

DEVELOPMENT NO.:	23006347
APPLICANT:	NJH Developments Pty Ltd
AGENDA ITEM NO:	3.1
ADDRESS:	108 Kermode Street, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Demolition of existing building and construction of three storey residential flat building comprising three dwellings
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • City Living <p>Subzones:</p> <ul style="list-style-type: none"> • North Adelaide Low Intensity <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Building Near Airfields • Design • Historic Area • 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"> • Minimum Frontage – 18 metres • Minimum Site Area – 450 m² • Maximum Building Height – 2 levels
LODGEMENT DATE:	16 March 2023
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2023.3 – 16 February 2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Janaki Benson Team Leader, Development Assessment
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Heritage Architect Engineering

CONTENTS:

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

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

PERSONS SPEAKING BEFORE THE PANEL

Representors

- Greg Vincent on behalf of Dini Pty Ltd, 1 Bagot Street, North Adelaide

Applicant

- Matthew King and Josh Skinner of URPS Planning Consultants and Mark Beesley of Proske Architects on behalf of NJH Developments Pty Ltd

1. DETAILED DESCRIPTION OF PROPOSAL

- 1.1 Planning consent is sought for the demolition of the existing two storey office building and construction of a new three level residential flat building containing three dwellings, with shared vehicular access from Bagot Street. Each dwelling will comprise:
- Ground level - garaging for two cars, entry, a lift to the upper levels, laundry, bathroom and two bedrooms
 - Level 1 - living/dining/kitchen space, master bedroom with balcony facing an internal courtyard, ensuite and walk-in robe, powder room and north facing terrace
 - Level 2 - bedroom, bathroom and living space.

2. BACKGROUND

- 2.1 The applicant has made amendments since lodgement of the application in response to Council comments and representations received during the public notification period.
- 2.2 On 28 March 2022, the Council Assessment Panel granted consent for the construction of a three level detached dwelling with associated swimming pool, fence, earthworks and demolition of wall at 92-94 Kermode Street. This site is located to the east of the subject site, separated by a two storey Local Heritage Place.
- 2.3 On 15 September 2022, the Council Assessment Panel granted consent for the demolition of existing buildings and construction of four two storey row dwellings with garaging at 1 Bagot Street. This site is located opposite the subject site on the corner of Bagot and Kermode Streets.

3. SUBJECT LAND & LOCALITY

Subject Land

- 3.1 The subject site is located on the northern side of Kermode Street at the intersection with Bagot Street.
- 3.2 The site is currently developed with a two storey office building and associated at grade parking towards the rear, accessed via Bagot Street.
- 3.3 The site has a frontage to Kermode Street of approximately 26.7 metres and a frontage to Bagot Street of approximately 30.6 metres. The site has an area of approximately 822m².
- 3.4 The site falls from the north to the south by approximately 1.5 metres.
- 3.5 There are no regulated or significant trees located on the site.

Locality

- 3.6 The locality is comprised of a mix of building types of varied scale and era of construction. There is also a mix of both residential and non-residential land uses.
- 3.7 There are both State and Local Heritage Places within the locality including a Local Heritage Place adjacent the site to the east. St Marks College, located on the southern side of Kermode Street opposite the subject site, also contains several heritage places.
- 3.8 The locality displays high amenity with large street trees providing shading and screening.



Figure 3.1 - Subject site viewed from Kermode Street



Figure 3.2 – Subject site viewed from Bagot Street



Figure 3.3 – Adjacent Local Heritage Place to the east of subject site



Figure 3.4 – Looking south along Bagot Street to residential college opposite subject site



Figure 3.5 – Western side of Bagot Street looking north



Figure 3.6 – Eastern side of Bagot Street looking north



Figure 3.7 – Site opposite subject site in Bagot Street



Figure 3.8 – Queens Head and residential college on southern side of Kermode Street

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

PER ELEMENT:

Residential flat building - Code Assessed - Performance Assessed
Fences and walls - Code Assessed - Performance Assessed
Retaining walls - Code Assessed - Performance Assessed
Demolition - Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON:**
A residential flat building and demolition are classified as Performance Assessed development.

6. PUBLIC NOTIFICATION

- **REASON**
The proposal exceeds the two level maximum building height specified in City Living DTS/DPF 2.2 and therefore public notification was undertaken. The following representations were received as part of the notification process:

TABLE 6.1 – LIST OF REPRESENTATIONS		
No.	Representor Address	Request to be Heard
1	Charles Irwin – 112 Brougham Place, North Adelaide	No – Support with concerns
2	Matthew Gerschwitz – 18 Brougham Court, North Adelaide	No – Opposes
3	Katy Gerschwitz – 18 Brougham Court, North Adelaide	No – Opposes
4	Greg Vincent on behalf of Dini Pty Ltd – 1 Bagot Street, North Adelaide	Yes – Opposes

TABLE 6.2 SUMMARY OF REPRESENTATIONS

- Height
- Peaked form of roof should be reduced
- Stepping up of Bagot Street should be respected
- Planning rules should be adhered to and height should be restricted to two levels
- Should be two levels as it will tower over other residential buildings and is next door to a Local Heritage Place
- Excessive height and density
- Does not meet site area or rear setback requirements
- Insufficient soft landscaping
- Does not comply with Heritage Adjacency and Historic Area Overlays

Note: The full representations and response to representations are included in Attachments 5 and 6.

7. AGENCY REFERRALS

None required.

8. INTERNAL REFERRALS

Local Heritage

The proposal is ambitious for this site. City Living Zone provisions are for a two storey maximum. The three storey design features massing similar to the adjacent two storey heritage place as a 'plinth' with the third storey setback behind a nominal pitched and gable roof form.

The westernmost dwelling will retain similar proportions to the adjacent heritage place, however this is setback on the Kermode/Bagot Street corner so forward massing is not greater than the width of the Local Heritage Place in a single element. The solid-to-void appearance of the windows and fenestration (which are deep set) are nominally 1:2 in keeping with traditional window proportions. The materials proposed are masonry in keeping with the solid nature of buildings within a historic area.

A contemporary masonry and 'paling' fence are provided to the front boundary of the allotments, which at 1.8 metres to the southern boundary, are above the statements 1.2 metre maximum. This maximum is not consistent with the prevailing patterns or the area. The proposed fence is not inappropriate considering the overall height of the proposal.

Siting and setbacks relate to the front façade line of the adjacent Local Heritage Place with a nominal setback from the western side of the Place which is more sympathetic compared to the current situation. Setbacks on Bagot Street are not particularly consistent, and the proposal provides some setback from the boundary fence.

The area statement does envisage well setback low scale residential design sympathetic to the forms and design of the historic character for this area. This assessment has taken into consideration there is considerably less consistency in the overlay area with the historic area statement in the lower southeast corner, east of Bagot Street. The form of development proposed would not be appropriate west of Bagot Street.

The following recommendations are suggested:

- matching of the adjacent Local Heritage Place mass, adjacent with the added third storey has resulted in a dominating outcome. Further visual separation between the front façade elements of each residence to separate and 'set' each residence on its own allotment would be beneficial. This could be completed through negative joints
- separate the eastern upper storey combined gable into two separate gables, one for each residence, so the proposal has three equal upper gable portions that will also reduce overall height and mass
- ensure stone kerbing and guttering along Bagot Street is shown on the drawings and noted that any alteration will be to the satisfaction of Council's Heritage Architects.

Note: The applicant has amended the design to the satisfaction of Council's Heritage Advisor.

Traffic and Infrastructure

Finished floor levels, flooding, corner cut-off splay, stormwater and public realm matters were raised as part of this referral. The applicant met with Council's engineering and planning staff on several occasions to discuss and address these issues.

Having made the required amendments, Council's Development Engineer is supportive, subject to conditions included in Section 11.

9. PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning and Design Code, which are contained in Appendix One. Where there is policy guidance provided for both 'low rise' (up to two building levels) and 'medium rise' development (three to six building levels), medium rise has been used to assess this proposal.

9.1 Summary of North Adelaide Low Intensity Subzone Assessment Provisions

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1, DO 2	<ul style="list-style-type: none"> Development of three building levels not defined as "low rise" development in the Code. Not a predominance of "large grand dwellings on landscaped grounds" as sought by DO2. 	✓/✗
Built Form and Character PO1.1	<ul style="list-style-type: none"> Open landscape setting character does not prevail in this locality. Built form design complementary to existing locality. 	✓/✗
Site Coverage PO2.1	<ul style="list-style-type: none"> Refer Section 9.5. 	✗

9.2 Summary of City Living Zone Assessment Provisions

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Refer Section 9.5. 	✓/✗
Land Use and Intensity PO 1.1	<ul style="list-style-type: none"> Residential flat building a desired land use. 	✓
Built Form and Character PO 2.1, 2.2, 2.3, 2.4, 2.5	<ul style="list-style-type: none"> Number of dwellings increased through loss of office building. Exceeds maximum building levels. Addresses primary street frontage. 	✓/✗
Building Setbacks PO 3.1, 3.2, 3.3, 3.4, 3.5	<ul style="list-style-type: none"> Varying side setbacks in locality. Primary setback relatively consistent with locality. Secondary setback meets 900mm. Elements to rear are sited on boundary. 	✓/✗
Site Dimensions and Land Division PO 4.1	<ul style="list-style-type: none"> Dwellings do not achieve minimum site area of 450m² as sought by TVN. Meets minimum street frontage of 18 metres. 	✓/✗
Car Parking and Access PO 5.1	<ul style="list-style-type: none"> Via minor secondary street. 	✓

9.3 Summary of Applicable Overlays

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

- Aircraft Noise Exposure Overlay – site located in area with an ANEF value
- Airport Building Heights (Regulated) and Building Near Airfields Overlay – building height below maximum prescribed AHD level
- Prescribed Wells Area Overlay – no groundwater concerns
- Building Near Airfields Overlay – not located near airfield
- Design Overlay – not proposing a medium to high rise building with a value over \$10 million

Hazards (Flooding – Evidence Required) Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1 PO1.1	<ul style="list-style-type: none"> • Achieved. 	✓
Flood Resilience PO1.1	<ul style="list-style-type: none"> • Achieved. 	✓

Heritage Adjacency Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> • Maintains heritage and cultural values of adjacent Local Heritage Place. 	✓
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. 	✓

Historic Area Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1, PO 1.1	<ul style="list-style-type: none"> • Refer Section 9.5. 	✓
Built Form PO 2.1 – 2.5	<ul style="list-style-type: none"> • Form adequately addresses historic streetscape. • Streetscape diverse with historic and modern forms. • Amended roof form appropriate. • Materials consistent with locality and appropriate. 	✓
Ancillary Development PO 4.4	<ul style="list-style-type: none"> • Height and material of fence appropriate. • Higher than sought however maximum not consistent with prevailing patterns or the area and not inappropriate considering overall height of proposal. 	✓
Context and Streetscape Amenity PO 6.1, PO 6.2	<ul style="list-style-type: none"> • Proposed driveway will not dominate streetscape. • Landscape patterns and characteristics that contribute to the historic area not impacted. 	✓
Demolition PO 7.1 – PO 7.3	<ul style="list-style-type: none"> • Building does not possess historic value and therefore demolition acceptable. 	✓

Stormwater Management Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO1.1	<ul style="list-style-type: none"> Each tank will have a minimum 2,000L capacity and be connected to over 60% of the roof. Mandatory condition in Section 11. 	✓

Urban Tree Canopy Overlay

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Deep soil zone for planting of one small tree per dwelling as sought by DPF. Mandatory condition in Section 11. 	✓

9.4 General Development Policies

The following General Development Policies are relevant to the assessment:

Clearance from Overhead Powerlines

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
PO 1.1	<ul style="list-style-type: none"> Declaration provided upon submission of application. 	✓

Design in Urban Areas

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Sustainable, durable materials and will provide a reasonable contextual outcome in locality. 	✓
External Appearance PO 1.1,1.3,1.5	<ul style="list-style-type: none"> Building addresses primary street. Waste storage space on site obscured from view. 	✓
Safety PO 2.1, 2.2, 2.3, 2.4	<ul style="list-style-type: none"> Passive surveillance can occur to street. 	✓
Landscaping PO 3.1	<ul style="list-style-type: none"> Development incorporates soft landscaping. 	✓
Environmental Performance PO 4.1 – 4.3	<ul style="list-style-type: none"> Proposal maximises access to natural sunlight and ventilation. Shading available to north facing terraces. Ground landscaping and water harvesting included. 	✓

Car parking appearance PO 7.1 – 7.7	<ul style="list-style-type: none"> Garaging not readily visible from the street and gained via a single crossover for all dwellings. Landscaping incorporated within driveway. 	✓
Earthworks and sloping land PO 8.1 – 8.5	<ul style="list-style-type: none"> Access gradient appropriate. 	✓
Fences and Walls PO 9.1 & 9.2	<ul style="list-style-type: none"> Front fence of open nature and reasonable height. 	✓
Site Facilities/Waste Storage PO 11.1	<ul style="list-style-type: none"> Adequate waste storage areas provided. 	✓
External Appearance PO 12.1, 12.2, 12.3, 12.5, 12.6, 12.8	<ul style="list-style-type: none"> Positively contributes to the character of local area. Achieves appropriate human scale. High quality pedestrian friendly frontages. 	✓
Landscaping (medium and high rise) PO 13.1 – 13.4	<ul style="list-style-type: none"> Deep soil zones provided. Boundaries landscaped. Mandatory condition in Section 11. 	✓
Overlooking/Visual Privacy PO 16.1 & 16.2	<ul style="list-style-type: none"> Screening to mitigate overlooking to adjacent residential properties. 	✓
Front elevations and passive surveillance PO 17.1 & 17.2	<ul style="list-style-type: none"> Windows overlook Bagot and Kermode Streets. Legible entries. 	✓
Outlook and Amenity PO 18.1 & 18.2	<ul style="list-style-type: none"> Achieved. 	✓
Outlook and Visual Privacy (Medium and High Rise) PO 26.1 & 26.2	<ul style="list-style-type: none"> Landscaping will provide visual privacy to occupants. 	✓
Private Open Space (Medium and High Rise) PO 27.1	<ul style="list-style-type: none"> Private open space in the form of ground level courtyards, front balconies and north facing terraces exceeds 60m² per dwelling. 	✓
Residential Amenity in multi-level buildings PO 28.1, 28.2, 28.3, 28.4, 28.6	<ul style="list-style-type: none"> Retractable shading devices employed. Good sized balconies. Sufficient storage space. 	✓
Dwelling Configuration PO 29.2	<ul style="list-style-type: none"> Bedrooms overlook courtyards or public space. 	✓
Amenity (Residential flat buildings) PO 31.1 – 31.3	<ul style="list-style-type: none"> Appropriate orientation achieved. 	✓
Car parking, access and manoeuvrability (Residential flat buildings) PO 33.1 – 33.5	<ul style="list-style-type: none"> Single common driveway provides vehicular access for all dwellings. 	✓
Soft Landscaping (Residential Flat Building) PO 34.1 & 34.2	<ul style="list-style-type: none"> Refer Section 9.5. 	✗

Site Facilities/Waste Storage PO 35.1, 35.2, 35.3, 35.4	<ul style="list-style-type: none"> Individual clothes drying available out of public view. 	✓
Water Sensitive Urban Design PO 36.1, 36.2	<ul style="list-style-type: none"> Achieved. 	✓

Interface between Land Uses

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
General Land Use Compatibility PO 1.1	<ul style="list-style-type: none"> Achieved. 	✓
Overshadowing PO 3.1, 3.2, 3.3	<ul style="list-style-type: none"> Due to orientation and location of site, no unreasonable overshadowing expected to occur. 	✓

Site Contamination

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1 PO 1.1	<ul style="list-style-type: none"> Achieved. PSI and site contamination declaration demonstrating site suitable for intended purpose. 	✓

Transport, Access and Parking

Subject Code Ref	Assessment	Achieved ✓ Not Achieved ✗
DO 1	<ul style="list-style-type: none"> Achieved. 	✓
Sightlines PO 2.1, 2.2	<ul style="list-style-type: none"> Achieved. 	✓
Vehicle Access PO 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7	<ul style="list-style-type: none"> Achieved. 	✓
Vehicle Parking Rates PO 5.1	<ul style="list-style-type: none"> Two undercover parks provided for each dwelling. 	✓
Vehicle Parking Areas PO 6.1, 6.2	<ul style="list-style-type: none"> Achieved. 	✓
Corner Cut-offs PO 10.1	<ul style="list-style-type: none"> Plans amended to incorporate splay. 	✓

9.5 Detailed Discussion

Land Use

The application proposes replacement of an existing two storey office building with a three level residential flat building containing three dwellings. The residential land use is desired within the North Adelaide Low Intensity Subzone and the City Living Zone.

Historic Area and Heritage Adjacency Overlays

The site is located adjacent a Local Heritage Place to the east. PO 1.1 of the Heritage Adjacency Overlay seeks development adjacent listed places that does not dominate, encroach or unduly impact upon the setting of the place.

The site is also located in the Historic Area Overlay which provides specific guidance to different areas of Council through Historic Area Statements. The North Adelaide Cathedral Historic Area Statement (Adel 9) is relevant for this site.

In terms of architectural styles, detailing and built form features, the Area Statement attributes Kermode Street as having a traditional subdivision pattern east of Bagot Street. It states the existing pattern of development is characterised by freestanding buildings within landscaped grounds. The Area Statement is included with the Code extract attached to this report for further information.

The application was referred to Council's Heritage Advisor. Amendments have been made to the proposal to address matters raised and to refine certain elements as sought by the Heritage Advisor. Amendments were requested to ensure the proposal addressed heritage adjacency and historic character requirements, including appropriate materials and fencing details. In summary, the proposal is consistent with the Performance Outcome of both Overlays.

Built Form

Scale

The site is located within the North Adelaide Low Intensity Subzone of the City Living Zone. In this Subzone, low-rise, low-density housing on large allotments in an open landscaped setting are envisaged. More broadly, the City Living Zone seeks low to medium rise residential development. DPF 2.2 of the City Living Zone seeks building heights for the site to not exceed two building levels. At three building levels, the proposal is considered medium rise and therefore does not meet the stipulated design performance feature. Further, PO 12.3 of Design in Urban Areas seeks *"buildings ... designed to reduce visual mass by breaking up building elevations into distinct elements."*

The locality is not typified by single and two storey dwellings as there are some of greater scale and density, including the residential college opposite the subject site on Kermode Street and various three storey office buildings in Bagot Street. The proposal sits comfortably with the Local Heritage Place to the east in terms of setback and separation. The third level of the residential flat building is setback between 5.5 metres and 5.9 metres from the front boundary, thereby reducing overall bulk and visibility of the additional built form.

Whilst three building levels is generally not desired in this locality, the footprint of the third level of each of the dwellings is reduced, is recessive via its architectural response and appears as part of the roof form. This ensures the bulk of the additional level will not dominate the streetscape and is appropriate in this instance.

Site Coverage

PO 2.1 of the North Adelaide Low Intensity Subzone seeks *"building footprints that are consistent with the character and pattern of the prevailing open landscaped character of the neighbourhood, in locations where an open landscape setting is the prevailing character"* with the designated performance feature DPF 2.1 seeking development not result in a site coverage exceeding 50%.

While the proposal exceeds a site coverage of 50% at 79%, the site is in a locality that does not have an open landscaped setting. The proposal is consistent with built form in the locality, most of which displays site coverage exceeding 50% and is considered acceptable.

Site Dimensions

In relation to site dimensions and land division, PO 4.1 of the City Living Zone seeks allotments created for residential purposes to be a “*suitable size and dimension and are compatible with the housing pattern consistent to the locality.*” DPF 4.1 seeks site areas for residential flat buildings to be a minimum of 450m² with a minimum street frontage of 18 metres.

The proposal achieves the minimum frontage however the dwellings will not achieve the site areas as desired (average of 274m² in lieu of 450m²). Notwithstanding the site areas proposed, the proposal is considered to achieve a suitable size and dimension for residential purposes as the dwellings are of appropriate quality and sit comfortably within the locality, thereby achieving the objective of PO 4.1. The proposed site areas are similar to recently approved site areas at 1 Bagot Street (between 185m² and 256m²) and existing allotments further north along Bagot Street.

Setbacks

The City Living Zone provides guidance in relation to appropriate setbacks in a residential setting. PO 3.1 seeks to achieve consistent and complementary development to the existing streetscape character. DPF 3.1 suggests this can be achieved for a site of this nature if the building shares the setback of the existing abutting site. The proposal has a primary street setback consistent with the building adjoining the site to the east, thereby achieving PO/DPF 3.1.

The secondary street setback meets the 900mm prescribed by PO/DPF 3.2. The proposal also achieves PO/DPF 3.3 regarding side boundary setbacks. There is built form sited on the boundary at ground level, however the upper levels will be progressively stepped in, providing access to natural light and ventilation for neighbours and space for landscaping as sought by PO 3.4.

In summary, the setbacks are considered appropriate as they are complementary to the adjacent Local Heritage Place and provide area for adjoining sites to gain access to light and ventilation.

Materials

The proposal incorporates materials such as sandstone, smooth finish off-form concrete, fibre cement sheet cladding, textured render finish, glazing, panelling and Colorbond roof sheeting and garage doors.

These materials are considered appropriate in the context of the heritage value of the area, as well as being complementary to existing materials in the locality, thereby achieving PO 2.5. The use of stone and render is also suitable given the prevalence of these materials in the locality.

Fencing incorporates basket range sandstone veneer and steel plate screen panels at a height of 1.8 metres is proposed. The materials are considered suitable as they also speak to the Historic Area Statement. The fencing is higher than the recommended 1.2 metres, however, given the open nature of the screen panels, views to the building will still be achieved.

Landscaping

Design in Urban Areas PO 3.1 seeks soft landscaping and tree planting be incorporated into developments to provide amenity and environmental benefits. PO 7.7 seeks vehicle parking areas to incorporate soft landscaping to assist in stormwater management.

In terms of landscaping for medium and high rise development, PO 13.1 states 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/DPF 13.2 further defines the required depth, dimension and tree size. The development proposes one small tree per dwelling, each with deep soil zones thereby achieving PO/DPF 13.2.

PO 22.1 regarding landscaping is not relevant in this instance as this only applies to low scale residential development.

The quality and amount of vegetation proposed will provide a high quality landscaped environment. The landscaping to both Kermodie and Bagot Streets will be an improvement upon the current contribution of the site. As previously stated, the proposal incorporates the planting of one small tree per dwelling, achieving PO/DPF 1.1 of the Urban Tree Canopy Overlay. This has also been included as a condition in Section 11.

Residential Amenity

Residential amenity for occupants will be high given the access to natural light and ventilation, generously sized and well dimensioned rooms, good outlook and adequate storage.

Each dwelling provides private open space in the form of a ground floor courtyard, a northern terrace and a roof terrace. The private open space for each dwelling exceeds the recommended 60m² in Table 1 – Private Open Space. The spaces will provide high quality open space for the occupants with the living, dining and kitchen areas having direct access to the north facing terraces.

In terms of overlooking, upper level windows and decks facing north and east employ screening devices or sills to a minimum 1.5 metres above floor level, thereby achieving PO/DPF 10.1. Landscaping to rear decks also provides separation of occupants from the edge of the deck with a one metre wide planter incorporating screening vegetation.

Traffic and Car Parking

PO 5.1 of the City Living Zone seeks access to parking be located and designed to minimise any impact to the pedestrian environment as well as 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 public road to reduce interruption of the footpath and positively contribute to public safety and walkability. Vehicular access for all three dwellings will be provided via a single common driveway to Bagot Street, the minor street in this instance. The parking is also not highly visible, being located away from the street frontage.

With regard to general policy in relation to transport, access and parking, PO 5.1 seeks developments provide sufficient number of parking spaces to cater for the development, with DPF 5.1 deferring to “Table 1 – General Off-Street Car Parking Requirements”. This table seeks dwellings with three or more bedrooms to include two spaces per dwelling, one of which is covered. Each of the dwellings will have two undercover parks, thereby achieving the recommended minimum in Table 1. Council’s traffic section reviewed the application and determined it is appropriate in terms of vehicular access, on-site manoeuvring and parking.

10. CONCLUSION

This proposal seeks to demolish the existing two storey office building and construct a new three level residential flat building containing three dwellings, with shared vehicular access from Bagot Street. The proposal is considered to achieve provisions of the Planning and Design Code as follows:

- removes a non-residential land use and replaces it with residential land use which is desired in the Zone and expressly sought by the Subzone
- maintains heritage and cultural value of adjacent Local Heritage Place
- built form such as scale, form, siting and streetscape are appropriate in the context of the locality and the Historic Area Overlay
- setbacks mostly achieved and where there is a shortfall there is no unreasonable impact
- will achieve a high quality urban design outcome
- residential amenity is achieved with good access to light and ventilation, generous proportions and adequate storage
- vehicular access and parking provides a single driveway, hidden from public view and provides adequate number of car parks
- materials and finishes are durable and of a high quality
- landscaped open space provides amenity and environmental benefits and is consistent with other development in the locality
- provision of private open space exceeds the requirements and is of high quality.

It is acknowledged the proposal exceeds the maximum desired height and site coverage, and does not achieve the minimum site area, however it can be supported for the following reasons:

- the design and position of the third level successfully diminishes its bulk and the scale is not inconsistent with the locality in this instance
- whilst the site coverage exceeds 50% and the site areas are less than envisaged, this is not inconsistent with the prevailing character and pattern of development in the locality.

The proposal is not 'seriously at variance' with the relevant assessment provisions of the Planning and Design Code and exhibits sufficient merit to warrant the issuing of Planning Consent.

11. **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 23006347, by NJH Developments Pty Ltd is granted Planning Consent subject to the following conditions and advices:

CONDITIONS

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).**
 - **Plans drafted by Proske Architects, project no. 22-031, drawing nos. PL00.A – PL05.A and PL06, PL07, all dated 19.5.2023**
 - **Landskap Landscape Concept Plans, Ref. no. 23.004 dated 22.2.2023**
 - **Siteworks and Drainage Plan drafted by Herriot Consulting, file no. C2302-032 sheet C1 Rev. B date of issue March 2023**
 - **Planning Report compiled by URPS, dated 26 May 2023**

2. **The applicant or the person having the benefit of this consent shall ensure that all storm water runoff from the development herein approved is collected and then discharged to the storm water discharge system. All down pipes affixed to the Development which are required to discharge the storm water run off shall be installed within the property boundaries of the Land to the reasonable satisfaction of the Relevant Authority**

3. **External materials, surface finishes and colours of the Development shall be consistent with the description and sample hereby granted consent and shall be to the reasonable satisfaction of the Relevant Authority.**

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

5. **Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwellings.**

6. **The connection of any storm water discharge from the Land to any part of the Council's underground drainage system shall be undertaken in accordance with the City of Adelaide City Works Guide # 2: 'Works Impacting Council Assets' which can be located on Council's website <https://www.cityofadelaide.com.au/> and shall be to the reasonable satisfaction of the Relevant Authority.**

7. **The level of the internal vehicle hardstand area at the boundary shall match the invert level of the adjacent gutter plus 150mm at both the north and south sides of the vehicle entry. This will require the internal garage slab or hard stand area to be adjusted locally at the boundary to ensure it matches the above alignment levels. The longitudinal profile across the width of the vehicle crossing shall comply with the ground clearance requirements of AS/NZS 2890.1-2004.**

8. **The splay corner at the Kermode and Bagot Street corner of the site shall remain clear of obstructions and building works at all times.**

9. **The privacy screening in the form of solid panel screens or integrated balcony planters as depicted on the plans granted consent described as east, west and elevations on Proske Architects drawing no. PL04.A and Section C-C on Landskap Concept Sections plan shall be installed prior to the occupation or use of the Development and thereafter shall be maintained to the reasonable satisfaction of the Relevant Authority at all times.**

ADVISORY NOTES

1. Expiration Time of Approval

Pursuant to the provisions of Regulation 67 of the *Planning, Development and Infrastructure (General) Regulations 2017*, this consent/approval will lapse at the expiration of 2 years from the operative date of the consent/approval unless the relevant development has been lawfully commenced by substantial work on the site of the development within 2 years, in which case the approval will lapse within 3 years from the operative date of the approval subject to the proviso that if the development has been substantially or fully completed within those 3 years, the approval will not lapse.

2. Notifications

Pursuant to Regulation 93 of the Planning, Development and Infrastructure Act, the Council must be given one business days' notice of the commencement and the completion of the building work on the site. To notify Council, contact City Planning via palnning@cityofadelaide.com.au or phone 8203 7185.

3. Appeal Rights

The applicant has a right of appeal against the conditions which have been imposed on this Planning Consent. Such an appeal must be lodged at the Environment, Resources and Development Court within two months from the day of receiving this notice or such longer time as the Court may allow. The applicant is asked to contact the Court if wishing to appeal. The Court is located in the Sir Samuel Way Building, Victoria Square, Adelaide, (telephone number 8204 0289).

4. Access Rights

The access and internal manoeuvring and carparking areas serving these dwellings is on a shared basis. These areas cannot operate in isolation without shared use rights being established (via a free and unrestricted right of way or common property arrangements) or a variation being sought to the Planning Consent / Development Approval for alternate arrangements.

5. Boundaries

It is recommended that as the applicant is undertaking work on or near the boundary, the applicant should ensure that the boundaries are clearly defined, by a Licensed Surveyor, prior to the commencement of any building work.

6. Demolition

Demolition and construction at the site should be carried out so that it complies with the construction noise provisions of Part 6, Division 1 of the Environment Protection (Noise) Policy 2007. A copy of the Policy can be viewed at the following site: www.legislation.sa.gov.au.

7. Other Requirements

In addition to notification and other requirements under the Planning, Development and Infrastructure Act and Fences Act, it is recommended that the applicant / owner consult with adjoining owners and occupiers at the earliest possible opportunity after Development Approval, advising them of proposed development work so as to identify and discuss any issues needing resolution such as boundary fencing, retaining walls, trees/roots, drainage changes, temporary access, waste discharges, positioning of temporary toilets etc.

8. Damage to Council's Footpath/Kerbing/Road Pavement

Section 779 of the Local Government Act provides that where damage to Council footpath / kerbing / road pavement / verge occurs as a result of the development, the owner / applicant shall be responsible for the cost of Council repairing the damage.

9. Vehicle Crossing Place

There is no objection to the proposed new vehicle crossing place or closing the existing vehicle crossing place, however the new crossover will be constructed in stone and the redundant crossover is required to be closed and stone kerb reinstated. The work will be undertaken by Council and the cost of the work will be charged to the applicant.

Separate application for the crossing place alterations is required and the applicant can obtain a form at Driveway crossover application <https://customer.cityofadelaide.com.au/forms/vehicle-crossing-application/>. A quotation for the work will be provided by Council prior to the work being undertaken.

10. City Works Permit

Any activity in the public realm, whether it be on the road or footpath, requires a City Works Permit. This includes activities that have received Development Approval. The City Works Guidelines detailing the requirements for various activities, a complete list of fees and charges and an application form can all be found on Council's website at www.cityofadelaide.com.au/business/permits-licences/city-works/

When applying for a City Works Permit you will be required to supply the following information with the completed application form:

- A Traffic Management Plan (a map which details the location of the works, street, property line, hoarding/mesh, lighting, pedestrian signs, spotters, distances etc.); Description of equipment to be used;
 - A copy of your Public Liability Insurance Certificate (minimum cover of \$20 Million required);
 - Copies of consultation with any affected stakeholders including businesses or residents.
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