

# Council Assessment Panel Minutes

**21 February 2022**

## **Our Vision**

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

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

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City of  
Norwood  
Payneham  
& St Peters

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**VENUE** Council Chambers, Norwood Town Hall

**HOUR** 7:00pm

**PRESENT**

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

**Staff** Mark Thomson Manager Development Assessment  
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 21 DECEMBER 2021**

Seconded and Carried

2. STAFF REPORTS

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

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

**Purpose of Report**

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

**Background**

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

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

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

A copy of the relevant section of the Minutes of the Panel meeting held on 18 October 2021, including the refused plans, is contained in **Attachment 1**.

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

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

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

The proposed amendments to the proposal included:

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

The Panel resolved to not accept the compromise, referring to the reasons for refusal of the initial application. A copy of the first compromise plans is contained in **Attachment 2**.

The Appellant has subsequently submitted amended plans for the consideration of the Panel, together with further supporting information and details, which are the subject of this report and are contained in **Attachment 3**.

In summary, the further information includes:

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

The proposed amendments to the proposal include:

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

## **Discussion**

The following discussion is based on the reasons for refusal that were given by the Panel at its meeting held on 18 October 2021.

### Demolition of existing dwelling

Additional photos have been provided by the appellant which display further wall movements to Bedroom 1. As no works have been undertaken to stabilise the footings, it is recognised that this wall will continue to move over time, as it has done in the past. These movements relate to a section of the dwelling which has been costed for reconstruction within the scope of works by Chris Sale Consulting.

### The width of land division

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

## The Proposed Dwellings

Changes have been made to the proposal in an attempt to address the concerns of the Panel.

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

- the overall scale of the development,
- the prominence of the upper levels in the streetscape,
- the prominence of garaging, the visual and shadowing impact on the neighbouring property to the south, and
- the incompatibility of the colour scheme and façade composition with the established streetscape.

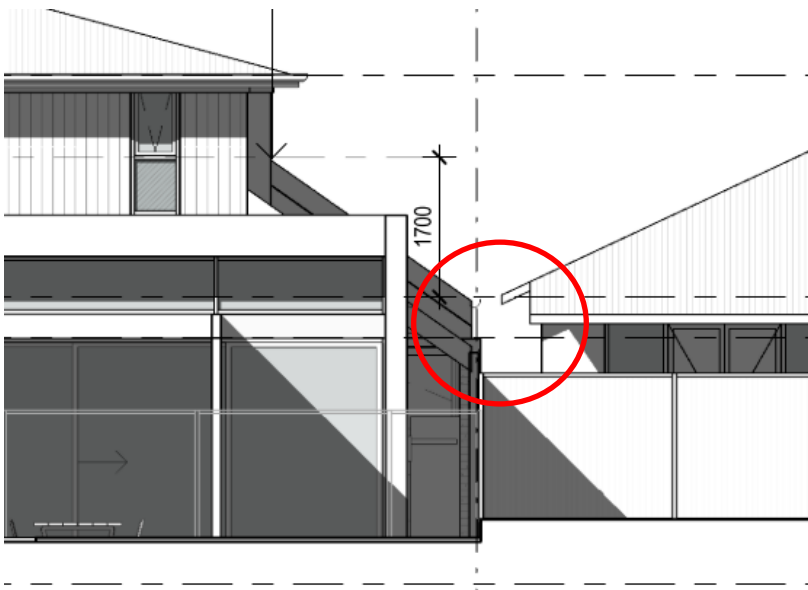
The amended proposal includes an increase in the front setback of the southern dwelling at ground floor level to 8.1 metres, with the upper level remaining unchanged.

Despite remaining inconsistent with the relevant quantitative criteria contained in City Wide Principle of Development Control 205(c) and Residential Historic (Conservation) Zone Principle of Development Control 17, the revised front setback of the ground floor level is considered to be reasonably compatible with the range of front setbacks in the street and result in a suitable transition between the setbacks of the neighbouring dwellings on each side of the subject land.

That said, a negative outcome of increasing the front setback at ground level (without also increasing the upper level setback) is that the upper level is now more prominent. The upper level is just 3.6 metres behind the single storey ground level façade of the southern dwelling, whereas previously it was 5.4 metres behind the single storey ground level façade.

The increased setback of the southern dwelling reduces the visibility of the proposed wall on the southern side boundary, with only approximately 800mm of the wall now being located forward of the adjacent dwelling. While this is an improvement over the previous compromise, the boundary walling remains contrary to Residential Historic (Conservation) Zone Principle of Development Control 20 and is still visible within the streetscape.

The length of the boundary wall of the garage has been reduced, with the design now incorporating a carport behind the garage for the southern-most dwelling to provide a second covered parking space. The carport has a wall height of approximately 2.2 metres, which improves the amount of natural light access to the adjacent dwelling's window, despite the non-conformance from City Wide Principle of Development Control 194.



The extent of glazing to the front façade has been reduced through the introduction of additional solid walling, resulting in an improved solid to void ratio across the facade. A contemporary front verandah has also been incorporated to the front façade of both dwellings and garages. Material colours have been revised, with render changed from 'white' to a light beige and roofing changed to shale grey in an effort to respond to the streetscape, while additional landscaping has been sought through the introduction of additional hedging plants within the front yards.

### Heritage Advice

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

In particular, David Brown has advised:

- *The proposed new dwellings are outwardly two level, with a single level gable roofed front portion with a highly visible upper floor with windows facing the street. The upper level and lower level roofs appear to have no visual relationship with their slopes or forms. The lower level façade composition of the revised design is a mostly reasonable outcome given the tightness of the sites.*
- *A shallow flat roof structure has been added under the gabled roofs as a verandah element, however, it does not project forward of the main roof, so I would question calling it a verandah. A verandah forward of the dwelling like every other historic dwelling in the street is the intention of the Development Plan.*
- *The solid to void ratio on the ground level front has been modified with now a large feature solid stone element to the front façade. Not a traditional approach, but it satisfies the intent of the Development Plan.*

Mr Brown's report summarises that:

*"The proposed replacement dwellings appear to not consider many of the provisions in the Development Plan, and while some of these are able to be resolved with some modification to the design, there are too many in the current proposal to overlook. Essentially the blocks of land do not appear to be wide enough to allow for a suitable house design that will adequately satisfy the provisions of the Development Plan. In heritage terms the proposed new two-level dwellings would not be a successful replacement for the existing bungalow on the site if demolition was approved. They would also not take into account the general streetscape context of Foster Street, meaning they would visually dominate the more traditional character buildings in the street."*

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

Therefore in this context, the compromise proposal's dwelling design continue to fail to satisfy Residential Historic (Conservation) Zone Principle of Development Control 8(a), and are not considered a suitable replacement.

A copy of Mr Brown's Heritage Advice is contained in **Attachment 4**.

### **Summary**

The amended dwellings are considered to remain outwardly two storey in appearance, in a street characterised by single storey dwellings. The increase in the front setback of the southern dwelling results in a reasonable setback relationship with adjacent properties, however results in the upper level being more prominent.

The amended façade composition with increased amount of masonry and revised colour scheme are considered to be improvements. However, the relatively complex roof forms of various depths and lack a genuine front verandah element mean that the dwellings are not compatible with character dwellings in the street.

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

- inadequate setbacks to side boundaries, thereby not demonstrating compatible relationship with the side boundary setback patterns of buildings that contribute to the historic character of the policy area;
- absence of a habitable room window facing the street;
- the incorporation of side boundary development contrary to Residential Historic (Conservation) Zone Principle of Development Control 20;
- garages occupying 50% of the site frontage with, contrary to City Wide Principle of Development Control 211 (40%); and
- driveway crossover access within the structural root zone of an adjacent street tree.

These concerns are considered to indicate that the site frontages are too narrow to accommodate dwellings which accord with the policy intent of the Residential Historic Conservation Zone, and that the development will not *enhance the historic character* of the Norwood 4 Policy Area (Norwood 4 Policy Area Objective 1)

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

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

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

## RECOMMENDATION

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



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

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**MOTION 1  
MOVED**

*The Council Assessment Panel orders pursuant to Regulation 13(2)(a) of the Planning Development and Infrastructure Regulations 2016, that the public, with the exception of the Assessment Manager and other staff so determined, be excluded from attendance at so much of the meeting as is necessary to discuss, consider and determine in confidence, information contained within the report at Item 2.1 of the agenda submitted by the Assessment Manager.*

*Seconded and Carried*

*The Public Gallery left the meeting at 7:05pm*

**MOTION 2  
MOVED**

*That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan, the Environment Resources & Development Court be advised that Development Application No 155/D017/21 by Nicholas Jake Peacock to undertake a Torrens Title land division (1 into 2), the demolition of an existing dwelling and the construction of two detached dwellings, on the land located at 5 Foster Street, is not accepted for the following reasons:*

- a) *Contrary to Norwood 4 Policy Area Objective 1, the proposal does not enhance the historic character of the Norwood 4 Policy Area.*
- b) *Contrary to Norwood 4 Policy Area Principle of Development Control 3, the proposal involves the demolition of an existing buildings originally constructed prior to 1940 which contributes to the desired character of the Zone and the Policy Area.*
- c) *Contrary to the Residential Historic (Conservation) Zone Desired Character Statement, the development will not preserve and enhance the historic character and ambience of localities by providing for a range of high-quality residential accommodation which reinforces the historic character and residential amenity of the policy area.*
- d) *Contrary to the Residential Historic (Conservation) Zone Desired Character Statement, the development will not reinforce the existing streetscape and historic building stock, the new dwellings will not be of a complementary nature and will compete and stand out against the historic elements for streetscape prominence.*
- e) *Contrary to Residential Historic (Conservation) Zone Principles of Development Control 3 and 7(d), the existing dwelling which contributes to the historic character and desired character of the zone is not proposed to be retained and conserved/rehabilitated.*
- f) *Contrary to Residential Historic (Conservation) Zone Principle of Development Control 7(a), the proposed dwellings are not at a density which is reflective of the historic development patterns of the locality.*
- g) *Contrary to Residential Historic (Conservation) Zone Principle of Development Control 16, the proposed dwellings do not demonstrate a compatible visual relationship with the buildings that contribute to the historic character of the relevant policy area through consideration of the following:*
  - i. *bulk and scale;*
  - ii. *width of site frontage, front and side boundary setback patterns, wall height and window placement;*
  - iii. *the form and level of visual interest present in a building (as determined by the height of eaves, the length and size of unbroken walling, treatment of openings and depths of reveals, roof form and pitch, external colour and texture of materials used, as well as detailing, landscaping and fencing); and*
  - iv. *design elements such as verandahs, balconies and eaves.*
- h) *Contrary to Residential Historic (Conservation) Zone Principle of Development Control 19, the height of the proposed new buildings is not consistent with the prevailing building **heights**.*

*Seconded and Carried*

3. **OTHER BUSINESS**  
Nil
4. **CONFIDENTIAL REPORTS**  
Nil
5. **CLOSURE**

The Presiding Member declared the meeting closed at 7:36pm

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**Terry Mosel**  
**PRESIDING MEMBER**

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**MARK THOMSON**  
**MANAGER DEVELOPMENT ASSESSMENT**