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CITY OF ADELAIDE

COUNCIL ASSESSMENT PANEL

Agenda and Reports

for the meeting
Monday, 18 November 2024
at 5.30 pm
in the Colonel Light Room, Adelaide Town Hall

CITY OF ADELAIDE

Council Assessment Panel

Meeting Agenda

Monday, 18 November 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 Member – 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 Kaurna 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 Kaurna 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 28 October 2024, be taken as read and be confirmed as an accurate record of proceedings.

View public 28 October 2024 Minutes here.

2. Declaration of Conflict of interest

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

3.1 96 Kingston Terrace, North Adelaide [Pages 4 - 24]

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 - 9 December 2024

7. Closure

Council Assessment Panel

Monday, 18 November 2024

Subject Site	96 Kingston Terrace, North Adelaide
Development Number	24014929
Nature of Development	Construction of a three storey detached dwelling, fences and swimming pool with associated safety barrier.
Representations	Listed to be Heard - Yes
Summary Recommendation	Planning Consent Granted
Status	Public

DEVELOPMENT NO.:	24014929
APPLICANT:	Susanna Proudman C/- URPS
AGENDA ITEM NO:	3.1
ADDRESS:	96 Kingston Terrace, North Adelaide SA 5006
NATURE OF DEVELOPMENT:	Construction of a three storey detached dwelling, fences and a swimming pool with associated safety barrier
ZONING INFORMATION:	**Zones:** • City Living **Subzones:** • North Adelaide Low Intensity **Overlays:** • Airport Building Heights (Regulated) ~~• Design~~ • Historic Area (Adel11) • Heritage Adjacency • Hazards (Flooding - Evidence Required) ~~• Prescribed Wells Area~~ ~~• Regulated and Significant Tree~~ • Stormwater Management • Urban Tree Canopy **Technical Numeric Variations (TNVs):** ~~• Minimum Frontage (Minimum frontage for a detached dwelling is 14m; semi-detached dwelling is 12m; group dwelling is 18m; residential flat building is 18m)~~ ~~• Minimum Site Area (Minimum site area for a detached dwelling is 600 sqm; semi-detached dwelling is 450 sqm; group dwelling is 600 sqm; residential flat building is 500 sqm)~~ • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	26 August 2024
RELEVANT AUTHORITY:	City of Adelaide Council Assessment Panel
PLANNING & DESIGN CODE VERSION:	Version 2024.15 – 15 August 2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	SB
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Heritage Advisor

CONTENTS:

All attachments and appendices are provided via Link 1

PERSONS SPEAKING BEFORE THE PANEL

Representor:

- Paul Zybert on behalf of Gianna Zybert, 93-94 Kingston Terrace, North Adelaide

Applicant:

- Matilda Asser of URPS on behalf of the applicant, Susanna Proudman

1. DETAILED DESCRIPTION OF PROPOSAL

This application proposes the construction of a three storey detached dwelling, fencing and a swimming pool with associated safety barrier at 96 Kingston Terrace, North Adelaide.

The lower ground floor will consist of two bedrooms, a living room, a bathroom, a laundry and garage. A swimming pool will also be located at lower ground level.

The ground floor will consist of the entrance, kitchen/dining area, two living rooms, a study, a powder room and a terrace.

The first floor will consist of the master bedroom and ensuite.

A brick and aluminium batten fence and gate with a height of 1.75 to 2.2 metres will span the primary frontage to Kingston Terrace.

Excavation will be undertaken on the site to facilitate the lower ground level. This will result in 'cut' retaining walls and a new fence to the northeastern side boundary. Existing fences along the southwestern side boundary will remain.

A fence will also extend along the rear of the dwelling, setback from the right of way at the rear of the site.

2. BACKGROUND

A Development Application (ID 24004107) for demolition of the existing single storey detached dwelling on the subject site was lodged in February 2024.

Planning consent for this demolition was granted on 22 March 2024 by Council's Assessment Manager. This dwelling has not yet been demolished.

3. SUBJECT LAND & LOCALITY

Subject Land

The site is formally known as Allotment 637 in Filed Plan 183909, contained in Certificate of Title 5823, Folio 687, Hundred of Yatala. It is commonly known as 96 Kingston Terrace, North Adelaide.

The site has a frontage of approximately 12.5 metres to Kingston Terrace and a total site area of approximately 495m^2.

Existing improvements at the site include a single storey detached dwelling, retaining walls and fences.

Vehicle access to the site is obtained via a right of way extending to Stanley Street.

The site slopes by approximately 2.5 metres from north to south (excluding the right of way).

No regulated or significant trees are located on the site.

Locality

The locality is residential in nature, comprising single and two storey detached dwellings at a low density. This portion of Kingston Terrace is predominantly characterised by moderately grand, two storey dwellings of the Victorian and Inter-War eras. Many of these dwellings are Local Heritage Places.

Front setbacks to Kingston Terrace are consistent but not substantial and are established by Local Heritage Places. The setbacks between buildings are also not substantial.

The predominantly two storey built form character along Kingston Terrace, along with the building setback pattern, creates a strong built form edge to the Adelaide Park Lands to the north.

The Park Lands provide a natural backdrop to the locality and contribute to an open character.

Front fences are typically high and comprised of masonry walls or fences covered by landscaping to restrict views of front yards and the ground floors of dwellings from the street.

The locality slopes from the ridge on Kingston Terrace south towards Stanley Street. This slope is known as the North Adelaide scarp. The wider locality also slopes from west to east.

Photo 3.1 – View of the subject site from the Adelaide Park Lands

Photo 3.2 – View of the Adelaide Park Lands from the subject site

Photo 3.3 – View northeast along Kingston Terrace

Photo 3.4 – View southwest along Kingston Terrace

4. CONSENT TYPE REQUIRED

Planning Consent

5. CATEGORY OF DEVELOPMENT

PER ELEMENT:

- Detached dwelling: Code Assessed - Performance Assessed
- Swimming pool: Code Assessed - Performance Assessed
- Fence: Code Assessed - Performance Assessed
- Retaining wall: Code Assessed - Performance Assessed

OVERALL APPLICATION CATEGORY:

- Code Assessed - Performance Assessed

REASON

- Detached dwelling, fence and retaining wall listed as performance assessed elements in City Living Zone, Table 3: Code Assessed - Performance Assessed.
- Swimming pool is not listed in Tables 2, 3 or 4 of the zone and does not achieve the criteria in Table 1 as it is not ancillary to a dwelling erected or to be erected on the site in accordance with a development authorisation which has been granted. Therefore, it defaults to performance assessed.

6. PUBLIC NOTIFICATION

REASON

The fence, retaining wall and swimming pool satisfy Table 5(4) of the City Living Zone and are therefore excluded from public notification.

The proposed 'detached dwelling' does not satisfy Table 5(2) of the City Living Zone as it exceeds the maximum building height specified in City Living Zone DTS/DPF 2.2 of two building levels and therefore the application required public notification.

Table 6.1 – List of Representations		
No.	**Representor Address**	**Request to be Heard**
1	Gianna Zybert, 93-94 Kingston Terrace, North Adelaide	Yes – Opposes
2*	Felicity Gunner, 87 Jerningham Street, North Adelaide	No – Support with concerns
** Four duplicates of this representation have not been referred to above.*		

Table 6.2 – Summary of Representations
Oppose • Bulk and scale • Height • Overshadowing • Lack of soft landscaping and private open space • Impact to adjacent Local Heritage Place • Impact to rear right of way

- Loss of views
- Earthworks near boundary
- Construction impacts including removal of fence, access to right of way and capacity of stormwater pipe.

Note: Refer to Attachments 5 and 6 for full representations and applicant's response.

7. AGENCY REFERRALS

Nil.

8. INTERNAL REFERRALS

Heritage Advisor

- The proposed dwelling appears as two storeys and is reflective of the proportions of neighbouring dwellings
- Datum lines of adjacent Local Heritage Place are complemented by the proposal
- Setbacks are comparable with neighbouring dwellings
- Materials are generally in keeping with or complement those within the Historic Area.

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 North Adelaide Low Intensity Subzone Assessment Provisions

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Predominantly low rise low density housing on large allotments in an open landscaped setting.		
DO 2	• An important part of the town plan of Adelaide and the city grid layout, containing large grand dwellings on landscaped grounds.		
Built Form and Character			
PO 1.1	• Complements low-density character of neighbourhood.	☑	☐
Site Coverage			
PO 2.1	• Refer Section 9.5.	☑	☐

9.2 Summary of City Living Zone Assessment Provisions

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Predominantly low-rise, low to medium-density housing, with medium rise in identified areas, that supports a range of needs and lifestyles located within easy reach of a diversity of services and facilities that support city living. Small scale employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.		
Land Use and Intensity			
PO 1.1	• Dwellings an envisaged land use.	☑	☐
Built Form and Character			
PO 2.1	• Number of dwellings increased in the zone while maintaining residential amenity.	☑	☐
PO 2.2	• Refer Section 9.5.	☑	☐
PO 2.3	• Floor to ceiling heights and valued streetscape characteristics maintained by development.	☑	☐
PO 2.5	• Refer Section 9.5.	☑	☐
Building Setbacks			
PO 3.1	• Refer Section 9.5.	☑	☐
PO 3.3	• Refer Section 9.5.	☑	☐
PO 3.4	• Rear setback provides space for landscaping, private open space and light and ventilation for neighbours.	☑	☐
PO 3.5	• Refer Section 9.5.	☑	☒

9.3 Summary of Applicable Overlays

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

- Airport Building Heights (Regulated) – the height of the development does not pose a hazard to Adelaide Airport
- Design – the development is less than $10 million
- Prescribed Wells Area – the development does not involve the taking of water which would require a water license
- Regulated and Significant Tree – no regulated trees exist on the subject or adjacent sites.

Hazards (Flooding – Evidence Required) Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Development adopts a precautionary approach to mitigate potential impacts on people, property, infrastructure and the environment from potential flood risk through the appropriate siting and design of development.		
Flood Resilience			
PO 1.1	• Ground floor will be sited sufficiently located above top of kerb to minimise risk of floodwater entry.	☑	☐

Heritage Adjacency Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Development adjacent to State and Local Heritage Places maintains heritage and cultural values of those Places.		
Built Form			
PO 1.1	• Refer Section 9.5.	☑	☐

Historic Area (Adel11) Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Historic themes and characteristics reinforced through conservation and contextually responsive development, design and adaptive reuse that responds to existing coherent patterns of land division, site configuration, streetscapes, building siting and built scale, form and features as exhibited in the Historic Area and expressed in the Historic Area Statement.		
All Development			
PO 1.1	• Refer Section 9.5.	☑	☐
Built Form			
PO 2.1	• Refer Section 9.5.	☑	☐
PO 2.2	• Refer Section 9.5.	☑	☐
PO 2.3	• Refer Section 9.5.	☑	☐
PO 2.4	• Refer Section 9.5.	☑	☐
PO 2.5	• Refer Section 9.5.	☑	☐
Ancillary Development			
PO 4.4	• Refer Section 9.5.	☑	☐
Context and Streetscape Amenity			
PO 6.2	• Valued historic kerbing on Kingston Terrace maintained with vehicle access to the rear.	☑	☐

Stormwater Management Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Development incorporates water sensitive urban design techniques to capture and re-use stormwater.		
PO 1.1	• 5,000L detention/retention rainwater tank to capture and re-use stormwater.	☑	☐

Urban Tree Canopy Overlay

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Residential development preserves and enhances urban tree canopy through the planting of new trees and retention of existing mature trees where practicable.		
PO 1.1	• It appears a tree in accordance with this Overlay can be achieved on site and a reserved matter is proposed to confirm this at the detailed design stage.	☑	☐

9.4 Summary of 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	• Protection of human health and safety when undertaking development in the vicinity of overhead transmission powerlines.		
PO 1.1	• An *Electricity Act* declaration has been provided by the applicant.	☑	☐

Design in Urban Areas

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Development is contextual, durable, inclusive and sustainable		
Earthworks and Sloping Land			
PO 8.1	• Excavation exceeds the vertical height at 1.6 metres instead of 1 metre.	☐	☒
Fences and Walls			
PO 9.1	• Refer Section 9.5.	☑	☐

All Development – Medium and High Rise			
External Appearance			
PO 12.1	• Building positively contributes to the character by responding to local context.	☑	☐
PO 12.5	• External materials comprise a range of durable materials including masonry and pre-finished aluminium screening.	☑	☐
PO 12.6	• Large, habitable room windows and a front 'terrace' with visually permeable front fence provide a high quality, pedestrian-friendly street frontage.	☑	☐
Landscaping			
PO 13.1	• Deep soil zone to front yard capable of supporting a tree.	☑	☐
PO 13.3	• Deep soil zones with access to light provided to front and rear.	☑	☐
Environmental			
PO 14.2	• Sustainable design techniques incorporated include building and window orientation, shading structures and water harvesting and re-use.	☑	☐
Overlooking/Visual Privacy			
PO 16.1	• Refer Section 9.5.	☑	☐
All Residential Development			
Front Elevations and Passive Surveillance			
PO 17.1	• Large, habitable room windows encourage passive surveillance of the street.	☑	☐
PO 17.2	• Easily identifiable front door.	☑	☐
Outlook and Amenity			
PO 18.1	• Living rooms provide an external outlook for a high standard of amenity for occupants.	☑	☐
Ancillary Development			
PO 19.3	• Pool filter in noise attenuated enclosure and approximately 8 metres from nearest adjoining dwelling.	☑	☐
Residential Development – Medium and High Rise			
Outlook and Visual Privacy			
PO 26.1	• Habitable room windows face the street for views over the Park Lands.	☑	☐
Private Open Space			
PO 27.1	• Suitable private open space provided to meet the needs of occupants.	☑	☐

Infrastructure and Renewable Energy Facilities

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Efficient provision of infrastructure networks and services, renewable energy facilities and ancillary development in a manner that minimises hazard, is environmentally and culturally sensitive and manages adverse visual impacts on natural and rural landscapes and residential amenity.		
Water Supply			
PO 11.2	• Dwelling will be connected to mains water.	☑	☐

Interface between Land Uses

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Development located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.		
Overshadowing			
PO 3.1 - 3.3	• Refer Section 9.5.	☑	☒
Activities Generating Noise and Vibration			
PO 4.3	• Pool filter in noise attenuated enclosure and approximately 8 metres from nearest adjoining dwelling.	☑	☐

Site Contamination

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• Ensure land suitable for the proposed use in circumstances where it is, or may have been, subject to site contamination.		
PO 1.1	• Change to a more sensitive use not proposed.	☑	☐

Transport, Access and Parking

Code Ref	Assessment	Met	Not Met
Desired Outcome (DO)			
DO 1	• A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.		
Sightlines			
PO 2.2	• Fencing to the rear of right of way allows for adequate sightlines.	☑	☐
Vehicle Parking Rates			
PO 5.1	• Sufficient on-site car parking spaces provided.	☑	☐

9.5 Detailed Discussion

Design and Appearance

When considering the design of the proposed dwelling in the context of the locality, it is important to consider PO 2.1 of the Historic Area Overlay which desires new buildings visible from the public realm be consistent with the prevailing historic characteristics of the historic area, as well as PO 2.3 which desires architectural detailing of street facing buildings complement the prevailing characteristics of the Historic Area.

The North Adelaide Stanley Historic Area Statement (HAS) identifies large, one and two storey Victorian and Inter-War housing as the architectural characteristic of Kingston Terrace. This settlement pattern can largely be attributed to the road through Brougham Place in the 1860s, as well as the introduction of horse-drawn trams along Melbourne Street in the 1870's which made the area an attractive location for workers to live. Further, being at the top of the North Adelaide scarp, the steep rise from Melbourne Street to Stanley Street, made Park Lands frontage allotments along Kingston Terrace prestigious addresses.

The proposal is a contemporary, pavilion style dwelling comprising two levels fronting Kingston Terrace. Large windows extend from the ground floor almost to the top of the upper floor, with a 'soft beige' brick parapet above. Folded aluminium perforated screening in a bronze tone extends along the frontage with a taller section screening the upper level and a shorter section partially screening the top of the ground level. 'Soft beige' bricks wrap around the side walls. The dwelling does not attempt to replicate the architectural style or detailing of original dwellings in the locality. While not traditional, the chosen materials and finishes are complementary to those within the historic area and satisfy Historic Area Overlay PO 2.5. Further, while not Victorian or Inter-War in its appearance, the design and architectural detailing of the proposal sufficiently complements the characteristics of the Historic Area and therefore PO 2.3 of the Historic Area Overlay is achieved.

For the above reasons and those discussed under 'Bulk and Scale' below, the development has demonstrated consideration to the historic streetscapes and built form as expressed in the HAS.

In addition to Historic Area considerations, the adjacent dwelling to the west at 100 Kingston Terrace is a Local Heritage Place. Built in the mid-1930's, this dwelling has an Inter-War, Neo-Georgian construction. The colours of the proposed dwelling will be neutral and muted. These will not match or stand out against the colours of the heritage place. The materials chosen, namely the brick, aluminium screening and glazing will be complementary to the heritage place and are simple in their detailing so as not to take away from the detailing of the heritage place. The eave height references the heritage place and does not result in a built form scale that dominates the heritage place and therefore Heritage Adjacency Overlay PO 1.1 is satisfied.

A front fence and gate are proposed to extend along the front boundary of the site. The height will vary from 1.75 metres at the western end to 2.2 metres at the eastern end due to the slope of the land. Aluminium battens in a 'satin espresso bronze' comprise most of the fence, with a portion near the entry gate also comprised of brick of the same kind as the dwelling. While the proposed fence will be higher than fences referred to in the HAS of up to 1.2 metres, the height is consistent with fences in the locality which are typically higher and not so visually permeable. The proposed contemporary fence will be consistent with the style and form of the proposed dwelling and therefore achieves Historic Area Overlay PO 4.4.

The proposed garage will be located to the rear of the dwelling and accessed via a right of way through to Stanley Street. This is in accordance with the HAS which seeks vehicle access via minor streets and laneways to maintain historic kerbing and trees. Historic Area Overlay PO 6.2 is achieved.

Bulk and Scale

Setbacks

City Living Zone PO 3.1 and 3.3 desire buildings setback from primary street boundaries to complement the existing streetscape character and to provide separation between buildings consistent with the established streetscape of the locality. Historic Area Overlay PO 2.4 desires front and side setbacks consistent with the setback pattern in the Historic Area.

Front setbacks along Kingston Terrace are relatively consistent and are moderate in the range of 3.5 to 4.5 metres. While there is some variation in the side setback pattern, side setbacks are also moderate but not overly large, varying in size between 1.5 and 4 metres. This is largely reflective of the HAS which provides a building setback pattern established by heritage places. When combined with the expanse of open Park Lands on the opposite side of Kingston Terrace, the moderate front and side setback pattern of dwellings in the locality contributes to an established open landscaped character and a strong built form edge to the Park Lands.

The front setback to the ground floor of the dwelling will be 4.8 metres, with a setback of 3.9 metres to the screening. This is approximately halfway between the two adjacent dwellings and will not be in front of the adjacent Local Heritage Place at 100 Kingston Terrace. Consequently, it will not dominate or encroach upon this heritage place. The side setbacks of 1.7 metres to the eastern side and 2.4 metres to the western side are sufficient to provide visual separation between buildings and are largely in line with adjacent dwellings.

The proposed front and side setbacks will be complementary of the existing streetscape character and consistent with the setback pattern in the locality. The setbacks will also result in a building footprint that contributes to the open, landscaped character of the locality while providing a strong built form edge to the Park Lands. City Living Zone PO 2.5, 3.1 and 3.3, North Adelaide Low Intensity Subzone PO 2.1 and Historic Area Overlay PO 2.4 are achieved.

Boundary Wall

City Living Zone PO 3.5 seeks boundary walls limited in height and length to manage impacts on adjoining properties. A boundary wall is proposed to the western side boundary adjoining 100 Kingston Terrace that is 6 metres in length and 3.8 metres in height. While the length is within the maximum boundary wall length prescribed by DPF 3.5, the height of 3.8 metres is 800mm higher than the maximum boundary wall height prescribed in the DPF.

The proposed boundary wall will be setback from the building line of the dwelling by 6 metres and setback from the front boundary by 11 metres. This will reduce visibility from the street when looking directly down the middle of the two dwellings. Additionally, the boundary wall will be offset from the rear wall of the adjoining dwelling by just over 4 metres. This will reduce visibility of the wall from the main area of private open space of the adjoining dwelling. The side setback area of the adjoining dwelling is narrow and likely used as a service yard area. Consequently, it is considered there are no unreasonable visual impacts to the adjoining dwelling as a result of the boundary wall. Furthermore, as the height of the boundary wall is less than the height of the ground floor side wall parapet there is not expected to be overshadowing from the boundary wall itself.

On balance, City Living Zone PO 3.5 is achieved as the proposed boundary wall is limited in height and length to manage impacts on adjoining properties.

Building Height

The proposed dwelling has three building levels due to the definition of 'building level' in Part 8 of the Code:

> *Building level: Means that portion of a building which is situated between the top of any floor and the top of the next floor above it, and if there is no floor above it, that portion between the top of the floor and the ceiling above it. It does not include any mezzanine or any building level having a floor that is located 1.5m or more below finished ground level.*

Despite the dwelling comprising three building levels, the slope of the land has been utilised as well as excavation to largely hide the lower ground level from view of the primary street. From the primary frontage of Kingston Terrace, the dwelling will present as two storeys which is consistent with the prevailing historic characteristics of the Historic Area.

The simple rectilinear form and generous floor to ceiling heights will contribute to a dwelling of grand proportions which reflects the proportions of the neighbouring dwellings. The proposal complements the datum lines of the adjacent Local Heritage listed 100 Kingston Terrace. The development will contribute to a 'low-rise' residential character and positively responds to the local context of the historic area, achieving City Living Zone PO 2.2 and Historic Area Overlay PO 2.2.

Fencing

Extensive retaining walls and fencing are proposed to the northeastern side boundary. This is due to the excavation required to achieve the floor level for the lower ground level. As these retaining walls are 'cut' retaining walls as opposed to 'fill' retaining walls, the majority of the walls will only be visible from within the site. Only fencing atop the retaining walls will be visible to the adjoining site located to the northeast. The fences atop the retaining walls range from 1.8 to 2 metres in height which is sufficient to provide adequate privacy and security for the occupants of the dwelling without unreasonably impacting on the adjoining dwelling.

Fencing of 2.7 metres in height will also extend along the rear of the building line of the dwelling. While higher than a typical fence, the fence will be setback 6.5 metres from the rear of the site which backs onto a right of way and the garage of the adjoining dwelling to the south at 87 Jerningham Street. Therefore, the fence will mostly not be visible from the public realm. It will also provide security for the occupants of the dwelling without unduly impacting adjoining dwellings. Consequently, Design in Urban Areas PO 9.1 is satisfied.

Amenity

Visual Privacy

Design in Urban Areas PO 16.1 seeks development mitigate direct overlooking of habitable room windows and private open spaces of adjacent residential uses in neighbourhood-type zones. It should be noted to mitigate direct overlooking does not imply a right to absolute privacy. Direct overlooking is defined in Part 8 of the Planning and Design Code:

> *In relation to direct overlooking from a deck, balcony or terrace, is limited to an area that falls within a horizontal distance of 15 metres measured from any point of the overlooking deck, balcony or terrace.*

A portion of the private open space of the dwelling at 178 Stanley Street is the only private open space that falls within this 15 metre range of the terrace.

The proposed dwelling comprises a rear terrace at ground level (one level above the lower ground level). The sides of the terrace will comprise folded aluminium perforated screening. The screening will have maximum 25% openings to a height of 1.7 metres above the floor level of the terrace and then gradually transition to 60% openings at its maximum height.

The proposed screening with maximum 25% openings to a height of 1.7 metres will mitigate direct overlooking from the sides of the terrace. The increase in openings above 1.7 metres will minimise negative effects on the amenity of neighbours of the adjoining dwellings, especially 94 Kingston Terrace where the screen is closer to the boundary.

The rear of the terrace will be open but with planter boxes to a height of 800mm above the floor level. There is a large dwelling addition at the rear of 178 Stanley Street extending to the northern and eastern boundaries of that site. Council records indicate this addition has a pitched roof and rises to a total height of 6 metres. In addition, a high masonry wall also extends along a portion of the eastern boundary of this site. Both structures provide a visual barrier between the proposed terrace and the private open space of 178 Stanley Street. The natural slope of the land, which slopes down from Kingston Terrace to Stanley Street, will also assist to minimise overlooking. Any views from the terrace to 178 Stanley Street will be directed over the roofs and private open space of this dwelling rather than directly down into the private open space.

Obscured glazing to a height of 1.7 metres above floor level is proposed for upper level side windows on the northeastern façade and window shrouds and screening are also proposed for south facing upper level windows.

On balance, the proposal sufficiently mitigates direct overlooking of adjacent residential land uses, satisfying Design in Urban Areas PO 16.1.

Overshadowing

Shadow diagrams demonstrate there will be no north facing windows of dwellings on abutting sites shaded by the development. Furthermore, the only windows of abutting dwellings that will experience some shading are east facing windows at 100 Kingston Terrace. For this to be avoided completely, either the side setback of the development or its height would need to be substantially reduced. The Code does not envisage overshadowing of adjacent dwellings being entirely avoided but instead minimised. There will be no overshadowing of habitable room windows of the dwelling to the rear at 87 Jerningham Street. The extent of shading to adjacent residential land uses, on balance, will be minimised to maintain access to direct winter sunlight and thereby achieves Interface between Land Uses PO 3.1 and City Living Zone PO 3.4(a).

Interface between Land Uses PO 3.2 desires overshadowing of the primary area of private open space of adjacent residential land uses be minimised to maintain access to direct winter sunlight. Shadow diagrams demonstrate there will be negligible change to overshadowing of the private open space of the adjacent northeastern dwelling at 94 Kingston Terrace. Direct sunlight access will be available to at least half of the private open space of that dwelling until the afternoon.

There will be almost no change to overshadowing of the private open space of the adjacent southwestern dwelling at 100 Kingston Terrace, although there will be some increase in overshadowing in the morning hours. The development attempts to minimise overshadowing of the private open space of this dwelling through cutting the lower ground level into the land, rather than raising the level to match the levels at the front of the site. Additionally, the ground level site setback is generous, and the upper level will be located well forward on the site to avoid overshadowing of the adjacent private open space. Portions of the adjacent dwelling balcony and ground level private open space will still receive direct sunlight access in the morning. On balance, Interface between Land Uses PO 3.2 and City Living Zone PO 3.3(b) are achieved.

There are no rooftop solar panels on abutting dwellings and Interface between Land Uses PO 3.3 is therefore achieved.

Seriously at Variance

The Courts have previously determined the assessment of whether a development is seriously at variance should focus on the nature of the proposed land use and the relevant provisions concerning this matter. The development proposes a residential land use at low density in a zone primarily envisaging residential land uses at low to very low densities and is therefore not considered to be seriously at variance.

10. CONCLUSION

While several quantitative provisions of the Planning and Design Code are not achieved by the proposal, it ultimately achieves the relevant performance outcomes and warrants support as:

- the scale of the dwelling as a grand, visually two storey building contributes to character of the locality and a strong built from edge to the Adelaide Park Lands
- the design of the dwelling appropriately complements the surrounding historic area and will not dominate the adjacent Local Heritage Place
- boundary walls are limited to minimise impacts to adjoining sites
- adequate visual privacy is afforded to adjacent residential land uses
- overshadowing of adjacent private open space and habitable room windows is not unreasonable
- fencing will be of a suitable height and design to provide privacy and security to occupants while not resulting in adverse impacts for neighbours.

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

It is recommended that the Council Assessment Panel resolve that:

2. Development Application Number 24014929 by Susanna Proudman is GRANTED Planning Consent subject to the following reserved matter, conditions and advices:

RESERVED MATTER

Pursuant to section 102 (3) of the *Planning, Development and Infrastructure Act of 2016*, the following matter shall be reserved for further assessment, to the satisfaction of Council's Assessment Manager, prior to the granting of Development Approval:

1. **A detailed Landscape Plan shall be provided nominating the location and species of plantings which should comprise a mix of trees, shrubs and groundcovers and satisfy DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code.**

Pursuant to Section 127 of the *Planning, Development and Infrastructure Act 2016*, Council's Assessment Manager reserves a decision on the form and substance of any further condition/s of Planning Consent considered appropriate to impose in respect of the Reserved Matter outlined above.

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 prepared by Ashley Halliday Architects dated 30 October 2024 as follows:

   - **Site Plan**
   - **Lower Ground Floor Plan**
   - **Ground Floor Plan**
   - **First Floor Plan**
   - **Roof Plan**
   - **Elevations 01 – 07 and Sections 01 – 02**
   - **Schedule of Materials**

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2. **Tree(s) must be planted and/or retained 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 dwelling(s) and maintained.**

3. **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 dwelling(s).**

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4. **The perforated screening to the rear terrace shall be installed prior to the occupation of the dwelling and thereafter shall be maintained to the reasonable satisfaction of the Relevant Authority at all times. The perforated screening shall comprise a maximum 25% openings to a height of 1.7 metres above the floor level of the terrace.**

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5. **All mechanical machinery associated with the heating, cleaning, and filtration of the swimming pool on the Land shall be enclosed in a solid acoustic structure and maintained at all times to the satisfaction of the Relevant Authority.**

ADVISORY NOTES

1. **Development Approval Required**

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

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2. **Expiration of Consent**

   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.

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3. **Commencement and Completion**

   Pursuant to Regulation 93 of the Planning, Development and Infrastructure (General) Regulations 2017, 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 d.planner@cityofadelaide.com.au or phone 8203 7185.

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4. **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 8204 0289).

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5. Right of Way

The applicant should ensure that any right of way on the land is not blocked or access restricted during the construction of the development herein approved.

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6. Fences Act 1975

The applicant is reminded of the requirements of the *Fences Act 1975*. Should the proposed works include work involving a shared boundary, a 'Notice of Intention' must be served to adjoining owners. Please contact the Legal Services Commission for further advice on 8463 3555.

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7. 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.

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8. Building Site Management Plan

A Building Site Management Plan is required prior to construction work beginning on site. The Building Site Management Plan should include details of such items as:

- Work in the Public Realm
- Street Occupation
- Hoarding
- Site Amenities
- Traffic Requirements
- Servicing Site
- Adjoining Buildings
- Reinstatement of Infrastructure

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9. Residential Parking Permits

No on-street residential parking permits will be issued for use by occupants of, or visitors to, the development herein approved (unless the subject site meets the relevant criteria).

Please visit https://www.cityofadelaide.com.au/transport-parking/parking/residential-parking / or contact the vehiclepermits@cityofadelaide.com.au for further information.