integrity and/or safe condition of the building, four (4) structural assessments have been undertaken to date. Namely:

Engineering Firm	Date of Inspection	Date of Report	Engaged by
TMK Consulting Engineers	27 July 2022	29 August 2022	Applicant

Imparta Engineers	30 September 2022	30 November 2022	Council
Magryn & Associates Pty Ltd	11 July 2023 & 11 August 2023	August 2023	Applicant
Imparta Engineers	21 August 2023	27 September 2023	Council

Chronology and findings of structural assessments

For ease of reference, the findings and recommendations of the four structural assessments are summarised as follows.

1. TMK Consulting Engineers (“**TMK**”) – 29 August 2022

Findings

TMK observed differential movements throughout the building typical of ‘localised relative settlement’ and likely attributable to soil moisture variations. Internal walls had been lined with fibrous plasterboard which led the engineer to a suspicion that the plasterboard was introduced by an earlier owner to cover up cracking of the external masonry walls. Cracks over 15mm wide were observed in some internal walls, particularly in the north-eastern room (lounge) of the dwelling, as well as in some external walls. The timber floors were observed as having unevenness, particularly in the south-western room (kitchen) where the floor had significantly dropped indicating failure of the supporting members and in the north-eastern bedroom where the floor had delaminated from the sub structure. TMK also observed cracks and leaks in ceilings, rising dampness around the perimeter of the building and corrosion to the roof sheeting and gutters. TMK concluded that the dwelling was of a structural concern and ‘uninhabitable without prior extensive structural repair and renovations’.

TMK recommended that underpinning the whole dwelling would be necessary to reduce the likelihood of further differential movement. Such underpins may need to extend to between 4m and 6m in depth to ensure they are founded on a stable soil layer that is not subject to seasonal moisture variations. Further, most, if not all, internal and external walls of the dwelling would require repair works to the cracking. All cracked plaster ceilings, the roof sheeting and gutters would require complete replacement. The front verandah would require repair or replacement, and the timber floors within the dwelling required re-levelling and replacing. In TMK’s opinion, the costs of those repairs (pages 9-10 of their report, **Attachment 1**) would outweigh the cost of a new dwelling and were therefore considered to be unreasonable.

2. Imparta Engineers (“**Imparta**”) – 30 November 2022

Imparta’s engineer had similar observations to those of TMK’s above, including concluding the same as to why the internal walls have been lined with plasterboard. In addition, Imparta also noted rotation of the north-eastern corner of the dwelling and cracks in the northern external wall measured between 10mm and 24mm wide in several instances. Evidence of prior repairs to various cracks was evident which indicates that movement is ongoing. Imparta also observed that the front verandah slab is cracked and undulating, as are the perimeter concrete paths of the dwelling. Imparta do acknowledge that cracking in the substrate may be more severe than that observed in the plasterboard lining internally.

Imparta formed the view that the walls of the north-eastern corner of the building require partial reconstruction, and that soil moisture mitigation management could improve and stabilise the balance of the dwelling in its current state. This work would include replacing the stormwater infrastructure (roof sheeting gutters, downpipes) and draining all stormwater to the street, among other things. Other internal works and upgrades would be required (full detail in **Attachment 7**), as well as full reconstruction of the front verandah, but underpinning the whole of the dwelling was not considered necessary by Imparta unless soil moisture management provided ineffective.

3. Magryn & Associates Pty Ltd (“**Magryn**”) – August 2023

Magryn undertook two inspections, the first by a senior engineer on 11 July 2023 and a second by the principal engineer on 11 August 2023. Both inspections were undertaken after a significant amount of the internal plasterboard lining had been removed which had exposed further cracking to the substrate masonry walls.

Magryn observed significant (>15mm) cracking to several of the walls that were not previously observed by TMK or Imparta, with some up to 45mm in width. Further, some walls were noted to be of 'random rubble construction, with minimal to no mortar'. Otherwise, Magryn's observations were similar to those of TMK and Imparta previously.

Notably, Magryn undertook a floor level survey of random points throughout the dwelling, which showed that floor levels were generally lower towards the east of the building than at the rear. This survey recorded a maximum difference of floor level of almost 50mm throughout the dwelling. These levels help indicate the extent of differential movement that has occurred.

Magryn concluded that the dwelling should be demolished, noting that if restoration were attempted it would involve: the underpinning of all external and internal bluestone footings; the likely wholesale reconstruction of the eastern, southern and northern external walls; the re-levelling of the floor structure; the installation of damp proof barriers around the perimeter and new paving; and other moisture mitigation measures such as roof and stormwater replacements. In Magryn's opinion, the extent of works required is not reasonable and would cost more than constructing a new dwelling and therefore demolition is recommended.

4. Imparta – 27 September 2023

During their second inspection of the dwelling, Imparta observed the bowing/leaning of the northern and eastern walls of the southern bedroom. Additionally, and most notably, their engineer also observed that the removal of the plasterboard exposed significant cracking to the two front (eastern) rooms of the dwelling and the middle southern room (labelled as Living Room by Imparta and Bed 2 by others), that could be classified as within or beyond Damage Category 4 (AS 2870-2011), i.e. >15mm width. Imparta opined that this damage 'warrants, at least, local reconstruction of the affected walls down to sound brickwork'. The extent of reconstruction required, however, would be subject to further investigation by a masonry contractor.

Notwithstanding, Imparta state that the dwelling could be stabilised in its current condition providing the previous recommendations were carried out and the local reconstruction of the affected walls was undertaken. Rather contradictorily, however, Imparta acknowledge that 'the current damage to this dwelling is more severe than what [they] expect would be considered acceptable by a reasonable building owner'. In their concluding comments, Imparta further acknowledge that moisture management measures may not prove effective, and the entire underpinning of the dwelling may eventually be required.

Finally, Imparta were also requested to peer review the Magryn report and provided comments thereon. Imparta agreed with the scope of works proposed by Magryn, with the exception of the underpinning of the dwelling, citing that the balance of the works are 'not unreasonable'.

Analysis of structural assessments

To summarise the above, both engineers engaged by the Applicant – TMK and Magryn – opine that reparation of the dwelling is not recommended, both because of the uncertainty of the effectiveness of those works and the costs involved, and therefore demolition is warranted. On the other hand, Imparta – engaged by the Council – believe that the dwelling could be reasonably restored through the installation of moisture management measures, the local reconstruction of several external and internal walls, and other reasonable works; all while noting that future underpinning might be required if the recommended repair works prove ineffective.

Following consideration of these assessments, it is the view of the administration that the dwelling is beyond reasonable repair, consistent with Performance Outcome 7.1 of the Historic Area Overlay. Although it may be easy to infer bias in reports prepared for different parties, there does appear to be a good degree of certainty in Magryn's decision not to recommend repair work to the dwelling. On the other hand, Imparta's views

following their second inspection do not ultimately change to those first held, but they do now appear less certain that underpinning the dwelling would not be necessary.

Accordingly, it is likely that the reparation and restoration of the dwelling would involve, among other things, but most notably, the following scope of works (N.B. references to specific rooms are consistent with those made by Imparta in their reports):

- Substantial demolition and reconstruction of several internal and external walls of the dwelling;
- The underpinning of the northern, eastern and western external walls;
- Replacement of the entire roof structure, including sheeting, tie-downs and framing;
- Re-levelling internal floors, which could include further works to the sub-structure;
- Reparations to the cracking of those walls that do not require reconstruction, and the replastering, repainting and repointing of such walls;
- Replacement of all ceilings; and
- Various other internal works.

Quantitative surveyor's report

Notwithstanding administration's opinion above, the Council engaged the services of a quantitative surveyor to determine the potential cost of this scope of works, to further assist in determining whether the extent of repair work could be considered reasonable.

In this respect, the Council engaged Robb Partners to undertake a costing estimate (QS Report) based on the scope of works suggested by Imparta plus the underpinning of the entire dwelling. The QS Report provided by Robb Partners can be found at **Attachment 7**.

The Panel should note that the QS report provided by Robb Partners does not accurately cover the scope of works sought to be costed by the Council. In particular, Robb Partners included costs for the demolition and reconstruction of the western lean-to addition, which does not form part of the original dwelling construction and is not considered to be demonstrable of the historic characteristics and is therefore able to be demolished without consideration as to repair costs. Consequently, Robb Partners provided a separate costing for the lean-to addition works (the final 2 pages of **Attachment 7**), which can be removed from the total in the QS Report to present a more accurate picture.

Notwithstanding these discrepancies, the estimated costs of reparation work to the dwelling (which includes entire underpinning) amounts to approximately \$700k, with ongoing maintenance work still to be required by future owners. It is the administration's view that these costs exceed what could be considered 'reasonable' to expect of a homeowner, and therefore demolition is justified by virtue of criterion (b) of Performance Outcome 7.1 of the Historic Area Overlay.

RECOMMENDATION

It is recommended that the Council Assessment Panel 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 22029884, by Paree Vergis and Mark Andersen is granted Planning Consent subject to the following conditions:

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).

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

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. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

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 4

The Applicant is advised that the property is located within an Historic Overlay 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 all fencing).

Advisory Note 5

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 6

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 7

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 8

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 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.

Ms Moore addressed the Council Assessment Panel from 7:46pm until 7:50pm

Mr Wilkinson addressed the Council Assessment Panel from 7:50pm until 7:56pm

Mr Russell from Russell Stoneworks addressed the Council Assessment Panel from 7:56pm until 7:57pm

Mr Richardson addressed the Council Assessment Panel from 8:08pm until 8:17pm

Mr Andersen answered questions from the Council Assessment Panel from 8:18pm until 8:27pm

Moved by Mr Adcock

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 22029884, by Paree Vergis and Mark Andersen is granted Planning Consent subject to the following conditions:

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).

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

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. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

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 4

The Applicant is advised that the property is located within an Historic Overlay 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 all fencing).

Advisory Note 5

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 6

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 7

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 8

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 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 Mr Bateup
CARRIED

5.3 DEVELOPMENT NUMBER 23028657 - TOM CRAVEN - 64 NINTH AVENUE AND 66 NINTH AVENUE JOSLIN

DEVELOPMENT NO.:	23028657
APPLICANT:	Tom Craven
ADDRESS:	64 NINTH AV JOSLIN SA 5070 66 NINTH AV JOSLIN SA 5070
NATURE OF DEVELOPMENT:	Construction of tennis court lighting
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Character Area • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 15m; semi-detached dwelling is 12m) • Minimum Site Area (Minimum site area for a detached dwelling is 500 sqm; semi-detached dwelling is 500 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels) • Minimum Side Boundary Setback (Minimum side boundary setback is 1.5m for the first building level; 3m for any second building level or higher) • Site Coverage (Maximum site coverage is 50 per cent)
LODGEMENT DATE:	12 Oct 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) - Version 2023.13 - 31/08/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edmund Feary Senior Urban Planner
REFERRALS STATUTORY:	N/A
REFERRALS NON-STATUTORY:	N/A

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 5:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Response to Representations
ATTACHMENT 2:	Subject Land Map		
ATTACHMENT 3:	Zoning Map		
ATTACHMENT 4:	Representation Map		

DETAILED DESCRIPTION OF PROPOSAL:

The applicant proposes the construction of a series of tennis court lighting poles, with associated lighting. The tennis court (which does not require Development Approval) is associated with the dwelling at 64 Ninth Avenue.

While the elevation drawing provided by TMK Engineering shows a maximum height of 7m, the lighting analysis provided is based on a height of 6m. For the avoidance of doubt, 6m is the proposed height, with the elevation simply being a standard drawing which does not reflect the specific proposal. As these plans are technically consistent (since 6m is within the implied range of a 7m maximum), no updated plan is technically required, but a condition is recommended to further clarify this point.

BACKGROUND:

The owner of 64 Ninth Avenue, Joslin, has purchased the adjoining block (#66), with the intent of demolishing the dwelling on the site, and using it as a tennis court.

This is one of a series of applications including:

- 23017194- Swimming pool
- 23028653- Tennis court fencing
- 23037656- Outbuilding

The construction of the tennis court as such does not constitute development, nor does it vary an existing approval, and therefore does not require an application. None of the other three applications have triggered public notification. The swimming pool and outbuilding have both received Development Approval, but the fencing has thus far only received Planning Consent.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 64 NINTH AV JOSLIN SA 5070

Title ref.: CT 5739/76	Plan Parcel: D3652 AL149	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
-------------------------------	---------------------------------	--

Location reference: 66 NINTH AV JOSLIN SA 5070

Title ref.: CT 5726/291	Plan Parcel: D3652 AL150	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
--------------------------------	---------------------------------	--

Shape: Rectangular

Frontage Width: Combined ~31.7m, 66 Ninth Ave, Joslin ~15.3m

Area: Combined 1502sqm, 66 Ninth Ave, Joslin ~730sqm

Topography: Mostly flat

Existing Structures: One detached dwelling on each allotment

Existing Vegetation: Front yard of 66 Ninth Ave has two mature trees on a lawn area, with another lawn area at the rear.

The subject land is both 64 and 66 Ninth Avenue, Joslin. The tennis court itself would be located on the allotment at 66 Ninth Ave, Joslin, but would be associated with the dwelling at 64 Ninth Ave, Joslin.

Locality

The locality is formed by both sides of Ninth Avenue, between Lambert Road and Koolaman Street, including the units with the address of 6 Koolaman Street, which run to the rear of the site.

The locality is predominately made up of detached dwellings, though there are units at both 6 Koolaman Street (16 units) and 72 Ninth Avenue (5 units). The street has a mix of housing styles, but is predominately single storey, with two examples of “outwardly” two storey buildings being outliers in the streetscape. The locality has a moderate level of tree canopy, with two significant street trees opposite the site being the most notable examples. There are stobie poles on both sides of the street. Fencing is mixed, though masonry and metal infill fencing is common in the streetscape.

There is one example of a tennis court in the locality, though this is a smaller “half-court” type arrangement with a basketball court, located at 74 Ninth Avenue.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Other - Residential - Tennis Court Lights: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code; No pathway provided

PUBLIC NOTIFICATION

- **REASON**
Development is not of a kind exempted by Table 5 of the Established Neighbourhood Zone, and is not minor in nature only
- **LIST OF REPRESENTATIONS**
Three (3) representations were received during the notification period.

Given Name	Family Name	Address	Wishes to be Heard	In Support
Kevin	Naughton	60 Ninth Ave, Joslin	No	Yes
Vera	Vismara	3/6 Koolaman St, Joslin	No	No
Nola	Place	63 Nelson St, Rozelle, NSW (owner of 12/6 Koolaman St, Joslin and intends to move in soon)	No	Yes, with concerns

- **SUMMARY**

Representors concerns related to:

- Visual impact of light poles;
- Noise impacts of playing tennis late at night; and,
- Light spill.

AGENCY REFERRALS

Not required.

INTERNAL REFERRALS

Not required.

PLANNING ASSESSMENT

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

Land Use

The proposed tennis court is associated with the residential use of the land, given its association to the dwelling at 64 Ninth Avenue. Residential uses are the primarily envisaged use within the Established Neighbourhood Zone, as per PO 1.1 of the Zone:

"Predominantly residential development with complementary non-residential activities compatible with the established development pattern of the neighbourhood."

If the tennis court were to cease being used in association with the dwelling, it would constitute a change of use, and a Development Application would be required.

Height

The proposed light poles are 6m tall. The Zone does envisage two storey buildings, and a 6m height is consistent with a two-storey form.

The following Performance Outcomes should be noted:

Established Neighbourhood Zone PO 4.1

Buildings contribute to the prevailing character of the neighbourhood and complements the height of nearby buildings.

Established Neighbourhood Zone PO 11.1

Residential ancillary buildings and structures are sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties.

Character Area Overlay PO 2.2

Development is consistent with the prevailing building and wall heights in the character area.

Character Area Overlay PO 4.1

Ancillary development, including carports, outbuildings and garages, complements the character of the area and associated building(s).

It should also be noted that the Character Area Statement identifies the following with respect to building height:

Single storey, with some two storey to the rear of buildings (with single storey appearance to primary street frontage).

If a building were proposed of 6m in height in the same position as the proposed light poles, that would likely have significant impacts. However, as the light poles are not a “building”, it is debateable whether ENZ PO 4.1 applies. Regardless, the proposed light poles are a far less visually obtrusive structure than any building would be. Given their low scale, despite their height, they are considered to suitably accord with the principles outlined above, since their scale is complementary to the scale of the prevailing built form in the locality.

Setbacks, Design & Appearance

The proposed poles are located along the service line of the tennis court. This is slightly behind the building lines of both adjacent dwellings, though they would be taller than these dwellings. Nonetheless, as noted above, given their slender nature, they have a modest scale, which is considered to be compatible with the Character Area.

Heritage

The site is not in a Historic Area, and there are no adjacent heritage places. As such, there are not considered to be any heritage implications.

Traffic Impact, Access and Parking

The proposed works have no impact on traffic or access, given that the works are associated with an existing dwelling, and do not alter any access arrangements.

Environmental Factors

Noise Emissions

The relevant policy is Performance Outcome 4.1 of the Interfaces Between Land Uses module:

Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers).

Nonetheless, it is considered that noise is not actually a relevant consideration in the assessment. As noted by the applicant, the construction of the tennis court itself is effectively landscaping works, and it does not require Development Approval. As such, the operation of the tennis court is not a relevant consideration in this Development Application. Rather, the question is whether the constructing and operation of the lighting associated with the tennis court, is acceptable.

Therefore, it is considered that the development which seeks consent in this application, does not emit noise, and therefore does not unreasonable impact audible amenity.

Light Spill

The relevant Code policy in relation to light spill is Interface Between Land Uses Performance Outcome 6.1:

External lighting is positioned and designed to not cause unreasonable light spill impact on adjacent sensitive receivers (or lawfully approved sensitive receivers).

An Obtrusive Lighting Analysis has been prepared by Environmental Lighting Australia, who are suitably qualified in the area of assessing such impacts. This Analysis has assessed the proposal against AS/NZS 4282:2019 in both horizontal and vertical planes. It has concluded that the proposed lighting would have impacts that meet the provisions of this Australian Standard.

The Australian Standard includes different metrics for “curfew” and “non-curfew” hours. The “curfew” in the Australian Standard is 11pm-6am, though it does allow for the “controlling authority” to specify otherwise. The assessment conducted by Environmental Lighting Australia has considered the proposal against the non-curfew standards. As such, a condition is proposed that the lighting must be turned off between 11pm and 6am, in order to comply with the standard curfew.

Given that the proposal would comply with the relevant Australian Standard, this is considered to not be unreasonable, and therefore satisfies the Performance Outcome above.

CONCLUSION

The proposal seeks to construct lighting towers associated with a domestic tennis court at 66 Ninth Avenue, Joslin. The proposed lighting towers present within a minimal scale which complements the surrounding dwellings. They are also set back from the street consistent with the existing dwellings.

The lighting would be consistent with AS/NZS4282:2019, meaning that it would not result in unreasonable light spill.

The application is considered to sufficiently accord with the provisions of the Planning and Design Code so as to warrant approval.

RECOMMENDATION

It is recommended that the Council Assessment Panel 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 23028657, by Tom Craven is granted Planning Consent subject to the following conditions and notes:

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 lighting herein approved shall only be operated in the "non-curfew" hours as specified by AS/NZS 4282:2019 i.e. outside the hours of 11pm-6am.

Condition 3

The proposed lighting poles shall be 6m in height, as stipulated on the Lighting Design Analysis prepared by Environmental Lighting Australia and dated 20 September 2023.

ADVISORY NOTES

Planning Consent

Advisory Note 1

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 2

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. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

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 4

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 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 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 7

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 8

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 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.

Moved by Ms Newman

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 23028657, by Tom Craven is granted Planning Consent subject to the following conditions and notes:

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 lighting herein approved shall only be operated in the “non-curfew” hours as specified by AS/NZS 4282:2019 i.e. outside the hours of 11pm-6am.

Condition 3

The proposed lighting poles shall be 6m in height, as stipulated on the Lighting Design Analysis prepared by Environmental Lighting Australia and dated 20 September 2023.

ADVISORY NOTES

Planning Consent

Advisory Note 1

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 2

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. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

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 4

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 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 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 7

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 8

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 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 Mr Bateup
CARRIED**

6. DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT

7. REVIEW OF ASSESSMENT MANAGER DECISIONS

8. ERD COURT APPEALS

Mr Parsons provided an update in respect of the following appeals:

- DA 23004961 – 114A Osmond Tce Norwood
- DA23010962 – 1 Kensington Road, Norwood
- DA 21008794 – Penna Avenue / Provident Avenue / Glynburn Road, Glynde

9. OTHER BUSINESS

The Council Assessment Panel notes the concerns raised as part of ID 23005863 regarding on street parking in Rokeby Avenue Norwood and suggest that administration give consideration to the concerns raised and if appropriate consider possible initiatives to address the concerns.

Seconded by Ms Newman

10. CONFIDENTIAL REPORTS

11. CLOSURE

Presiding Member declared the meeting closed at 9:15pm

Terry Mosel
PRESIDING MEMBER

Geoff Parsons
MANAGER DEVELOPMENT ASSESSMENT