

Council Assessment Panel Minutes

21 January 2025

Our Vision

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

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

City of Norwood Payneham & St Peters
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City of
Norwood
Payneham
& St Peters

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VENUE Council Chambers, Norwood Town Hall

HOUR 6:30pm

PRESENT

Panel Members Mr Stephen Smith
Mr Mark Adcock
Mr Ross Bateup
Mr Julian Rutt
Cr Christel Mex

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

APOLOGIES

ABSENT

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 16 DECEMBER 2024**

**Moved by Mr Adcock and Seconded by Mr Bateup
CARRIED**

4. **DECLARATION OF INTERESTS**

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER ID 24000185 – ASBD DESIGN AND CONSTRUCT –
68 THIRD AVENUE ST PETERS SA 5069

DEVELOPMENT NO.:	24000185
APPLICANT:	asbd design & construct
ADDRESS:	68 THIRD AV ST PETERS SA 5069
NATURE OF DEVELOPMENT:	Variation to DA 155/820/2019 to increase the length of the boundary wall
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Historic Area • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 18m) • Minimum Site Area (Minimum site area for a detached dwelling is 600 sqm) • Maximum Building Height (Levels) (Maximum building height is 1 level) • Site Coverage (Maximum site coverage is 50 per cent)
LODGEMENT DATE:	12 Jan 2024
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2023.19 - 21 December 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edmund Feary - Senior Urban Planner
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	David Brown

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 5:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Response to Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 7:	Minutes from Previous CAP Meeting
ATTACHMENT 3:	Zoning and Locality Map	ATTACHMENT 8:	Original application Planning Consent Stamped Plans
ATTACHMENT 4:	Representation Map		

DETAILED DESCRIPTION OF PROPOSAL:

The proposed development seeks to vary an existing approval to extend the length of a boundary wall. The boundary wall would now be 11.935m long, and 3.15m high from natural ground level.

BACKGROUND:

A dwelling on this site was originally approved under the Development Act as DA 155/820/2019. This included a boundary wall which was 5.37m long, a hip and valley roof over the front portion, and windows at the rear with a sill height of 1.5m.

The boundary wall in this original application was to the storeroom, powder room and WC.

Council's Compliance Officer attended the site and noted that the boundary wall was now 11.935m long, the roof had been changed to a hipped type over the front portion, that the windows were much larger than had been approved. The additional length of the boundary wall was in the living room i.e. it was extended towards the rear.

The applicant submitted a variation which sought to formalise these three discrepancies between the "as approved" and the "as built" proposals.

Based on a desktop assessment of the application, staff advised that they could not support the proposed variation to remove privacy treatment from the rear windows. A site inspection was undertaken, and this view was reinforced.

As a result of this, the applicant has amended the scope of this variation, so that it only includes the variation to the boundary wall. A separate minor variation was lodged and endorsed reflecting the roof changes and the window sizing changes, noting that this included privacy treatment on the windows up to 1.5m above floor level.

Therefore, this application only seeks for the approval of the boundary wall, as the other elements have all received retrospective approval via a minor variation.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 68 THIRD AV ST PETERS SA 5069

Title ref.: CT 5336/905

Plan Parcel: F135752 AL1

Council: The City of Norwood Payneham & St Peters

Shape: Rectangular

Frontage width: 15.2m

Area: 695m²
Topography: Mostly flat
Existing structures: Dwelling under construction
Existing vegetation: None

Locality

The locality is defined as extending approximately 150m in either direction along Third Avenue, ending at Winchester Street to the southwest and the Council reserve to the northeast, with the dwellings on the opposite sides of both Third Avenue and Fourth Lane also included.

The locality is wholly residential in character, with large, detached dwellings on allotments generally around 700m². The built form is predominantly single storey, with some two storey to the rear or hidden in the roof space of dwellings. Dwellings are generally pre-1940's, with some more recent constructions.

Tree canopy coverage is generally, relatively high, but this is mostly due to the street trees lining Third Avenue.

Separation between buildings is somewhat mixed, with boundary development being relatively commonplace, despite the generously sized dwellings and allotments. Boundary development is typically in the form of a carport or later addition and was not characteristic of the historic pattern of development.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
New housing
Detached dwelling: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code; Boundary wall exceeds 8m in length, windows not screened

PUBLIC NOTIFICATION

- **REASON**
Boundary wall length exceeds 8m
- **LIST OF REPRESENTATIONS**

First Name	Surname	Address	Position	Wishes to be heard?
Steven	Evans	83A Fourth Avenue, St Peters	Support, with concerns	No
Anina	Evans	83A Fourth Avenue, St Peters	Opposed	No

- **SUMMARY**

Representors were concerned by the differences between what has been built and the originally approved plans, noting in particular the northwestern facing windows. See the "Background" section

for further details of the variances between the original approved plans and what was built. It is noted that the affected neighbour did not submit a valid representation but did return Council's letter with a note expressing confusion at receiving a letter, given that the wall had already been constructed.

AGENCY REFERRALS

None

INTERNAL REFERRALS

- David Brown, Heritage Advisor

Advice was sought from Council's Heritage Advisor regarding the amendments to the roof form. As these no longer form part of this application, this advice is no longer relevant to this application.

PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One. Nonetheless, given the variation's limited scope, and the lack of visibility of the wall from the public realm, there are three key policies which are set out below, being Established Neighbourhood Zone PO 7.1, and Interface Between Land Uses PO's 3.1 and 3.2.

<p><i>Established Neighbourhood Zone PO 7.1:</i></p> <p><i>Walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties.</i></p>	<p><i>Established Neighbourhood Zone DPF 7.1:</i></p> <p><i>... side boundary walls occur only on one side boundary and satisfy (i) or (ii) below:</i></p> <ul style="list-style-type: none"> <i>i) side boundary walls adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height</i> <i>ii) side boundary walls do not:</i> <ul style="list-style-type: none"> <i>A) exceed 3.2m in wall height from the lower of the natural or finished ground level</i> <i>B) exceed 8m in length</i> <i>C) when combined with other walls on the boundary of the subject development site, exceed a maximum 45% of the length of the boundary</i> <i>D) encroach within 3m of any other existing or proposed boundary walls on the subject land.</i>
<p><i>Interface Between Land Uses PO 3.1:</i></p> <p><i>Overshadowing of habitable room windows of adjacent residential land uses in:</i></p> <ul style="list-style-type: none"> <i>a) a neighbourhood-type zone is minimised to maintain access to direct winter sunlight</i> <i>b) other zones is managed to enable access to direct winter sunlight.</i> 	<p><i>Interface Between Land Uses DPF 3.1:</i></p> <p><i>North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.</i></p>

<p><i>Interface Between Land Uses PO 3.2:</i></p> <p><i>Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:</i></p> <p>a) <i>a neighbourhood type zone is minimised to maintain access to direct winter sunlight</i></p> <p>b) <i>other zones is managed to enable access to direct winter sunlight.</i></p>	<p><i>Interface Between Land Uses DPF 3.2:</i></p> <p><i>Development maintains 2 hours of direct sunlight between 9.00 am and 3.00 pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following:</i></p> <p>a) <i>for ground level private open space, the smaller of the following:</i></p> <p style="margin-left: 40px;">i) <i>half the existing ground level open space or</i></p> <p style="margin-left: 40px;">ii) <i>35m² of the existing ground level open space (with at least one of the area's dimensions measuring 2.5m)</i></p> <p>b) <i>for ground level communal open space, at least half of the existing ground level open space.</i></p>
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Therefore, give the afore-mentioned policies, the merits of the application rest largely on the impact of the wall on the neighbouring property, with a note on the streetscape.

Streetscape Impact

The proposed wall is set back some 19.3m from the primary street boundary, and 8.9m behind the building line, meaning that it would not be noticeable from the street. Moreover, the originally approved portion of the boundary wall was the portion closest to the street, so what little streetscape impact there may be would not be altered as a result of this application.

Impact on Neighbouring Property

Visual Impact

The proposed wall abuts the side walkway of the neighbouring site to the southwest. This is not a space with a particularly high amenity value, being used primarily as a thoroughfare.

DPF 7.1 expects that a wall of 8m in length is reasonable, so essentially the wall in question is 4m longer than this guideline. PO 7.1 speaks only to “managing” visual impacts by “limiting” length, which is somewhat lacking in directional specificity.

The additional length would mean that the wall now abuts a window on the neighbouring property, which does increase its impact. However, the actual change in outlook between this window looking out onto a fence with a 3.7m tall wall 900mm behind it, and a 3m tall wall on the boundary, is relatively limited.

On balance, it is considered that the visual impact of the additional length is relatively limited.

Overshadowing

The Performance Outcomes above from the Interface Between Land Uses module consider shadowing of windows and private open space, so these are the factors which will be considered here.

Private open space will not be affected by additional overshadowing given that the space for 64 Third Ave is in the western corner of the site, with the dwelling in between this space and the wall.

Regarding windows, no floor plan is available online to show what rooms are along this side of the building, but it is understood that there are habitable rooms, and there is a kitchen at the rear. As noted in the background section, the extended section of the wall is at this rear part.

Notably, the DPF only considers “north-facing” windows; a term which is not defined in the Code. However, “south-facing” (with respect to walls) is defined, being:

In relation to building orientation, a side wall is south facing if the wall is orientated anywhere between E20°N/W20°S and E30°S/W30°N.

The orientation of the allotment is approximately W35°N, meaning that the boundary wall is not south-facing, and therefore by extension, the windows can be considered as not being “north-facing”. This means that DPF 3.1 is not particularly instructive. It is noted, however, that PO 3.1 does consider overshadowing more broadly, not just north-facing windows.

The applicant has provided a section drawing showing that, compared to the approved plans with a 2.1m fence on the side boundary, on the summer solstice, the proposed variation would result in an extra nine minutes of shade to the windows along that side. This is of course for the summer solstice, when the PO seeks to minimise overshadowing in winter.

By way of example, at 12pm on the winter solstice, a 3.7m tall wall (the height of the approved wall 900mm from the boundary) would cast a shadow of 6.03m, compared to 4.89m for the 3m wall proposed. Therefore, the lower height offsets the removal of the side setback, meaning that the shadow is not as long. At 9am, the 3m wall would cast a shadow of 10.97m, compared to 13.53m for the 3.7m tall wall.

To be clear, the wall does still increase to that 3.7m height at the 900mm setback, but the point is that it is this taller section, not the boundary wall, which is casting the shadow on the neighbouring allotment. Therefore, the variation would not increase the extent of overshadowing as a result of the development.

Question of Seriously at Variance

The proposed development comprises a variation to extend a boundary wall. It is located in the Established Neighbourhood Zone. Development of this nature is appropriate within the site, locality or in the subject Zone for the following reasons.

- It is of a fundamentally residential nature, consistent with the generally residential land uses envisaged by the Zone; and
- The Zone does not include a Technical and Numeric Variation which may suggest that boundary development is inappropriate.

The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.

CONCLUSION

Given the limited scope of the variation, there is little to say in this report. The extension of the proposed boundary wall further towards the rear of the block would affect the outlook from one window on the neighbouring property, but ultimately, this impact in outlook is not substantial. Furthermore, the shadowing impact of the boundary wall is extremely limited because of the existing upper floor and raised ceiling heights internal to the site.

On the whole, the application is considered to sufficiently accord with the Planning and Design Code to warrant consent.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c)

of the *Planning, Development and Infrastructure Act 2016*.

2. Development Application Number 24000185, by asbd design & construct is granted Planning Consent subject to the following reasons/conditions/reserved matters:

CONDITIONS
PLANNING CONSENT

Condition 1

The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any), noting that all previous stamped plans and documentation, including conditions previously granted Planning Consent for Development Application ID No. 155/820/2019 are still applicable except where varied by this authorisation.

ADVISORY NOTES
PLANNING CONSENT

Advisory Note 1

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

Advisory Note 2

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

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

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

Advisory Note 3

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

Advisory Note 4

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

Advisory Note 5

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

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

Advisory Note 6

The Applicant is advised that construction noise is not allowed:

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

Advisory Note 7

The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections), or works that require the closure of the footpath and / or road to undertake works on the development site, will require the approval of the Council pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 8

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

Advisory Note 9

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

Moved by Mr Rutt

1. *The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the Planning, Development and Infrastructure Act 2016.*
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Advisory Note 9

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

Seconded by Mr Adcock
CARRIED

6. **DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT**

7. **REVIEW OF ASSESSMENT MANAGER DECISIONS**

8. **ERD COURT APPEALS**

9. **OTHER BUSINESS**

Mr Geoff Parsons advised that the Council Assessment Panel meeting procedures will be presented to the Panel at its next meeting.

10. **CONFIDENTIAL REPORTS**

11. **CLOSURE**

The Presiding Member declared the meeting closed at 6.45pm

Stephen Smith
PRESIDING MEMBER

Geoff Parsons
MANAGER, DEVELOPMENT & REGULATORY SERVICES