



COUNCIL ASSESSMENT PANEL

Agenda and Reports

for the meeting
Monday, 29 April 2024
at 5.30 pm
in the Colonel Light Room, Adelaide Town Hall



Council Assessment Panel

Meeting Agenda

Monday, 29 April 2024, at 5.30 pm, Colonel Light Room, Adelaide Town Hall

Panel Members

Presiding Member – Nathan Cunningham

Panel Members – Mark Adcock, Colleen Dunn, Robert Gagetti and Councillor Keiran Snape

Deputy Panel Members – Prof Mads Gaardboe and Councillor Carmel Noon

Opening and Acknowledgment of Country

At the opening of the Panel Meeting, the Presiding Member will state:

‘The City of Adelaide Council Assessment Panel acknowledges that we are meeting on traditional Country of the Kurna people of the Adelaide Plains and pays respect to Elders past and present. We recognise and respect their cultural heritage, beliefs and relationship with the land. We acknowledge that they are of continuing importance to the Kurna people living today.

And we also extend that respect to other Aboriginal Language Groups and other First Nations who are present today.’

Meeting Agenda

1. Confirmation of Minutes

That the Minutes of the meeting of the City of Adelaide Council Assessment Panel held on 26 February 2024, be taken as read and be confirmed as an accurate record of proceedings.

View public 26 February 2024 Minutes [here](#).

2. Declaration of Conflict of interest

3. Applications assessed under PDI Act 2016 (SA) with Representations

3.1 108 Gilbert Street, Adelaide [Pages 4 - 27]

4. Applications assessed under PDI Act 2016 (SA) without Representations

Nil

5. Appeal to CAP for Assessment Manager's Decision Review

Nil

6. Other Business

6.1 Planning Policy Updates including Suggestions from Panel

6.2 Other Business raised at Panel Meeting

6.3 Next Meeting - 27 May 2024

7. Closure

Council is committed to openness and transparency in its decision making processes, however some documents contained within attachments to Development Assessment Panel agenda items are subject to copyright laws. This information is marked with a copyright notice. If these documents are reproduced in any way, including saving and printing, it is an infringement of copyright. By downloading this information, you acknowledge and agree that you will be bound by provisions of the *Copyright Act 1968 (Cth)* and will not reproduce these documents without the express written permission of the copyright owner.

Agenda Item 3.1

Council Assessment Panel
Monday, 29 April 2024

Subject Site	108 Gilbert Street, Adelaide
Development Number	22043012
Nature of Development	Demolish existing building and construct six level mixed use building, comprising office at ground level, apartments above and car parking.
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Refused
Status	Public

DEVELOPMENT NO.:	22043012
APPLICANT:	Nic Design Studio C/- URPS
AGENDA ITEM NO:	3.1
ADDRESS:	108 Gilbert Street, Adelaide SA 5000
NATURE OF DEVELOPMENT:	Demolish existing building and construct six level mixed use building, comprising office at ground level, apartments above and car parking
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • City Living <p>Subzones:</p> <ul style="list-style-type: none"> • Medium-High Intensity <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Building Near Airfields • Design • Heritage Adjacency • Hazards (Flooding - Evidence Required) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height – 14 metres or 4 levels • Minimum Building Height – 2 levels • Minimum Site Area – residential flat building – 100m²
LODGEMENT DATE:	27 March 2023
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2023.4 – consolidated 16 March 2023
CATEGORY OF DEVELOPMENT:	Code Assessed – Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	JB
REFERRALS STATUTORY:	Minister responsible for the administration of the <i>South Australian Housing Trust Act 1995</i> Environment Protection Authority
REFERRALS NON-STATUTORY:	Cleansing Heritage Assets and Infrastructure Traffic

CONTENTS:

ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Subject Land & Locality Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	ATTACHMENT 7:	Prescribed Body Responses
ATTACHMENT 4:	Representation Map	APPENDIX 1:	Relevant P&D Code Policies

All attachments and appendices are provided via [Link 1](#)

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Peter Brady of 3/115 Gilbert Street, Adelaide
- Jennifer Boisvert of 10 Corryton Street, Adelaide
- Brian Loffler of 9/103 Sturt Street, Adelaide
- Geoff Schrader of 14 Considine Place, Adelaide

Applicant

- Patrick Coombes of URPS on behalf of applicant, Nic Design Studio

1. DETAILED DESCRIPTION OF PROPOSAL

This application proposes the demolition of an existing single storey warehouse and construction of a six level mixed use building, comprising an office at ground level, apartments above (including four affordable housing apartments) and car parking for 28 cars utilising car stackers. Each level is described as below:

- Ground level – office tenancy, building services, lift lobby, stair access and car stacker
- Levels 1 to 5 – each level contains five dwellings with a mix of one and two bedroom types, lift and stair access.

A total of four affordable housing apartments are proposed on levels 1 and 2 (two 1 bedroom apartment at each level). The roof includes an array of solar panels and air conditioning mechanical plant.

2. BACKGROUND

Council Administration expressed concern with the proposal as part of a pre-lodgement process. Concerns particularly related to the height and lack of setbacks.

The applicant ultimately decided to lodge the development application, despite unsupportive pre-lodgement advice.

The applicant has made relatively minor amendments to the proposal since lodgement in response to several Council Administration comments as well as representations received during the public notification period.

The most significant amendment has been the introduction of affordable housing.

3. SUBJECT LAND & LOCALITY

Subject Land

The subject site is located on the northeastern corner of the intersection between Gilbert Street and Considine Place.

The site is currently developed with a single storey office and warehouse building.

The site boundary is irregular. It has a frontage to Gilbert Street of approximately 9.9 metres, a frontage to Considine Place of approximately 42 metres and a rear boundary of 12.4 metres. The site has an area of approximately 460m².

The site is relatively level and there are no regulated or significant trees on the site.

Locality

The locality is comprised of a mix of building types, ranging from single to three building levels having differing eras of construction, however generally post-1930s.

There is a mix of residential and non-residential land uses. Non-residential land uses include a childcare centre, offices, shops and a bar.

Figure 3.1 - Subject site viewed from southern side of Gilbert Street



Figure 3.2 – Residential development in Gilbert Street on opposite side of Considine Place



Figure 3.3 – Childcare centre to the east of subject site



Figure 3.4 – Adjacent residential development north of subject site



Figure 3.5 – Balconies of residential development west of subject site



Figure 3.6 – Development on Gilbert Street to the west



Figure 3.7 – Southern side of Gilbert Street opposite subject site



Figure 3.8 – Development on southern side of Gilbert Street to the east



4. **CONSENT TYPE REQUIRED**

Planning Consent

5. **CATEGORY OF DEVELOPMENT**

PER ELEMENT:

Residential flat building: Code Assessed - Performance Assessed

Office: Code Assessed - Performance Assessed

Solar Panels: Performance Assessed

OVERALL APPLICATION CATEGORY:

Code Assessed - Performance Assessed

REASON:

A residential flat building and office are not classes of development listed in Tables 1, 2 or 4 of the City Living Zone as being Accepted, Deemed to Satisfy or Restricted and therefore default to Code Assessed – Performance Assessed development.

6. **PUBLIC NOTIFICATION**

REASON:

The development exceeds the maximum building height of 14 metres. Table 5 identifies residential flat buildings that are over height as not being exempt from public notification. Therefore, the application was publicly notified, and the following representations were received:

Table 6.1 – List of Representations		
No.	Representor Address	Request to be Heard
1	Dale Wood, 95 Gilbert Street, Adelaide	No – Supports
2	Dominic Mugavin, 6/44 Whitmore Square, Adelaide	No – Supports
3	Peter Brady, 3/115 Gilbert Street, Adelaide	Yes – Opposes
4	Jennifer Boisvert, 10 Corryton Street, Adelaide	Yes – Opposes
5	Kevin Rutland, 6/115 Gilbert Street, Adelaide	No – Opposes
6	Colette Slight, 2/95 Gilbert Street, Adelaide	No – Support with some concerns
7	Brian Loffler, 9/103 Sturt Street, Adelaide	Yes – Opposes
8	Luke Saturno, 4 Fifth Avenue, St Peters	No – Support with some concerns
9	Geoff Schrader, 14 Considine Place, Adelaide	Yes – Opposes
10	Graham and Chreena Thomas, 13/101 Sturt Street, Adelaide	No – Opposes
11	Leonie Shore, 7/101 Sturt Street, Adelaide	No – Opposes
12	Margaret Hayman, 6/101 Sturt Street, Adelaide	No – Opposes
13	Deb Carman, 104 Gilbert Street, Adelaide	No – Opposes

Table 6.2 – Summary of Representations

Support

- Need for housing in Adelaide

Oppose

- Impact of height
- Overshadowing
- Adverse traffic impacts
- Inappropriate development adjacent a childcare centre
- Setbacks to the west and north should be increased
- Impact on potential future solar panels
- Overlooking
- Access door to car parking excessive
- Insufficient soft landscaping
- No gas connections
- Impact on residential amenity
- Safety issues with volume of traffic generated

Note: The full representations and the applicant's response to the representations are included in Attachments 5 and 6.

7. **AGENCY REFERRALS**

SA Housing Authority

Affordable Housing Assessment

The South Australian Housing Authority has assessed the proposal and determined the delivery of affordable housing can be secured due to the following:

- There is an affordable housing land management agreement (LMA) in place between the landowner (Gilbert Square Pty Ltd) and Minister for Planning registered on the Titles on 27 October 2023 (AG 14146486).
- An Affordable Housing Plan has been provided by the Applicant to the SA Housing Authority that outlines the project will deliver approximately 16 per cent of the total number of dwellings as affordable housing and should therefore be assessed as meeting the minimum 15 per cent requirement.

Conclusion

Provided the proposed development is undertaken in accordance with the LMA and submitted documentation, the SA Housing Authority considers delivery of appropriate affordable housing is likely to be achieved.

Direction

As affordable housing has been secured via an LMA, no conditions are directed. The SA Housing Authority reserves the right to apply conditions or enter into LMAs on any future development applications.

Environment Protection Agency

While it is recognised there remain inconsistencies and deviations from the national industry guidance described in the ASC NEPM and relevant EPA guidelines, the EPA is of the opinion the minimum level of required information has been provided to reasonably demonstrate the site can be made suitable for the proposed use, subject to a statement of site suitability.

Direction

The relevant authority is directed to attach the following conditions to any approval:

1. A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability is issued certifying that the required remediation has been undertaken and the land is suitable for the proposed use.
2. For the purposes of the above condition and regulation 3(6) of the *Planning, Development and Infrastructure (General) Regulations 2017*, the statement of site suitability must be issued by a site contamination auditor informed by a completed site contamination audit report prepared in accordance with Part 10A of the *Environment Protection Act 1993*.

The following note provides important information in relation to the development and is requested to be included in any approval:

- The applicant/owner/operator are reminded of its general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.

8. INTERNAL REFERRALS

Assets and Infrastructure

Stormwater plan supported subject to inclusion of a reserved matter in relation to the provision of a detailed stormwater management plan and design for the development.

Cleansing

Waste Management Plan refers to waste collection being a walk in/walk out service, with the office component utilising 1 x 240 litre recycling and 1 x 140 litre waste bins which is supported.

Heritage

As the local context is already low-medium rise apartments of varying quality, the heritage adjacency impacts are minimal. There is adequate space provided by the courtyard between the proposal and the Local Heritage Place to the east.

The proposed building will have a well-defined plinth and uses fine grain materials at ground level to relate to the streetscape. The tower above the plinth will be setback and will be visually interesting due to changes in materiality.

The eastern precast facade is blank when compared to the western facade, however this is not considered to translate to a dominating impact on the adjacent Local Heritage Place, due to the courtyard between.

Traffic

Assessment of transport, parking and access has been undertaken and there are no issues, subject to the inclusion of recommended conditions and advisory notes.

9. PLANNING ASSESSMENT

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

9.1 Summary of City Living Zone Assessment Provisions

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Predominantly low-rise, low to medium-density housing, with medium rise in identified areas ... small scale employment and community service uses ... without compromising residential amenity. 		
Land Use and Intensity			
PO 1.1	<ul style="list-style-type: none"> Residential flat buildings envisaged. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.2	<ul style="list-style-type: none"> Small scale offices appropriate in the zone. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.3	<ul style="list-style-type: none"> Office use not expected to detract from residential character and amenity. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.4	<ul style="list-style-type: none"> Commercial activity located on ground floor with primary street frontage to Gilbert Street. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Built Form and Character			
PO 2.1	<ul style="list-style-type: none"> Increases number of dwellings. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 2.2	<ul style="list-style-type: none"> Achieves minimum building height of 2 levels. Exceeds maximum building height of 4 levels/14 metres. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 2.3	<ul style="list-style-type: none"> Not consistent with prevailing built form characteristics such as floor to ceiling heights. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Building Setbacks			
PO 3.1	<ul style="list-style-type: none"> Incorporates one metre setback at ground and two metres on upper levels of primary boundary. Most buildings in locality sited on primary boundary. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 3.2	<ul style="list-style-type: none"> 900mm setback from secondary street boundary consistent with built form in locality. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 3.3	<ul style="list-style-type: none"> Minimal setbacks from eastern boundary in small pockets, however consistent with setbacks in the locality. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 3.4	<ul style="list-style-type: none"> Refer Section 9.5. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 3.5	<ul style="list-style-type: none"> Eastern boundary wall exceeds 3 metres in height, 11.5 metres in length and 45% of the total boundary. Not setback 3 metres from existing boundary wall. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site Dimensions and Land Division			
PO 4.1	<ul style="list-style-type: none"> Not a catalyst site for reduced site areas. Dwellings do not achieve minimum site area of 100m². 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Car Parking and Access			
PO 5.1	<ul style="list-style-type: none"> Access via a minor street. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

9.2 Summary of Medium-High Intensity Subzone Assessment Provisions

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Medium rise, medium density housing in a variety of forms with an eclectic mix of supporting non-residential land uses. 		
DO 2	<ul style="list-style-type: none"> Redevelopment of existing non-residential sites into integrated mixed-use developments. 		
Land Use and Intensity			
PO 1.1	<ul style="list-style-type: none"> Mix of accommodation types and exceeds density sought. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Interface Height			
PO 2.1	<ul style="list-style-type: none"> Site does not abut subzone boundary. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

9.3 Summary of Applicable Overlays

The following Overlays are not considered relevant to the assessment of this application:

- Airport Building Heights (Regulated) and Building Near Airfields Overlay – building height below maximum prescribed AHD level of 80 metres
- Building Near Airfields Overlay – not located near airfield
- Design Overlay – not proposing a medium to high rise building with a value over \$10 million
- Prescribed Wells Area Overlay – no groundwater concerns
- Regulated and Significant Tree – no trees affected

The following Overlays are considered relevant to the assessment of the application:

Affordable Housing Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Affordable housing integrated with residential and mixed-use development. 		
DO 2	<ul style="list-style-type: none"> Affordable housing caters for a variety of household structures. 		
Land Division			
PO 1.1	<ul style="list-style-type: none"> Incorporates affordable housing. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.2	<ul style="list-style-type: none"> Includes minimum 15% affordable housing. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 1.3	<ul style="list-style-type: none"> Not highly distributed throughout development as only on levels one and two. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Built Form and Character			
PO 2.1	<ul style="list-style-type: none"> Design consistent with residential development in locality. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Affordable Housing Incentives			
PO 3.1	<ul style="list-style-type: none"> Minimum site area for affordable housing can be reduced by 20% from 100m² to 80m². Affordable housing on levels 1 and 2 vary in area from 50m² – 51m² and are smaller than the incentive allows for. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>

PO 3.2	<ul style="list-style-type: none"> Building height can be increased by an additional level. Allows for up to five levels, however six levels proposed. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Movement and Car Parking			
PO 4.1	<ul style="list-style-type: none"> Refer Section 9.5. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Hazards (Flooding – Evidence Required) Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Development adopts precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk. 		
Flood Resilience			
PO 1.1	<ul style="list-style-type: none"> Floor levels at least 300mm above kerb. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Heritage Adjacency Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Development adjacent State and Local Heritage Places maintains heritage and cultural values of Places. 		
Built Form			
PO 1.1	<ul style="list-style-type: none"> Will not dominate, encroach or unduly impact upon the setting of adjacent Local Heritage Place. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Stormwater Management Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Development incorporates water sensitive urban design techniques to capture and re-use stormwater. 		
PO 1.1	<ul style="list-style-type: none"> For sites greater than 401m², a minimum retention volume of 4,000L and 1,000L detention is sought. Two rainwater tanks (T2 – 1 x 1,000L and T1 – 1 x 4,000L) included. Tank labelled T2 plumbed to deliver recycled water for reuse. Tank labelled T1 will pump to the street water table. Infrastructure supports proposal subject to a reserve matter for submission of a Stormwater Management Plan. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Urban Tree Canopy Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Residential development preserves and enhances urban tree canopy through the planting of new trees and retention of existing mature trees. 		
PO 1.1	<ul style="list-style-type: none"> No tree planting proposed. Payment of \$15,000 into the Fund required and would be conditioned if proposal granted consent. 	✓	✗

9.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Clearance from Overhead Powerlines

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines. 		
PO 1.1	<ul style="list-style-type: none"> Declaration provided. 	✓	□

Design in Urban Areas

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Development contextual by considering, recognising and carefully responding to surroundings and positively contributing to the character of locality, being durable, inclusive and sustainable. 		
All Development			
External Appearance			
PO 1.1	<ul style="list-style-type: none"> Corner reinforced by articulation, materials and colour. 	✓	□
PO 1.2	<ul style="list-style-type: none"> No shelter to footpath to contribute to walkability, comfort and safety of the public realm. 	□	✗
PO 1.3	<ul style="list-style-type: none"> Primary street elevation conveys purpose and identifies main access. 	✓	□
PO 1.4	<ul style="list-style-type: none"> Plant and equipment located on roof. 	✓	□
PO 1.5	<ul style="list-style-type: none"> Waste storage and management within building and screened from public view. 	✓	□
Safety			
PO 2.1	<ul style="list-style-type: none"> Passive surveillance will occur to street. Direct access from public street frontage and parking area. 	✓	□
PO 2.2	<ul style="list-style-type: none"> Communal, public and private areas adequately separated. 	✓	□

PO 2.3	<ul style="list-style-type: none"> Residential lobby setback from the public realm but will be adequately secured and lit. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 2.4	<ul style="list-style-type: none"> Passive surveillance to adjacent public realm. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 2.5	<ul style="list-style-type: none"> Ability to maintain massive surveillance through fencing along Considine Place. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Landscaping			
PO 3.1	<ul style="list-style-type: none"> Minimal landscaping to southern and western elevations. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environmental Performance			
PO 4.1	<ul style="list-style-type: none"> Siting constrained due to allotment area and construction over whole of the site. Access to northern light available for northern dwellings. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 4.2	<ul style="list-style-type: none"> Cross ventilation can occur. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 4.3	<ul style="list-style-type: none"> No significant shading devices employed. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Car Parking Appearance			
PO 7.1, 7.2	<ul style="list-style-type: none"> Parking integrated into building. Garaging not readily visible from the street and access gained via a single crossover. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 7.3	<ul style="list-style-type: none"> Direct access from carpark to remainder of development. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Site Facilities/Waste Storage (excluding low rise development)			
PO 11.1	<ul style="list-style-type: none"> Dedicated waste area provided. Waste collection will not occur on site as proponent opted for a walk-in/walk-out service. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 11.2	<ul style="list-style-type: none"> Waste area screened from public view. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 11.3	<ul style="list-style-type: none"> Waste area not located near habitable rooms. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
All Development – Medium and High Rise			
External Appearance			
PO 12.1	<ul style="list-style-type: none"> Responds to character of local area except the height. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 12.2	<ul style="list-style-type: none"> Architectural detail at street level and mixture of materials at lower building levels assist in providing human scale. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 12.3	<ul style="list-style-type: none"> Broken into elements, however canopy or verandah to street would assist further. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 12.4	<ul style="list-style-type: none"> Eastern boundary wall blank. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 12.5	<ul style="list-style-type: none"> Materials generally durable. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 12.6	<ul style="list-style-type: none"> Active use at ground level. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 12.7	<ul style="list-style-type: none"> Entrance to offices orientated to street and identifiable. Residential component accessible via walkway from main frontage. Frontage of reasonable quality, with small area of landscaping. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 12.8	<ul style="list-style-type: none"> Plant and equipment located on the roof or if at ground will be screened. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Landscaping			
PO 13.1	<ul style="list-style-type: none"> Small element of landscaping facing the street, however not sufficient to accommodate significant planting. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 13.2	<ul style="list-style-type: none"> DPF seeks 7% of site area (32.2m²), 3 metre minimum dimension and 1 medium tree/30m² deep soil zone. No tree planting proposed. Payment of \$15,000 into the Fund required and would be conditioned if proposal granted consent. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 13.3	<ul style="list-style-type: none"> No deep soil zones proposed. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 13.4	<ul style="list-style-type: none"> Not setback from adjacent low-rise residential accommodation to the north. No landscaping proposed on northern boundary. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Environmental			
PO 14.1	<ul style="list-style-type: none"> No significant overshadowing. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 14.2	<ul style="list-style-type: none"> Minor shading structures incorporated. Water harvesting and PV cells proposed. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 14.3	<ul style="list-style-type: none"> No podium base, verandah or setbacks to reduce impacts of wind as sought for buildings over 5 levels or more than 21 metres in height. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Overlooking/Visual Privacy			
PO 16.1	<ul style="list-style-type: none"> Screening and planter boxes will mitigate direct overlooking to adjacent residential properties. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
All Residential Development			
Front elevations and passive surveillance			
PO 17.1	<ul style="list-style-type: none"> Windows overlook Gilbert Street and Considine Place. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 17.2	<ul style="list-style-type: none"> Entry to dwellings setback from the Gilbert Street frontage. Will face Considine Place however no access due to landscaping and barrier wall. 	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Outlook and Amenity			
PO 18.1	<ul style="list-style-type: none"> External outlook achieved. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Residential Development – Medium and High Rise			
Outlook and Visual Privacy			
PO 26.1, 26.2	<ul style="list-style-type: none"> No ground level dwellings proposed. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Private Open Space			
PO 27.1	<ul style="list-style-type: none"> Refer Section 9.5. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Residential amenity in multi-level buildings			
PO 28.1	<ul style="list-style-type: none"> No visibility into other dwellings. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 28.2	<ul style="list-style-type: none"> Balconies integrated into overall design, covered to protect from weather and allow causal surveillance of public realm. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 28.3	<ul style="list-style-type: none"> Balconies meet two metre minimum dimension and directly accessible from habitable room. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PO 28.4	<ul style="list-style-type: none"> Storage areas meet minimum required – 8m³ for 1 bedroom and 10m³ for two bed bedrooms. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 28.5	<ul style="list-style-type: none"> No light wells. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dwelling Configuration			
PO 29.1	<ul style="list-style-type: none"> No studio or 3 bedroom+ apartments proposed. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	<ul style="list-style-type: none"> DPF seeks one bedroom apartments having a floor area of at least 50m². One bedroom dwellings propose areas varying between 50 and 51m². 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<ul style="list-style-type: none"> DPF seeks two bedroom apartments have a floor area of 65m². Two bedroom dwellings propose areas varying between 61 and 74m². Ten of the two bedroom apartments will be under recommended minimum size. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 29.2	<ul style="list-style-type: none"> No visibility into other dwellings. Bedrooms overlook courtyards or public space. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Group Dwellings, Residential Flat Buildings and Battle axe Development			
Amenity			
PO 31.1	<ul style="list-style-type: none"> Refer Section 9.5. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 31.2	<ul style="list-style-type: none"> Dwellings orientated towards street and adjacent properties, however methods used to reduce impact to adjoining properties. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 31.3	<ul style="list-style-type: none"> Dwellings overlook Gilbert Street and Considine Place which are both public streets. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Car Parking, Access and Manoeuverability			
PO 33.1	<ul style="list-style-type: none"> No impact to on-street carparking. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 33.2	<ul style="list-style-type: none"> Single common driveway provides vehicular access. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 33.3, 33.4	<ul style="list-style-type: none"> Traffic confirmed access and parking will be suitable. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Soft Landscaping			
PO 34.1	<ul style="list-style-type: none"> Landscaping proposed along Gilbert Street and Considine Place. Entry not located adjacent residential development. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Site Facilities/Waste Storage			
PO 35.1	<ul style="list-style-type: none"> Mailboxes provided on main frontage to Gilbert Street. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 35.2	<ul style="list-style-type: none"> No external clothes drying areas other than balconies. 	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PO 35.3	<ul style="list-style-type: none"> Waste and recycling facilities not visible from public realm. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 35.4	<ul style="list-style-type: none"> Waste and recycling not located near habitable room windows. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 35.6	<ul style="list-style-type: none"> Gas and water meters suitably screened. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 28.2	<ul style="list-style-type: none"> Balconies covered and will meet two metre minimum dimension. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Interface between Land Uses

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Development located and designed to mitigate adverse effects from neighbouring and proximate land uses. 		
General Land Use Compatibility			
PO 1.1	<ul style="list-style-type: none"> Location of offices and residential development adjacent existing childcare centre will not impact its operations. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Hours of Operation			
PO 2.1	<ul style="list-style-type: none"> Operating hours for office not provided, however comparatively small area (70m²) unlikely to impact adjacent properties. Can condition standard hours if granted consent. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Overshadowing			
PO 3.1	<ul style="list-style-type: none"> No impact on north facing windows of adjacent residential development. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 3.2	<ul style="list-style-type: none"> Due to orientation and location of site unreasonable overshadowing not expected. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 3.3	<ul style="list-style-type: none"> Adjacent panels located to the east will be impacted to some degree from 2pm onwards but this is acceptable. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Site Contamination

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> Ensure land suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination. 		
PO 1.1	<ul style="list-style-type: none"> Proposal involves a change to more sensitive land use. PSI indicates contamination may be possible with a low risk if undisturbed but further testing post demolition. The EPA is satisfied the site can be made suitable for the proposed use, subject to a statement of site suitability. Conditions to be imposed if proposal granted consent. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Transport, Access and Parking

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	<ul style="list-style-type: none"> A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users. 		
Sightlines			
PO 2.1	<ul style="list-style-type: none"> Considered acceptable. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vehicle Access			
PO 3.1	<ul style="list-style-type: none"> Access provided from an appropriate location. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 3.3	<ul style="list-style-type: none"> Located and designed to accommodate volume of traffic. 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PO 3.4	• Will not adversely impact neighbouring properties.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 3.5	• No impact on street trees or infrastructure in the public realm.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PO 3.6	• Single access.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Access for people with disabilities			
PO 4.1	• Council's traffic section has not identified any issues with proposed access.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vehicle Parking Rates			
PO 5.1	• Refer Section 9.5.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vehicle Parking Areas			
PO 6.1	• Movement appropriately designed to minimise impact on public road.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bicycle Parking in Designated Areas			
PO 9.1	• Refer Section 9.5.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Corner Cut-offs			
PO 10.1	• No built form on corner and visibility for drivers achieved.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

9.5 Detailed Discussion

Land Use

This application proposes demolition of an existing building and construction of a six level mixed use building, comprising an office tenancy at ground level, apartments above and car parking. The proposal will incorporate four of the 25 apartments as affordable housing, thereby achieving the 15% minimum recommended. These will be located on levels 1 and 2. Both residential and office land uses are envisaged in the Medium-High Intensity Sub Zone of the City Living Zone.

Built Form and Character

Height

The site is located within the Medium-High Intensity Subzone of the City Living Zone. In this subzone, medium rise, medium density housing is envisaged. More broadly, the City Living Zone seeks low-rise, low to medium density housing, with medium rise in identified areas. City Living Zone DPF 2.2 seeks building heights for this site to not exceed four building levels or a maximum height of 14 metres. A minimum building height of two levels is also stipulated.

The existing built form scale within the locality is predominantly one to two storeys. The only deviation being a three storey residential flat building and a four storey residential flat building.

Medium rise development is defined in the Code as three to six building levels. Therefore, at six building levels, the proposal is considered to meet the medium rise definition however, it exceeds the maximum height sought for this site.

The Affordable Housing Overlay applies to this site. As the proposal incorporates affordable housing, it has the benefit of an additional building level above the maximum height, as referred to in Affordable Housing Overlay PO 3.2. However, the building still exceeds the maximum height by one level, even with the affordable housing concession. The development is over height and the upper levels have not been recessed to reduce the overall mass and bulk, particularly in terms of the over height component.

Setbacks

The City Living Zone provides guidance in relation to appropriate setbacks in a residential setting. PO 3.1 seeks setbacks from the primary street boundaries complement the existing streetscape character. As there are no consistent setbacks in this portion of Gilbert Street, the inclusion of a one metre setback is not considered fatal.

The building is located on the secondary street boundary which is not in accordance with PO 3.2 as this seeks a setback that maintains a pattern of separation between building walls and public thoroughfares, reinforcing the streetscape character. The building on the western side of Considine Place incorporates a small setback however the locality includes development located on secondary boundaries.

PO 3.3 seeks side boundary setback separation consistent with the established streetscape of the locality and to allow access to natural light and ventilation for neighbours. The western side boundary is also the secondary street boundary and the other side boundary is shared with the childcare centre to the east. The main building on the neighbouring site is located on the side boundary and therefore the proposal is consistent with this side setback.

PO 3.4 seeks setbacks from rear boundaries to provide access to natural light and ventilation, open space recreation opportunities and space for landscaping and vegetation. DPF 3.4 suggests one way of achieving this is for building walls to be set back from a rear boundary at least:

- (a) 3 metres from the ground floor level
- (b) 5 metres for the first floor building level
- (c) 5 metres + an additional 1 metre added for every metre in height above a wall height of 7 metres.

The proposal provides minimal setbacks rear boundary setbacks. The building will be located on the rear boundary at ground level and will have a setback of 1 to 1.3 metres for the remaining levels which is well under the suggested setbacks. This will provide minimal opportunity to incorporate meaningful landscaping. The applicant has suggested the proposal would be untenable if it were to achieve the suggested setbacks. However, a greater setback from the rear boundary would be beneficial for existing residential development to the north as it would reduce the bulk and scale of the building proposed near this boundary and allow landscaping along the northern portion of the site to soften the impact of the development. This would also allow for a landscaped area for occupants.

Site Areas

City Living Zone PO 4.1 seeks allotments created for residential purposes to be of a “*suitable size and dimension and compatible with the housing pattern consistent to the locality.*” DPF 4.1 refers to site areas for dwellings within a residential flat building of a minimum 100m². DPF 3.1 under the Affordable Housing Overlay suggests allotment areas for dwellings allocated for this purpose can be reduced below the minimum specified by up to 20%, which is 80m² in this instance.

The proposal does not achieve the desired 100m² site area for the apartments not allocated as affordable housing (average of 59m² instead of 100m²). Even with the concession included for the affordable housing, the site areas are still well under the envisaged minimum.

Design and Appearance

City Living Zone PO 2.3 seeks new buildings and structures visible from the public realm be consistent with the valued streetscape characteristics of the area and the prevailing built form characteristics, such as floor to ceiling heights.

There are several outcomes the proposal fails to achieve which are considered important within the context of the locality. In terms of zone requirements, the proposal is not consistent with PO 1.2 as it does not incorporate shelter over the footpath to contribute to the walkability, comfort and safety of the public realm.

Considering the scale of the proposal, it fails to positively contribute to the character of the local area. Whilst there has been an attempt to break up the eastern façade, it is not desirable in terms of providing a visually interesting treatment as sought by Design in Urban Areas PO 12.5.

Landscaping

Design in Urban Areas PO 3.1 seeks soft landscaping and tree planting. For medium and high-rise development, PO 13.1 suggests development facing a street should provide a well landscaped area with deep soil space to accommodate a tree of a species and size adequate to provide shade, contribute to tree canopy targets and soften the appearance of buildings. PO 13.2 further defines the required depth, dimension and tree size. The proposal incorporates small areas of landscaping at the front of the building and a strip adjacent the walkway to the residential lobby on Considine Place which will not accommodate significant landscaping.

Most apartments will incorporate a planter box on their balcony. The dwelling fronting Gilbert Street will not have planter boxes, however the balcony is of a size that would enable greenery to be incorporated.

Residential Amenity

There will be reasonable access to natural light and ventilation for the occupants of the apartments as sought by Design in Urban Areas PO 28.5. Each apartment will include a terrace or balcony and PO 27.1 seeks dwellings be provided with suitable sized areas of usable private open space to meet the need of occupants. Below is a table indicating the areas of private open space recommended for each dwelling type and what is proposed.

Dwelling type	Recommended POS	Proposed POS
One bedroom	8 m ²	8 – 9 m ²
Two bedroom	11 m ²	11 – 12 m ²

In terms of overlooking, upper level windows facing north closest to the boundary will have sills to a minimum 1.5 metres to provide privacy to adjoining dwellings. Larger windows located on the northern elevation will be recessed approximately four metres from the boundary and views will be restricted by the alignment of the building. The western portion of the building will incorporate slatted screens and planter boxes to provide adjacent neighbours with an acceptable level of privacy. There will still be opportunity to view from these areas, however this will be over Considine Place which is a public road.

Traffic and Car and Bicycle Parking

PO 5.1 of the City Living Zone seeks parking access located and designed to minimise impact to the pedestrian environment and maintain the residential scale and pattern of development. Design in Urban Areas PO 33.2 seeks to minimise the number of vehicular access points onto a public road. Vehicular access will be provided via a single crossover to Considine Place and parking will not be highly visible as it will be located away from the street frontage.

Transport, Access and Parking DPF 5.1 refers to “Table 1 – General Off-Street Car Parking Requirements” for envisaged rates of car parking. There is a dispensation for a reduction in parking for affordable housing within the Affordable Housing Overlay. The following table refers to the number of car parks required for each use and the proposed numbers.

Use	Recommended Spaces	Proposed Spaces
Affordable housing apartment	1.2	25
One bedroom apartment	4.5	
Two bedroom apartment	15	
Residential visitor	6.25	Nil
Office (72 m ²)	2.16	3
TOTAL	29.11	28.0

A total of 28 car parks are proposed which results in a minor shortfall. The applicant has allocated 25 spaces to the apartments and 3 spaces to the office use.

Table 3 – Off-Street Bicycle Parking Requirements recommends rates for bicycle parking. For this development, one space for every apartment should be provided, one for every 200m² of gross leasable floor area and two spaces for visitors for the office. This equates to 33 on-site bicycle parking spaces (two for the office, 28 resident spaces and three residential visitor parking spaces).

The applicant has not provided bicycle parking in common areas, instead opting for residents to store bicycles on balconies. The plans indicate storage for two bicycles per apartment. This is not ideal, given it will reduce the functionality of these balconies. Visitor bicycle parking for two bicycles will be provided on the ground floor near the residential lobby entrance.

Seriously at Variance

The application is not considered to be seriously at variance with the relevant provisions of the Planning and Design Code as the City Living Zone envisages residential flat buildings of medium rise as being appropriate in the zone.

10. CONCLUSION

This proposal seeks to demolish an existing single storey warehouse building and construct a six level mixed use building, comprising offices at ground level, apartments above and car parking at ground level behind the office component.

Whilst the proposal meets several relevant provisions of the Planning and Design Code, there are a several significant shortfalls as follows:

- Excessive height
- Lack of adequate setbacks, particularly from the northern boundary adjacent existing low-rise residential development
- No recessed upper levels
- Lack of meaningful landscaping
- Overdevelopment with minimum site areas not satisfied.

11. **RECOMMENDATION**

It is recommended the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and

It is recommended the Council Assessment Panel resolve that:

2. Development Application Number 22043012, by Nic Design Studio C/- URPS is refused Planning Consent for the following reasons:
 - At six levels, the proposal exceeds the maximum building height in City Living Zone PO 2.2, including the increased height referred to in Affordable Housing Overlay PO 3.2
 - The proposal exceeds the density sought by Medium-High Intensity Subzone PO 1.1
 - The proposal does not incorporate setbacks in accordance with City Living Zone PO 3.1
 - The minimum site areas sought by the TNV for the City Living Zone will not be achieved
 - Ten of the two bedroom apartments will not meet the minimum floor area prescribed in PO 29.1
 - The proposal does not incorporate pedestrian shelter desired in Design in Urban Areas PO 1.2
 - There is insufficient soft landscaping sought by Design in Urban Areas PO 3.1 and 13.4.