

Development Assessment Panel Agenda & Reports

17 October 2016

Our Vision

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

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

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

12 October 2016

To all Members of the Development Assessment Panel:

- Mr Terry Mosel (Presiding Member)
- Mr Don Donaldson
- Mr Phil Smith
- Mr Kevin Duke
- Ms Evonne Moore
- Ms Jenny Newman
- Ms Fleur Bowden
- Mr Carlo Dottore
- Mr John Minney

NOTICE OF MEETING

I wish to advise that pursuant to Section 56A of the *Development Act 1993*, the next Ordinary Meeting of the Norwood Payneham & St Peters Development Assessment Panel, will be held in the Mayor's Parlour, Norwood Town Hall, 175 The Parade, Norwood, on:

Monday 17 October 2016, commencing at 7.00pm.

Please advise Jo Kovacev on 8366 4530 or email jkovacev@npsp.sa.gov.au if you are unable to attend this meeting or will be late.

Yours faithfully

Mario Barone
CHIEF EXECUTIVE OFFICER

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City of
**Norwood
Payneham
& St Peters**

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VENUE Mayors Parlour, Norwood Town Hall

HOUR

PRESENT

Panel Members

Staff

APOLOGIES

ABSENT

1. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE DEVELOPMENT ASSESSMENT PANEL HELD ON 19 SEPTEMBER 2016**

2. **STAFF REPORTS**
 - Items to be starred (.....)
 - All unstarred items to be adopted (.....)

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/481/2016 – CHEESMAN ARCHITECTS – 230-234 PAYNEHAM ROAD, PAYNEHAM

DEVELOPMENT APPLICATION:	155/481/2016
APPLICANT:	Cheesman Architects
SUBJECT SITE:	230-234 Payneham Road, Payneham (Certificate of Title Volume:5456 Folio:541) 2 Kapunda Terrace, Payneham (Certificate of Title Volume: 5760 Folio: 916) 4 Kapunda Terrace, Payneham (Certificate of Title Volume: 5796 Folio:894) 6 Kapunda Terrace, Payneham (Certificate of Title Volume: 5328 Folio: 93)
DESCRIPTION OF DEVELOPMENT:	Change of use of the lower floor from a retail showroom to a child and family activity and services centre comprising child care, café, activity groups and offices and the expansion of the existing car park into the rear yards of 2 and 4 Kapunda Terrace
ZONE:	Residential Zone and Residential Historic (Conservation) Zone Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)
PUBLIC NOTIFICATION CATEGORY:	Category 3 (Non-Complying)

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for a change of use of the lower floor from a retail showroom to a child and family activity and services centre comprising child care, café, activity groups and offices and the expansion of the existing car park into the rear yards of 2 and 4 Kapunda Terrace.

Staff do not have delegated authority to determine the Application, as the application is a non-complying and Category 3 form of development. As such, the Application is referred to the Panel for determination.

In making its determination, the Panel is required to consider whether, on balance, the proposal is firstly seriously at variance with the Development Plan as a whole. If so, the Application must be refused consent pursuant to Section 35(2) of the *Development Act 1993*. If not, the Panel must go on to consider whether the proposal sufficiently accords with the Development Plan to merit consent.

Being a non-complying form of development, if the Panel determines to grant consent, the Application will be referred to the Development Assessment Commission (DAC), which will subsequently determine whether or not to concur with the decision of the Panel. If the DAC does not concur with the decision of the Panel to grant consent to the Application, then the Application cannot proceed.

Subject Land Attributes

Shape:	regular (4 allotments in total)
Frontage width:	54.25 metres
Depth:	118.69 metres
Area:	6426.95m ²
Topography:	essentially flat

Existing Structures: Two-storey commercial building, car park, three detached dwellings with associated outbuildings
Existing Vegetation: Some established landscaping

The subject land comprises four (4) contiguous allotments: 230-234 Payneham Road and 2, 4 and 6 Kapunda Terrace Payneham. The property at 230-234 Payneham Road is located within the Residential Zone and currently contains a two storey commercial building comprising a retail showroom at ground level and offices, consulting rooms and a dwelling at the first floor level.

The car parking area accessed from Payneham Road was expanded in 2012 into the rear yard of 6 Kapunda Terrace. The dwellings at 2, 4 and 6 Kapunda Terrace are located within the Residential Historic (Conservation) Zone and are identified in the Development Plan as Contributory Items.

Background

Development Approval (Development Application No. 155/968/2011) was granted in September 2012 for a partial change of use to the upper level of the building at 230-234 Payneham Road from storage area to offices and the expansion of the car park into the rear of 6 Kapunda Terrace. Development Application 155/600/2012 was subsequently approved, to change one of these first floor office tenancies to consulting rooms. A copy of the approved plans, showing the current use of the first floor level of the building, is contained in Attachment B, as **Attachments B24 and B25**.

Development Application 155/520/2014 was refused by the Panel in September 2014 for the demolition of the Contributory Items located at 2 and 4 Kapunda Terrace and the construction of four (4) replacement dwellings.

Locality Attributes

Land uses: mixed use
Building heights (storeys): several two storey
Streetscape amenity: moderate

The locality contains a mix of uses and is divided into the Residential Zone, Residential Historic (Conservation) Zone, Residential Character Zone and the Local Shopping Zone as illustrated in **Attachment A**. Properties facing Payneham Road include, shops, offices and dwellings and an aged care facility which is currently under construction. Properties facing Llandower Avenue and Kapunda Terrace are entirely residential but include a variety of housing types including, detached dwellings, group dwellings and residential flat buildings.

A plan of the subject land and its surrounds is contained in **Attachment A**.

Proposal in Detail

The Applicant seeks consent for a change of use of the lower floor from a retail showroom to a child and family activity and services centre comprising child care, café, activity groups (including kindergym, yoga, pilates, grandparent support groups) and short term occupation offices. The Applicant has also indicated that the activity spaces (ie. the spaces designated on the floor plan as “Kindergym / Play Centre” and “Yoga / Pilates”) may also be used for birthday parties on Sundays. The Application also includes the expansion of the existing car park into the rear yards of 2 and 4 Kapunda Terrace with a new access to the car park to be provided via an existing crossover on Llandower Avenue. The car park will be shared by all uses on the site, including the existing consulting rooms and offices located at the first floor.

The child care centre is proposed to accommodate 63 children and will operate 6:30am to 6:30pm Monday to Friday. The remaining proposed uses have been proposed to operate with the following hours:

- Monday, Tuesday, Wednesday, Friday: 6:30am to 8:00pm
- Thursday 6:30am to 9pm
- Saturday and Sunday: 8:00am to 1:00pm

The proposal includes the partial removal of an existing canopy at the rear of the building to provide both covered and uncovered outdoor play area associated with the child care centre.

The large activity room is proposed to accommodate kindergym and similar activities with a maximum of 12 children at a time other than occasional birthday parties on Sundays. The smaller studio area is to be used for yoga, pilates and similar activities, with typically up to 15 attendees per class. The café is proposed to incorporate 45 seats and the short-term occupation offices, occupies 70m² of the ground floor area.

The centre operators anticipate that families will make use of multiple services offered at the centre, for example parents or caregivers may attend yoga classes while children are in child care or parents and children may attend the café after attending kindergym. However, each of the services provided would also be able to be attended in isolation.

Business identification signage details have not been provided and as such, a separate Development Application would need to be lodged for any such signage.

Plans and details of the proposed development are contained in **Attachment B**.

Notification

The proposal has been identified and processed as a Category 3 **non-complying** form of development.

Seven (7) valid representations were received (3 in favour (although one of these representors raised concerns), 4 opposed) in response to this notification, copies of which are contained in **Attachment C**. The key issues raised by representors are, in summary:

- traffic and parking congestion in the local street network will be exacerbated;
- security of the site after hours, particularly the car park area; and
- days of operation of the centre.

The following representors desire to be heard personally by the Development Assessment Panel (DAP):

- *Tamara Iltscheff*;

The Applicant has responded to the representations received and a copy of their response is contained in **Attachment D**.

A summary of the response is provided below:

- traffic volumes prior to 8:00am and between 9:30am to 4:30pm will not be excessive;
- further traffic advice has been provided in support of the Llandower Avenue access;
- the Applicant prefers no gates be provided on the site to restrict access to the car park, so as to allow for passive surveillance however the Applicant will accept a condition requiring a lockable gate at the Llandower Avenue access to be closed after business hours;
- confirmation that the child care centre will not operate on weekends;
- acoustic fencing is now proposed around a portion of the outdoor play area and the south-western and south-eastern boundaries;
- greater landscaping has been provided;
- the capacity of the café has been reduced and some alterations have been made to the car park to provide more on-site car parks.

State Agency Consultation

The *Development Regulations 2008* do not require consultation with State Government Agencies.

Discussion

The subject land is located within the Residential Zone and the Residential Historic (Conservation) Zone of the Norwood, Payneham and St Peters (City) Development Plan.

The proposal is a non-complying form of development as it involves the expansion of the car parking area into the Residential Historic (Conservation) Zone. The car parking area takes on the land uses of the associated building i.e. office, consulting room and shop (café) and these uses are non-complying within the Residential Historic (Conservation) Zone. The Residential Zone also lists office, consulting rooms and shops as non-complying in certain circumstances, however, all of these uses currently exist on site so the proposal does not introduce any new non-complying uses within the Residential Zone.

Following an initial review of the Application, Council staff determined under delegated authority that the proposed development displayed sufficient merit to proceed to a full assessment of the Application, pursuant to Regulation 17(3)(b) of the *Development Regulations 2008*.

The key issues, specific to this Development Application, are discussed in detail below.

Land Use

The following Development Plan provisions provide guidance on the type and density of residential development that is envisaged within the Development Plan:

Payneham (Harcourt Road) Policy Area Principle of Development Control 2

Residential Historic (Conservation) Zone Objective: 2, 4, 7

Residential Historic (Conservation) Zone Principle of Development Control: 7

Residential Zone Objective: 1

Residential Zone Desired Character Statement

Residential Zone Principles of Development Control: 1, 4

City Wide Objectives: 1, 2, 7, 13, 22, 26, 27

City Wide Principles of Development Control: 1, 3, 4, 12, 80, 82, 84, 306 - 308

Although the proposed change of use is intended to operate as a cohesive centre of services, the independent uses are not so integrated that the centre takes on a unique land use description, particularly as each service can be accessed in isolation. As such, it is considered appropriate to assess each of the individual land uses proposed.

The Residential Zone anticipates some non-residential land uses located on arterial roads including small scale offices, shops, consulting rooms and child care centres. This policy recognises the benefit of local services located in close proximity to residents, provided they are of a scale which does not detrimentally affect surrounding property occupants, and also recognises that arterial roads typically incorporate a mixture of land uses.

Principles of Development Control 306 – 308 seek community facilities which are co-ordinated with other services and conveniently located in relation to the population it serves. The proposed use is considered to be consistent with these provisions as the child care centre and group activity services are integrated in a mixed use building, are close to residential areas and other shops and facilities, such as public transport, on Payneham Road.

The subject land currently contains one of, if not the largest, purpose built commercial building within the locality. The existing building currently contains office, consulting room and shop floor area, each of which currently exceeds 250m², which is the maximum size anticipated for the Residential Zone, pursuant to Principle of Development Control 15. Given the long-standing commercial use of the property, it is considered that the proposed re-use of the building for other commercial uses, at a scale which is slightly greater than that which would ordinarily be anticipated in the zone, may be appropriate.

The proposed café (shop) will occupy a much smaller floor area compared to the existing retail showroom, albeit the café will most likely operate at a greater intensity. The proposed 'working hub' short term occupation offices are considered to be a minor element within the larger complex and are unlikely to generate significant activity on the site. The offices and consulting rooms at the upper floor will remain unchanged.

The proposed child care centre accommodating 63 children is considered to be of a 'small scale' as anticipated by Residential Zone Principle of Development Control 1. By way of comparison, the Council recently granted approval to a 152 children child care centre at 255 Magill Road, Maylands and a 110 children child care centre at 395 Payneham Road, Marden. The proposed kindergym, yoga and similar activities are not specifically anticipated within the Residential Zone, however these activities are at a small scale and are considered acceptable complementary activities as part of the mix of land uses contained within the building.

The proposed additional car parking area is located within the Residential Historic (Conservation) Zone. The streetscape impact of the proposed car park is considered to be minimal. The existing dwellings facing Kapunda Terrace are to remain unchanged and the proposed fence along Llandower Avenue will replace an existing Colorbond fence. The proposed acoustic fence would retain sufficient private open space and opportunity for future alterations to the dwellings. As such, the proposal is not considered to substantially or unreasonably compromise the intent of the zone for residential purposes.

City Wide Objective 26 seeks development which minimises adverse impact and conflict between land uses. The proposed land uses have the potential to impact surrounding property occupants through increased traffic generation, as well as noise emanating from the operation of the uses themselves, particularly from the outdoor play space of the child care centre.

The Applicant has proposed an acoustic fence along portions of the outdoor play area and the south-western and south-eastern boundaries of the site, to reduce the potential noise impacts emanating from the child care centre. It is understood that an acoustic fence cannot be placed around the entirety of the outdoor space as this would be at variance with child care centre regulations relating to permeability of open play areas. The Applicant has indicated that the acoustic fence will be acoustic rated Colorbond and 1.8 metres high. This height has been proposed without advice from an Acoustic Engineer. As such, it may be the case that higher fencing is required to achieve the relevant Environment Protection (Noise) Policy, or that no acoustic fencing is required.

No acoustic fencing is proposed along the north-eastern boundary of the site, at the boundaries of the residential properties at 236 Payneham Road and Units 2 and 3, 8-10 Kapunda Terrace. The proposed outdoor play space may have the potential to result in excessive noise impacts to the occupants of those properties.

Accordingly, if the Panel determines to consent to the Application, it is recommended that a condition be imposed, requiring that the Applicant obtain advice from an Acoustic Engineer, providing details of acoustic treatment at the boundary of the outdoor play space and/or the boundaries of the site of the development, that is necessary to ensure that noise impacts associated with the outdoor play space on the occupants of the surrounding residential properties at 236 Payneham Road, 8-10 Kapunda Terrace, 2-4 Kapunda Terrace, 226 Payneham Road and 2 Llandower Avenue, accord with the Environment Protection (Noise) Policy, to the reasonable satisfaction of the Council or its delegate.

Several representors raised a concern about the security of the car parking area after hours. In response to these concerns, the Applicant has proposed a gate at the Llandower entrance to the car park, to be locked after hours. The Applicant has indicated that a Payneham Road access gate should not be necessary as this reflects the current situation, would be an uncommon feature for commercial properties within the locality and the absence of a gate would allow for passive surveillance of the area. However, without a gate on the Payneham Road entrance, access will remain available to the more concealed rear car parking areas which is considered to be inconsistent with City Wide Objective 22 which calls for a safe, secure and crime resistant environment. As such, if the Panel determines to consent to the development, it is recommended that a condition be imposed requiring that vehicle access via the Payneham Road entrance also be restricted (such as by gate, bollards or chain) after hours.

The proposed use will result in an increase in traffic movements into and out of the site, as well as within the local street network. An assessment undertaken by the Council's traffic consultant has determined that the additional traffic generation within the local street network will be minimal and is considered acceptable. The Council's traffic consultant report is contained in **Attachment G** and is discussed in more detail in the *Carparking/access/traffic* section of this report.

Given the new land uses are proposed within an existing large mixed use building and will not substantially alter the appearance of the Llandower Avenue and Kapunda Terrace streetscapes, the proposed non-residential uses are considered appropriate notwithstanding their location within residential zones. The potential impacts on surrounding property occupants are considered to be appropriately mitigated and are not considered unreasonable.

Streetscape/bulk/scale/height/character

The following Development Plan provisions provide guidance with respect to considerations relating to appearance, streetscape, bulk, scale and character:

City Wide Objective: 25

City Wide Principles of Development Control: 58

The proposed development will result in minimal external changes other than alterations to the car park, an additional pedestrian ramp access to the building, new business identification signage and the proposed acoustic fencing. The proposed fencing is not considered to have an unreasonable visual impact on the Llandower Avenue streetscape or on adjacent property occupants.

Heritage

The following Development Plan provisions provide guidance with respect to heritage considerations:

Payneham (Harcourt Road) Policy Area Desired Character Statement

Payneham (Harcourt Road) Policy Area Principles of Development Control: 5, 6,

Residential Historic (Conservation) Zone Objectives: 1, 2, 3, 4, 6, 7

Residential Historic (Conservation) Zone Principles of Development Control: 2, 3,

The Application was referred to the Council's Heritage Advisor, David Brown, with respect to any impacts on the heritage value of the Contributory Items on the subject land at 2 and 4 Kapunda Terrace. A copy of Mr Brown's report is contained in **Attachment E**.

Having regard to Mr Brown's report, it is considered that while the proposed decrease in rear setback will limit the development potential of the dwellings, it will not detrimentally affect the heritage value of the buildings.

As the proposed changes are located at the rear of the Kapunda Terrace properties, the development will not alter the Kapunda Terrace streetscape. The development is also not considered to detrimentally affect the allotment patterns of the zone as the dwellings will retain a site area well above the minimum site area sought by Payneham (Harcourt Road) Policy Area Principle of Development Control 5 and the dwellings will maintain frontage widths greater than the minimum anticipated in Principle of Development Control 7.

Private open space

The following Development Plan provisions provide guidance with respect to private open space considerations:

City Wide Principles of Development Control: 222 - 225

The dwellings at 2 and 4 Kapunda Terrace will retain more than 20% private open space consistent with City Wide Principle of Development Control 225. The orientation and links between the private open space and the dwellings will remain unchanged.

Carparking/access/traffic

The following Development Plan provisions provide guidance with respect to car parking access and manoeuvring considerations:

City Wide Objectives: 34

City Wide Principles of Development Control: 98, 104, 110, 112, 113, 115, 120, 122, 123, 129

The proposed development involves some alterations to the existing car park and creating an additional car parking area at the rear of the commercial building, resulting in a total of 60 car parking spaces. The alterations will also include some bicycle parking spaces, more centrally located accessible parking spaces, four (4) short term drop-off parking spaces and pedestrian crossing points. The rear portion of car park adjacent to 6 Kapunda Terrace is proposed to be for staff parking, which will help minimise disruption to the adjacent property occupants.

The existing and proposed car parks are intended to be shared by all users of the site. As the different uses have different peak times, a lesser amount of total car parking spaces is required. City Wide Principle of Development Control 122 also anticipates a lesser number of car parks can be provided if the subject site is in close proximity to a frequent public transport service as is the case with the subject land. In particular, the subject land is located approximately 20 metres west of a "Go Zone" bus stop, whereby the frequency of bus service is every 15 minutes.

At the time of lodgment, the Applicant provided a traffic report prepared by GTA Consultants, contained in **Attachment F**. It is worth noting that some aspects of the development have been amended during the course of the assessment since this report was prepared including the number of seats proposed for the café and the number of participants in the kindergym classes. The GTA assessment allowed some discount to typical car parking rates due to the shared use of the car park and integrated use of the centre. The report concluded that the proposed development results in a shortfall of up to 5 car parking spaces at peak times which can be accommodated within the street network.

The Application was also reviewed by the Council's traffic consultant, Tonkin Consulting. The Tonkin report, contained in **Attachment G**, concluded that the development was likely to generate a peak parking demand of 75 spaces during the hours of 9:00am to 12:00pm, resulting in a shortfall of 15 spaces. Although the Tonkin report suggests that the additional 15 spaces can be accommodated within the local street network, Council staff considered that the additional 15 on-street parks during peak hours was likely to result in an unreasonable impact on surrounding residents, particularly in light of the concerns raised by representors.

In response, the Applicant has:

- revised the car parking layout to provide a total of 62 spaces (an additional two spaces);
- reduced the capacity of the café from 81 seats to 45 seats, by increasing the size of the 'kids corner parents hub', thereby reducing the area available for seating; and
- confirmed that the Kindergym classes will be limited to 12 participants, rather than the 20 as originally proposed.

Although the café has been reduced in size, the dining floor area could potentially accommodate more than the 45 seats shown on the plan, as the tables are sparsely arranged. It is estimated that the dining area could potentially accommodate up to 70 seats in a more compact arrangement. That said, customers of the café during business hours, are likely to be predominantly a mix of parents before/after dropping off kids and employees of local businesses during lunch. With the opening hours of the café being limited to 8:00pm, there is no potential for it to become café with significant dinner-time trade

According to Tonkin, the amendments have reduced the peak car parking demand to 66 spaces, which will result in a 4 car parking space shortfall, following the application of discounts to the standard car parking rates, as recommended by Tonkin. It is considered that the impact of 4 additional cars on the street at peak times is not considered to be an unreasonable impact on surrounding property occupants.

One of the concerns raised by representors related to the volume of traffic likely to be experienced within the local street network, particularly due to the proposed car park access via the existing crossover on Llandower Avenue. Both the GTA and Tonkin assessments concluded that the Llandower Avenue car park access is a positive aspect of the development as it will reduce likely vehicle conflict and traffic flow disruption on Payneham Road. If access was via Payneham Road only, northbound vehicles on Payneham Road are more likely to use Llandower Avenue, Kapunda Terrace and Albert Street to enter the site left from Payneham Road to avoid a right turn from Payneham Road during peak periods. The Llandower Avenue access is likely to limit these particular movements to the western end of Llandower Avenue only. Some additional traffic is likely to approach from the east along Llandower Avenue.

The Tonkin Consulting report concluded that the development is likely to generate approximately 100-150 additional vehicles per day. The majority of vehicles are expected to access the site via Payneham Road and approximately 50 vehicles per day are expected to use the surrounding local street network. The additional vehicle movements were assessed as having a minimal impact on the local street network.

In light of the above assessments, while the proposed development will result in some additional traffic within the local street network, the resultant impacts are not considered unreasonable.

Finished floor levels/flooding/retaining

The following Development Plan provisions provide guidance with respect to considerations relating to floor levels, flooding and retaining:

City Wide Objectives: 42,
City Wide Principles of Development Control: 147, 148, 149, 151

The subject land is not within a recognised flood plain.

The proposed development will introduce additional hard paved area at the rear of 2 and 4 Kapunda Terrace. Should the Panel determine to approve the development, it is recommended that a condition be imposed requiring that the existing 1 in 5 year average return interval (ARI) rain event peak flow be maintained on the site, which can be achieved by underground storage or controlled pumping, or a combination of both, with details of the stormwater management system to be provided prior to full Development Approval.

Trees (significant, mature & street) and landscaping

The following Development Plan provisions provide guidance with respect to considerations relating to significant trees, mature trees, street trees and landscaping:

City Wide Objectives: 24
City Wide Principles of Development Control: 73-78

No regulated trees will be affected by the proposed development.

The Applicant has proposed a new landscaping bed along the south-eastern side of the car parking area adjacent to 2, 4 and 6 Kapunda Terrace. The landscaping includes low shrubs and ornamental pears which are considered to provide sufficient soft landscaping and separation between the new car parking area and the adjacent residential property occupants.

Environmental Sustainability

The following Development Plan provisions provide guidance with respect to environmental sustainability considerations:

City Wide Objectives: 23
City Wide Principles of Development Control: 69

Physical changes to the existing commercial building are limited to an additional entrance ramp and internal alterations. The orientation of the building and location of windows will not be altered.

A rainwater tank is proposed at the rear of the building for water reuse. The Applicant has confirmed to Council staff that a tank with a capacity of 5000 litres could be accommodated in the space located. Should the Panel determine to approve the development, it is recommended that this be reiterated by way of a condition.

Rubbish bin storage has been allowed for within the rear car parking area, sufficiently separated from the rear of the residential properties at 6-8 Kapunda Terrace. It is recommended that a condition be imposed, requiring bin storage to be appropriately screened.

Summary

Whilst the proposal is a non-complying form of development, it is considered to have sufficient merit to warrant approval. The proposed uses will be accommodated within a large existing commercial building and the additional car parking area and fencing proposed within the Residential Historic (Conservation) Zone will have very little impact on the heritage character of the adjacent buildings and the streetscape.

The proposed car parking provided on the site is considered to be adequate to accommodate the revised business operations resulting in an anticipated maximum of 4 parking spaces needing to be accommodated on street.

The increase in likely traffic volumes resulting from the development are not considered to result in an unreasonable impact on the local street network and neighbouring property occupants.

Noise emanating from the proposed uses will be mitigated by the proposed acoustic wall and access gates are considered to provide adequate security for the site after hours.

Accordingly, it is considered that the proposal is not seriously at variance with the Development Plan and does sufficiently accord with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/481/2016 by Cheesman Architects for the change of use of the lower floor from a retail showroom to an integrated child and family activity and services centre comprising child care, café, activity groups and offices, and the expansion of the existing car park into the rear yards of 2 and 4 Kapunda Terrace, on the land located at 230-234 Payneham Road, 2, 4 and 6 Kapunda Terrace Payneham, subject to the concurrence of the Development Assessment Commission and the following requirements, conditions and notes:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- Site plan prepared by Cheesman Architects Drawing No 16122_SD04, Rev 5, Received by the Council 5 October 2016
- Floor plan prepared by Cheesman Architects, Drawing No 16122_SD02, Rev 7, Received by the Council 4 October 2016

Conditions

1. Advice shall be obtained from an Acoustic Engineer, providing details of acoustic treatment at the boundary of the outdoor play space and/or the boundaries of the site of the development, to the extent that is necessary to ensure that noise impacts associated with the outdoor play space on the occupants of the surrounding residential properties at 236 Payneham Road, 8-10 Kapunda Terrace, 2 -4 Kapunda Terrace, 226 Payneham Road and 2 Llandower Avenue, accord with the Environment Protection (Noise) Policy 2007, to the reasonable satisfaction of the Council or its delegate, prior to the issuing of full Development Approval.
2. The hours of operation shall be limited to the following times:

Child care/Early Learning Centre:
Monday to Friday: 6:30am – 6:30pm

Café, activity rooms, and short term occupation offices:
Monday, Tuesday, Wednesday, Friday: 6:30am – 8:00pm
Thursday: 6:30am – 9:00pm
Saturday and Sunday: 8:00am – 3:00pm
3. The children's activity classes (e.g. kindergym) shall be limited to 12 participants at any one time and the adult activity classes (e.g yoga and pilates) shall be limited to 15 participants at any one time.
4. Vehicle access via the Payneham Road and Llandower Ave entrances shall be restricted (such as by gate, bollards or chain) outside of the operating hours of the centre.
5. All areas nominated as landscaping or garden areas on the approved plans shall be established and maintained with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
6. Wheel stopping devices constructed of concrete, metal or wood shall be placed at the end of each parking bay so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Council or its delegate.
7. Driveways, car parking spaces, maneuvering areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
8. All car parking spaces shall be line-marked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.
9. All waste shall be stored in covered containers pending removal and shall be kept screened from public view to the reasonable satisfaction of the Council or its delegate.
10. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into the adjacent street water table.
11. All stormwater discharged from the land shall remain at pre-development levels with 1 in 5 year ARI rain events detained on-site and pumped back to the street and water table on Payneham Road. This may be achieved by underground storage and controlled pumping, or a combination of both.
12. A rainwater tank with a storage capacity not less than 5 kilolitres (5000 litres) shall be installed and plumbed into a toilet, water heater and/or laundry cold water outlet by a licensed plumber in accordance with AS/NZS 3500 and the SA Variations published by SA Water. Details of the installation shall be provided with application for Building Rules Consent.

Notes to Applicant

1. The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.

2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.

The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.

3. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.

4. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513.

All works on Council owned land required as part of this development are likely to be at the Applicant's cost.

5. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/C071/2014 – MARDEN (NO.1) PTY LTD – RIVER STREET, MARDEN

DEVELOPMENT APPLICATION:	155/C071/2014
APPLICANT:	Marden (No.1) Pty Ltd
SUBJECT SITE:	River Street, Marden
DESCRIPTION OF DEVELOPMENT:	Land division creating ten (10) Lots and a common driveway.
ZONE:	Residential 3 Zone Norwood, Payneham and St Peters (City) Development Plan (dated 31 October 2013)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application to divide a Torrens Title allotment, to create ten (10) Lots and a common driveway.

Staff do not have delegated authority to determine the Application, as it comprises the creation of more than one additional allotment.

As such, the Application is referred to the Panel for determination.

In making its determination, the Panel is required to consider whether, on balance, the proposal is firstly seriously at variance with the Development Plan as a whole. If so, the Application must be refused consent pursuant to Section 35(2) of the *Development Act 1993*. If not, the Panel must go on to consider whether the proposal sufficiently accords with the Development Plan to merit consent.

Subject Land Attributes

Shape:	rectangular
Frontage width:	53.95 metres
Depth:	82.42 metres
Area:	4446m ² (approx.)
Topography:	essentially flat
Existing Structures:	nil
Existing Vegetation:	nil

The subject land is a 2.1ha parcel of land, formerly owned and operated by the South Australian Housing Trust. Prior to the demolition of all buildings on the land in 2012, it was occupied by medium density single storey group dwellings with vehicular access to the land provided via two driveways off River Street, each leading to communal car parking areas within the land.

In May 2014, the Development Assessment Panel considered and approved a Development Application by Marden (No.2) Pty Ltd for a Torrens Title land division, to divide the 2.1ha land into 44 allotments.

On 17 November 2014, the Panel approved the division of one of the 44 approved allotments (Allotments 506), to create a public reserve facing Arabella Court. The balance of Allotment 506 (now Allotment 606), is the site of the proposed further land division.

Locality Attributes

Land uses: entirely residential
Streetscape amenity moderate

Beyond the rear boundary of the subject land, the topography steeply falls down to the River Torrens, which is located approximately sixty (60) metres to the west of the land. This area between the river and the site is heavily treed and contains a shared-use bitumen pedestrian/cyclist trail following the general alignment of the river. The Adelaide O-Bahn is located to the rear of the land, ranging in distance from 10 metres away from the north western corner to 80 metres away from the south western corner. The Klemzig interchange provides the closest access to the O-Bahn and is located approximately 1.2km to the north-east of the land.

A large parcel of land owned by the South Australian Housing Trust is located to the north of the subject land and contains five (5), three-storey residential flat buildings. Another large parcel of land owned by the South Australian Housing Trust, is located to the south of the subject land (immediately south of the site of the proposed development). That land contains predominantly two-storey medium density housing, set behind six (6) privately owned two-storey row dwellings fronting River Street, with rear garaging.

The eastern side of River Street, adjacent to the subject land, is characterised by single storey detached dwellings, comprising a mix of original mid-twentieth century dwellings at low density and recent medium density infill development whereby original dwellings have been replaced with two new dwellings.

More specifically, the site of the proposed development is bound by Arabella Court to the north, land owned by the South Australian Housing Trust, containing predominantly two-storey medium density housing to the south, Orlando Court to the west and a private unnamed roadway to the east.

A plan of the subject land and its surrounds is contained in **Attachment A**.

Proposal in Detail

The proposed land division is intended to facilitate Stages 9 and 9A of a fourteen (14) stage master-planned residential development by the Applicant. More specifically, the proposal comprises the creation of ten (10) Lots and common property.

Five of the proposed Lots (Lots 27-31) are intended to accommodate the construction of three-storey townhouses, which are the subject of Development Application Number 155/556/16. The remaining five proposed Lots (Lots 32-36) are intended to accommodate the construction of two-storey townhouses, which are the subject of Development Application Number 155/557/16.

Lots 27-31 are 6 metres wide, 25.5 metres deep and have areas ranging from 152m² to 153m². Lots 32-36 range in width from 5.9 metres to 7.62 metres, are 21.67 metres deep and have areas ranging from 128m² to 165m².

The common property is intended to accommodate a driveway for access to each of the proposed Lots. At the location where the common property adjoins Arabella Court, the common property is 3.25 metres wide, however it is proposed that the common property be together with free and unrestricted rights over the common property of the development stage to the west (Stage 8), creating a combined driveway width of 6.5 metres.

A section of the common property widens out by 1.35 metres adjacent to the southern boundary, to accommodate an existing drainage easement.

A second common property area, shown on the land division plan as "C2" and measuring 2.0m x 0.5m, is intended to accommodate a common letterbox area.

A copy of the proposed land division is contained in **Attachment B**.

Plans of the dwellings which are proposed in Development Application Number 155/557/16 are contained in **Attachment C** and may assist the Panel in assessing the suitability of the proposed land division.

Notification

The proposal has been identified and processed as a Category 1 form of development. As such, no public notification was undertaken.

State Agency Consultation

The *Development Regulations 2008* do not require consultation with State Government Agencies.

Discussion

The subject land is located within the Residential 3 Zone of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

The key issues, specific to this Development Application, are discussed in detail below.

Land Use and Density

The following Development Plan provisions provide guidance on the type and density of residential development that is envisaged within the Development Plan:

Residential 3 Zone Objectives:	1
Residential 3 PDC's:	1
City Wide Objectives:	1, 5, 15, 57
City Wide Principles of Development Control:	1, 2, 3, 20, 22, 24, 25, 187, 189

The relevant Development Plan does not contain any quantitative provisions in relation to minimum allotment areas or dimensions for merit Development Applications within the Residential 3 Zone. Therefore, the proposed land division must be assessed against the relevant qualitative provisions of the Development Plan.

In this regard, City Wide Principle of Development Control 189 is considered to be of most relevance. City Wide Principle of Development Control 189 states:

“Residential allotments and sites should have the appropriate orientation, area, configuration and dimensions to accommodate:

- (a) the siting and construction of a dwelling and associated ancillary outbuildings;*
- (b) the provision of landscaping and useable private open space;*
- (c) convenient and safe vehicle access and off street parking;*
- (d) passive energy design; and*
- (e) the placement of a rainwater tank.”*

Elements a – e of Principle of Development Control 189 are addressed in turn below.

Siting and Construction of Dwellings and Associated Outbuildings

The proposed Lots of between 128m² and 165m² area, provide an opportunity to provide detached dwellings with compact siting characteristics. The proposed Lots have areas and frontage widths akin to those of approved Torrens Title allotments within the broader development, which front River Street and Arabella Court.

The proposed 6m wide Lots (Lots 27-31) are sufficiently wide to accommodate double-width garages with access off the common driveway, enabling the dwellings to front onto the adjacent reserve. This arrangement provides for a good urban design outcome, with high levels of passive surveillance and opportunities for interaction.

Proposed Lots 32-36 vary in width from 5.9 metres to 7.62 metres. The Applicant intends to construct two storey dwellings on these Lots, with the 7.62 metre wide Lots to accommodate dwellings with double garages and the 5.9m wide Lots to accommodate dwellings with single garages set behind a visitor car parking space. As Lots 32-36 do not have a presentation to the public reserve or a public road, the extent of garaging and associated driveways that would result at ground level is considered reasonable.

Provision of Landscaping and Usable Private Open Space

The plans which have been submitted for the construction of dwellings on the proposed Lots, demonstrate that private open space is able to be provided in accordance with City Wide Principles of Development Control 244 and 246, as set out below.

City Wide Principle of Development Control 244:

Dwellings (other than residential development in the form of apartments within a multi storey building) should have associated private open space of sufficient area, shape and gradient to be functional and capable of meeting the likely needs of the occupant(s) (taking into consideration the location of the dwelling and the dimensions and gradient of the site) and should be in accordance with the following:

(b) a dwelling with a site area of less than 250 square metres, a minimum of 35 square metres should be private open space, of which one portion should have an area of 16 square metres and a minimum dimension of 4 metres.

City Wide Principle of Development Control 246:

A lesser amount of private open space may be considered in circumstances where:

(a) the equivalent amount of private open space is provided in the form of communal open space, which is accessible to all occupants of the development; or

(b) the development is directly adjacent to large areas of useable public open space, such as Felixstow Reserve, the Parklands and the River Torrens Linear Park, which can be easily accessed by all occupants of the development.

The plans which have been submitted for the construction of dwellings on Lots 27-31, provide for 75m² of private open space per dwelling. The plans for the construction of dwellings on Lots 32-36, provide for rear yards with areas ranging from 21m² to 27m². As these Lots are located adjacent to a public reserve and within short distance of the River Torrens Linear Park, having regard to Principle 246, a shortfall in private open space in the order of that which is proposed for Lots 32-36 in Development Application 155/557/16 is considered reasonable. In any event, the proposed Lot sizes do not prevent areas of private open space in accordance with Principle 244 (ie. 35m²) being achieved, through the incorporation of balconies for example.

Convenient and Safe Vehicle Access and Off-street Parking

Lots 27-31 are sufficiently wide to accommodate double garages. As is demonstrated in the plans which have been submitted for the construction of dwellings on the Lots, the configuration of the Lots is conducive to garages located directly adjacent to the common driveway, thus not allowing visitor car parking behind.

Lots 32 and 36 are also sufficiently wide to accommodate double garages and having regard to the plans which have been submitted for the construction of dwellings on the Lots, it appears that the Lots have a depth which is not conducive to garages being set back a sufficient distance for visitor car parking. Lots 33-35 are not sufficiently wide to accommodate double width garaging and the plans which have been submitted for the construction of dwellings on the Lots indicate that single car garages can be accommodated, set back a sufficient distance to accommodate visitor parking.

Overall, the plans which have been submitted for the construction of dwellings on all proposed Lots include provision for twenty (20) parking spaces, comprising seventeen (17) covered parking spaces and three (3) open-air spaces.

Table NPSP/8 of the Development Plan states that group dwellings, residential flat buildings and residential development in multi-storey buildings should be provided with 2 spaces per 2 or 3 bedroom dwelling, 1 of which should be covered. In addition, there should be 1 visitor space for every 2 dwellings for a development of up to 10 dwellings.

Accordingly, based on the plans which have been provided, the land division is likely to result in a car parking shortfall of 5 visitor spaces.

City Wide Principle of Development Control 269 states:

Car parking rates lower than the minimum required for group dwellings and residential flat buildings may be appropriate in locations where:

- (a) there is readily accessible and frequent public transport;*
- (b) it can be demonstrated that a lower provision is warranted; or*
- (c) it can be demonstrated that this would not result in a greater demand for parking on the street or elsewhere in the locality.*

With respect to part (a) of Principle 269, Adelaide Metro operates a bus service along Addison Avenue, located approximately 140 metres east of the subject land. This bus service provides the ability to catch a bus directly to the City or to the Klemzig interchange O-Bahn station. The linear park also offers a convenient option for cycling either to the Klemzig interchange or the Adelaide CBD. Accordingly, it is considered that part (a) is satisfied.

With respect to part (c) of Principle 269, the likelihood is that visitors to the proposed dwellings would park on Arabella Court and walk across the reserve, which is considered an appropriate arrangement.

The impact of on-street car parking in a newly created development such as this is much different to that in an established locality, where the reasonable expectations of existing residents with respect to on-street parking are higher. This difference in impact is considered to support a lower provision of parking, consistent with part (b) of Principle 269.

Streetscape/bulk/scale/height/character

The following Development Plan provisions provide guidance with respect to considerations relating to appearance, streetscape, bulk, scale and character:

City Wide Objectives:	18
City Wide Principles of Development Control:	29, 41, 42, 43

Based on the plans which have been submitted with Development Applications 155/556/16 and 155/557/16, the proposed land division is intended to result in the construction of three-storey dwellings fronting the reserve (Lots 27-31) and two-storey dwellings on Lots 32-36.

The Residential 3 Zone does not provide a height guideline for the assessment of merit development in the zone. That said, it is relevant to consider whether the proposed land division will likely result in building heights that would have an adverse impact on the character and amenity of the locality. In this respect, the River Street locality contains dwellings of varying heights, including predominantly single storey dwellings on the eastern side of River Street and two and three storey buildings on the western side of River Street. In this context, the intended two and three storey buildings are considered appropriate.

Whilst the subject land division Development Application is required to be assessed against the Residential 3 Zone provisions, it is relevant to consider that Development Applications 155/556/16 and 155/557/16 for the construction of dwellings, will be assessed against the Residential Zone (Medium Density Policy Area) provisions, as those Development Applications were lodged at a later time. The Medium Density Policy Area provisions expressly envisage three-storey development for the subject land.

Finished floor levels/flooding/retaining/Stormwater

The level of the subject land is located more than 300mm above the 1 in 100 average return interval flood plain for the River Torrens and as such, satisfies the relevant Development Plan provisions relating to flood protection.

As the subject land is essentially flat, with a slight fall towards the rear (which is the direction that stormwater will be disposed) there will be no need for future dwellings to have excessively high finished floor levels and/or retaining. Specifically, stormwater will be able to be directed along the common property to Arabella Court, where stormwater infrastructure is located, which in turn directs stormwater to the River Torrens.

Environmental Sustainability

The following Development Plan provisions provide guidance with respect to environmental sustainability considerations:

City Wide Objectives:	23, 42, 43
City Wide Principles of Development Control:	70, 71, 199

Lots 27-31 are oriented to enable dwellings to be constructed with north-facing living areas and private open space. Lots 32-36 on the other hand will enable dwellings to be constructed with northern sun access to private open space, whilst living areas will likely not receive direct northern sun. This is a shortcoming of the proposal. That said, the overall development of the subject land includes a high proportion of dwellings with north orientated living areas.

Summary

The proposed land division to achieve a medium density development of the subject land, comprising two and three-storey dwellings, is consistent with the objective of the Residential 3 Zone and the established character of the locality.

The proposed allotment layout is orderly and efficient and able to accommodate the construction of dwellings within the Development Plan guidelines with respect to siting, private open space and car parking.

Accordingly, it is considered that the proposal is not seriously at variance with the Development Plan and does sufficiently accord with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be granted to Development Application No 155/C071/2014 by Marden (No.1) Pty Ltd, for a Land division creating ten (10) Lots and a common property at River Street, Marden, in the area referred to as Stage 9 in DA 155/D008/14, subject to the following requirements, conditions and notes and any additional conditions forwarded to the Council by the Development Assessment Commission with their final report:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- Plan of Division prepared by Fyfe Pty Ltd, Reference 64370/10/3 Dwg No. 64370SC5-r0, date 12 August 2016.

Conditions of Development Plan Consent

Nil

Development Assessment Commission Requirements

1. The financial requirements of SA Water shall be met for the provision of water supply and sewerage services.

The necessary easements shall be vested to SA Water.

SA Water Corporation further advises connections will be supplied in Precinct 2 Marden development. The developer is to advise of the servicing needs and manifold requirements prior to clearance.

2. Payment of \$58,392 into the Planning and Development Fund (9 allotments @\$6488/allotment). Payment may be made by credit card via the internet at www.edala.sa.gov.au or by phone (7109 7018), by cheque payable to the Development Assessment Commission marked "not negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, at Ground Floor, 101 Grenfell Street, Adelaide.
3. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

Notes to Applicant

1. This consent does not imply approval for the removal of Regulated Trees and a separate Application seeking approval shall be lodged with the Council.
2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
3. The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513.

All works on Council owned land required as part of this development are likely to be at the Applicant's cost.

4. This Development Plan Consent will lapse within 12 months of the date of this notice unless Land Division Consent and Development Approval have been obtained.

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/556/2016 – QUATTRO – RIVER STREET, MARDEN

DEVELOPMENT APPLICATION:	155/556/2016
APPLICANT:	Qattro
SUBJECT LAND:	River Street, Marden
DESCRIPTION OF DEVELOPMENT:	Construction of a residential flat building containing five three storey dwellings
ZONE:	Residential Zone, Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)
PUBLIC NOTIFICATION CATEGORY:	Category 3

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application for the construction of a residential flat building containing five, three storey dwellings.

Staff do not have delegated authority to determine the Application, as it is a Category 3 Application for public notification purposes. As such, the Application is referred to the Panel for determination.

Subject Site Attributes

Shape:	irregular
Frontage width:	30m
Depth:	25.5m
Area:	763m ²
Topography:	essentially flat
Existing Structures:	Nil
Existing Vegetation:	Nil

The subject land is a 2.1ha parcel of land, formerly owned and operated by the South Australian Housing Trust. Prior to the demolition of all buildings on the land in 2012, it was occupied by medium density single storey group dwellings with vehicular access to the land provided via two driveways off River Street, each leading to communal car parking areas within the land.

In May 2014, the Development Assessment Panel considered and approved a Development Application by Marden (No.2) Pty Ltd for a Torrens Title land division, to divide the 2.1ha land into 44 allotments.

On 17 November 2014, the Panel approved the division of one of the 44 approved allotments (Allotments 506), to create a public reserve facing Arabella Court. The balance of Allotment 506 (now Allotment 606), was the subject of a further Development Application (DA 155/C071/14), which the Panel will consider at their meeting to be held on 17 October 2016. If approved by the Panel, Development Application 155/C071/14 will create ten (10) dwelling allotments and common driveway areas.

The Development Application which is the subject of this report (DA 155/556/16) is for the construction of three storey dwellings on five (5) of the ten (10) allotments, which are proposed via Development Application 155/C071/14. A separate Development Application (155/557/16) for the construction of two storey dwellings on the remaining five (5) allotments, will be determined under delegated authority, as it is a Category 2 Application and no representations were received.

The site of the proposed three storey dwellings is located approximately 48.5 metres back from River Street, on the southern side of the subject land, between Arabella Court and the neighbouring land to the south. There are no regulated trees located on the site. The land is essentially flat in topography.

Locality Attributes

Land uses: entirely residential
 Streetscape amenity moderate

Beyond the rear boundary of the subject land, the topography steeply falls down to the River Torrens, which is located approximately sixty (60) metres to the west of the land. This area between the river and the site is heavily treed and contains a shared-use bitumen pedestrian/cyclist trail following the general alignment of the river. The Adelaide O-Bahn is located to the rear of the land, ranging in distance from 10 metres away from the north western corner to 80 metres away from the south western corner. The Klemzig interchange provides the closest access to the O-Bahn and is located approximately 1.2km to the north-east of the land.

A large parcel of land owned by the South Australian Housing Trust is located to the north of the subject land and contains five (5), three-storey residential flat buildings. Another large parcel of land owned by the South Australian Housing Trust, is located to the south of the subject land (immediately south of the site of the proposed development), That land contains predominantly two-storey medium density housing, set behind six (6) privately owned two-storey row dwellings fronting River Street, with rear garaging.

The eastern side of River Street, adjacent to the subject land, is characterised by single storey detached dwellings, comprising a mix of original mid-twentieth century dwellings at low density and recent medium density infill development whereby original dwellings have been replaced with two new dwellings.

More specifically, the site of the proposed development is bound by Arabella Court to the north, land owned by the South Australian Housing Trust, containing predominantly two-storey medium density housing to the south, Orlando Court to the west and a private unnamed roadway to the east.

A plan of the subject land and its surrounds is contained in **Attachment A**.

Proposal in Detail

The Applicant seeks consent to construct a residential flat building containing five, three-storey dwellings. The Applicant has confirmed that common footings are to be used for the dwellings, such that it is properly described as one building containing five dwellings.

All five dwellings are three-bedroom townhouses, each having a floor area of 223m² (including garage). At ground level, each dwelling has a free-standing garage, two bedrooms and two private open space areas. At first floor level, each dwelling has an open plan kitchen/living/dining area and a balcony overlooking the adjacent public reserve. At second floor level, each dwelling has a master bedroom suite and roof deck oriented to the south.

The relevant details of the proposal in terms of areas, setbacks and the like are set out in Table 1 below.

TABLE 1: DEVELOPMENT DATA:

Consideration	Proposed	Development Plan Merit Assessment Quantitative Guideline
Site Area Total	763m ²	N/A
Site Area per Dwelling (excluding common areas)	152-153m ²	N/A
External Wall Height	10.0m	N/A
Maximum Overall Height (to roof apex)	10.0m	Three (3) Storeys

Floor Area per Dwelling	223m ²	70m ² minimum
Floor Area (total of all buildings on site)	1115m ²	N/A
Floor Area (footprint of all buildings on site)	510m ²	N/A
Site Coverage	67%	70%*
Private Open Space	75m ²	35m ² *
Street Set-back (Arabella Court)	21.95m	4m*
Rear Set-back	7.5m (garages) 16.4m (dwellings)	6m*
Car Parking Provision	4 covered & 49 uncovered	42 covered & 55 uncovered

* *The Desired Character Statement for the River Street/Glenbrook Close Marden part of the Medium Density Policy Area states that built form parameters other than height, may be less than those prescribed for the zone and/or Policy Area, provided that sound urban design principles are applied in terms of the orientation, siting and design of buildings.*

Plans and details of the proposed development are contained in **Attachment B**.

Notification

The proposal is a Category 3 form of development for public notification purposes, as the dwellings comprise more than two storeys.

No representations were received in response to the public notification.

State Agency Consultation

The *Development Regulations 2008* do not require consultation with State Government Agencies.

Discussion

The subject land is located within the Medium Density Policy Area of the Residential Zone of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is neither a complying nor a non-complying form of development and accordingly is required to be assessed on its merits having regard to all of the relevant provisions of the Development Plan.

The key issues, specific to this Development Application, are discussed in detail below.

Land Use and Density

The following Development Plan provisions provide guidance on the type and density of residential development that is envisaged within the Development Plan:

Medium Density Policy Area Objectives:	1
Medium Density Policy Area PDC's:	5
Residential Zone Objectives:	1, 2
Residential PDC's:	1, 3, 7
City Wide Objectives:	1, 8, 55, 56, 59
City Wide Principles of Development Control:	1, 4, 11

The subject land is located within a part of the Medium Density Policy Area which is specifically identified within the Desired Character Statement as the River Street/Glenbrook Close, Marden part of the Policy Area, described as comprising “an area of land in Marden which is bound by River Street, Battams Road, Lower Portrush Road and the River Torrens Linear Park and intersected by the O’Bahn Busway track”

In relation to the River Street/Glenbrook Close, Marden part of the Policy Area, the Desired Character Statement states:

“Historically, residential densities within this locality were medium density and comprised a range of building forms, including some residential flat buildings. It is expected that new development will maintain development within a medium density range of approximately 45 dwellings per hectare (gross residential density).”

The proposed residential flat building contributes to an overall dwelling density over the subject land (ie. taking into account all stages of the Qattro development) of 75 dwellings per hectare. This resulting density was considered by the Development Assessment Panel when it considered the Development Application in May 2014, to divide the 2.1 hectare property into 44 allotments. The Panel took into consideration when assessing that land division, what the intended use of each of the 44 allotments was and the likely dwelling density that would result from the land division.

It should also be considered that the aspiration of 45 dwellings per hectare which is referred to in the Desired Character Statement, relates to a gross density across the entire area bounded by River Street, Battams Road, Lower Portrush Road and the River Torrens Linear Park and intersected by the O’Bahn Busway track. The subject land represents only a portion (approximately one quarter) of that area, with the balance of the area currently containing development at a much lower density than that proposed for the subject land. Therefore, the gross residential density of the relevant part of the Policy Area is likely to be well below 45 dwellings per hectare, despite the higher density proposed for the subject land.

Principle of Development Control 5 of the Medium Density Policy area sets minimum site areas per dwelling for various dwelling types, however does not set a minimum for residential flat buildings. This differs from the policy which applies to the Residential Zone outside of the Medium Density Policy Area, where there is a minimum of 250m² per dwelling for residential flat buildings, exclusive of common areas.

There is, however, a requirement for a minimum floor area for dwellings within residential flat buildings located in the Medium Density Policy Area, of 70m² per dwelling, which the proposal achieves, with each dwelling having a floor area of 223m².

The proposal is therefore consistent with the policies of the Medium Density Policy Area with respect to land use and density.

Streetscape/bulk/scale/height/character

The following Development Plan provisions provide guidance with respect to considerations relating to appearance, streetscape, bulk, scale and character:

Medium Density Policy Area Objectives:	2, 4
Medium Density Policy Area PDC’s:	1, 2, 3, 7
Residential Zone Objective:	3
Residential Zone Principle of Development Control:	6, 7
City Wide Objectives:	18, 19, 20,
City Wide Principles of Development Control:	29, 30, 31, 32, 33, 34, 37, 39, 40, 48, 249(d), 251

In relation to height, Principle of Development Control 7 of the Medium Density Policy Area (read in conjunction with the Desired Character Statement) states that development on the subject land should not exceed 3 storeys in height, other than where the development site fronts onto River Street. As the site of the proposed building does not front onto River Street, the proposed three storey height is consistent with Principle 7.

In this policy and locality context, the proposed construction of a three-storey residential flat building, set back 48.5 metres from River Street, is considered to be acceptable from a streetscape and neighbourhood character perspective.

The buildings are reasonably well articulated along their facades and comprise an interesting mix of materials and finishes, which are compatible with earlier approved stages of the overall development of the subject land. Accordingly, it is considered that the buildings will not have an unreasonable impact on the character and amenity of the locality.

Setbacks and Site Coverage

Principle of Development Control 7 of the Medium Density Policy Area provides a range of design criteria to guide the assessment of setbacks and site coverage, which are more specific than those which apply within the Residential Zone more generally. That said, the specific criteria which is set out in Principles 7, other than building height, need to be considered in the context of the Desired Character Statement, which states (in reference to the River Street/Glenbrook Close, Marden part of the Policy Area):

“Other built form parameters within this portion of the Policy Area may be less than those prescribed for the zone and/or Policy Area, provided that sound urban design principles are applied in terms of the orientation, siting and design of buildings, in order to maximise solar access, light, ventilation and views and to minimise overshadowing and overlooking. Where any reduction in private open space is sought, the development will ensure that good access to usable communal open space and/or the River Torrens Linear Park is provided.”

In relation to site coverage, Principle 7 states that forms of dwellings other than detached and semi-detached dwellings, should not cover more than 70% of their sites. The proposed building covers 67% of the subject site, consistent with Principle 7.

In relation to setbacks, Principle 7 states that development should be designed with a minimum setback from a primary road frontage of 4 metres. The proposed residential flat building is set back 21.95 metres from its primary road frontage (Arabella Court), consistent with Principle 7.

In relation to the rear setback, Principle of Development Control 8 of the Residential Zone states that the upper storey of a building should be set back a minimum of 6 metres from a rear property boundary. The proposed rear setback of 7.5 metres to the garages is therefore consistent with this policy.

The proposed setbacks are therefore all consistent with the relevant quantitative street setback policies of the Development Plan.

Overshadowing/overlooking

The following Development Plan provisions provide guidance with respect to overshadowing and overlooking considerations:

City Wide Objective: 55

City Wide Principles of Development Control: 68, 69, 168, 169, 170, 171, 223, 224, 225,

The majority of shadow that would be cast by the three storey building would be over the courtyards, garages and common driveway area. As the three storey (10 metre high) building is located 16.4 metres from the southern boundary of the subject land, applying the winter solstice sun angle of 31 degrees at midday, the resultant shadow length would be 16.6 metres and confined to the subject land (ie. it would not be above the boundary fence height).

Accordingly, the proposal is consistent with City Wide Principle of Development Control 170, which states:

“Development should ensure that the north-facing windows of habitable rooms of existing dwelling(s) on the same allotment, and on adjacent allotments, receive at least 3 hours of direct sunlight over a portion of their surface between 9am and 5pm on the winter solstice (21 June).”

City Wide Principles of Development Control 234 and 235 relate to overlooking and state respectively:

“In areas where buildings of 3 or more storeys are contemplated, direct overlooking into habitable room windows or onto the useable private open spaces of other dwellings from upper level windows, external balconies, terraces and decks should be minimised through the adoption of one or more of the following methods and may be supplemented by landscaping:

- (a) building layout;*
- (b) location and design of windows and balconies;*
- (c) screening devices; or*
- (d) adequate separation.”*

“Except where buildings of three or more storeys are contemplated within the Urban Corridor Zone and the District Centre (Norwood) Zone, in all other circumstances upper level windows, balconies, terraces and decks should:

- (a) have a sill height of not less than 1.7 metres above the finished floor level (Refer to Figure 10); or*
- (b) be treated with permanently fixed obscured treatment (such as glazing or adhesive film) in the part of the window below 1.7 metres above the finished floor level (Refer to Figure 10); or*
- (c) be permanently screened to a height of not less than 1.7 metres above the finished floor level, through the use of external screening devices, such as planter boxes and angled louvres (Refer to Figure 10); and*
- (d) in the case of balconies, not exceed 15 square metres in floor.*

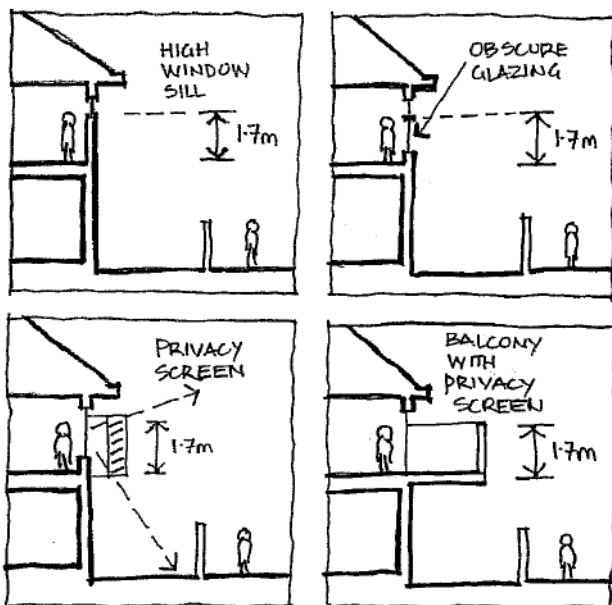


Figure 10 “

Having regard to the overlooking impacts of the proposal, the potential exists for overlooking from the south facing upper level windows and decks of all five dwellings, over the dwellings on the adjoining land to the south.

Accordingly, it is considered appropriate that a condition be imposed, requiring that those upper level windows and decks be treated for overlooking to a height of 1700mm above floor level.

In the event that the Applicant wishes for the Council to re-consider the need for such treatment to any number of the windows or balustrades, it will be possible for an Application to be lodged seeking to vary the consent, at a stage during construction when it is possible to more accurately assess the potential overlooking impacts of the proposal. A range of different options might be available to address the specific impacts that are observed, such as wing walls, louvres, use of planter boxes which prevent users from approaching the edge etc.

Private open space

The following Development Plan provisions provide guidance with respect to private open space considerations:

City Wide Principles of Development Control: 222, 223, 224, 226, 227, 228, 229, 230

City Wide Principles of Development Control 225 and 227 state respectively:

“Dwellings (other than residential development in the form of apartments within a multi storey building) should have associated private open space of sufficient area, shape and gradient to be functional and capable of meeting the likely needs of the occupant(s) (taking into consideration the location of the dwelling and the dimensions and gradient of the site) and should be in accordance with the following:

- (b) a dwelling with a site area of less than 250 square metres, a minimum of 35 square metres should be private open space, of which one portion should have an area of 16 square metres and a minimum dimension of 4 metres”*

and

“A lesser amount of private open space may be considered in circumstances where:

- (a) the equivalent amount of private open space is provided in the form of communal open space, which is accessible to all occupants of the development; or*
- (b) the development is directly adjacent to large areas of useable public open space, such as Felixstow Reserve, the Parklands and the River Torrens Linear Park, which can be easily accessed by all occupants of the development.*

In relation to the ‘River Street/Glenbrook Close, Marden’ part of the Medium Density Policy Area, the Desired Character Statement states:

“Where any reduction in private open space is sought, the development will ensure that good access to usable communal open space and/or the River Torrens Linear Park is provided.”

Each of the proposed dwellings is provided with 75m² of private open space, which exceeds the minimum amount stated in City Wide Principle 225. Much of the private open space is located on the northern side of the building, providing access to northern sun. The balconies located adjacent to the first floor level living areas have good usable dimensions of 3.8m x 2.0m.

Carparking/access/manoeuvring

The following Development Plan provisions provide guidance with respect to car parking access and manoeuvring considerations:

City Wide Objectives: 32, 34,

City Wide Principles of Development Control: 89, 92, 97, 234, 235, 237, 238, 239, 244, 245, 246, 252

With respect to car parking, Table NPSP/8 of the Development Plan states that group dwellings, residential flat buildings and residential development in multi-storey buildings should be provided with 2 spaces per 2 or 3 bedroom dwelling, 1 of which should be covered. In addition, there should be 1 visitor space for every 2 dwellings for a development of up to 10 dwellings.

Each proposed dwelling has two covered parking spaces. No separate dedicated visitor parking is provided. Accordingly, there is a car parking shortfall of 2.5 visitor spaces.

City Wide Principle of Development Control 269 states:

Car parking rates lower than the minimum required for group dwellings and residential flat buildings may be appropriate in locations where:

- (a) there is readily accessible and frequent public transport;*
- (b) it can be demonstrated that a lower provision is warranted; or*
- (c) it can be demonstrated that this would not result in a greater demand for parking on the street or elsewhere in the locality.*

With respect to part (a) of Principle 269, Adelaide Metro operates a bus service along Addison Avenue, located approximately 140 metres east of the subject land. This bus service provides the ability to catch a bus directly to the City or to the Klemzig interchange O-Bahn station. The linear park also offers a convenient option for cycling either to the Klemzig interchange or the Adelaide CBD. Accordingly, it is considered that part (a) is satisfied.

With respect to part (c) of Principle 269, the likelihood is that visitors to the proposed dwellings would park on Arabella Court and walk across the reserve, which is considered an appropriate arrangement.

The impact of on-street car parking in a newly created development such as this is much different to that in an established locality, where the reasonable expectations of existing residents with respect to on-street parking are higher. This difference in impact is considered to support a lower provision of parking, consistent with part (b) of Principle 269.

On balance, it is considered that Principle 269 is achieved and that there is adequate justification for the car parking rates proposed for the proposed residential flat buildings.

Access to the site is off "Arabella Court", via a 6 metre wide private roadway. This will allow for convenient two-way access and egress to/from the public road.

The consideration of traffic impacts on River Street resulting from the overall development of the subject land, were considered by the Panel in the assessment of the land division Application.

Finished floor levels/flooding/retaining

The following Development Plan provisions provide guidance with respect to considerations relating to floor levels, flooding and retaining:

City Wide Objectives:	9, 46 & 51.
City Wide PDC's:	10, 12, 117, 132, 139, 145, 257, 258 & 259.

The subject land is essentially flat and there will be no requirement for excessive fill or retaining. Stormwater is to be disposed of to a stormwater drain which has been constructed within the Arabella Court road reserve, which in turn connects with a stormwater drain in the River Torrens Linear Park.

Trees (significant, mature & street) and landscaping

The following Development Plan provisions provide guidance with respect to considerations relating to significant trees, mature trees, street trees and landscaping:

City Wide Objectives:	24.
City Wide PDC's:	71, 76, 147, 211 & 212.

There are no Regulated Trees on the site of the development.

The site plan of each dwelling shows a pencil pine and ground covers (Lomandra and Pennisetum Dwarf) within the front yard of each dwelling, together with a small garden bed containing the same ground cover plants in the courtyards. The extent of landscaping is considered acceptable having regard to the size of the private open space for each dwelling.

Environmental Sustainability

The following Development Plan provisions provide guidance with respect to environmental sustainability considerations:

City Wide Objectives:	23, 42 & 43.
City Wide PDC's:	65, 66, 67, 68, 115, 116, 119, 127 & 144.

The proposed building is oriented such that all five dwellings will receive direct northern sunlight to the main living areas.

With respect to stormwater capture and reuse, Principle of Development Control 161 states:

All new dwellings and additions to existing dwellings (including dependent accommodation units) greater than 50 square metres (where the addition incorporates a water closet, water heater or a laundry cold water outlet) with direct access to the ground level, should be provided with a 2000 litre rainwater tank/s connected to the roof water outlets and plumbed to at least a water closet, a water heater and/or all laundry cold water outlets.

The plans show a rain water tank located within the central courtyard of each dwelling. Whilst a capacity has not been specified, the designated area is large enough to accommodate a 2000 litre tank. As such, if the Panel determines to grant consent to the Application, it is recommended that a condition of consent be imposed, requiring each dwelling to have a rainwater tank with a minimum capacity of 2000 litres.

Summary

The proposed development is considered to be an appropriate medium density use for the subject land, consistent with the intent of the Medium Density Policy Area and having regard to the proximity of the site to Marden Shopping Centre, the River Torrens Linear Park and other similar and related uses in the locality.

The three storey form of the building is considered to be appropriate, due to the extensive set-back from River Street and resultant minimal streetscape impact on the wider locality.

Due to the siting characteristics of the proposed buildings and existing adjacent buildings, amenity impacts are considered to be acceptable. The potential exists for a number of adjacent units to be overlooked to an unacceptable degree and as such, it is recommended that a condition be imposed to deal with that potential.

The extent of car parking is considered to be acceptable in light of the proposed use of the land and the proximity to public transport and essential services and facilities, despite a shortfall against the amount of dedicated visitor parking that is specified in the Development Plan.

Accordingly, it is considered that the proposal is not seriously at variance with the Development Plan and does sufficiently accord with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/556/16 by Qattro, to construct a residential flat building, containing five, three-storey dwellings on the land located at River Street, Marden, subject to the following requirements, conditions and notes:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- Plans prepared by Qattro, Drawing Numbers 11357 SK R 1.1 – SK R 1.15, dated 11 August 2016.

Conditions

- 1 The portion of all upper floor south facing windows less than 1.7 m above the internal floor level, of all dwellings shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate.
- 2 The portion of the balustrades less than 1.7 metres above the floor level, of the second floor south facing decks of all dwellings, shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person from the balcony, with details to be provided to the reasonable satisfaction of the Council or its delegate, prior to the issuing of Development Approval.
- 3 All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers prior to the occupation of the premises to the reasonable satisfaction of the Council or its delegate.
- 4 All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.

Notes to Applicant

- 1 The Applicant is reminded of its general environmental duty, as required by section 25 of the Environment Protection Act, to take all reasonable and practical 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 harm.
- 2 The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.
- 3 The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.

The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
- 4 The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.
- 5 The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513.

All works on Council owned land required as part of this development are likely to be at the Applicant's cost.
- 6 This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.

2. STAFF REPORTS

2.4 DEVELOPMENT APPLICATION 155/C057/2016 – RAPID PROPERTY DEVELOPMENTS – LOT 200 BRIAR ROAD, FELIXSTOW

DEVELOPMENT APPLICATION:	155/C057/2016
APPLICANT:	Rapid Property Developments
SUBJECT SITE:	Lot 200 Briar Road, Felixstow (Certificate of Title - Volume: 6176, Folio: 199)
DESCRIPTION OF DEVELOPMENT:	Community title land division creating eleven (11) Community Lots and associated common areas
ZONE:	Residential Zone – Medium Density Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application which was previously considered and deferred by the Panel, at its meeting held on 19 September 2016. The Applicant has submitted further information in relation to the Application and it is necessary for the Panel to determine whether or not the proposal sufficiently accords with the Development Plan to warrant consent.

Background

The Applicant is seeking consent to divide a parcel of land into eleven (11) Community Lots and common areas; at Lot 200 Briar Road, Felixstow.

At its meeting held on 19 September 2016, the Panel determined:

*“That Development Application Number 155/C057/16 by Rapid Property Developments to undertake a Community Title Land Division in order to create ten (10) additional allotments, on the land located at Lot 200 Briar Road, Felixstow, contains insufficient information to enable a suitably informed decision to be made and is deemed to insufficiently accord with the Development Plan such that it does not warrant consent in its current form and as such, consideration of the Application is **deferred**, to enable the Applicant to provide further information and consider amending their proposal to overcome the following concerns:*

- 1. The adequate disposal of stormwater through the existing Council infrastructure located at the rear of the subject land;*
- 2. The orientation of the front allotments to enable a dwelling(s) to be sited in such a way so as to be orientated to face Briar Road; and*
- 3. The configuration and depth of the rear allotments to ensure future dwellings can achieve a reasonable level of amenity for occupants given the close proximity and use of Patterson Reserve.”*

A copy of the relevant section of the Minutes of the Panel meeting held on 19 September 2016, including attachments, is contained in **Attachment A**.

The Applicant has submitted an amended plan and further supporting information in response to the Panel's concerns, which is contained in **Attachment B**.

Discussion

The following discussion is based on the three concerns which the Panel asked the Applicant to address.:

The adequate disposal of stormwater through the existing Council infrastructure located at the rear of the subject land

The proposed development is for the division of land. When assessing an Application for the division of land, one of the relevant considerations is whether stormwater is able to be appropriately drained from each of the new allotments, having regard to the future use of those allotments. In particular, City Wide Principle of Development Control 20(c) states:

When land is divided:

- (c) *stormwater should be capable of being drained safely and efficiently from each proposed allotment and disposed of from the land or retained on the land, in an environmentally sensitive manner;*

Whether or not the disposal of stormwater through the existing Council infrastructure located at the rear of the subject land is 'adequate', is not, in and of itself, a relevant consideration for the Panel when assessing the Application to divide the land. Rather, the relevant consideration is whether stormwater is capable of being drained safely and efficiently from each proposed allotment and disposed of from the land or retained on the land, in an environmentally sensitive manner.

The subject land slopes from Briar Road down to the rear boundary in the order of 2.0 metres. Therefore, it is likely that the future dwellings that would be constructed on each of the proposed allotments, would have floor levels that step down towards the rear boundary. The alternative approach of building up the level of each dwelling to enable the entire site to achieve gravity-fed stormwater disposal to Briar Road, with associated retaining at boundaries, would likely be excessively costly.

Therefore, in order for stormwater to be disposed from each of the proposed allotments, it would either need to be channelled into a Council drain located immediately adjacent the rear boundary of the subject land, or pumped up to the Briar Road street water table.

In either case, when the Council assesses a Development Application for the development of each of the allotments, it will ensure that appropriate stormwater management measures are in place, to ensure that the extent of stormwater leaving the site does not exceed current levels and does not exceed the capacity of the Council's stormwater infrastructure.

In this respect, the Applicant has provided stormwater plans and calculations for both stormwater management solutions, (ie. disposal to the Council drain at the rear and a sump and pump system, whereby stormwater would be pumped to Briar Road). The Council's Project Manager – Assets, has reviewed these details and has advised that both methods are acceptable. More specifically, given the significant impervious area already associated with the subject land, the likely volume of water being discharged from the site is akin to that already leaving the site. Should the future land use Development Application increase the volume of stormwater discharged from the site, this is able to be dealt with via on site detention. As such, the proposed land division will not increase the pressure on Council's stormwater infrastructure in Patterson Reserve or Briar Road. A copy of the advice received from the Council's Project Manager – Assets is contained in **Attachment C**.

The option of channelling stormwater into the Council drain at the rear of the site is the preferred method, as it is less expensive, more reliable and requires less maintenance over time. However, it relies on the Council granting an easement.

To this end, the Applicant has advised that they will be seeking a formal easement from the Council. The relevant application documentation is currently being prepared and it is likely that this request will be presented to the Council meeting scheduled for November 2016.

It is understood that the Panel are concerned with granting consent to the land division, without the Council having first granted an easement over the rear stormwater drain. In particular, it is understood that the Panel is concerned that the land division may be 'hypothetical' until such time as the easement matter has been resolved. In this respect, Council staff have sought an opinion from Mr Gavin Leydon from Norman Waterhouse as to whether the Application is hypothetical or not.

In summary, Mr Leydon has advised that a recent Full Court of the Supreme Court decision of *Zweck v Gawler* suggests that the "hypothetical" development principle does not apply to planning authorities (only to Courts who will not give answers to hypothetical questions) who are under a legal obligation pursuant to the Act to consider & determine an application. Whether a recipient of consent is able to ultimately legally implement an approval will be a matter for them alone and not a relevant consideration for a planning authority under the Act. In any event, Mr Leydon has advised that the circumstances around the current application are such that it could not be considered to be hypothetical and that it should be determined by the DAP. A copy of Mr Leydon's advice is contained in **Attachment D**.

The orientation of the front allotments to enable a dwelling(s) to be sited in such a way so as to be orientated to face Briar Road

The Applicant has amended Lot 1 by enlarging it towards Briar Road, replacing an area that was previously proposed as common property for the parking of a car by a visitor to any of the proposed allotments. The Applicant has provided an indicative plan of a dwelling which could be constructed on Lot 1. The plan contained in Attachments B7-B11, demonstrates that sufficient car parking, private open space and living areas commensurate with the relevant provisions Development Plan can be accommodated on the site.

Whilst the orientation of Lot 1 has not changed, nor has the orientation of the indicative dwelling changed from that of the previously prepared indicative dwelling plan for Lot 1, it is considered that the revised indicative dwelling plan shows that a dwelling can be designed for Lot 1 in a manner that has an appropriate streetscape presentation. In particular, it shows that a dwelling can be designed such that the facade faces Briar Road, rather than the internal driveway.

It is understood that the enlargement of Lot 1 towards Briar Road, has been proposed in response to a concern raised by the Panel during the Panel Meeting on 19 September, that a visitor car parking space located between Lot 1 and Briar Road is less desirable than landscaping in that area. The amended size of Lot 1 results in a reduced capacity for the common property component of the site to accommodate 'common' visitor car parking. That said, if the land division is approved, the Applicant could propose a visitor car parking space in the same location forward of the dwelling on Lot 1, for the exclusive use of visitors to that dwelling. The relative merits of that arrangement versus landscaping in that area, would be considered upon the assessment of the relevant Development Application to develop the site.

The Applicant has also provided clarification regarding the location of services associated with the allotments (water, gas, electricity meters etc) with the utility boxes to be incorporated into the fencing along the front property boundary. The final design of this will be assessed as part of the Development Application for the development of the site.

The configuration and depth of the rear allotments to ensure future dwellings can achieve a reasonable level of amenity for occupants given the close proximity and use of Patterson Reserve

The Applicant has provided a letter from Mr Greg Barry of Resonate Acoustics, addressing the potential noise impacts from Patterson reserve. Mr Barry has advised that desired noise levels within the future dwellings to be constructed on the rear Lots (backing onto Patterson Reserve), are able to be achieved through a range of acoustic attenuation measures, using conventional building construction. However, as the ambient noise within Patterson Reserve has not yet been measured, specific acoustic measures have not yet been determined.

Mr Barry has also stated that in order to achieve a noticeable difference in noise levels (i.e. a reduction of at least 3dB), the allotments would be required to increase in size by at least 50%, so as to enable a sufficient buffer from the built form to the adjacent reserve (alternatively the footprint of the dwellings would need to be reduced by 50%.

The Applicant's Planning Consultant, Mr Heynen, has provided commentary in his covering letter, opining that this potential increase in allotment size is at odds with the specific policy intent of the Medium Density Policy Area, as there is no minimum allotment size specified for residential flat buildings and an increase in densities in close proximity to public open space and public transport is envisaged.

Having regard to the advice of Mr Barry, it is considered reasonable to deduce that the proposed rear Lots are able to be developed in a manner that will result in the future occupants experiencing noise impacts which accord with the Environment Protection (Noise) Policy. Specific details as to how that will be achieved, would be considered in the assessment of the Development Application to develop the site.

Summary

The Applicant has given consideration to each of the areas of concern which were raised by the Panel at the meeting held on 19 September 2016. The Applicant has provided a range of further information in an attempt to provide the Panel with greater comfort that the Lots which would be created from the proposed land division, can be appropriately developed. Based on all of the information which has been provided, it is evident that there is a reasonable prospect of:

- appropriate stormwater disposal from the site being achieved;
- the dwelling on Lot 1 having an appropriate streetscape presentation; and
- the occupants of dwellings constructed on the rear Lots being subjected to appropriate levels of noise.

It remains the opinion of staff that the proposed Community Title Land Division is not seriously at variance with the Development Plan and sufficiently accords with the relevant provisions of the Development Plan to warrant consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application Number 155/C057/16 by Rapid Property Developments to undertake a Community Title Land Division in order to create ten (10) additional allotments, on the land located at Lot 200 Briar Road, Felixstow, subject to the imposition of the following conditions and notes:

Relevant Plans

Pursuant to Section 44 (2) and (3) of the *Development Act 1993* and except where varied by a Condition specified hereunder, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- Community Land Division (Reference Number R16037RPD-02B) prepared by Richard Retallack Licensed Surveyor, received by the Council on 21 September 2016.

Conditions

1. The plan of division shall be amended to remove the existing easement marked "B", which easement is no longer required to provide pedestrian access to and from the subject land. The owner of the subject land must do all things necessary to extinguish the easement and have it removed from the relevant certificates of title prior to applying for deposit of the approved plan of division.

Notes to Applicant

1. The postal addresses of the newly created allotments are:
 - Lot 1 = 1/23 Briar Road
 - Lot 2 = 2/23 Briar Road
 - Lot 3 = 3/23 Briar Road
 - Lot 4 = 4/23 Briar Road

- Lot 5 = 5/23 Briar Road
 - Lot 6 = 6/23 Briar Road
 - Lot 7 = 7/23 Briar Road
 - Lot 8 = 8/23 Briar Road
 - Lot 9 = 9/23 Briar Road
 - Lot 10 = 10/23 Briar Road
 - Lot 11 = 11/23 Briar Road
2. The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation. The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
 3. This Development Plan Consent will lapse within 12 months of the date of this notice unless Land Division Consent and Development Approval have been obtained.
 4. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

3. **OTHER BUSINESS**
(Of an urgent nature only)
4. **CONFIDENTIAL REPORTS**
Nil
5. **CLOSURE**