



AGENDA

FOR COUNCIL ASSESSMENT PANEL MEETING TO BE HELD ON

29 OCTOBER 2024 AT 6.30PM

**IN LITTLE PARA CONFERENCE ROOMS, SALISBURY COMMUNITY HUB, 34
CHURCH STREET, SALISBURY**

MEMBERS

Mr T Mosel (Presiding Member)
Mr R Bateup
Ms C Gill
Mr B Brug
Mr J Botten

REQUIRED STAFF

Assessment Manager, Mr C Zafirooulos
General Manager City Development, Ms M English
Team Leader Planning, Mr C Carrey

APOLOGIES

LEAVE OF ABSENCE

PRESENTATIONS

PRES1 Case Law Update

Facilitator - Mr A Miegel, Principal, Norman Waterhouse Lawyers

ADOPTED MINUTES FROM PREVIOUS MEETING

Presentation of the Minutes of the Council Assessment Panel Meeting held on 24 September 2024.

DECLARATIONS OF CONFLICTS OF INTEREST

REPORTS

Nil

OTHER BUSINESS

8.2.1 Assessment Manager Quarterly Report - July to September 2024 17

8.2.2 Status of Current Appeal Matters and Deferred Items 21

8.2.1 Future Meetings & Agenda Items

CLOSE

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**MINUTES OF COUNCIL ASSESSMENT PANEL MEETING HELD IN LITTLE PARA
CONFERENCE ROOMS, SALISBURY COMMUNITY HUB, 34 CHURCH STREET,
SALISBURY ON**

24 SEPTEMBER 2024

MEMBERS PRESENT

Mr T Mosel (Presiding Member)
Mr R Bateup
Mr B Brug

STAFF

Assessment Manager, Mr C Zafiropoulos
Acting General Manager City Development, Ms S Klein
Team Leader Planning, Mr C Carrey
Team Leader Business Service, Mr H Crossley

The meeting commenced at 6.30pm.

The Presiding Member welcomed the members, staff and the gallery to the meeting.

APOLOGIES

Apologies were received from Mr J Botten and Ms C Gill.

LEAVE OF ABSENCE

ADOPTED MINUTES FROM PREVIOUS MEETING

The Minutes of the Council Assessment Panel Meeting held on 27 August 2024, be taken as read and confirmed.

DECLARATIONS OF CONFLICTS OF INTEREST

Mr J Botten has declared a conflict of interest in relation to Development Application No 23038141 for *Amendment to Development Approval (DA) 361/1549/2016/3B (as varied by DA 361/1547/2019 and*

361/994/2020) for a Place of Worship and Cemetery at 90 Research Road, Pooraka, due to a perceived conflict of interest as he was a former employee at Botten Levison Lawyers who represented the applicant on the previous application. Mr Botten advised he will not participate when this matter is being considered by the Panel, and as this was the only matter being determined by the Panel at the meeting, Mr Botten would be an apology for the meeting.

REPORTS

Development Applications

8.1.1 23038141

Amendment to Development Approval (DA) 361/1549/2016/3B (as varied by DA 361/1547/2019 and 361/994/2020) for a Place of Worship and Cemetery - comprising:

- relocation of the Place of Worship building to 90 Research Road.
- re-design of the Place of Worship building including an increase in building height.
- two-way vehicular access to/from Research Road.
- vehicular egress only to Bridge Road; removal of the children's playground.
- re-configuration of the stormwater detention basin. at 90 Research Road, Pooraka SA 5095 and 256-258 Bridge Road, Pooraka SA 5095 for Mr Lou Fantasia

REPRESENTORS

Ms S Batool was not present at the meeting.

Mr S Burton was not present at the meeting.

APPLICANT

Mr L Fantasia, Planning Consultant, spoke on behalf of the applicant.

Mr R Bateup moved, and the Council Assessment Panel resolved that:

- A. The proposed development is not considered to be seriously at variance with the Planning and Design Code.
- B. Pursuant to Section 102 of the *Planning, Development and Infrastructure Act 2016*, Planning Consent is **GRANTED** to application number 23038141 for Amendment to Development Approval (DA) 361/1549/2016/3B (as varied by DA 361/1547/2019 and 361/994/2020) for a Place of Worship and Cemetery - comprising:
 - relocation of the Place of Worship building to 90 Research Road.
 - re-design of the Place of Worship building including an increase in building height.
 - two-way vehicular access to/from Research Road.
 - vehicular egress only to Bridge Road; removal of the children's playground.
 - re-configuration of the stormwater detention basin. in accordance with the plans and details submitted with the application and subject to the following reserved matters and conditions:

Reserved Matters:

This Decision Notification Form should be read in conjunction with Development Approval (DA) No. 361/1549/2016/3B (as varied by DA 361/1547/2019 and 361/994/2020). For clarity, all the relevant conditions are listed below.

The following matter/s shall be submitted for further assessment and approval by the Assessment Manager, as delegate of the Council Assessment Panel, as Reserved Matters under Section 102(5) of the *Planning, Development and Infrastructure Act 2016*:

Reserved Matter 1

Civil and Siteworks Plan, prepared by a qualified and experienced engineer, for all civil and stormwater works, which shall address all of the following:

1. Finished floor levels for all buildings and hardstand surfaces; and
2. Cut/fill details; and
3. Retaining walls, kerbing or ramps, their design and grades; and
4. Pavement design details and gradients; and
5. Car parking dimensions, aisle widths, circulation movements and associated pavement markings and signage; and
6. Stormwater management arrangements, including accompanying design calculations, which consider the minor storm (10% AEP) and major storm (1% AEP) events; and
7. Water sensitive urban design measures; and
8. Surface water treatment.

Reserved Matter 2

Final stormwater management plan and accompanying stormwater design calculations, prepared by a qualified and experienced stormwater engineer, which shall address all of the following:

1. The site stormwater drainage system shall be designed to control the quantity and quality of stormwater discharged from the site to minimise flooding, to prevent adverse impacts on downstream drainage systems and to protect the water quality of receiving waters. In particular, the following components shall be included in the stormwater drainage design:
 - (a) Finished floor level shall be at least 150mm above the Q100 flood level adjacent the Mosque Building;
 - (b) Storm runoff from the building roof areas should be separated from the runoff from ground or paved surfaces and may be discharged directly to

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- Council's downstream underground drainage system without treatment to improve water quality;
- (c) Grassed or vegetated swale drains and sedimentation/detention basins shall be used to convey storm runoff from paved surfaces including car parking areas to Council's downstream drainage system to reduce the extensive use of hard concrete kerb edges and underground piped drainage systems. The use of permeable paving for light vehicle car parking areas is suggested as a means of increasing the site stormwater detention / retention and infiltration rates and reducing the peak discharge rates and volume of runoff that discharge to Council's downstream drainage system;
- (d) The minor stormwater drainage system of grassed swale drains, culverts, pits and pipes shall be designed with capacity to convey the runoff resulting from a 1 in 10 year ARI storm event;
- (e) Grassed swale systems and basins shall be designed to provide primary treatment of stormwater runoff by filtering and removal of silt, sediment, oil and grease before discharge to downstream drainage systems and may also incorporate bio-retention treatment systems;
- (f) Gross pollutant traps including trash racks and trash nets shall be included in the stormwater drainage system to capture stormwater pollutants such as rubbish and floatable litter.
- (g) Gross pollutant traps, water quality treatment devices and drainage systems shall include high flow bypass and overflow provisions to accommodate extreme storm events resulting from the 1 in 100 year Ari major storm event.
- (h) The following water quality requirements shall be met:
- 80% retention of the typical urban annual load for Total Suspended Solids (TSS);
 - 60% retention of the typical urban annual load for Total Phosphorus (TP);
 - 60% retention of the typical urban annual load for Total Nitrogen (TN)(45% reduction target is applicable if discharge < 60L/sec);
 - No visible oil flows up to the 3 month ARI peak flow;
 - MUSIC modelling is required to verify that water quality targets are achieved;
 - Gross pollutant traps, water quality treatment devices and drainage systems shall include high flow bypass and overflow provisions to accommodate extreme storm events resulting from the 1 in 100 year ARI major storm event.

Reserved Matter 3

Final landscaping plan, prepared by a qualified and experienced landscape architect or horticulturalist, which shall include all of the following:

- Final locations for all landscaped areas, including designated areas for trees, shrubs and groundcovers; and
- Designated species to be used, noting should comprise species contained in the City of Salisbury Landscape Plan; and
- Shade trees within the car parking areas; and
- Pot sizes, confirming the tree planting shall comprise advanced growth species at time of planting; and
- Maintenance methods including irrigation, barriers and protection from vehicles and pedestrians.

Planning Consent Conditions

This Decision Notification Form should be read in conjunction with Development Approval (DA) No. 361/1549/2016/3B (as varied by DA 361/1547/2019 and 361/994/2020). For clarity, all the relevant conditions are listed below.

1. The proposal shall be developed in accordance with the details and Council stamped approved plans lodged with the application, except where varied by the conditions herein.
2. The development shall be substantially completed within 3 years of the date of this consent, unless further extended by the relevant planning authority.
3. All activities on the land or within the buildings hereby approved shall occur within the hours of 4am – 11pm on any day.
4. The total number of people on the site at any one time shall not exceed 500 people. All car parking shall occur on the subject land, and should additional parking be required during special events, this shall be provided on the subject land.
5. A record of the frequency, type and numbers of events exceeding 150 people, as well as attendee numbers, by hired users shall be kept, with such records provided to the Council upon request.

6. Where more than 350 persons attend on the land, the formal car parking areas shall be managed and supervised by Jafaria Shia Management personnel with a minimum of one person stationed at each of the access/egress points to ensure that vehicle movement and parking occurs safely, effectively and efficiently. In respect of such events management personnel are to monitor vehicle numbers to ensure the safe and efficient utilisation of all parking areas.
7. The external surfaces of the building shall:
 - a) be of new non-reflective materials; and
 - b) be finished in natural tones; and
 - c) be maintained in good condition at all times.
8. In relation to access, manoeuvring, surface treatments and car parking:
 - a) The invert, crossover and driveway shall be constructed with brick paving, concrete or bitumen, in accordance with Council's Heavy-Duty Commercial Entrance, Drawing SD-16; and
 - b) All internal driveways, car parking and manoeuvring areas, shall be constructed with brick paving, concrete or bitumen to a standard appropriate for the intended traffic volumes and vehicle types; and
 - c) All car parking bays shall be clearly line marked; and
 - d) The car parking layout including car park spaces, aisle widths and manoeuvring area shall be designed and constructed to comply with AS 2890.1-2009 – Off-Street Car Parking, Part 1, Austroads "Guide to Traffic Engineering Practice Part 11 – Parking", AS 2890.2 – Facilities for Commercial Vehicles and AS 2890.6 – 2009 – Parking Facilities – Part 6: Off-street parking for people with disabilities.

These shall be established prior to the commencement of use and be maintained at all times to the reasonable satisfaction of Council.
9. Minor internal directional signage shall be installed within the parking area to:
 - a) specify a maximum vehicle speed of 8km per hour;
 - b) indicate pedestrian accessibility to the building;
 - c) Vehicular egress to Bridge Road and ingress/egress to Jay Street and Research Road; and

All to the reasonable satisfaction of the Council.

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10. Any proposed identification signage visible external to the site, shall be of a type, size and in a location to the reasonable satisfaction of the Council.
 11. All existing crossovers made redundant by this development shall be reinstated to kerb, prior to commencement of use, in accordance with Council's kerb design standard, to the satisfaction of Council.
 12. All loading and unloading of vehicles and manoeuvring of vehicles in connection with the approved land use shall be carried out entirely within the site at all times.
 13. Except where otherwise approved, no materials, goods or containers shall be stored in the designated car parking area or driveways at any time.
 14. All waste and rubbish from the activity shall be contained and stored pending removal in covered containers which shall be kept in an area screened from public view.
 15. The designated landscaping areas shall be planted with shade trees, shrubs and ground covers in accordance with the Approved Landscaping Plan.

All landscaping shall be completed, prior to commencement of use of the Mosque Building and shall be maintained at all times thereafter to the reasonable satisfaction of Council (including the replacement of diseased or dying plants and the removal of weeds and pest plants).

16. Stormwater systems shall be designed and constructed to cater for minor storm flows (Industrial / Commercial ARI = 10 years). The design of the stormwater system shall ensure that no stormwater is discharged onto any adjoining land. Surface stormwater is to be managed in a manner that ensures no ponding of water against buildings and structures, no creation of any insanitary condition, and no runoff into neighbouring property for the major storm ARI = 100 years.
17. External security lighting shall be designed, located and, if necessary shielded in a manner to minimise external glare for aircraft pilots, vehicle drivers and adjacent residential land users, to the reasonable satisfaction of the Council.

18. Boundary fencing shall be provided as follows:

- a. The front Bridge Road property boundary is to be delineated with a 2.1-metre-tall tubular fence.
- b. The front Research Road property boundary is to be delineated with a 2.1-metre-tall tubular fence.
- c. The existing chain mesh fence along the northern and western boundaries of 256-258 Bridge Road is to be retained or renewed.
- d. All other boundaries shall be delineated with “Good Neighbour Fence” to a maximum height of 2.1 metres.

All to the reasonable satisfaction of the Council.

19. A Soil Erosion, Construction and Drainage Management Plan is to be prepared in accordance with the Environment Protection Authority Guidelines. The Plan is to be submitted to the Council for approval prior to the issue of Development Approval.
20. The developer and its contractors shall employ suitable measures to eliminate dust emissions from the site during the construction period so as not to cause nuisance to nearby residents, or sensitive adjacent business operators.
21. The development shall be carried out strictly in accordance with the recommendations contained within the External Noise Reduction Report prepared by Echo Acoustic Consulting (26 August 2024 Reference ID: 478-4).
22. The final design of all mechanical services to the building shall be undertaken by a qualified acoustic engineer, installed and operated in such a manner that any persons working within or adjacent to the site or residing nearby shall not be exposed to levels exceeding 45dB at the nearest noise affected residence, and should not be subjected to any unreasonable nuisance or inconvenience from noise or fumes.
23. No external speakers or other types of sound systems shall be operated outside of the approved buildings.

Conditions Directed by the Commissioner of Highways

24. All access shall be gained in accordance with the site plan produced by Renown Building Designs, Drawing No. 2315-DP1, dated Nov 2023. The access on Bridge Road shall be limited to left turn exit only and a 'No Entry' sign shall be installed on Bridge Road to reinforce the desired traffic flow.
25. Clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in *AS/NZS 2890.1:2004*, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.
26. All off-street car parking shall be designed in accordance with *AS/NZS 2890.1:2004* and *AS/NZS 2890.6:2009*. All vehicles shall enter and exit the site in a forward direction.
27. Any infrastructure within the road reserve that is demolished, altered, removed or damaged during the construction of the project shall be reinstated to the satisfaction of the relevant asset owner, with all costs being borne by the applicant.
28. Stormwater run-off shall be collected on-site and discharged without impacting the safety and integrity of the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.

Conditions Directed by the Environment Protection Authority

29. Remediation works must be undertaken in accordance with the *Construction Environmental Management Plan, 90 Research Road, Pooraka, South Australia*, prepared by Environmental Projects (dated 22 May 2024) and must be overseen by a suitably qualified and experienced site contamination consultant.
30. 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.
31. 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 consultant.

Advice Notes

Advice Notes – Council

Rights of Appeal

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).

Building Rules Consent and Approval Still Required

Building Consent and Development Approval must be obtained within 24 months from the date of this Notification, unless this period has been extended by the Council. Work cannot commence until a Development Approval is obtained.

Commencement

The development shall be lawfully commenced by substantial work on the site of the development within 2 years from the date of Development Approval. If substantial work on the site has occurred within 2 years, the development shall be substantially or fully completed within 3 years from the date of Development Approval.

Advice regarding Council land

This Development Approval does not constitute land owners approval. The following applies to any works on Council land:

1. Any person making alteration to Council land including erecting or installing a structure (pipes, wires, cables, fixtures, fittings), storing building materials, erecting temporary fencing, altering the kerb, gutter, footpath or crossover etc. in, on, under or over Council land, is subject to a permit from Council pursuant to Section 221 of the *Local Government Act 1999*.
2. Service infrastructure should be located as far as practicable away from street trees, in order to protect the root zone and to prevent future damage to the infrastructure from roof expansion.
3. Residents and businesses are encouraged to develop and maintain the verge area between their property boundary and the kerb. However, some types of development such as irrigation, tree planting and landscaping may be restricted in some areas and therefore permission should be first sought from Council before commencing any works;

4. It is the developers/owners responsibility to ensure that damage does not occur to verge infrastructure during construction. Council regularly inspects the condition of verge infrastructure during construction and where damage is observed, Council may recover the costs from the owner for reinstatement of any damage to the footpath, kerb or gutter and may also impose a substantial penalty for any wilful damage.

Siting of Building Work

It is your responsibility to ensure that any building work is correctly sited with respect to the property boundaries of the site and it is strongly recommended that a boundary survey be undertaken before any work commences to ensure the building work is accommodated within the designated footprint and achieves the designated boundary setbacks.

Plans Available Onsite

The Council approved plans should be available on site at all times while performing the building work.

Fences Act

You will need to obtain your permission from your neighbour should you wish to access their property to carry out construction work adjacent the boundary or if you wish to erect common boundary fencing or boundary retaining walls, pursuant to the *Fences Act 1975*. To find out more, please visit:

<https://lsc.sa.gov.au/resources/fencesandthelawbooklet.pdf>

Construction Noise

The applicant is reminded that demolition and construction is required to be carried out so that it complies with the mandatory construction noise provisions of Part 6, Division 1 of the *Environment Protection (Noise) Policy 2007* and the provisions of the *Local Nuisance and Litter Control Act 2016*. Under the *Local Nuisance and Litter Control Act 2016*, construction noise is declared to constitute a local nuisance as follows:

The noise has travelled from the location of the construction activity to neighbouring premises –

- *On any Sunday or public holiday;*
- *After 7pm or before 7am on any other day.*

EPA and Local Nuisance Matters

The applicant is 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 the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause environmental harm.

In addition, the applicant is responsible for ensuring the development (including demolition, civil works and construction activities) do not cause a 'local nuisance' under the *Local Nuisance and Litter Control Act 2016*

Accordingly, your site planning activities should consider:

- providing a stabilised entry/exit point to the site for all construction and trade vehicles, including contained wash down area for vehicles and equipment
- appropriately located stockpiles and storage materials
- a suitable and designated area for brick cutting and concrete works
- a contained area for paint and plastering waste and wash waters
- appropriate location of noisy equipment so as to avoid unreasonable impacts to neighbours
- dust control measures such as use of a water cart and/or covering stockpiles

Note: EPA information sheets, guidelines documents, codes of practice, technical bulletins etc. can be accessed on the following web site: <http://www.epa.sa.gov.au>.

Advertising Signage

In accordance with the Lou Fantasia Planning Report dated 27 March 2024, no advertising signage has been approved with this application. Should advertising signage be desired, a separate development approval will be required, prior to installation.

Advice Notes – EPA

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.

Advice Notes – Parafield Airport

Parafield Airport Limited has no objection to the above proposal.

The Owner/Developer need to be advised of the following:

- a) The development as described at a maximum height of 40.298m Australian Height Datum (AHD) does not penetrate the Parafield Airport Obstacle Limitation Surface (OLS) airspace protected for aircraft operations. Any further proposed addition to the structure, including aerials or masts, must be subject to a separate assessment.

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- b) Crane operations associated with construction shall be the subject of separate application. Cranes above 57.5m AHD will require approval in accordance with the Airports Act 1996 and the Airports (Protection of Airspace) Regulations 1996.
 - c) Restrictions may apply to lighting illumination. Any lighting proposed shall conform to airport lighting restrictions and shall be shielded from aircraft flight paths.

OTHER BUSINESS

8.2.1 Status of Current Appeal Matters and Deferred Items

Mr R Bateup moved, and the Council Assessment Panel resolved that the information was received.

8.2.1 Policy Issues Arising from Consideration of Development Applications

Nil

8.2.2 Future Meetings & Agenda Items

Next meeting scheduled for Tuesday 29 October 2024.

ADOPTION OF MINUTES

Mr B Brug moved, and the Council Assessment Panel resolved that the Minutes of the Council Assessment Panel Meeting be taken and read as confirmed.

The meeting closed at 7.16pm.

PRESIDING MEMBER: Mr T Mosel

DATE: 24 September 2024
(refer to email approving minutes registered in the City of Salisbury's Record Management System - Document Number 8288591)

**INFORMATION
ONLY
ITEM**

8.2.1

COUNCIL ASSESSMENT PANEL

DATE

29 October 2024

HEADING

Assessment Manager Quarterly Report - July to September 2024

AUTHOR

Chris Zafiroopoulos, Assessment Manager, City Development

SUMMARY

This report provides the Assessment Manager Quarterly Report for the period between July to September 2024.

RECOMMENDATION

1. That the information be received and noted.

ATTACHMENTS

There are no attachments to this report.

1. BACKGROUND

- 1.1 The general operating procedures require the Assessment Manager to prepare a quarterly report of:
 - the development applications with representations determined under delegated authority for the previous period.
 - any development application delegated by the Panel where a deemed consent notice has been received.
- 1.2 This report provides a quarterly report for the period July to September 2024.

2. REPORT

- 2.1 The Panel is assigned as a relevant authority in its own right under the *Planning, Development and Infrastructure Act 2016*. In the exercise of its duties, the Panel delegated to the Assessment Manager specific duties and powers on its behalf. Delegations enhance decision making processes and allow nominated matters to be resolved efficiently and effectively without the need for the Panel's consideration.
- 2.2 The delegations provide for:
 - Administrative matters to assist in the timely processing of applications such as verifying development applications, undertaking statutory referrals and public notification.
 - Determining prescribed development applications.

Overview of planning application activity

2.3 The planning applications for the period are summarised in the table below.

	Number
Planning Applications Lodged	585
Planning Applications Determined	404
Notified Applications	4
Determined planning consents by relevant authority (excluding private certification)	
➤ CAP	1
➤ Assessment Manager (AM)	398
➤ AM as delegate for Panel	4

2.4 The number of development applications that were notified during this period was four (4). Four (4) development applications were determined by the Assessment Manager under delegated authority, and one (1) development application was determined by the Panel.

2.5 The number of planning applications that were lodged under the previous *Development Act 1993* (prior to 19 March 2021) that are still active at the end of this quarter is one (1).

Development Applications Assessed under Delegated Authority by the Assessment Manager

2.6 The development applications considered by the Assessment Manager under delegated authority are summarised below:

Three (3) Single Storey Detached Dwellings in a Terrace Arrangement for the Affordable Housing Scheme, retaining walls and fencing with combined height exceeding 2.1 metres at 124 Nelson Rd, Valley View

Representations – Two (one support / one oppose)

Decision – Approve with conditions

Demolition of Existing Building and Construction of Four (4) Warehouses with Associated Offices, Carparking and Landscaping at 57 Stanbel Rd, Salisbury Plain

Representations – Five (four from one person) (one support with concerns / one oppose)

Decision – Approve with conditions

Change of use from a service trade premises to a motor repair station and automotive collision repairs at 160 Commercial Rd & 29 Fishers St, Salisbury

Representations – Two (support with concerns)

Decision – Approve with conditions

Alterations and Additions to existing building, Change of Use from Dwelling to Consulting Room, Alterations to Access, Car Parking and Landscaping at 115 Salisbury Highway, Salisbury

Representations – Two (oppose)

Decision – Approve with conditions

Deemed Consents

2.7 No deemed consent notices have been received for this period.

3. CONCLUSION / PROPOSAL

3.1 The Assessment Manager Quarterly Report for the period July to September 2024 be received and noted.

**INFORMATION
ONLY
ITEM**

8.2.2

COUNCIL ASSESSMENT PANEL

DATE

29 October 2024

HEADING

Status of Current Appeal Matters and Deferred Items

AUTHOR

Chris Zafiroopoulos, Assessment Manager, City Development

SUMMARY

The report provides an update on current appeal matters and deferred items.

RECOMMENDATION

That the Panel:

1. Receives the information.

ATTACHMENTS

There are no attachments to this report.

1. REPORT

Applicant Appeal to Environment, Resources and Development Court, Tony Maiello (N27 Pty Ltd) v City of Salisbury (ERD-22-000014) - Development Application 361/1618/2020/2A

This appeal has been adjourned at the request of the appellant in order for the applicant to appeal another development application that has been refused by Council.

Background

The Applicant appealed against the decision of the Panel to refuse the development application for three two-storey group dwellings at 173-175 Park Terrace, Salisbury. The applicant presented two alternative proposals in response to the decision of the Panel, but the amendments have not addressed the concerns of the Panel. Kelledy Jones Lawyers have been engaged to act on behalf of the Panel before the ERD Court.

The applicant requested an adjournment of the current proceedings in order to lodge a new application and for a decision to be made on this application. The new application has been made under the Planning and Design Code and is proposing two dwellings. This application has been refused planning consent by the Assessment Manager and an appeal has also been lodged against this decision.

The applicant has requested a further adjournment to await the outcome of a development application lodged over another site within the Council area before determining whether to proceed to trial in this appeal.

Applicant Appeal to Environment, Resources and Development Court, Tony Maiello (N43 Pty Ltd) v City of Salisbury (ERD-23-000022) - Development Application 22031953

This appeal has been adjourned at the request of the appellant in order for the applicant to appeal another development application that has been refused by Council.

Background

The Applicant has appealed against the decision of the Panel to affirm the decision of the Assessment Manager to refuse the development application for the *Construction of Two (2) Single Storey Group Dwellings in Association with Four (4) Existing Single Storey Group Dwellings, Shared Driveway, Visitor Car Parking and Landscaping* at Unit 1-2, 30 Shepherdson Road, Parafield Gardens, SA 5107. The applicant requested that this matter be adjourned to enable the submission of a revised proposal.

A revised proposal (Development Application 23013692) has been submitted for two ancillary accommodation buildings. Having sought a legal opinion, the applicant was advised that the nature of development has been determined to be *'Two (2) single storey group dwellings in association with four (4) existing single storey group dwellings'*. The applicant has been requested to advise if they wish for Council to verify the application as two additional group dwellings. At this time, no response has been provided to Council on this application.

Applicant Appeal to Environment, Resources and Development Court, N43 Pty Ltd v City of Salisbury (ERD-24-000009) - Development Application 23023699

At the request of the Applicant, the matter has been adjourned until 5 November 2024. The Applicant is awaiting the outcome of the *'Ancillary Accommodation and Student Accommodation Definitions Review Code Amendment'*, before progressing any further argument.

The applicant submitted a development application with another planning accredited authority for *Two Ancillary Buildings* at Unit 1-2, 30 Shepherdson Road, Parafield Gardens, SA 5107. The application was subsequently lodged with Council for development approval – having obtained both planning consent and building consent from accredited professionals.

Council staff received legal advice and wrote to the applicant to advise that Council considers it cannot grant a development approval to the proposed development as it considers the planning consent to have been granted contrary to the *Planning, Development and Infrastructure Act 2016* per *Mundy v City of West Torrens* [2016] SAERDC 30. In particular, the proposal comprises two (2) new group dwellings on each allotment. The planning consent assessment pathway is performance assessed, not deemed-to-satisfy and the planning consent is not considered to have legal effect as it was not assessed or determined by the correct relevant authority.

The development application was refused (and the applicant invited to submit a new planning application for this development, to the correct relevant authority).

The applicant appealed this decision.

Note: At this time, all N27 and N43 matters listed above will follow the same ERD Court schedule, and therefore, all matters are presently adjourned until 5 November 2024.