Council Assessment Panel
Minutes

15 February 2021

Our Vision

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

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

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City of Norwood Payneham & St Peters

Page No.

VENUE Council Chambers, Norwood Town Hall

HOUR **7:00pm**

PRESENT

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

Staff
Mark Thomson Manager Development Assessment
Nenad Milasinovic Senior Urban Planner
Adam Bowey Senior Urban Planner
Tala Aslat Planning Assistant

APOLOGIES

ABSENT

1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 10 FEBRUARY 2021

Seconded and Carried

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/777/2020 – SIGNATURE WINES – 31 & 33 KING STREET, NORWOOD

DEVELOPMENT APPLICATION:	**155/777/2020**
APPLICANT:	**Signature Wines**
SUBJECT SITE:	**31 & 33 King Street, Norwood (Certificate of Title Volume: 5492 Folio: 882 & Volume: 5064 Folio: 234)**
DESCRIPTION OF DEVELOPMENT:	**Change of use from a warehouse to a warehouse, office, café and cellar door.**
ZONE:	**Mixed Use A Zone, Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)**
PUBLIC NOTIFICATION CATEGORY:	**Category 3**

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for a change of use from a warehouse to a warehouse, office, café and cellar door.

Staff do not have delegated authority to determine the Application, as it is Category 3 for public notification purposes. As such, the Application is referred to the Panel for determination.

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

Background

The building on the subject land was constructed as a warehouse building. There is limited detail on the construction and use of the warehouse in the Council's records, however the most recent development authorisation (155/537/98) confirms its authorised use as a warehouse. The building comprises two side-by-side tenancies.

In or around 2015, Signature wines commenced operations from 31 and 33 King Street, utilising warehousing and ancillary office space for their distribution business (local and export wine sales) which included a minor cellar door component. This is reflected through an initial liquor licence (Producers Licence) approval which was issued by Consumer and Business Services (CBS) on 23 April 2015.

On the 14th of February 2017, Signature Wines applied to CBS for a Special Circumstance Licence. As is their practice, CBS asked that Signature Wines obtain advice from the Council on whether the granting of such licence would be inconsistent with any laws pertaining to Planning. Signature Wines subsequently wrote to Council in an email:

"Signature Wines has a styled industrial rustic / boutique cellar door venue, Now that we have a multi- use space for small corporate and private functions, our current license allows us to serve only our own produced products.

To cater for private functions and corporate functions we need to broaden our beverage range to accommodate our clients wishes. And support the local producers within our area.

The spaces are purely only for private functions. We are seeking the Special circumstance as the there is no other license to suite the style of our business"

In response, the Council's planning staff wrote to Signature Wines:

"*Putting liquor licensing requirements to one side for the moment, there are separate requirements under the Development Act. In particular, to change the use of a land or building, Development Approval is first required.*

31 King Street was built as a warehouse. No development approval has ever been sought to change the use of the building from a warehouse to anything else. I'm not sure whether your current operations are consistent with the definition of a warehouse (see definition below), but it is clear that the proposed use of the building as described in your email below, is not consistent with a warehouse.

Accordingly, before you can consider obtaining a liquor licence, you will first need to lodge a Development Application, seeking approval to change the use of the building from a warehouse to a cellar door and function centre. That Application would be subject to public notification and the final decision would likely be made by the Council's Development Assessment Panel.

Alternatively, if you envisage the corporate functions being very few and far between (eg. one every few months), we would consider that to be an 'ancillary' use of the building, rather than constituting an additional use of the land and as such Development Approval would not be required. In this scenario, you would be able to obtain one-off Limited Licences each time you require one for a function."

It is understood that following receipt of this advice from Council, Signature wines withdrew their Application with CBS for a Special Circumstances Licence and continued to operate under their Producer's Licence. Signature Wines did not seek development authorisation from the Council for a change of land use.

Despite this, Signature Wines continued to operate a cellar door and a function centre from the subject land since receiving advice from the Council in 2017 that a development authorisation would be required.

As a result of the Covid-19 pandemic, the restriction of opening hours of pubs, clubs and restaurants resulted in a downturn in distribution sales for Signature Wines, and a greater reliance on cellar door sales to maintain commercial viability. In response to this change in circumstance, Signature Wines altered their cellar door opening hours and intensified their business activities to promote more business at the cellar door.

This restructure resulted in lengthened opening hours (Wednesday through to Saturday), and an increase in the number of promoted 'food events' (i.e. evenings where local restaurants and other food vendors are hosted at the subject land). On 28 June 2020, the Council received a complaint from a resident of King Street, regarding noise impacts associated with the operations of Signature Wines.

Investigations confirmed that the business did not have a valid development authorisation for the land use, and subsequent enquiries resulted in Signature Wines lodging an Application in an attempt to regularise the breach (155/423/2020).

This Application was refused by the Councils Assessment Panel on 19th October 2020, for the following reasons.

1. The proposed use of the building is not compatible with nearby residential land uses, contrary to Objective 1 of the Mixed Use A zone.
2. Insufficient on-site car parking is available to cater for the demand generated by this proposal.

On the 22nd of October, following the CAP's decision to refuse Development Application 155/423/2020, an enforcement notice was issued, directing Signature Wines to return the use of the land and building to the lawful land use of a warehouse by Wednesday 18th November 2020.

Given that the Council was aware that Signature Wines was intending to lodge a new Development Application for a less intensive use of the land and attempt to find an alternative premises, the Council agreed to temporarily withhold enforcement of the notice, subject to a written agreement from Signature Wines that they would decrease the intensity of their operations in the meantime.

The terms of temporary operation were agreed to by Signature Wines and came into effect on Wednesday 18 November 2020, the same date as the direction contained within the enforcement notice.

These temporary terms were as follows:

1. No more functions and/or events are permitted to be held at 31 King Street Norwood. For clarity, this means that the following functions/events are not permitted to occur at 31 King Street, Norwood:
    A. Private function for a product launch on 19 November 23020;
    B. Private function for a Christmas party on 26 November 2020;
    C. Private function for a Christmas lunch on 4 December 2020; and
    D. No other events/functions are to be booked on any other date
2. No more food trucks or third-party food vendors are permitted to operate at 31 King Street, Norwood
3. The number of persons present at 31 King Street, Norwood shall not exceed 30 persons (excluding staff) at any time.

A wedding which was booked on 12 December 2020 was exempt from the terms and allowed to proceed.

To the best of Council's knowledge, Signature Wines have operated in accordance with the agreed temporary terms.

On 1 November 2020, the Council became aware that areas within the building at 33 King Street are being sub-letted by Signature Wines to two different businesses on an ongoing basis. In particular, the lower floor office and warehouse is occupied by ORTC clothing and the upper office is occupied by Neon Treehouse. On review, it is considered that the lower floor business (ORTC) are operating in accordance with the existing use rights (warehouse and ancillary offices), however the upper floor tenancy is being exclusively used as an office not associated to any warehousing activities. This therefore constitutes a change of land use. The description of the development has been amended to reflect the separate office land use.

Subject Land Attributes

Shape:	regular
Frontage width:	22.25 metres
Depth:	46.63 metres
Area:	1038m^2
Topography:	essentially flat
Existing Structures:	two-two storey warehouses.
Existing Vegetation:	mature trees in front yard

A crossover to King Street provides vehicular access to the subject land and access to vehicle parking in front of the building. A central access door and personal access door provide access into the building and offices.

The proposed floor plan of the building is contained in Attachment B7.

Locality Attributes

Land uses:	Commercial and residential
Building heights (storeys):	Mixture of single and two storey

The subject land is located mid-way between Edmund Street to the west and Edward Street to the east. The built form contains a mixture of one and two storey dwellings and commercial buildings. The subject land is in close proximity to residential properties, with the closest dwellings located at 35 King Street (directly adjacent the subject land) and at 11-25 King Street (one allotment removed from the subject land). There are also dwellings on the southern side of King Street, diagonally across from the subject land at 24 King Street.

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

Proposal in Detail

The Applicant is seeking approval for a change of use from a warehouse to a warehouse, office, café and cellar door.

The warehouse component of Signature Wines is used for storage of wines associated with the wholesale distribution business, which is administered from the ancillary offices located on the second floor of 31 King Street.

The café component of the business involves the sale of pastries and coffee from a small 'coffee house' located inside the building.

The cellar door component is proposed to involve the service and sale of wines inside the building, with cheeseboards/nibbles available. In addition, third party food vendors are proposed "on an occasional basis" to sell meals within the building. Whilst the frequency of this has not been defined by the applicant, it is understood based on previous practice that this is likely to occur approximately weekly on a Thursday, Friday or Saturday evening. In responding to concerns raised by representors, the Application has been amended to reduce the maximum allowable number of patrons from 150 to 80.

The Applicant proposes to operate the Warehouse and Café associated with Signature Wines from Monday to Friday 7:00am to 1:30pm and 8:00am to 1:30pm on Saturday, while the cellar door is to operate from 12:00pm to 10:00pm Wednesday to Saturday.
Development Application 155/423/2020 also proposed that the part of the building occupied by Signature Wines would be used as a venue for hire for functions (a function centre), for up to twelve (12) occasions per year. That use is not proposed in the current application.

The part of the building occupied by ORTC Clothing Co comprises a storage area and administration office, both at the ground floor of 33 King Street. Their use of the building is consistent with the existing use rights of the building as a warehouse.

Neon Treehouse, a digital marketing company, occupy the upper level of 33 King Street as an office. This office has an area of approximately 100m^2.

Plans and details of the development are contained within a planning report prepared on behalf of the Applicant by Future Urban **Attachment B**.

Notification

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

Twenty eight (28) representations were received (8 in favour, 20 opposed) in response to the notification, copies of which are contained in **Attachment C**. It is noted that 4 of the 8 representations received in favour of the proposed development are from the same representor, who was notified 4 times as an owner of multiple tenancies within King Street. The key issues raised by representors are, in summary:

- inadequacy of on-site vehicle parking provision
- Traffic congestion in street – illegal parking
- Noise impacts resulting from the proposed use of the land, people occupying the premises (cheering and shouting), music, people leaving the premises and gathering within the carpark.
- Waste collection
- excessive hours of operation
- opening hours of coffee cart/coffee cart creating noise

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

- *Miles Lements Richard Pfitzner*
- *Sarah & Keith*
- *Elizabeth Innes & Geoff Davies*
- *Perry Beasley*
- *Adam Salleh*
- *Patrick Boyten & Catherine Schultz*
- *Paul Edwards*

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

In responding to the representations, the Applicant has suggested that the concerns raised in the representations related to land use stem from the previously refused development Application. The Applicant has advised that the cellar door is not licenced as a 'hotel' and has opined that the cellar door is of a small scale which is ancillary to the predominant warehouse use.

State Agency Consultation

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

Discussion

The subject land is located within the Mixed Use A Zone of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

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

Land Use and Density

The following Development Plan provisions provide guidance on the land uses which are envisaged for the land and managing land use conflict:

Mixed Use A Zone Objective:	1
Mixed Use A Zone PDC's:	1, 3
City Wide Objectives:	1, 7, 10, 26, 27
City Wide PDC's:	1, 3, 4, 12, 86, 89

Objective 1 and Principle of Development Control 1 of the Mixed Use A Zone state respectively:

"Development providing a range of uses including small-scale offices, warehouses and retail showrooms and residential use."

and

"Development in the Mixed Use A Zone should be primarily for offices, retail showrooms and warehouses, with residential development."

The office and warehouse elements of the proposal are envisaged land uses within Principle 1. However, the café and cellar door elements are not the primary land uses envisaged for the Mixed Use A Zone.

Principle of Development Control 3 of the Mixed Use A Zone states:

"The hours of operation of businesses should not detrimentally affect the amenity of the zone."

In addition, the postscript to Objective 1 states, in part;

Activities established on sites within the zone may further develop provided they achieve compatibility with adjoining uses and minimise adverse impacts on the amenity of adjacent properties.

The proposal involves the distribution of the 900m² metres of floor area within the buildings between the warehouse (and ancillary offices), office, cafe and cellar door, with part of the floor area used as a café during morning periods.

The proposed hours of operation extend beyond that typically anticipated with commercial development, and those envisaged by Principle 3, in that typical commercial activities cease between 5pm and 6pm, while the Application proposes hours of operation up until 10pm for the cellar door.

The maximum allowable number of patrons proposed has been reduced from 150 to 80 in response to representations received as part of the notification process. This assists to reduce the impacts on amenity, resulting from people entering, existing and occupying the premises.

The Applicant has advised that background music will be played and will be restricted to within the building, with music volume limited to that contained in City Wide Principle of Development Control 89 which states:

Development proposing music should include noise attenuation measures that achieve the following desired noise levels:

- *Less than 8 dB above the level of background noise (L90,15min) in any octave band of the sound spectrum;*
  and
- *Less than 5 dB(A) above the level of background noise (LA90,15min) for the overall (sum of all octave bands) A-weighted level;*

adjacent existing noise sensitive development property boundary.

In addition, in the response to representations, the Applicant has advised that no food trucks will serve food within the car parking area, with third party catering to be located within the existing building along with the cellar door areas.

The applicant has suggested that the proposed cellar door use is minor and ancillary in the context of the warehouse use. Clearly it is not an ancillary use, but rather a use in its own right. If it was an ancillary use, there would be no need to seek development approval. An example of an ancillary use to the warehouse would be a small wine tasting area where prospective customers are able to sample the wine prior to purchase. The proposed cellar door is a very different proposition, as it is intended to attract large numbers of patrons at any given time (up to 80 people) to drink, socialise and sometimes consume meals. Given that it is proposed in association with a winery, 'cellar door' is the most appropriate title for this. In a different context, the same use might be titled a wine bar, restaurant or bar.

The nature of the proposed use, with up to 80 persons consuming alcohol and socialising in the evening, can be conducive to boisterous behaviour, which can lead to impacts on the amenity experienced by residents within the locality.

Carparking/access/manoeuvring

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

City Wide Objectives:	34
City Wide PDC's:	109, 110, 119, 120, 122, 123, 124, 125, 126 127 &129

City Widen Objective 34 and Principles of Development Control 120 and 122 state respectively:

"Development which provides adequate and safe car parking appropriate to the demands generated."

and

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

3 Development should provide off-street vehicle parking in accordance with the table(s) below. A lesser number of parking spaces may be provided based on the nature of the development and parking conditions in the wider locality including (but not limited to) the following:
(a) the development is a mixed use development with integrated (shared) parking where the respective peak parking demands across the range of uses occurs at different times;

The subject land contains 8 vehicle parking spaces, located across the front of 31 and 33 King Street, which are accessed via a central crossover from King Street.

The City of Norwood Payneham & St Peters Development Plan Table NPSP/9 provides parking rates for warehouses (and ancillary offices) of 3 spaces per 100m² for office component plus 1 space per 100m² of non-office component, while stand-alone offices should be provided a rate of 4 per 100m². The Development Plan does not provide a car parking rate applicable to a cellar door. The previous Development Application (155/423/2020) was assessed using a rate of 11 spaces per 100m² for the cellar door component; being the rate which is recommended in Aurecon's "Parking Places for Urban Places" study report for hotels and taverns.

The Applicant has provided a traffic report by Ben Wilson from CIRQA, who recommends applying a rate of 5 spaces per 100m² of floor area for the cellar door. Mr Wilson questions the use of a hotel/tavern rate, suggesting that the rate in the Development Plan which applies to a shop greater than 250m² is more appropriate. He has also stated that even if a hotel/tavern rate was used, then based on recent site surveys of hotels by Cirqa, the rate varies between 2.0 and 5.4 spaces per 100m². Without knowing the detail of those surveys, including when they were undertaken, it is difficult to compare the results to the peak parking demand associated with the proposed use.

Regardless, even if the rates suggested by Mr Wilson are applied, the car parking demand associated with the proposed uses of the subject land far exceeds the supply, as set out in Table 1 below.

TABLE 1: VEHICLE PARKING SUPPLY AND DEMAND ANALYSIS

Land Use	Floor Area (Gross m²)	Spaces per 100m²	Total spaces
Ancillary Office/showroom	96	3	2.9
Warehouse	413	1	4.1
Office (stand-alone)	96	4	3.8
Cellar Door	290	5	14.5
Spaces Required			25 spaces
Spaces Provided			8 spaces
Shortfall			17 spaces

The above parking rates result in a parking demand of 25 vehicle parking spaces (rounded down), which represents a shortfall of 17 vehicle spaces.

In reviewing this shortfall, it is important to consider two factors; the existing parking demands of the current approved use of the subject land, and the fact that the individual components of the proposed land uses do not all operate concurrently.

The parking demand and supply for the existing land use has been determined and is detailed in Table 2 below. This differs from what was previously reported to the Panel and what Mr Wilson has referred to in his report, as the existing authorised situation has been more accurately determined based on previous Development Approvals. In particular, space which was previously assumed to have been approved for office space appears most likely to have been originally approved as storage space and 2 additional car parking spaces were approved inside the building of 31 King Street.

TABLE 2: EXISTING USE RIGHTS CAR PARKING SUPPLY AND DEMAND ANALYSIS

Land Use	Floor Area (Gross m²)	Spaces per 100m²	Total spaces
Office	100	3	3
Warehouse	800	1	8
Spaces Required			11
Spaces Provided			10 spaces
Shortfall			1 space

The traffic report by CIRQA separates the warehouse (and ancillary office) and café uses from the cellar door, based on differing peak periods (am/pm), and provides a shortfall of 4 spaces for both am and pm periods.

However, Mr Wilson did not take into account that the office occupied by Neon Treehouse is a stand-alone office and therefore applied the incorrect rate. Applying the correct rate, during morning periods, the proposal creates a demand for 11 spaces for the office, warehouse and café activates, which creates a shortfall of 3 vehicle spaces. This represents an increase in shortfall of 2 spaces during the day compared to the existing use rights and approvals.

During the evening, the proposal creates a demand for 15 car parking spaces (applying the rate recommended by Mr Wilson of 5 spaces per 100m^2), which creates a shortfall of 7 spaces. Given that there is no approved evening use, this represents an increased shortfall of 7 spaces in the evening also.

The car parking shortfall created during the evening period, is likely to have a greater impact on the residential amenity than the daytime shortfall and is not reasonably anticipated within a Mixed Use Zone.

There are a number of parking controls in place along King Street, which includes no parking and loading zones along the northern side, while the southern side contains 2 hour parking Monday to Friday 9am – 5pm and Saturdays 9am to 12pm which regulates on street parking opportunities.

The Applicant has nominated to install 8 bicycle spaces and has included indicative locations on the site plan. The location provided is in close proximity to designated parking spaces and is not considered a practical location for bicycle parking. The Development Plan requirement for bicycle parking (Table NPSP/10) has been calculated within Table 3 below. It should be noted that the bicycle parking criteria in the Development Plan is in addition to the car parking criteria, not as a substitute.

TABLE 3: BICYCLE PARKING SUPPLY AND DEMAND ANALYSIS

Land Use	Floor Area (Gross)	Parking per m² (employee)	Parking per m² (customer)	Total Bicycle parks
Office	260	1 per 100m²	2 plus 1 per 500m²	5.1
Cellar Door	239	1 per 150m²	1 per 300m²	3.2
Total	499			8.3

The Development Application is considered to be inconsistent with the relevant Development Plan provisions regarding vehicle parking, resulting in pressure on the on-street parking within the area and impacts on amenity of residents in the area.

Summary

The Applicant is retrospectively seeking consent to change the use of the land from a warehouse to a warehouse, office, café and cellar door. As a result of public notification and discussions with Council staff, the Application has been amended to reduce the maximum number of patrons from 150 to 80 in order to lessen the potential impact to surrounding residents and businesses.

It is noted that all envisaged uses within the Mixed Use A Zone (office, retail and warehousing) are all uses which do not attract large numbers of visitors, either inside or outside of typical business hours. Many of the representations received relate to the impacts associated with people leaving the subject land once the business has closed. A cellar door of the nature which is proposed, by its very nature attracts large numbers of people to an area outside of typical business hours, unless it is limited both in its hours of operation, and in its patronage.

In this respect the Application has been amended to limit the number of patrons to 80, while the hours of operation have remained unchanged. While this represents a significant reduction in the maximum number of patrons, it remains a large number of people in the context of the site, its setting and the available on-site car parking.

The car parking report by Cirqa does not take into account the stand-alone office use of 100m^2 within the building, instead treating it as office space ancillary to a warehouse. The report also uses incorrect information on the car parking supply/demand equation associated with the existing use rights of the land and building. Based on the correct information, even if the rate of 5 spaces per 100m^2 is used for the cellar door as recommended by Cirqa (contrary to the Aurecon study findings), the proposal results in an increased shortfall of 2 spaces during the day and 7 spaces during evening, compared to the existing use rights and approvals.

While it is considered that there may be opportunity for a cellar door to operate at 31 and 33 King Street, the proposed development is likely to create parking and noise impacts outside of typical business hours.

On balance, it is considered that the proposal is not seriously at variance with the Development Plan however does not sufficiently accord with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **refused** to Development Application No 155/777/2020 by Signature Wines for a Change of use from a warehouse to a warehouse, office, café and cellar door on the land located at 31&33 King Street, Norwood, for the following reasons:

1. The proposed use of the building is not compatible with nearby residential land uses, contrary to Objective 1 of the Mixed Use A zone.

2. Insufficient on-site car parking is available to cater for the demand generated by this proposal

Item removed from Council Assessment Panel Agenda

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/449/2019 – AGOSTINO AM/PM PTY LTD – 1 HARROW ROAD AND 77 PAYNEHAM ROAD, ST PETERS

DEVELOPMENT APPLICATION:	**155/449/2019**
APPLICANT:	**Agostino AM/PM Pty Ltd**
SUBJECT SITE:	**1 Harrow Road and 77 Payneham Road, St Peters (Certificate of Title Volume: 5732 and 5449 Folio: 554 and 829)**
DESCRIPTION OF DEVELOPMENT:	**Redevelopment of an existing service station: comprising the construction of a new canopy over new customer fuelling stations; construction of a two-storey building comprising petrol filling point of sale and retail/convenience shop at ground floor and office area at upper floor; construction of a fast-food restaurant with an associated drive-through facility; construction of a 6.0 metre high freestanding pylon business identification sign; construction of masonry boundary walls and fencing ranging in height between 2.4 and 4.1 metres; car parking and landscaping**
ZONE:	**Mixed Use Historic (Conservation) Zone (Payneham Road Policy Area) - Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)**
PUBLIC NOTIFICATION CATEGORY:	**Category 2**

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the redevelopment of an existing service station: comprising the construction of a new canopy over new customer fuelling stations; construction of a two-storey building comprising petrol filling point of sale and retail/convenience shop at ground floor and office area at upper floor; construction of a fast-food restaurant with an associated drive-through facility; construction of a 6.0 metre high freestanding pylon business identification sign; construction of masonry boundary walls and fencing ranging in height between 2.4 and 4.1 metres; car parking and landscaping.

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

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

Subject Land Attributes

Shape:	irregular (ie. as a results of both allotments comprising the subject land)
Frontage width:	77.7 metres to Payneham Road and 42.4 metres to Harrow Road
Depth:	42.4 – 70.0 metres
Area:	3600m^2

Topography:	essentially flat
Existing Structures:	single-storey integrated petrol filling station, fuelling area canopy, an automated carwash facility and a warehouse building (located at the rear of 77 Payneham Road)
Existing Vegetation:	one mature tree and some small shrubs - none of which are identified as being Regulated Trees

The petrol filling station is a long-standing use, which pre-dates planning legislation and therefore, there are no conditions upon its operations, such as hours of operation.

Locality Attributes

Land uses:	mixture of business and commercial uses along Payneham Road with residential land uses along Harrow Road
Building heights (storeys):	predominantly single-storey with several examples of two-storey

The locality is characterised by a range of land uses including a hospital and consulting rooms, shops and offices fronting Payneham Road. The Harrow Road part of the locality is characterised by residential development in the form of historical building stock, primarily villas and symmetrical cottages. The immediate locality, defined by the Payneham Road and Harrow Road intersection, is dominated by the existing 24 hour BP petrol filling station located on the subject land and the 'Sportsmed' hospital and consulting room facility directly to the east of the subject land on Payneham Road.

The subject land is located within the Mixed Use Historic (Conservation) Zone, and more specifically, the Payneham Road Policy Area, as identified within the Council's Development Plan.

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

Proposal in Detail

The Applicant seeks consent to redevelop the existing service station on the site. In particular, the proposal includes the construction of a canopy over a new customer fuelling stations; the construction of a two-storey building comprising petrol filling point of sale and retail/convenience shop at ground floor and office area at upper floor; the construction of a fast-food restaurant with an associated drive-through facility; the erection of a 6.0 metre high freestanding pylon business identification sign (in association with the fast-food restaurant located adjacent the Payneham Road frontage); the construction of a combination of masonry boundary walls and Colorbond fencing ranging in height between 2.4 – 4.1 metres; the creation of 26 car parking and landscaping.

The proposed two-storey building comprises a floor area at ground level of 350m^2 and 200m^2 at upper level. At ground level, the proposal involves a combined petrol point-of-sale and retail shop area along with storage and bathroom facilities, whilst at upper level, 200m^2 of office area with associated amenities is proposed.

The proposed two-storey building facade addresses both Payneham Road and Harrow Road and is to be situated at 1 Harrow Road. The building comprises a combination of commercial aluminium glazing, pre-painted CFC (compressed fibre cement and colour Dulux Domino) cladding with expressed joints and composite aluminium cladding (colour Colorbond Surfmist).

The single-storey fast-food restaurant building is to be situated on 77 Payneham Road. The building comprises a combination of pre-painted CFC cladding (colour Dulux Silk Stocking), Scyon Axon cladding (colour Signal Red with Black Feature Wash) and face-mounted business identification signage. A freestanding 6.0 metre high pylon business identification sign is proposed adjacent the Payneham Road frontage.

The proposed fast-food restaurant includes a designated drive-through facility. Vehicular access to the drive through area commences in between the proposed canopy over the new customer fuelling stations and the single-storey fast-food building. Vehicles are to exit the drive through adjacent the north-eastern side boundary onto Payneham Road.

In terms of hours of operation, the Applicant seeks to have 24-hour operation enabled for both the petrol filling station and the fast-food restaurant.

The proposal also includes the creation of 26 on-site car parking spaces, the majority (ie. 23 spaces) of which are to be located on 1 Harrow Road.

Along the north-eastern side boundary of 77 Payneham Road and adjacent the drive-through area, a combination of Colorbond fencing ranging in height between 2.4 - 3.0 metres in height and a 4.1 metre high pre-cast masonry wall are proposed. Along the north-western side boundary of 1 Harrow Road and north-western rear boundary of 77 Payneham Road, and in particular commencing at the junction of the 77 and 79 Payneham Road, a 4.1 metre high precast masonry wall is proposed which is to extend for the length of the rear boundary of 77 Payneham Road and returns along the south-western side boundary of 77 Payneham Road. For the north-western side boundary of 1 Harrow Road, the existing 2.4 metre high masonry block wall is to be raised from 2.4 to 4.1 metres in high which is to extend up to the existing carwash building situated adjacent this boundary. The existing 2.4 metre high masonry block wall, located between the south-western face of the existing carwash and the Harrow Road property boundary is to be retained in its current form.

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

Notification

Pursuant to Mixed Use Historic (Conservation) Zone Principle of Development Control 22, all forms of development (except where the development is classified as non-complying) in the Payneham Road Policy Area not listed as Category 1, are identified and processed as a Category 2 form of development.

Three (3) representations were received (two in opposition and one in favour) in response to this notification, copies of which are contained in **Attachment C**. The key issues raised by representors are, in summary:

- impact on the living amenity;
- increased traffic volumes;
- increase in noise and nuisance related activities;
- increase in litter;
- overlooking concerns;
- concerns with proposed hours of operation;
- loss of access to sunlight (ie. 79 Payneham Road)
- concerns with odour impacts on surrounding residential properties from the proposed fast food restaurant; and
- concerns with the provision of car parking.

The following representor desires to be heard personally by the Panel, in support of their representation:

- *Mr and Mrs Paschero; and*
- *Mr Mellor.*

Through their Planning Consultant, Mr Michael Osborn of Future Urban, the Applicant has responded to the representations received and a copy of their response is contained in **Attachment D**.

State Agency Consultation

The Application was referred to the Commissioner of Highways pursuant to Schedule 8 of the *Development Regulations 2008,* as the proposed development includes the alteration of an access point to an arterial road (Payneham Road). The Commissioner of Highway's response is discussed in detail under the heading *Car parking/access/manoeuvring* later in the report.

Discussion

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

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

Land Use

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

Payneham Road Policy Area Desired Character Statement
Payneham Road Policy Area Objectives: 1, 2 and 3
Payneham Policy Area Principles of Development Control: 2

Mixed Use Historic (Conservation) Zone Desired Character Statement
Mixed Use Historic (Conservation) Zone Objectives: 3
Mixed Use Historic (Conservation) Zone Principles of Development Control: 1 and 4.

City Wide Objectives: 2, 7, 26 & 27
City Wide Principles of Development Control: 1, 4, 6, 83 & 84

Payneham Road Policy Area, Objective 3 states:

"The retention and promotion of the Payneham Road Policy Area as a mixed use strip comprising shops, offices, consulting rooms, residential, administrative and civic/cultural facilities."

The subject land has existing use rights as a 24 hour integrated petrol filling station, shop and carwash facility. The proposal seeks to maintain these existing uses and to integrate two additional land uses in the form of an office and a fast-food restaurant. In terms of definition, Schedule 1 of the *Development Regulations 2008* defines a restaurant as a form of shop. Shops are clearly anticipated by Payneham Road Policy Area, Objective 3, as stated above. Similarly, an office is an anticipated land use. Therefore, the proposed fast-food restaurant and office uses are considered appropriate in terms of a land use consideration within this particular Policy Area.

That said, careful consideration needs to be given to the likely impacts associated with the operation of the proposed fast-food shop adjacent residential properties on both Harrow Road and Payneham Road and in particular, the operational impacts that have the potential to affect the amenity of adjacent residential properties, such as impacts from noise and odour.

Impact on residential amenity/noise and odour

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

City Wide Objectives: 26 & 27
City Wide Principles of Development Control: 80, 82, 83, 84 & 85
Noise Generating Activities – 86, 87, 88 & 89.
Air Quality – 90 & 91.

Noise

City Wide Principles of Development Control 80, 84, 86, 87 and 89 state the following respectively:

Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:

(a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants;
(b) noise;
(c) vibration;
(d) electrical interference;
(e) light spill;
(f) glare;
(g) hours of operation; or
(h) traffic impacts.

Non-residential development on land abutting a residential zone or within a residential zone should be designed to minimise noise impacts and achieve adequate levels of compatibility between existing and proposed uses.

Development that emits noise (other than music noise) should include noise attenuation measures that achieve the relevant Environment Protection (Noise) Policy criteria when assessed at the nearest existing noise sensitive premises.

Development with the potential to emit significant noise (e.g. industry) should incorporate noise attenuation measures that prevent noise from causing unreasonable interference with the amenity of noise sensitive premises.

Development proposing music should include noise attenuation measures that achieve the following desired noise levels:

Noise level assessment location	***Desired noise level***
Adjacent existing noise sensitive development property boundary	*Less than 8 dB above the level of background noise (L90,15min) in any octave band of the sound spectrum;* *and* *Less than 5 dB(A) above the level of background noise (LA90,15min) for the overall (sum of all octave bands) A-weighted level.*
Adjacent land property boundary	*Less than 65dB(Lin) at 63Hz and 70dB(Lin) in all other octave bands of the sound spectrum;* *or* *Less than 8 dB above the level of background noise (L90,15min) in any octave band of the sound spectrum and 5 dB(A) overall (sum of all octave bands) A-weighted level.*

The Applicant has provided a report (contained in **Attachment B33 – B48**) from Mr Brad Miller, an acoustic engineer from Resonate Consultants, that details the extent of anticipated noise impact on adjacent residential occupiers as a result of the proposal and also recommends acoustic treatment to ameliorate any unreasonable noise impacts that would otherwise occur.

Council staff engaged the services of a consulting acoustic engineer, Mr Chris Turnbull of Sonus, to undertake a review of the report prepared by Mr Miller and assess the likely noise and acoustic impacts of the proposed development. Mr Turnbull raised a number of concerns with the methodology and conclusions that were derived by Resonate Consultants in their analysis, which in turn were referred back to the Applicant to address.

A copy of Mr Turnbull's report is contained in **Attachment E**.

A copy of the subsequent report by Resonate Consultants in response to concerns raised by Mr Turnbull are contained in **Attachment D101 – 127** and **Attachment F** respectively.

The subsequent reviews and reports undertaken by Mr Turnbull are contained in **Attachment G, H** and **I**.

The treatments and measures that have been recommended by Mr Turnbull reflect the recommendations put forward by Resonate Consultants with an additional recommendation in the form of a condition that limits noise from the proposed development as detailed in *Table 3 – Summary of the Noise EPP Criteria* of the Resonate Consultants report (ie. contained in **Attachment F11**).

Receptor	Noise EPP criteria, dB(A)	
	Day (7 am to 10 pm)	Night (10 pm to 7 am)
Residences on Payneham Road	L_{eq} 52	L_{eq} 45
Residences on Harrow Road	L_{eq} 50	L_{eq} 43 / L_{max} 60

Based on the advice of the two acoustic experts, the proposed development is not expected to generate noise impacts in excess of those contemplated in City Wide Principle of Development Control 89.

Having regard to the advice from both Mr Turnbull and Resonate Consultants, the anticipated noise generating activities are not considered to result in an unreasonable impact on neighbouring residential properties, subject to the acoustic measures recommended and more specifically, not in excess of those contemplated in City Wide Principle of Development Control 89.

Odour

City Wide Principles of Development Control 80(a), 90 and 91, state the following respectively:

Development should not detrimentally affect the amenity of the locality or cause unreasonable interference through any of the following:

(a) the emission of effluent, odour, smoke, fumes, dust or other airborne pollutants;

Development with the potential to emit harmful or nuisance-generating air pollution should incorporate air pollution control measures to prevent harm to human health or unreasonable interference with the amenity of sensitive uses within the locality.

Chimneys or exhaust flues associated with commercial development (including cafes, restaurants and fast food outlets) should be designed to ensure they do not cause a nuisance or health concerns to nearby sensitive receivers by:

(a) incorporating appropriate treatment technology before exhaust emissions are released to the atmosphere; and
(b) ensuring that the location and design of chimneys or exhaust flues maximises dispersion and takes into account the location of nearby sensitive uses.

The Applicant had provided an initial odour assessment report prepared by Air Quality Professionals (contained in **Attachment B49 – 114**) that details the proposed odour treatment measures associated with the associated with the proposed development.

In order to assess the potential odour impacts associated with the proposed Carl's Jr fast-food restaurant component of the proposal, staff engaged the services of a consulting engineer, Mr Johan Meline of SLR Consulting Australia.

A summary of the initial advice provided by Mr Meline is set out below:

- *Overall, I do not disagree with the conclusion in the report that odour from the proposed development may occasionally be noticed at the nearest receptors. However, the predicted levels of odour are not well below the relevant Air EPP odour assessment criteria as stated in the report as the wrong assessment criterion has been used.*

- *Application of the correct odour assessment criterion of 2 ou shows that the predicted levels of odour represent more borderline compliance, and in fact that the roof top vent option does not demonstrate compliance. The modelling shows that a stack is required to meet 2 ou at the closest sensitive receptor locations. Also, the odour emissions may have been underestimated if the activated carbon filter performance has been overestimated.*

- *Given the above, the stack option referred to as Option 2 in the report should be required.*

- *It should also be requested that the proposal addresses the 50 m evaluation distance for air quality for petrol stations.*

- *If appropriate as part of development approval, it should also be required that:*
  - An odour management plan is prepared and implemented.
  - The efficiency/performance of the odour control unit is evaluated, once in operation.

A copy of Mr Meline's initial report is contained in **Attachment J**.

In response to Mr Meline's concerns and queries, the Applicant provided supplementary information, contained in **Attachment K** and **Attachment L.**

Mr Meline has subsequently reviewed the supplementary information contained in **Attachment K** and **Attachment L** and has concluded that the proposed odour management system is a good solution subject to it being properly maintained on an ongoing basis. A copy of Mr Meline's analysis is contained in **Attachment M**.

Should the Panel determine to approve the proposed development, it is recommended that a condition of consent be imposed requiring that the ongoing maintenance of the proposed carbon filtration system in order to ensure the continual optimal performance of the odour control system is maintained.

On this basis, the proposal is considered to satisfy City Wide Principles of Development Control 83(a), 93 and 94 with respect to odour emissions and odour control from the proposed fast-food restaurant.

streetscape/bulk/scale/height/character/heritage

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

Payneham Road Policy Area Desired Character Statement
Payneham Policy Area Principles of Development Control: 4 & 5.

Mixed Use Historic (Conservation) Zone Objectives: 2
Mixed Use Historic (Conservation) Zone Desired Character Statement
Mixed Use Historic (Conservation) Zone Principles of Development Control: 5, 6, 7, 9 & 10

City Wide Objectives: 8, 18, 19 & 20
City Wide Principles of Development Control: 29 – 35, 37, 38, 39, 40, 45, 46, 47 & 48

The proposed two-storey and single-storey buildings accord with Payneham Road Policy Area Principle of Development Control 5, which states that development should not exceed two storeys in height above natural ground level.

The proposed two-storey building has been sited and designed so that it primarily addresses Payneham Road, which is considered appropriate given that Payneham Road is an arterial road characterised by commercial development and several large scale buildings located adjacent the subject land.

The single-storey building containing the fast-food restaurant has a similar overall height and width to the two adjacent dwellings to the northeast at 79 and 81 Payneham Road.

In terms of the built form character of the locality, outwardly two-storey commercial development is particularly evident within the immediate area directly across the road at 32 (ie. Sportsmed SA), 38, 52 and 56 Payneham Road. On the same side of Payneham Road as the subject land, a two-storey commercial building, located at 83 Payneham Road, is a two-storey commercial building.

Mixed Use Historic (Conservation) Zone Principle of Development Control 6(d) &(e) and City Wide Principle of Development Control 30, state the following respectively:

Development in the Mixed Use Historic (Conservation) Zone should:
(d) be of a high-quality, contemporary design that reinforces the siting and alignment pattern prevailing in the streetscape;
(e) be designed to be of a bulk, scale and visual interest at least equal to that of the adjacent buildings in the streetscape, where:
(i) the development is situated on land in a strategic or prominent location, such as a corner;
(ii) the development is at the termination of a vista; or
(iii) a strong street presence is desirable; and
for each of the above, the heritage value or historic character of the locality is not diminished

and

Except where the zone or policy area objectives, principles of development control and/or desired character of a locality provide otherwise, new buildings:
(a) may be of a contemporary appearance and exhibit an innovative style;
(b) should complement the urban context of existing buildings on adjoining and nearby land in terms of:
(i) maintenance of existing vertical and horizontal building alignments
(ii) architectural style, building shape and the use of common architectural elements and features;
(iii) consistent colours, materials and finishes; and
(c) should not visually dominate the surrounding locality.

The contemporary design approach, visual bulk and architectural scale of both buildings is considered to be consistent with both of the above stated principles, in that the building complements the existing urban character of the Payneham Road locality and will not visually dominate the surrounding area.

City Wide Principle of Development Control 36 states (in part) the following:
"Development on corner allotments should:
(a) reinforce the primary and secondary street frontages of the subject site with highly articulated building forms.

The proposed two-storey building maintains its contemporary and articulated design appearance to the Harrow Road frontage, which is consistent with Principle 36(a), in that it addresses both street frontages given the highly visible nature of 1 Harrow Road when viewed within a streetscape context.

Both buildings have a good degree of articulation and incorporate a mix of materials including a combination of lightweight express jointed panel walls as well as commercial glazing. It is considered that the high quality appearance of the two-storey building in particular, will ensure that the character and visual amenity of the locality is maintained.

As the subject land is located within a Historic (Conservation) Zone, the Council's Heritage Advisor, David Brown, reviewed the proposal and has advised:

"the general size, location and setback of the proposed new structures seem to be acceptable. The new fuel canopy is set further back on the site in line with the new petrol station building which are loosely the same setback as the remaining older buildings to the north east of the site. The new restaurant building is set further back than the adjacent house to the north east, and the main petrol station building has a much smaller footprint than the earlier scheme."

With respect to the proposed business identification signage, Mr Brown has advised that *"the signage on the proposed buildings appears to be relatively modest given the size of the site and the buildings*."

A copy of the Council's Heritage Advisor's comments are contained in **Attachment N**.

The proposed new fuel canopy will be of similar proportions to that of the existing fuel canopy that occupies the site and is considered acceptable.

On balance, the outwardly contemporary design of the two-storey building is considered to be acceptable from a bulk, scale and streetscape perspective, in that the resulting built form is not considered to have any unreasonable impacts on the character of the streetscape nor the amenity of adjacent property occupiers and nor the Mixed Use Historic (Conservation) Zone.

Setbacks

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

Mixed Use Historic (Conservation) Zone Desired Character Statement
Mixed Use Historic (Conservation) Zone Principles of Development Control: 11

City Wide PDC's: 50, 51, 52 & 55.

Table NPSP/3

There are no quantitative guidelines within the Development Plan for side setbacks within the Mixed Use Historic (Conservation) Zone. However, Mixed Use Historic (Conservation) Zone Principle of Development Control 11 provides a qualitative guide for setbacks within the Zone. In particular, it states:

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

Table NPSP/3 stipulates building quantitative setbacks for development located within the former St Peters Council area. As such, Table NPSP/3 prescribes a 10.5 metre setback from Payneham Road. The closest structures to the Payneham Road frontage are the proposed two-storey building and the new fuel canopy which are setback 11.3 and 11.6 metres respectively, therefore satisfying the setback requirement of Table NPSP/3.

City Wide Principle of Development Control 50 states the following:
"The setback of buildings should:

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

At the closest point, the proposed new two-storey building is set back 11.3 metres from the Payneham Road property boundary, which is greater than the directly adjacent single-storey building at 79 Payneham Road, which has a setback of 9.5 metres (when measured the front verandah) from Payneham Road. The group of three single-storey buildings located at the intersection of Payneham Road and Harrow Road have minimal setbacks form Payneham Road.

On this basis, the proposed development is considered to be consistent with City Wide Principle of Development Control 50, which requires buildings to be set back from public roads at a compatible distance to buildings on adjacent and nearby land, without comprising the appearance and character of the locality.

With regard to the predominant setback pattern on the north-eastern side of Harrow Road, this consists of dwellings at 3, 5, 7 and 9 Harrow Road having a consistent staggered alignment setback pattern ranging between 5.5 and 7 metres from the street. The proposed setback of 9.2 – 10 metres from Harrow Road to the new two-storey building is greater than the front setback pattern of the neighbouring dwellings on Harrow Road. The proposed set back from Harrow Road is considered to be relatively compatible with the

neighbouring dwellings at 3, 5, 7 and 9 Harrow Road without comprising the appearance and character of the neighbouring Residential Historic (Conservation) Zone. In particular, when viewed from the junction of Harrow Road and Payneham Road, the proposed setback from Harrow Road would maintain a relatively open outlook onto these four neighbouring Contributory Items when viewed from this location.

The distance from the north-western side of the new two-storey building to the south-eastern side of the dwelling at 3 Harrow Road is approximately 24 metres with the north-western elevation of the proposed two-storey building set back 7.0 metres from the eastern side boundary of the property at 3 Harrow Road. The setback from the north-western side boundary is considered to provide for adequate visual separation between the proposed two-storey building and adjacent property at 3 Harrow Road given the extent and location of the outbuildings that are located within rear yard area of this adjacent residential property. On this basis, the side setback to the new two-storey building from Harrow Road is also considered appropriate.

Overall, the proposed setbacks are considered to be in acceptable in that they are considered to complement the existing setbacks of buildings on directly adjacent and nearby land.

Signage

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

Mixed Use Historic (Conservation) Zone Principles of Development Control:	19 & 20.
City Wide Objectives:	115, 116 & 117.
City Wide PDC's:	380 - 341

A 6.0 metre high pylon sign is proposed adjacent the Payneham Road frontage of the subject land, as well as a number of signs along the facades of both the two-storey building and the single-storey building (ie. along the Payneham Road frontages). The extent of proposed signage on the two-storey building is considered to be relatively minimal and is suitable and in keeping with the contemporary architectural design of the building. The extent of proposed signage on the single-storey fast-food restaurant building is also relatively minimal and comprises a combination of business identification and food/product related advertising.

Given that the overall height of the proposed pylon sign corresponds with the overall height of the of the single-storey fast-food restaurant building and that the length of the Payneham Road frontage of the subject land is 77.7 metres, the proposed pylon sign is considered to be consistent with City Wide Principle of Development Control 380 and 384, which state the following respectively:

The location, siting, size, shape and materials of construction, of advertisements should be:

(a) consistent with the desired character of areas or zones as described by their objectives;
(b) consistent with the predominant character of the urban landscape; or
(c) in harmony with any building or site of historic significance or heritage value in the locality.

and

The scale of advertisements should be compatible with the buildings on which they are situated and with nearby buildings and spaces.

Car parking/access/manoeuvring

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

City Wide Objective:	34
City Wide Principles of Development Control:	98, 100, 101, 102, 103, 104, 107, 109, 110, 112, 113, 115, 117,118, 119, 120, 123, 124, 126, 127, 128, 129, 131 & 133.

Table NPSP/9A

There are currently four vehicle crossovers along the Payneham Road frontage of the subject land. The Applicant seeks to extinguish the second most northern crossover. The proposal was referred to the Transport Assessment and Policy Reform branch of the Department of Infrastructure and Transport (DIT) pursuant to Schedule 8 of the *Development Regulation 2008*.

DIT advised the Council that they are supportive of the proposed development subject to inclusion of twelves (12) conditions of consent.

A copy of DIT's report is contained in **Attachment O**.

The Council's Planning staff engaged the services of a Traffic Planner, Mr Paul Simons of Tonkin Consulting, to review the proposed parking provision and configuration of the proposed development from a traffic and parking perspective. Mr Simon's raised two concerns, which are as follows:

- *lack of car parking supplied. Noted that it almost meets the requirements in Council's development plan, however, it is likely that there will be a practical undersupply of parking:* and
- *turning movements shown around the drive-through are very tight on the exit and appear to touch the building line. Clarity is needed on the design vehicle, however there is a concern that vehicles will hit the building.*

A copy of Mr Simons report is contained in **Attachment P**.

In terms of the car parking provision, the original proposal which was reviewed by Mr Simons comprised the provision of 23 car parking spaces.

Table NPSP/9A identifies the Payneham Road Policy Area of the Mixed Use Historic (Conservation) Zone as a Designated Area and as such, a minimum number of car parking spaces of 3 spaces per 100m² of gross leasable floor area applies.

In Mr Simons' report, he explains car parking rates within the Designated Area as a rate that *"treats all components of the development as having a similar parking demand, or at least non-conflicting peak times for each component of the development, to enable an efficient shared use of available parks".*

In terms of the individual components and their respective floor areas of the proposed development, they comprise the following:

- point of sale/retail/convenience shop: 350m²;
- office: 200m²; and
- fast-food restaurant: 305m²

Total: 855m²

The rate of 3 spaces per 100m² of gross leasable floor area to the 855m² of floor area equates to a car parking demand of 26 spaces, which in turn resulted in a shortfall of 3 car parking spaces. In light of the concerns raised by Mr Simons, the Applicant has subsequently amended the development application, such that the total number of car parking spaces is now 26 spaces. The additional 3 spaces have been created by factoring in an additional space adjacent the junction of Harrow Road and Payneham Road (previously only 2 spaces occupied this area) and 2 additional spaces adjacent the existing dog wash facility, located adjacent to the north-western boundary.

The amended car parking configuration has been referred to Mr Simons who has acknowledged that the amended application satisfies the quantitative requirement detailed in Table NPSP/9A.

That said, Mr Simons has stated in his commentary that he remains concerned that in a practical sense, there may be insufficient on-site car parking provision to accommodate the likely demand, particularly in relation to the fast-food restaurant component. Notwithstanding that this may be the case, the proposed development satisfies the applicable car parking rate specified in the Development Plan.

With respect to the concerns identified regarding the turning movements shown around the drive-through, the Applicant provided vehicle swept paths which Mr Simons has reviewed and has confirmed are adequate and therefore, overcome his initial concerns.

Mr Simon has advised that the two new car parking spaces adjacent the dog wash facility located next to the north-western boundary, should be reconfigured in width from 2.5 metres (ie. noted as space "09") and 3.2 metres (ie. noted as space "VB01") to 2.7 metres and 3.0 metres respectively. This is to ensure that there is ability for cars, parked in either of these two spaces, to be able to open their doors fully when the adjacent vacuum is being utilised.

Should the Panel determine to approved this proposed development, it is recommended a condition of consent be imposed requiring that the width of these two space be adjusted as recommended by Mr Simons.

A copy of Mr Simons' updated analysis is contained in **Attachment Q**.

Based on Mr Simons' analysis, the layout and configuration of the car park areas, the arrangements are generally consistent with *Australian/New Zealand Standard 2890.1:* 2004 *Parking facilities Part 1: Off-street car parking*, in terms of the bay lengths, bay widths and aisle widths. Overall, the car parking provision is considered acceptable and the development is considered to enable safe and convenient access/egress to the subject land and therefore accords with City Wide Objective 34 and Principles of Development Controls 113 respectively.

Finished floor levels/flooding/retaining

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

City Wide Objectives:	25 & 42.
City Wide Principles of Development Control:	10, 147, 148, 149, 151, 152, 153, 154, 155, 156, 162, 165 & 166.

A relatively small portion of the southernmost section of 1 Harrow Road is situated within the 1 in 100 year ARI flood plain.

In terms of stormwater requirements, the proposed development is to be situated on a site that is currently almost entirely impervious, apart from the small sections of landscaped area adjacent Payneham Road and Harrow Road frontages.

The Stormwater Management Plan (ie. **Attachment B22 – B32**) prepared by PT Design was reviewed by the Council's Project Manager, Civil, who has advised that in principle, he is satisfied that the proposal conforms to the Council's Urban Services stormwater management requirements, with respect to managing volumes of stormwater discharged from the site.

However, the Project Manager, Civil has requested that should the Panel determine to approve the proposed development, the following two conditions of consent should be imposed:

- The SPEL Puraceptor retention separator tank is to be cleaned and maintained on an ongoing regular basis to the reasonable satisfaction of the Council or its delegate; and
- The capacity of the SPEL Puraceptor retention separator tank shall be a minimum of 70,000 litres (ie. the P040 – Puraceptor™ Class 1 - oil capacity 70,000 litre unit).

Trees (significant, mature & street) and landscaping

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

City Wide Objectives:	24
City Wide PDC's:	73 – 78.

There are no significant or regulated trees on the subject land. Thera are two mature street trees located adjacent the Payneham Road frontage of the subject land and there are also several low-level pants adjacent the perimeter boundaries of the subject land - it is reasonable to say that the landscaping arrangement is currently not cohesive and maintained in an orderly manner.

The Applicant has not provided a landscaping plan with the Application. Notwithstanding this, it is foreseeable that any future landscaping can be implemented, where practically possible, around both the Payneham Road and Harrow Road boundaries of the subject land.

Summary

The proposed development is considered to be acceptable from a land use perspective. The bulk and scale of the proposed development is compatible particularly with other existing two-storey development on Payneham Road as well as the existing urban character and amenity of the locality as a whole.

The proposed front and secondary street setbacks are complementary to other development within the locality.

The on-site car parking provision satisfies the quantitative requirement of the Development Plan. Vehicular access and egress is considered to be safe and convenient.

The anticipated level of odour emissions associated with the fast-food restaurant is within the relevant *South Australian Environment Protection Authority* guidelines and criteria as a result of the proposed odour management system.

The proposal is not anticipated to result in any unreasonable noise impacts upon the living amenity of directly nearby residents, given that the proposed acoustic measures have been verified by the Council's independent acoustic engineer.

Accordingly, it is considered that the proposal is not seriously at variance with the Development Plan and sufficiently accords with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/449/1 by Agostino AM/PM Pty Ltd to redevelop an existing petrol filling station: comprising the construction of a new canopy over new customer fuelling stations; construction of a two-storey building comprising petrol filling point of sale and retail/convenience shop at ground floor and office area at upper floor; construction of a fast-food restaurant with an associated drive-through facility; erection of a 6.0 metre high freestanding pylon business identification sign (in association with the fast-food restaurant located adjacent the Payneham Road frontage); construction of a combination of masonry boundary walls and Colorbond fencing ranging in height between 2.4 – 4.1 metres; car parking and implementation of landscaping, on the land located at 1 Harrow Road and 77 Payneham Road, St Peters, subject to the following requirements, conditions and notes:

Relevant Plans

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

- plans and elevations prepared by Cheesman Architects:

    - Site and Ground Floor Plan (Drawing Number SD-01 and dated 6 January 2021);
    - Level Floor & Roof Plan (Drawing Number SD-02 and dated 2 November 2020);
    - Elevations 01 (Drawing Number SD-04 and dated 12 November 2020);
    - Elevations 02 (Drawing Number SD-05 and dated 12 November 2020); and
    - Elevations 03 (Drawing Number SD-06 and dated 12 November 2020);

- Stormwater Management Report (Project Number 16711; Revision 03; and dated 12 September 2019); and
- odour assessment report recommendations prepared by Air Quality Professionals Pty Ltd (Revision 1 and dated 9 October 2019).

DIT Conditions

1. The access points shall be constructed in general accordance with Cheesman Architects Site and Ground Floor Plan, Drawing SD 01 dated 28/06/19. The access points shall be signed/line marked to reinforce the desired traffic flow through each access. In particular a "No Entry" sign shall be installed at the Payneham Road egress facing Payneham Road traffic and an "All Traffic Left" sign shall be installed at this access facing internal traffic.

2. The extension of the Payneham Road median as shown in Cheesman Architects Site and Ground Floor Plan, Drawing SD 01, dated 28/06/19 shall be undertaken prior to the development becoming operational. This works shall be designed and constructed in accordance with Austroads Guides/Australian Standards and to DIT's satisfaction. All associated costs (including project management and any necessary road lighting and drainage upgrades) shall be borne by the applicant. The applicant shall contact DIT, Traffic Services Section, Network Planning Engineer, Ms Teresa Xavier on (08) 8226 8389, mobile 0429 049 390 or via email teresa.xavier@sa.gov.au to discuss the proposed works prior to undertaking detailed design.

3. The access points shall maximise separation from all roadside infrastructure. A clear 1 metre separation shall be provided wherever possible.

4. Any roadside infrastructure (eg. signs) that are impacted and have to be removed/relocated shall be undertaken to the satisfaction of the relevant authority with all costs borne by the applicant.

5. All vehicles shall enter and exit the site in a forward direction.

6. Any obsolete crossover/s (or portions thereof) on Payneham Road shall be closed and reinstated to Council's kerb and gutter standards at the applicant's expense prior to operation of the development.

7. All off-street car parking shall be designed in accordance with *AS/NZS 2890.1:2004* and *AS/NZS 2890.6:2009*. Clear sightlines, as shown in Figure 3.3 "Minimum Sight Lines for Pedestrian Safety", in *AS/NZS 2890.1:2004*, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpaths.

8. Signage shall not contain any element of LED or LCD display, except for fuel prices on the pylon sign. The fuel prices shall be white characters on a black background.

9. Signage shall not flash, scroll, move or change, with the exception of the LED fuel price signs, which may change on an as-needs basis.

10. Signage shall not be permitted to operate in such a manner that could result in impairing the ability of a road user by means of high levels of illumination or glare. Accordingly, all illuminated signs visible from the arterial road network shall be limited to a low level of illumination (ie. < 150Cd/m^2), except in the case of electronic signage, which shall be limited to the following stepped luminance levels:

Ambient Conditions	**Sign Illuminance Vertical Component (Lux)**	**Sign Luminance (Cd/m^2) Max**
Sunny Day	40,000	6,300
Cloudy Day	4,000	1,100
Twilight	400	300
Dusk	40	200
Night	<4	150

11. Signage shall, in the case of electronic signage, incorporate an automatic error detection system which will turn the display off or to a blank, black screen should the screen or system malfunction.

12. Stormwater run-off shall be collected on-site and discharged without jeopardising the integrity and safety of the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate the development shall be at the applicant's cost.

Conditions

1. The odour control system shall be maintained on an ongoing basis in order to maintain a 90% odour control efficiency.

2. The extent of noise resulting from the development herein approved, shall be limited to the following criteria:

Receptor	Noise EPP Criteria, dB(A)	
	Day (7:00am to 10:00pm)	Night (10:00pm to 7:00am)
Residences on Payneham Road	L_{eq} 52	L_{eq} 45
Residences on Harrow Road	L_{eq} 50	L_{eq} 43/L_{max} 60

3. No mechanical ventilation shall be incorporated within the undercover drive-through area of the fast-food restaurant.

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 the Payneham Road underground pipe drainage system.

5. The SPEL Puraceptor retention separator tank is to be cleaned and maintained on an ongoing regular basis to the reasonable satisfaction of the Council or its delegate.

6. The capacity of the SPEL Puraceptor retention separator tank shall be a minimum of 70,000 litres (ie. the P040 – PuraceptorTM Class 1 - oil capacity 70,000 litre unit).

7. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.

8. All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.

9. Wheel stopping devices (or kerbing with adequate clearance from the boundaries) constructed of concrete, metal or wood shall be placed at the end of all new parking bays so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council or its delegate.

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

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

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

13. All car parking spaces, driveways, and vehicle manoeuvring areas shall be maintained in a good condition at all times to the reasonable satisfaction of the Council or its delegate.

14. The two proposed car parking spaces identified on *Site and Ground Floor Plan (Drawing Number SD-01 and dated 6 January 2021)* as Space "09" and space "VB01" shall be reconfigured in width from 2.5 metres and 3.2 metres respectively.

Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.

2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.

3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.

4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development are likely to be at the Applicant's cost.

5. This Development Plan Consent will lapse within 24 months of the date of this notice unless full Development Approval has been obtained.

6. 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.

Mr and Mrs Paschero addressed the Council Assessment Panel from 7:08pm until 7:15pm
Mr Mellor addressed the Council Assessment Panel from 7:16pm until 7:21pm
Mr Roder addressed the Council Assessment Panel from 7.22pm until 7:29pm
Mr Osborn addressed the Council Assessment Panel from 7:30pm 7:31pm
Ms James addressed the Council Assessment Panel from 7:32pm until 7:36pm
Mr Morgan addressed the Council Assessment Panel from 7:47pm until 7:50pm
Mr Siow addressed the Council Assessment Panel from 7:52 until 8:00pm

MOVED

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be ***granted*** *to Development Application No 155/449/1 by Agostino AM/PM Pty Ltd to redevelop an existing petrol filling station: comprising the construction of a new canopy over new customer fuelling stations; construction of a two-storey building comprising petrol filling point of sale and retail/convenience shop at ground floor and*

office area at upper floor; construction of a fast-food restaurant with an associated drive-through facility; erection of a 6.0 metre high freestanding pylon business identification sign (in association with the fast-food restaurant located adjacent the Payneham Road frontage); construction of a combination of masonry boundary walls and Colorbond fencing ranging in height between 2.4 – 4.1 metres; car parking and implementation of landscaping, on the land located at 1 Harrow Road and 77 Payneham Road, St Peters, subject to the following requirements, conditions and notes:

Relevant Plans

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

- *plans and elevations prepared by Cheesman Architects:*

  - *Site and Ground Floor Plan (Drawing Number SD-01 and dated 6 January 2021);*
  - *Level Floor & Roof Plan (Drawing Number SD-02 and dated 2 November 2020);*
  - *Elevations 01 (Drawing Number SD-04 and dated 12 November 2020);*
  - *Elevations 02 (Drawing Number SD-05 and dated 12 November 2020); and*
  - *Elevations 03 (Drawing Number SD-06 and dated 12 November 2020);*

- *Stormwater Management Report (Project Number 16711; Revision 03; and dated 12 September 2019); and*
- *odour assessment report recommendations prepared by Air Quality Professionals Pty Ltd (Revision 1 and dated 9 October 2019).*

DIT Conditions

1. *The access points shall be constructed in general accordance with Cheesman Architects Site and Ground Floor Plan, Drawing SD 01 dated 28/06/19. The access points shall be signed/line marked to reinforce the desired traffic flow through each access. In particular a "No Entry" sign shall be installed at the Payneham Road egress facing Payneham Road traffic and an "All Traffic Left" sign shall be installed at this access facing internal traffic.*

2. *The extension of the Payneham Road median as shown in Cheesman Architects Site and Ground Floor Plan, Drawing SD 01, dated 28/06/19 shall be undertaken prior to the development becoming operational. This works shall be designed and constructed in accordance with Austroads Guides/Australian Standards and to DIT's satisfaction. All associated costs (including project management and any necessary road lighting and drainage upgrades) shall be borne by the applicant. The applicant shall contact DIT, Traffic Services Section, Network Planning Engineer, Ms Teresa Xavier on (08) 8226 8389, mobile 0429 049 390 or via email teresa.xavier@sa.gov.au to discuss the proposed works prior to undertaking detailed design.*

3. *The access points shall maximise separation from all roadside infrastructure. A clear 1 metre separation shall be provided wherever possible.*

4. *Any roadside infrastructure (eg. signs) that are impacted and have to be removed/relocated shall be undertaken to the satisfaction of the relevant authority with all costs borne by the applicant.*

5. *All vehicles shall enter and exit the site in a forward direction.*

6. *Any obsolete crossover/s (or portions thereof) on Payneham Road shall be closed and reinstated to Council's kerb and gutter standards at the applicant's expense prior to operation of the development.*

7. *All off-street car parking shall be designed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2009. Clear sightlines, as shown in Figure 3.3 "Minimum Sight Lines for Pedestrian Safety", in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpaths.*

8. *Signage shall not contain any element of LED or LCD display, except for fuel prices on the pylon sign. The fuel prices shall be white characters on a black background.*

9. *Signage shall not flash, scroll, move or change, with the exception of the LED fuel price signs, which may change on an as-needs basis.*

10. *Signage shall not be permitted to operate in such a manner that could result in impairing the ability of a road user by means of high levels of illumination or glare. Accordingly, all illuminated signs visible from the arterial road network shall be limited to a low level of illumination (ie. < 150Cd/m^2), except in the case of electronic signage, which shall be limited to the following stepped luminance levels:*

Ambient Conditions	***Sign Illuminance Vertical Component (Lux)***	***Sign Luminance (Cd/m^2) Max***
Sunny Day	*40,000*	*6,300*
Cloudy Day	*4,000*	*1,100*
Twilight	*400*	*300*
Dusk	*40*	*200*
Night	*<4*	*150*

11. *Signage shall, in the case of electronic signage, incorporate an automatic error detection system which will turn the display off or to a blank, black screen should the screen or system malfunction.*

12. *Stormwater run-off shall be collected on-site and discharged without jeopardising the integrity and safety of the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate the development shall be at the applicant's cost.*

Conditions

1. *The odour control system shall be maintained on an ongoing basis in order to maintain a 90% odour control efficiency.*

2. *The extent of noise resulting from the development herein approved, shall be limited to the following criteria:*

Receptor	*Noise EPP Criteria, dB(A)*	
	Day (7:00am to 10:00pm)	*Night (10:00pm to 7:00am)*
Residences on Payneham Road	*L_{eq} 52*	*L_{eq} 45*
Residences on Harrow Road	*L_{eq} 50*	*L_{eq} 43/L_{max} 60*

3. *No mechanical ventilation shall be incorporated within the undercover drive-through area of the fast-food restaurant.*

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 the Payneham Road underground pipe drainage system.*

5. *The SPEL Puraceptor retention separator tank is to be cleaned and maintained on an ongoing regular basis to the reasonable satisfaction of the Council or its delegate.*

6. *The capacity of the SPEL Puraceptor retention separator tank shall be a minimum of 70,000 litres (ie. the P040 – PuraceptorTM Class 1 - oil capacity 70,000 litre unit).*

7. *All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.*

8. *All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.*

9. *Wheel stopping devices (or kerbing with adequate clearance from the boundaries) constructed of concrete, metal or wood shall be placed at the end of all new parking bays so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council or its delegate.*

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

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

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

13. *All car parking spaces, driveways, and vehicle manoeuvring areas shall be maintained in a good condition at all times to the reasonable satisfaction of the Council or its delegate.*

14. *The two proposed car parking spaces identified on Site and Ground Floor Plan (Drawing Number SD-01 and dated 6 January 2021) as Space "09" and space "VB01" shall be reconfigured in width from 2.5 metres and 3.2 metres respectively.*

15. *The hours of operation of the following components shall be restricted to following times:*
    - *dog wash: Monday to Sunday, 7:00 am – 10:00pm;*
    - *vacuum bays: Monday to Sunday, 7:00 am – 10:00pm; and*
    - *automated car wash: Monday to Sunday, 7:00 am – 10:00pm.*

16. *All deliveries to the site shall be restricted to the following times:*
    - *Monday to Friday, 7:00 am – 10:00pm; and*
    - *Monday, Sunday and Public Holidays, 9:00am – 5:00pm.*

17. *All waste collections services to and from the site shall be restricted to the following times:*
    - *Monday to Friday, 7:00am – 7:00pm*
    - *Saturday, Sunday and public holidays 9:00am – 5:00pm*

18. *Details of passive ventilation of the covered drive- through area of the fast food restaurant to the relevant Australian Standard including details of Acoustic impacts and ongoing maintenance shall be provided to the reasonable satisfaction of the Council or its Delegate.*

19. *The existing masonry wall adjacent to the bus stop on Harrow Road shall be retained.*

20. *The Landscaping plan shall be amended to the reasonable satisfaction of the Council or its Delegate to include:*
    - *Improved delineation between pedestrian paths and vehicle movements including through means such as painted lines and/or different textures of ground surfaces;*
    - *The addition of soft landscaping along the North-Eastern boundary such as green wall or other form of vertical landscaping and*
    - *Improving the variety of planting and increasing the area along the Payneham Road frontage to better delineate the separation from the adjacent footpath.*

21. That in the event that the drive through of the fast food restaurant is not operated on a 24 hour basis, gates shall be installed and closed to prevent access at times when the drive through is not operating.

22. All external lighting shall be of a suitable intensity and directed so as not to unreasonably impact on the amenity of the adjoining residential properties to the reasonable satisfaction of the Council or its Delegate.

Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.

2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.

3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.

4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development are likely to be at the Applicant's cost.

5. This Development Plan Consent will lapse within 24 months of the date of this notice unless full Development Approval has been obtained.

6. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Seconded and Carried

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/743/2020 – MR J LEANEY – 69 PORTRUSH ROAD, PAYNEHAM

DEVELOPMENT APPLICATION:	**155/743/2020**
APPLICANT:	**Mr J Leaney**
SUBJECT SITE:	**69 Portrush Road, Payneham (Certificate of Title Volume: 5511 Folio: 883)**
DESCRIPTION OF DEVELOPMENT:	**Construction of an illuminated LED pylon sign**
ZONE:	**Mixed Use Historic Conservation Zone (Portrush Road Policy Area) Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)**
PUBLIC NOTIFICATION CATEGORY:	**Category 3**

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an application comprising the Construction of an illuminated LED pylon sign.

Staff do not have delegated authority to determine the Application, as it is Category 3 for public notification purposes. As such, the Application is referred to the Panel for determination.

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

Subject Land Attributes

The subject land contains a single storey bungalow currently used as an office, and is listed as a Contributory item. The building is located on the corner of Portrush Road and Harcourt Road with an existing sign located within the front yard of the building advertising professional services associated with the existing office land use, while vehicle parking accessed via Harcourt Road is located at the rear of the subject land.

The subject land adjoins properties located within the Residential Zone to the south, and the Historic Conservation Zone (Payneham (Hardcourt Road Policy Area) to the west.

Locality Attributes

Land uses:	Predominantly commercial and residential land uses fronting Portrush Road.
Building heights (storeys):	A mostly single storey locality.

While there is a two storey building located on the eastern side of Portrush Road (adjacent the subject land) associated with St Joseph's School, the locality is predominantly single storey.

The Mixed Use Historic (Conservation Zone) Portrush Road Policy Area encompasses 11 properties fronting Portrush Road.

The site is at the peripheral of the zone and adjoins residential development both to the rear and side boundaries in a southerly direction along the western side of Portrush Road. Properties to the north along Portrush Road within the Mixed Use Historic (Conservation) Zone are predominantly commercial businesses, each with discreet and low scale elements of identification signage.

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

Proposal in Detail

The Applicant seeks consent to install a freestanding LED pylon sign to replace an existing non-illuminated freestanding sign within the front yard of the subject land. The proposed new freestanding sign is 4.8 metres high, and 2.6 metres wide, with 5.7m² of signage area on each side of the sign, and is to be located approximately 750mm inside the property boundary from Portrush Road. The sign contains two illuminated light boxes and a large central LED digital display of 3.8m² in area. The signage is to be double sided and face both north and south, with the LED displaying static images advertising the services which the business offers that change every 8 seconds.

No detail has been provided on automatic adjustment settings for climatic conditions and time of day/night, or an error detection system.

Plans and details of the proposed LED sign and supporting documentation are contained in **Attachment B8**.

A planning report supporting the proposal has been prepared by Jeff Smith from Planning Chambers, and is contained within **Attachment B1**.

Notification

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

No representations were received as part of the notification process.

State Agency Consultation

The Application was referred to the Commissioner of Highways pursuant to Schedule 8 of the *Development Regulations 2008*, as the proposed development is an advertising display on an arterial road and located within 100 metres of a signalised intersection. Schedule 8 provides that the Council must have 'regard' to comments made by the Commissioner of Highways with respect of the proposed development.

The Commissioner of Highway's response is discussed under the heading *Traffic Safety* later in the report. In short, the Commissioner of Highways is not opposed to the proposal, subject to conditions.

Discussion

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

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

Streetscape/bulk/scale/height/character

The following Development Plan provisions provide guidance with respect to considerations relating to the potential streetscape appearance, character and visual impacts of the proposal:

Mixed Use Historic Conservation Zone Desired Character Statement
Mixed Use Historic Conservation Zone Objectives: 1
Mixed Use Historic Conservation Zone DPC: 1, 3 & 4

Portrush Road Policy Area Desired Character Statement
Portrush Road Policy Area Zone Objective: 1
Portrush Road Policy Area Zone DPC: 1, 3, 6, 18, 19

City Wide Objective: 18, 19, 20, 117, 118
City Wide PDC's: 28, 380, 381, 382, 383, 384, 387, 394, 395, 396, 397

and:

Mixed Use Historic Conservation Zone Principle of Development Control 18 and 19 state:
Advertisements and signage within the Mixed Use Historic (Conservation) Zone should:

(a) be discreet and of low-scale to respect the historic streetscape significance and visual amenity of the Mixed Use Historic (Conservation) Zone;
(b) be visually framed by discrete elements of architecture, such as parapets and wall panels, below the canopy or within fascias and infill end panels and windows where relevant;
(c) be compatible with the form and visual interest prevailing in the zone; and
(d) not conceal or obstruct the historical detailing of buildings.

and:

The following kinds of advertisements are appropriate in the Mixed Use Historic (Conservation) Zone:

(a) at ground level: low, free-standing signs; and
(b) at below canopy level: small flush wall signs and business plates.

All other advertisements including those at canopy level, above canopy level and roof level are inappropriate.

Having regard to Mixed Use Historic (Conservation) Zone Principles 18 and 19 it is considered that the proposed freestanding sign:

(a) has an unacceptable visual dominance and visually impacts the Mixed Use Historic Conservation Zone;
(b) is not compatible with the form and visual interest prevailing in the zone; and
(c) conceals and obstructs the historical detailing of buildings

and

(a) Is not a ground level low, freestanding sign.

The reasons for these conclusions are set out below.

The proposed freestanding sign is 4.8 metres tall and 2.6 metres wide and contains a signage area of 6.26m². The proposed sign is 1 metre less than the height of the building and would form a dominant structure within the streetscape, competing for dominance with the historic buildings, while expressing no compatibility with the form and visual interest of the existing building on the subject land and obstructs views of the building. Having regard to Principle 19, the sign is clearly not a ground level freestanding sign.

Within the planning report prepared by Jeff Smith from Planning Chambers, it is suggested that "there is little relationship between a site at the extreme edge of the zone and one in the core to which a more rigid application of the policy directives may prevail".

In this respect, properties to the south of the subject land are located in a Residential Zone, where the following policy (Principle 13) would apply to advertising:

Advertisements and signage should only be for the identification of non-residential uses and home-based businesses and should be complementary to the architecture and scale of the building.

This policy is considered more 'restrictive' than the policy which applies within the Mixed Use Historic (Conservation) Zone, insofar as advertising in the Residential Zone should only be for discreet identification signs. In this context, the fact that the subject land is located at the edge of the zone does not mean that the policy which applies to signs in the Mixed Use Historic (Conservation) Zone should be applied any less rigidly. If anything, it should be applied more rigidly, to provide a 'scaling down' of advertising adjacent to the Residential Zone.

City Wide Principle of Development Control 380 states:

The location, siting, size, shape and materials of construction, of advertisements should be:

(a) consistent with the desired character of areas or zones as described by their objectives;
(b) consistent with the predominant character of the urban landscape; or
(c) in harmony with any building or site of historic significance or heritage value in the locality.

Having regard to City Wide Principle of Development Control 380, it is considered that the proposed LED sign:

a. is inconsistent with the objectives of the Portrush Road Policy Area and objectives;
b. is inconsistent with the predominant character of the urban landscape; and
c. is in contrast with adjacent buildings of heritage value.

Reasons for these conclusions are set out below.

Having regard to part (a) and (b) of Principle 380, Objective 1 of the Portrush Road Policy Area states:

Development which enhances the historic character of the Portrush Road Policy Area.

As the proposed signage is located within a Mixed Use Historic Conservation Zone, the application was referred to Councils Heritage Advisor, David Brown for comment. David's report raises no opposition to the illumination component of the sign, however raises concerns over the size and scale of the proposed signage and concludes that the sign is an inappropriate development within a Mixed Use Historic Conservation Zone.

Having regard to part (b) of Principle 380, the predominant character of the urban landscape along the western side of Portrush Road is single storey buildings, with examples of small scale discreet signage found on commercial properties within the Mixed Use Historic (Conservation) Zone.

A copy of David Brown's Report is contained in **Attachment C**.

Accordingly, the appearance aspects of the proposal are considered at variance to development plan requirements.

Traffic Safety

The following Development Plan provisions provide guidance with respect to advertising traffic and pedestrian safety considerations:

City Wide Objectives: 32 & 119
City Wide PDC's: 385, 389, 390, 391, 392, 393, 399, 400, 401

City Wide Principles of Development Control 389, 390, 391, 392 and 393 state respectively:

"*Advertisements should not create a hazard to persons travelling by any means.*

Advertisements should not obscure a driver's view of other road vehicles, of rail vehicles at or approaching level crossings, of pedestrians and of features of the road such as junctions, bends, changes in width, traffic control devices and the like that are potentially hazardous.

Advertisements should not be so highly illuminated as to cause discomfort to an approaching driver, or create difficulty in his perception of the road, or of persons or objects on it.

Advertisements should not be liable to interpretation by drivers as an official traffic sign, or convey to drivers information that might be confused with instructions given by traffic signals or other control devices, or impair the conspicuous nature of traffic signs or signals.

Advertisements should not detract drivers from the primary driving task at a location where the demands on driver concentration are high."

The proposal was referred to the Commissioner of Highways pursuant to Schedule 8 of the *Development Regulation 2008*, as the proposed development is within 100 metres of a signalised intersection and will be internally illuminated and will incorporate red, yellow, green or blue lighting.

DIT have also provided advice in relation to the possibility of the proposed advertising sign causing a distraction to motorists. DIT have advised that they have undertaken an assessment against the Department's own guidelines contained within the publication *Advertising Signs: Assessment Guidelines for Road Safety – A guide for the Department of Planning, Transport and Infrastructure*. In summary, DIT does not object in-principle to the installation of a LED sign at this location subject to conditions being applied to any approval granted in order to maximise road safety.

A complete copy of DIT's referral is contained in **Attachment D**.

On this basis, the proposed LED sign is considered consistent with City Wide Principles 389, 390, 391, 392 and 393.

Summary

The proposed sign seeks to replace the largest sign within the locality with an even larger sign; which both the applicants planning consultant and Council heritage advisor acknowledge within their reports.

The planning report provided by the applicant suggests that the modified appearance of the bungalow and its commercial use justify the size and scale of the proposed sign, despite the fact that it remains listed as a Contributory Item. As the Councils Heritage advisor David Brown has confirmed, the bungalow is still considered to contribute to the streetscape, and therefore the Zone.

When reviewing the proposed sign against existing signage located within the Zone, it is noted that there are no other signs of a similar height and scale even of that which is being replaced. The expansion of the already prominent sign would be a dominant addition to the Mixed Use Historic (Conservation) Zone which would appear out of context with surrounding historic properties, and signage on adjacent sites within the zone.

The construction of an illuminated LED pylon sign of the size and scale proposed is therefore considered at odds with the Portrush Road Policy Area, the Mixed Use Historic (Conservation) Zone provisions, the adjacent Residential Zone provisions, and City Wide provisions related to advertisements and signage.

DIT raised no concerns regarding traffic and pedestrian safety, subject to the inclusion of its suggested conditions.

Accordingly, while it is considered that the proposal is not seriously at variance with the Development Plan, it is considered that the proposal does not sufficiently accord with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **refused** to Development Application No 155/743/20 by Mr J Leaney to construct of an illuminated LED pylon sign on the land at 69 Portrush Road Payneham.

Reasons for refusal

The proposed sign does not sufficiently accord with Mixed Use Historic (Conservation) Zone Principles 18 and 19 of the City of Norwood, Payneham and St Peters Development Plan in that:

(a) has an unacceptable visual dominance and visually impacts the Mixed Use Historic Conservation Zone;

(b) is not compatible with the form and visual interest prevailing in the zone; and

(c) conceals and obstructs the historical detailing of buildings

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MOVED

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be **refused** to Development Application No 155/743/20 by Mr J Leaney to construct of an illuminated LED pylon sign on the land at 69 Portrush Road Payneham.*

Reasons for refusal

The proposed sign does not sufficiently accord with Mixed Use Historic (Conservation) Zone Principles 18 and 19 of the City of Norwood, Payneham and St Peters Development Plan in that:

(d) has an unacceptable visual dominance and visually impacts the Mixed Use Historic Conservation Zone;

(e) is not compatible with the form and visual interest prevailing in the zone; and

(f) conceals and obstructs the historical detailing of buildings

Seconded and Carried

2. STAFF REPORTS

2.4 DEVELOPMENT APPLICATION 155/621/2020 – FAIRMONT HOMES GROUP PTY LTD – 159 FIRST AVENUE, ROYSTON PARK

DEVELOPMENT APPLICATION:	**155/621/2020**
APPLICANT:	**Fairmont Homes Group Pty Ltd**
SUBJECT SITE:	**159 First Avenue, Royston Park (Certificate of Title: Volume 5897 Folio 906)**
DESCRIPTION OF DEVELOPMENT:	**Construction of a single-storey detached dwelling and associated retaining walls and fencing**
ZONE:	**Residential Historic (Conservation) Zone – Joslin/Royston Park Policy Area – Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)**
PUBLIC NOTIFICATION CATEGORY:	**Category 1**

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a new single-storey detached dwelling and associated retaining walls and fencing.

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

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

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

Subject Land Attributes

Shape:	regular
Frontage width:	15.24 metres
Depth:	51.82 metres
Area:	790m^2
Topography:	Essentially flat
Existing Structures:	single-storey detached dwelling, an attached carport and a freestanding shed.
Existing Vegetation:	lawned areas to both the front and rear yard areas of the property

The subject land is a regular shaped allotment on the south-eastern side of First Avenue. The land is currently occupied by a detached dwelling (along with two ancillary buildings) that is not identified in the Development Plan as having any heritage status. Vehicular access is via an existing crossover located adjacent the south-western side boundary.

Locality Attributes

Land uses:	residential
Building heights (storeys):	predominantly single-storey

The locality is considered to comprise the section of First Avenue situated between Lambert Road and Salisbury Avenue and is characterised predominantly by single-storey detached dwellings. Of the twenty eight detached dwellings within the locality, twenty six dwellings are listed in the Development Plan as Contributory Items. The locality is considered to have a high level of residential amenity and heritage value.

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

Proposal in Detail

The Applicant seeks consent to construct a new single-storey detached dwelling on the subject land along with associated retaining walls and fencing on both the north-eastern and south-western side boundaries.

The proposed dwelling presents to the street as a simplified version of a Californian bungalow and a double fronted cottage with an attached single-vehicle garage. Both the front portion of the dwelling and the garage incorporate simple roof forms pitched at 29.5 degrees and clad in Colorbond custom orb profile (colour Woodland Grey). The facade of the dwelling incorporates rendered banding (colour Wattyl Surfmist) and face brickwork (Austral Emery) laid with "Mortar Brighton Lite with White Sand" mortar joints. The wall heights (measured from ground level to the underside of the eaves) of the front of the dwelling are 3.1 metres. The height of the garage walls is 2.8 metres. A simple custom orb profile roofed front verandah is proposed to the front of the dwelling and will provide weather protection to the three traditionally proportioned windows (powder coated aluminium windows and colour white) to the front elevation. A panel-lift door (colour Colorbond Surfmist) is proposed to the garage.

Internally, the proposed dwelling comprises a combined kitchen/dining/living area, a master bedroom (with an ensuite and walk-in-robe), two additional bedrooms, a secondary living area, a study, a bathroom, WC and a laundry. A small alfresco area is situated to the rear of the dwelling and is accessible from the combined kitchen/dining/living room area.

A landscaping plan has been submitted with the Application. The proposed landscaping includes a range of shrubs and groundcovers.

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

TABLE 1: DEVELOPMENT DATA:

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
Site Area	790m^2	600m^2
Allotment Width	15.24m	18m
Allotment Depth	51.82m	N/A
External Wall Height*	2.8 - 3.1m	N/A
Maximum Overall Height (to roof apex)*	6.0m	Single-storey
Floor Areas	323m^2	N/A
Site Coverage	41%	50%
Private Open Space	290m^2 (37%)	20%
Street Set-back	8.0m – verandah 9.9m – facade 11.5m - garage	N/A
Side Set-back	North- eastern 1.3 – 3.1m South-western 1.2 – 2.5m	N/A

TABLE 1: DEVELOPMENT DATA *continued….*

Consideration	Proposed Dwelling	Development Plan Merit Assessment Quantitative Guideline
Rear Set-back	12.5m	N/A
Car Parking Provision	1 undercover and 2 visitor	2 (1 covered) spaces per dwelling; whereby the covered space is set back no less than 5.5 metres from the primary street frontage

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

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

Notification

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

The single-storey detached dwelling is Category 1, pursuant to Schedule 9, Part 1, 2 (a) of the *Development Regulations 2008*. Accordingly, no public notification was undertaken.

State Agency Consultation

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

Discussion

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

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

Land Use and Density

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

The Joslin/Royston Park Policy Area Desired Character Statement
The Joslin/Royston Park Area Objectives: 1
The Joslin/Royston Park Area PDC's: 2, 3, 5 & 7

Residential Historic (Conservation) Zone Desired Character Statement
RH(C)Z Objectives: 2, 4, 6
RH(C)Z PDC's: 7, 8, 30

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

The Joslin/Royston Park Policy Area Principle of Development Control 2 states:

"*Development should comprise the erection, construction, conversion, alteration of, or addition to a detached dwelling."*

The construction of a detached dwelling is consistent with Principle of Development Control 2 of the Joslin/Royston Park Policy Area.

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

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

(a) land is vacant or under-utilised and the development can be achieved without adverse impact on the established residential amenity and the historic character of the relevant policy area;
(b) it replaces a building or use of land which does not contribute significantly to the heritage value, historic character and the desired character of the zone; or
(c) it involves the conversion of an existing building to row dwellings, or semi-detached dwellings, where such conversion will enhance the historic character of the zone."

As the subject land is currently occupied by a dwelling that does not contribute significantly to the heritage value of the locality nor the desired character of the Residential Historic (Conservation) Zone, the introduction of a new dwelling is consistent with part (b) of Principle of Development Control 8.

Streetscape/heritage/bulk/scale/height/character

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

The Joslin/Royston Park Policy Area Desired Character Statement	
The Joslin/Royston Park Policy Area Objectives:	1
The Joslin/Royston Park Policy Area PDC's:	1, 3 & 4
Residential Historic (Conservation) Zone Desired Character Statement	
Residential H(C)Z Objectives:	1, 3 & 5
Residential H(C)Z PDC's:	1, 2, 3, 13-19, 22, 23, 25 & 26
City Wide Objectives:	18, 19 & 20
City Wide PDC's:	28-32, 37, 39, 41, 191 & 209-216

The proposed dwelling has been designed in the context of the historic nature of dwellings in the locality, including the use of pitched corrugated roof forms, a feature gable roof element, a timber framed front verandah and vertically proportioned window openings in the front facade. The front facade incorporates face brickwork above the base rendered banding. Brickwork and rendered masonry are traditional building materials, which have been typically used in the construction of historic dwellings in the locality.

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

"*New development will complement and reinforce the traditional colours and materials such as stone, brick and rendered masonry. It will be set in a sympathetic landscaped setting and will emulate the general scale and form of traditional building elements such as fences, verandahs and hipped and gabled roofs, instead of attempting to reproduce the finer architectural detail of the historic building stock.*"

As the dwelling is located within the Residential Historic (Conservation) Zone, the Application was referred to the Council's Heritage Advisor, David Brown. Mr Brown has concluded that on balance, the proposed dwelling will result in an acceptable and sympathetic contribution to the existing streetscape.

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

The proposed dwelling has wall heights along with an overall scale and roof form that are compatible with existing bungalows and double-fronted cottages in the locality when viewed from the street as is evidenced in the streetscape elevation of the proposed dwelling, which provides a reasonable illustration of the bulk and scale of the proposed dwelling and the relationship with the two directly adjacent dwellings.

Residential Historic (Conservation) Zone Principle of Development Control 31 and City Wide Principle of Development Control 211 provide the most guidance regarding the development of garages within the zone and state respectively:

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

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

and

"*Unless the desired character of an area provides otherwise, garages and carports fronting a primary street should:*

- *(a) be of a width that is minimised relative to the width of the dwelling frontage and in any case, should be designed with a maximum width (including the total width of any support structure) of 6.5 metres or 50 per cent (or 40 per cent in a Residential Historic (Conservation) Zone) of the allotment or building site frontage width, whichever is the lesser distance; and*

- *(b) be set back at least 0.5 metres behind the main face of the associated dwelling, unless the main face incorporates projecting elements such as a portico or verandah, in which case the garage or carport may be in line with the main face of the associated dwelling; and*

- *(c) be set back no less than 5.5 metres from the primary street frontage, to allow for vehicle parking.*"

The width of the garage and its setback from the facade (ie. 1.74 metres) is consistent with City Wide Principle 211. The roof over the garage is also lower than the height of the roof over the principle dwelling, consistent with part (c) of Residential Historic (Conservation) Zone Principle 31. Although uncharacteristic of historic dwellings in the locality, the garage design is consistent with the clearly specified provisions of the Development Plan and therefore considered acceptable.

On balance, the proposal is considered to be acceptable from a streetscape heritage and character perspective.

Setbacks and Site Coverage

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

The Joslin/Royston Park Policy Area PDC's:	6 & 8
Residential H(C)Z PDC's:	10, 11, 12 & 20
City Wide PDC's:	50, 204-206, 208 & 218

The facade of the dwelling is proposed to be set back 9.9 metres from the First Avenue property boundary, with a front verandah extending to 8 metres from the street boundary. The garage component is set back 11.5 metres from the First Avenue boundary.

The Joslin/Royston Park Policy Area Principle of Development Control 8 states:

"The front and side setbacks of new dwellings should reflect the pattern established by the adjoining dwellings and should be sited at a distance equal to or greater than, the alignment of the main face of the adjacent heritage place or contributory item. Where a site is between two heritage places or contributory items the greater of the two set-backs should be applied."

The adjacent Contributory Item at 157 First Avenue has a front setback to the primary facade of 8.5 metres. To the northeast at 161 First Avenue, the Contributory Item is set back in the order of 9.4 metres from First Avenue. The proposed dwelling has a greater front setback than the adjacent two Contributory Items at 157 and 161 First Avenue and as such, the proposal accords with Principle of Development Control 8.

Residential Historic (Conservation) Zone Principle of Development Control 20 states:

"Building to side boundaries (other than for party walls in semi-detached or row dwellings) or to the rear boundary is generally inappropriate, but may be considered where it is demonstrated that it assists in the retention of a heritage place and where there will be no detrimental effect on the residential amenity of adjoining properties."

With regard to side setbacks, the proposed dwelling does not incorporates any boundary development and as such, is consistent with Principle 20.

In terms of the south-western side boundary, the proposed dwelling has a setback of between 1.2 – 2.5 metres. On the north-eastern side the proposed dwelling has a setback of between 1.3 – 3.1 metres. In the context of existing development within the locality, some of which incorporates single-storey walls close to side boundaries, the proposed side setbacks are considered to be a positive aspect of the proposed development.

In terms of site coverage, the Joslin/Royston Park Policy Area Principle of Development Control 6 states that "*buildings should not cover more than 50 percent of the total area of the site."* The proposed dwelling has an overall site coverage of 41%, which is within the quantitative criteria of this Principle.

Overshadowing/overlooking

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

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

The proposed dwelling is not considered to present unreasonable overshadowing or overlooking issues for the occupiers of the adjacent properties, due to the single-storey nature of the dwelling combined with the topography of the land and the setbacks from the side boundaries of the subject land.

As such, the proposal is considered to be consistent with City Wide Principles of Development Control 11 and 31.

Private open space

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

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

The proposed dwelling includes approximately 290m² of private open space. The main private open space area (located within the rear yard area) includes a relatively small (ie. 23m²) rear alfresco area situated under the main roof of the new dwelling. The private open space areas are linked with the open plan kitchen/dining/living area of the dwelling.

The proposed area of private open space equates to 37% of the site area, therefore satisfying the minimum provision of 20%, prescribed by City Wide PDC 225(a).

Car-parking/access/manoeuvring

Residential H(C)Z PDC's: 32

City Wide Objectives: 34
City Wide PDC's: 98, 101, 104, 118, 120, 181, 198 & 218

Table NPSP/8

Table NPSP/8 prescribes that the proposed detached dwelling should be provided with two on-site car parking spaces, of which at least one should be covered. The proposed dwelling can accommodate one undercover car park and two visitor parks in the driveway, which exceeds the requirements specified in Table NPSP/8.

The development involves the widening of the existing crossover. Access to and from the driveway and garage area has been determined to be safe and convenient.

Finished floor levels/flooding/retaining

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

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

The subject land is not within a recognised flood plain.

The subject land is essentially flat with a negligible fall from front (northwest) to rear (southeast) of between 110 – 180mm over 51.82 metres. In terms of stormwater from both the roof and ground surface areas, a gravity fed stormwater disposal system to First Avenue can be achieved.

The proposed finished floor level of the new dwelling is to be between 350 – 410mm above adjacent ground levels at the front, between 400 – 420mm at the midpoint and up to 650mm at the rear of the dwelling. This proposed finished floor level would result the need for retaining along the north-eastern side boundary ranging in height between 240 – 340mm and retaining along the south-western side boundary ranging in height between 260 – 440mm. The plans show that new Colorbond fencing is proposed to both side boundaries ranging between 1.8 - 2.0 metres in height. In this context, the combined height of retaining and fencing will vary between 2.04 – 2.44 metres. The anticipated maximum overall height marginally exceeds (ie. by 4 centimetres) the 2.4 metre criteria prescribed in City Wide Principle of Development Control 58 however, whilst this is a shortcoming, it is not considered to be fatal to the merits of the Application overall. Should the Panel determine to approve the proposed development, it is recommended that a condition be imposed requiring that the new fencing incorporate a corrugated profile.

Trees (regulated, mature & street) and landscaping

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

Residential H(C)Z PDC's: 36 & 37

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

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

In terms of landscaping, the Applicant has provided a landscaping plan and schedule, which identifies a range of ground covers and shrubs, which will enhance the garden setting of the proposed dwelling, which is a characteristic of the locality. A copy of the landscaping plan and schedule is contained in **Attachment B2**.

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

Environmental Sustainability

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

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

The subject land runs northwest to southeast, which in turn allows for a reasonable orientation of the dwelling as well as reasonable access to northern sunlight given that the private open space provision is located both to the rear and the north-eastern side of the proposed dwelling. The main living areas are directly linked to both of the private open space areas.

City Wide Principle of Development Control 159 prescribes that new dwellings should be provided with a 2,000 litre rain water tank in order to maximise the use of stormwater collected from roof areas. The Applicant has nominated a 1,000 litre rainwater tank as part of the proposal. Given that the proposed development includes relatively large areas of impervious surfaces (ie. compared to the previous dwelling that occupied the land), it is recommended that if the Panel determines to approve the proposed development, that a condition be imposed requiring that at a rainwater tank with a minimum capacity of 2,000 litres be installed in accordance with City Wide Principle of Development Control 159.

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

Summary

The proposed dwelling is an appropriate form of development in the Residential Historic (Conservation) Zone. The dwelling design reflects the basic scale and proportions of existing historic character dwellings within the locality. In addition, the proposed dwelling demonstrates a compatible visual relationship with buildings that contribute to the historic character of locality, through consistent setbacks and the incorporation of a traditional roof form, a front verandah and a combination of brick and rendered external masonry walls.

On balance, the proposed dwelling will fit comfortably into the existing streetscape and will not unreasonably impact on adjacent residential properties.

The provision of private open space and the resulting site coverage satisfy the quantitative guidelines.

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

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/621/20 by Fairmont Homes Group Pty Ltd, to construct a single-storey detached dwelling and associated retaining walls and fencing, on the land located at 159 First Avenue, Joslin, subject to the following requirements, conditions and notes:

Relevant Plans

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

- plans and elevations (Job Number: 13187 and dated 26 August 2020) prepared by Fairmont Homes Group Pty Ltd;
- Drainage Plan (Job Number: 2007230 and dated August 2020) prepared by TMK Consulting Engineers; and
- Exterior Selections (Job Number: 13187 and dated 23 August 2020).

Conditions

1. The proposed Colorbond fencing along the north-eastern and south-western side boundaries shall be corrugated in profile.

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

3. A 2,000 Litre rainwater tank shall be plumbed into a toilet, water heater and/or laundry cold water outlet by a licenced plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with the application for Building Rules Consent.

4. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.

5. All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.

Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.

2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.

3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.

4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development is likely to be at the Applicant's cost.

5. The Applicant is advised that the property is located within an Historic (Conservation) Area and that Approval must be obtained for most works involving the construction, demolition, removal, conversion, alteration or addition to any building and/or structure (including fencing).

6. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.

7. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

MOVED

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the Development Act 1993, Development Plan Consent be ***granted*** *to Development Application No 155/621/20 by Fairmont Homes Group Pty Ltd, to construct a single-storey detached dwelling and associated retaining walls and fencing, on the land located at 159 First Avenue, Joslin, subject to the following requirements, conditions and notes:*

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Conditions

1. *The proposed Colorbond fencing along the north-eastern and south-western side boundaries shall be corrugated in profile.*

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

3. *A 2,000 Litre rainwater tank shall be plumbed into a toilet, water heater and/or laundry cold water outlet by a licenced plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with the application for Building Rules Consent.*

4. *All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.*

5. *All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.*

Notes to Applicant

1. *The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.*

2. *The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.*

3. *The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.*

4. *The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513. All works on Council owned land required as part of this development is likely to be at the Applicant's cost.*

5. *The Applicant is advised that the property is located within an Historic (Conservation) Area and that Approval must be obtained for most works involving the construction, demolition, removal, conversion, alteration or addition to any building and/or structure (including fencing).*

6. *This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.*

7. *The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.*

Seconded and Carried

3. OTHER BUSINESS
Nil

4. CONFIDENTIAL REPORTS
Nil

5. CLOSURE

The Presiding Member declared the meeting closed at 9:04pm

_____
Terry Mosel
PRESIDING MEMBER

_____
Mark Thomson
MANAGER DEVELOPMENT ASSESSMENT