

# Council Assessment Panel Minutes

**16 September 2019**

## **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.*

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City of  
Norwood  
Payneham  
& St Peters

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**VENUE** Mayors Parlour, Norwood Town Hall

**HOUR** 7 pm

**PRESENT**

**Panel Members** Mr Phil Smith (Acting Presiding Member)  
Mr John Minney  
Ms Jenny Newman  
Ms Fleur Bowden

**Staff** Carlos Buzzetti General Manager Urban Planning Environment  
Kathryn Clausen Senior Urban Planner  
Nenad Milasinovic Senior Urban Planner  
Ellen de Souza Development Officer Planning

**APOLOGIES** Mr Terry Mosel

**ABSENT**

*In the absence of the Presiding Member, Mr Buzzetti asked the Panel to elect an Acting Presiding Member to chair the meeting.*

*Motion was put that Mr Smith act as Presiding Member for the meeting.*

*Seconded and carried.*

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 19 AUGUST 2019**

*Motion was put that the minutes of the Meeting of the Council Assessment Panel, held on 19 August 2019 be taken as read and confirmed.*

*Seconded and carried*

## 2. STAFF REPORTS

### 2.1 DEVELOPMENT APPLICATION 155/D027/2019 – MR Z KONG – 82 LEWIS ROAD, GLYNDE

<b>DEVELOPMENT APPLICATION:</b>	<b>155/D027/19</b>
<b>APPLICANT:</b>	<b>Mr Z Kong</b>
<b>SUBJECT SITE:</b>	<b>82 Lewis Road, Glynde (Certificate of Title Volume: 5815 Folio: 853)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Torrens Title land division, creating two allotments from one existing allotment</b>
<b>ZONE:</b>	<b>Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

#### **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 Torrens Title land division, creating two allotments from one existing allotment.

Staff do not have delegated authority to determine the Application, as it comprises a land division, where the allotment frontage widths do not accord with the relevant quantitative criteria of the Development Plan. In particular, the frontage widths are 7.62 metres, whereas the relevant criteria is 8.0 metres.

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:	15.24 metres
Depth:	45.72 metres
Area:	696m <sup>2</sup>
Topography:	slightly sloping
Existing Structures:	detached dwelling, attached carport and an outbuilding
Existing Vegetation:	non-regulated trees and shrubs

The subject land contains a conventional single storey mid-twentieth century tiled roof dwelling set back approximately 8 metres from Lewis Road. The land is essentially flat, with a fall of approximately 1 metre from back to front. A single-width driveway is located adjacent the eastern side boundary.

#### **Locality Attributes**

Land uses:	predominantly residential
Building heights (storeys):	predominantly single storey

The subject land is located in the Medium Density Policy Area of the Residential Zone. Opposite the subject land, on the southern side of Lewis Road, is the Light Industry Zone. Despite the difference in zoning, existing development along both sides of Lewis Road within the locality of the subject land is predominantly comprised of low density single storey detached dwellings.

At the periphery of the locality is a food manufacturing business at 89 Lewis Road. A two storey dwelling is located on the property adjoining the subject land at 84 Lewis Road.

A plan of the subject land and its surrounds is attached (**Attachment A**).

### **Proposal in Detail**

The Applicant seeks consent to divide the land into two allotments, each with an area of 348m<sup>2</sup> and a frontage width of 7.62m and depth of 45.72m.

Party wall rights are proposed for a length of 31.92m, commencing 7m from the front boundary.

The proposed plan of division is attached (**Attachment B**).

### **Notification**

The proposal has been identified and processed as a Category 1 form of development. As such, no public notification has been 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 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 Desired Character Statement  
Medium Density Policy Area Objectives: 1  
Medium Density Policy Area Principles of Development Control: 5

Residential Zone Desired Character Statement  
Residential Zone Objectives: 1, 2  
Residential Zone Principles of Development Control: 1, 3, 7

The proposed land division is intended to facilitate the construction of a pair of semi-detached dwellings, as it includes party wall rights. Semi-detached dwellings are an anticipated land use within the Residential Zone, as listed in Principle of Development Control 1.

Residential Zone Principle of Development Control 7 states that sites containing semi-detached dwellings with a single garage/carport, should have an area of at least 300m<sup>2</sup> and a frontage of at least 8m.

The proposed allotments exceed the minimum site area by 48m<sup>2</sup> each, however are 380mm less than the minimum frontage width each.

The Medium Density Policy Area provides more flexible site area and frontage criteria for certain dwelling types, including row dwellings, group dwellings and residential flat buildings. However, the criteria for detached and semi-detached dwellings is the same throughout the Residential Zone.

From a pure density perspective, on one view the proposed land division accords with the Development Plan, as the site areas exceed the minimum criteria. On the other hand, the minimum frontage width could be viewed as a method of regulating density more broadly within the zone. The subject land is a 'standard' 50 foot wide allotment, of which there are several others in the locality. If approval was granted, that could potentially serve as a precedence for others to be divided.

That said, as the subject land is located in the Medium Density Policy Area, it would be possible for the land to be divided into three (3) allotments, to facilitate the construction of three (3) row dwellings. In this respect, the minimum site area is 200m<sup>2</sup> and the minimum frontage width is 5m. In this context, refusing the proposed land division could in fact result in increased density in the zone.

All relevant things considered, the proposal is considered acceptable from a density perspective.

The frontage widths also have implications related to design and streetscape compatibility. These issues are discussed in the relevant sections of the discussion below.

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 Desired Character Statement  
Medium Density Policy Area Objectives: 4  
Medium Density Policy Area Principles of Development Control: 1, 7

Residential Zone Desired Character Statement  
Residential Zone Objectives: 3  
Residential Zone Principles of Development Control: 6, 8, 10

City Wide Principles of Development Control: 190, 191

The proposed frontage width of 7.62m per allotment, restricts the potential design options for semi-detached dwellings on the allotment.

In order to achieve 0.9m setbacks from side boundaries (as per Residential Zone Principle of Development Control 8), only 6.72m of the allotment width remains for each dwelling. Taking into account a 3.0m wide garage and wall thicknesses, there is insufficient width remaining for a living room to face the street as well as a separate entrance passage. As a result, combined entrances/living rooms would need to be provided.

The applicant has provided example floor plans for dwellings which could be constructed on each of the proposed allotments. The dwellings have approximately 3.5m wide 'entry' rooms facing the street. This is considered to result in an acceptable presentation to the street. The example floor plan would enable the dwellings to accord with City Wide Principles of Development Control 190 and 191, which state:

*"The roof form and design of semi-detached dwellings in localities where the predominant dwelling type is detached dwellings should achieve the form of a single integrated building (Refer to Figure 5) and be of a bulk and scale that is consistent with the predominant pattern of development."*

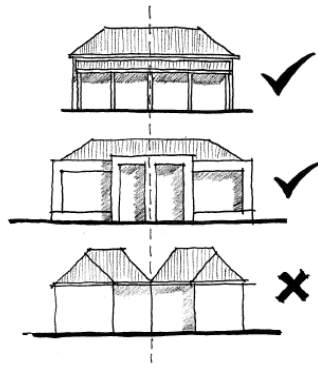


Figure 5

and

*“Main entrances to detached, semi-detached and row dwellings should be clearly visible from the streets to which they front to enable visitors to easily identify a particular dwelling.”*

The example floor plans also demonstrate that the width of each proposed allotment is sufficient to design reasonably space efficient and liveable dwellings. A compromised outcome is the length of the party wall, resulting in the bathroom, toilet, powder and pantry being reliant on skylights or artificial lighting. This is a negative aspect of the land division, however is not considered unreasonable. The allotments have north-west facing rears, allowing main living areas at the rear of dwellings to have exposure to winter sun, consistent with City Wide Principle of Development Control 68.

#### Carparking/access/manoeuvring

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, 99, 101, 120, Table NPSP/8

The proposed land division allows for driveways to provide vehicular access to each allotment without interfering with Council infrastructure or street trees. A stobie pole is located approximately in alignment with the western side boundary of the subject land, however adequate clearance is able to be provided between the pole and a driveway crossover.

#### 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 Principles of Development Control: 10, 20, 21(e), 148, 164

The property is not within a recognised floodplain.

The subject land has a gentle gradient from east to west (back to front) which would enable stormwater to be readily drained from all proposed allotments.

#### **Summary**

The proposed land division results in allotments which accord with the minimum site area for semi-detached dwellings, however do not accord with the minimum frontage width.

The example dwelling plans are considered to adequately demonstrate that, despite the narrower width, dwellings can be designed on the allotments which accord with relevant design and appearance policies and provide suitable living amenity for occupants.

As the subject land is located with the Medium Density Policy Area, where row dwellings on 5 metre frontages can occur, the narrower frontage is not considered unreasonable.

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/D027/19 by Mr Z Kong for a Torrens Title land division, creating two allotments from one existing allotment on the land located at 82 Lewis Road, Glynde, 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:

- Plan of division by Pennino & Associates, reference K1009-Rev1, dated 8 August 2019.

### Conditions

1. All existing buildings on the land shall be demolished prior to Section 51 Clearance being issued by the Council.
- 

*Moved*

*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/D027/19 by Mr Z Kong for a Torrens Title land division, creating two allotments from one existing allotment on the land located at 82 Lewis Road, Glynde, 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:*

- *Plan of division by Pennino & Associates, reference K1009-Rev1, dated 8 August 2019.*

### Conditions

1. *All existing buildings on the land shall be demolished prior to Section 51 Clearance being issued by the Council.*

*Seconded and carried*



## 2. STAFF REPORTS

### 2.2 DEVELOPMENT APPLICATION 155/D052/2019 – STATE SURVEYS – 10-12 STEPHEN STREET, NORWOOD

<b>DEVELOPMENT APPLICATION:</b>	<b>155/D052/19</b>
<b>APPLICANT:</b>	<b>State Surveys</b>
<b>SUBJECT SITE:</b>	<b>10-12 Stephen Street, Norwood (Certificates of Title Volume: 6153 Folios: 844, 858 and 859.)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Land division creating five (5) allotments from three (3) existing allotments</b>
<b>ZONE:</b>	<b>Residential Character (Norwood) Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on a Development Application for a land division creating five (5) allotments from three (3) existing allotments

Staff do not have delegated authority to determine the Application, as it comprises a land division which does not meet the relevant quantitative Development Plan criteria with respect to site area. In particular, the Application includes sites with areas ranging from 214m<sup>2</sup> – 216m<sup>2</sup>, whereas the relevant quantitative Development Plan criteria is 250m<sup>2</sup>

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

#### **Subject Land Attributes**

Shape:	regular
Frontage width:	32.66 metres
Depth:	45.79 metres
Area:	1496m <sup>2</sup>
Topography:	essentially flat
Existing Structures:	nil
Existing Vegetation:	non-regulated trees

The subject land has frontages to Stephen Street to the north and Muller Street to the south. It is a relatively flat site and is currently vacant. It was previously used for car parking associated with the former Caroma site on the northern side of Stephen Street. The site was recently remediated and cleared by an environmental auditor for residential use. There is a stand of non-regulated Desert Ash trees on the site, adjacent to the Stephen Street boundary.

#### **Locality Attributes**

The locality contains a mix of commercial and residential development.

To the north of the subject land is a very large vacant property (former Caroma site), on which approval has recently been granted by the State Commission Assessment Panel (SCAP) for an Aldi supermarket with associated at-grade car parking, an apartment building, a row of townhouses fronting Stephen Street and a public reserve. To the west of that property, is the Alma Hotel and associated at-grade car parking.

To the east of the subject land is a group of townhouses owned and operated by the South Australian Housing Trust. A common driveway which provides for vehicular access to the rear of the townhouses, abuts the eastern boundary of the subject land.

To the west of the subject land is a vacant allotment at 8B Stephen Street and an office/warehouse/cellar door at 14 Sydenham Road.

To the south of the subject land are dwellings on the southern side of Stephen Street. These dwellings are mostly single storey character cottages, both detached and semi-detached.

A plan of the subject land and its surrounds is attached (**Attachment A**).

### Proposal in Detail

The Applicant seeks consent to divide the land into five (5) Torrens Title allotments. Allotments 1 & 2, and 3 & 4 are proposed to share party wall rights.

Allotments 1-4 are intended to accommodate semi-detached dwellings. Example plans have been provided, showing how semi-detached dwellings could be designed for each of those allotments.

It is understood that Allotment 5 is intended to be the subject of a separate development, involving the construction of a residential flat building, which would require an additional land division application.

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	Allotment 1	Allotments 2 – 3	Allotment 4	Allotment 5	Development Plan Merit Assessment Quantitative Guideline
Site Area	216m <sup>2</sup>	214m <sup>2</sup>	216m <sup>2</sup>	637m <sup>2</sup>	250m <sup>2</sup>
Allotment Width	8.25m	8.14m	8.19m	32.66m	8m semi-detached dwelling sites 18m residential flat building sites
Allotment Depth	26.21m	26.21m	26.21m	19.58m	N/A

Plans and details of the proposed development are attached (**Attachment B**).

### Notification

The proposal has been identified and processed as a Category 1 form of development.

### State Agency Consultation

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

### Discussion

The subject land is located within the Residential Character (Norwood) 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.

Within the Residential Character (Norwood) Zone, a number of sites have been identified in Concept Plan Fig RC(N)/1, where pursuant to Principle of Development Control 20, land division creating additional allotments or dwelling sites should not occur. The subject land is not a site identified in Concept Plan Fig RC(N)/1 and therefore, land division is permitted.

Principle of Development Control 10 states that semi-detached dwellings should have a minimum site area of 250m<sup>2</sup> and a minimum site frontage of 8m.

Proposed allotments 1-4 achieve the minimum frontage width, however do not achieve the minimum site area. In particular, they are between 34m<sup>2</sup> and 36m<sup>2</sup> below the minimum of 250m<sup>2</sup>, equating to approximately 14%.

City Wide Principles of Development Control 185-189 relate to residential land division and are useful for considering the possible implications of the site area shortfall of Allotments 1-4. Insofar as they are relevant to the type of land division which is proposed, each is discussed below.

City Wide Principle of Development Control 185 states:

*“Residential land division should:*

- (a) preserve significant natural, cultural or landscape features including State and Local Heritage Places, and Contributory Items;*
- (b) not relevant*
- (c) encourage where appropriate, the amalgamation of smaller allotments to ensure coordinated and efficient site development;*
- (d) preserve regulated trees; and*
- (e) preserve street trees and where possible, other mature vegetation which contributes to the visual and environmental amenity of a location.”*

There are no significant natural, cultural or landscape features, nor regulated trees on the subject land. The proposal is consistent with part (c), as it facilitates a coordinated and efficient development of the land, whereas if it was retained as three separate allotments, they could each be developed in a non-coordinated manner. The land division will not result in any impact on street trees along Stephen Street.

City Wide Principle of Development Control 186 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.”*

Example plans have been provided of semi-detached dwellings which could be constructed on the proposed allotments. A copy of the example plans is contained in **Attachment C**.

The plans demonstrate that considerations a-e in Principle of Development Control 186 are achieved, including passive energy design, with the dwellings all having north-facing rear living areas.

In relation to consideration b, the amount and configuration of the private open space shown in the dwelling plans accords with the relevant Development Plan criteria and it is considered that the amount of space between the dwellings and Stephen Street is sufficient for landscaping.

City Wide Principle of Development Control 21 relates to land divisions generally (not only residential land division) and is also of use in considering the possible implications of the site area shortfall of Allotments 1-4. In particular, part (d) states that land should not be divided if the intended use of the land would be contrary to the Zone and relevant Policy Area Objectives. In this respect, Objective 3 of the Residential Character (Norwood) Zone is development that contributes to the desired character of the zone. The following excerpts from the Desired Character Statement are relevant:

*“Outside of the localities identified on Concept Plan Fig RC(N)/1, opportunities will be provided for increasing the density of a site. Building heights of up to two (2) storeys may occur, however, where proposed, consideration will be given to the impact of second storey walls from neighbouring properties. In this context, it will be important that the height and length of upper storey walls are minimised and finished and articulated*

*in such a way so that they are visually recessive and do not create any unreasonable overshadowing impacts. In some cases, this may limit the extent of upper level floor area in new dwellings or dwelling extensions.”*

*“Boundary development should generally only occur to one side of an allotment or dwelling site and will be limited in height and length in order to reduce its impact with regard to overshadowing and visual outlook from neighbouring properties. Boundary to boundary development will only be considered where there is an obvious precedence for such development within the locality and where there will be no unreasonable impact on neighbouring land.”*

In relation to the impact of second storey walls on neighbouring properties, the subject land does not adjoin residential dwelling sites, with the land to the west being vacant and commercial and the adjoining portion of the land to the east being the common driveway of the townhouses.

Similarly, in relation to ‘boundary to boundary’ development, the uses of the adjoining properties to the east and west are such that the proposal would not result in an unreasonable impact.

Given that the proposed allotments achieve the minimum frontage width criteria, the pattern and spacing of development in the street which would result from the proposed land division, is ostensibly the same as would occur if the allotments achieved the minimum site area of 250m<sup>2</sup>.

The subject land is uniquely sited at the periphery of the zone, adjacent to commercial buildings and currently occupied by commercial buildings. In this context, the lesser site area and potentially higher intensity built form which may eventuate, is considered acceptable.

In relation to other land division considerations, City Wide Principles of Development Control 20 and 21 state that land should not be divided:

- if the intended use of the land is likely to require excessive cut and/or fill;
- if any portion of any allotment is within the principal flow path of the 1 in 20 year Average Recurrence Interval floodplain;
- unless 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;

As the land is essentially flat, the intended use is not likely to require excessive cut and/or fill and Stormwater is able to be disposed of to the street water table. The land is not located within the 1 in 20 year ARI floodplain.

City Wide Objective 15 states:

*“land division that creates allotments appropriate for the intended use.”*

The subject land has been remediated of contamination and cleared for residential use.

## **Summary**

The proposed land division is consistent with the site frontage provisions of the Residential Character (Norwood) Zone, however the site areas of Allotments 1-4 is below the criteria for semi-detached dwellings.

The lesser site areas (14%) could potentially result in a slightly higher intensity built form than would otherwise be the case, however as the frontage widths accord with the criteria, this would not be evident from the street and impacts on adjoining properties are mitigated by the uses of adjoining land.

It is considered that the land division is acceptable having regard to the location of the subject land at the periphery of the zone and in the context of adjacent commercial uses.

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/D052/19 by State Surveys for a land division creating five (5) allotments from three (3) existing allotments on the land located at 10-12 Stephen Street, Norwood, 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:

- Plan of division by State Surveys, Drawing Number 19196, Version dated 9 July 2019.

### Conditions

Nil

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*Moved*

*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/D052/19 by State Surveys for a land division creating five (5) allotments from three (3) existing allotments on the land located at 10-12 Stephen Street, Norwood, 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:*

- *Plan of division by State Surveys, Drawing Number 19196, Version dated 9 July 2019.*

### Conditions

*Nil*

*Seconded and carried*

## 2. STAFF REPORTS

### 2.3 DEVELOPMENT APPLICATION 155/D026/2019 – GIMENEZ INVESTMENTS PTY LTD – 11A PHILLIS STREET, MAYLANDS

<b>DEVELOPMENT APPLICATION:</b>	<b>155/D026/2019</b>
<b>APPLICANT:</b>	<b>Gimenez Investments Pty Ltd</b>
<b>SUBJECT SITE:</b>	<b>11A Phillis Street, Maylands (Certificate of Title Volume: 5591 Folio:456)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Torrens Title Land Division creating two (2) additional allotments</b>
<b>ZONE:</b>	<b>Residential Character Zone – Evandale/Maylands/Stepney Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 28 April 2016)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 1</b>

#### **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 Torrens Title land division creating two (2) additional allotments.

Staff do not have delegated authority to determine the Application, as it comprises a Land Division which is inconsistent with the relevant Policy Area requirements. In particular the proposed allotment sizes and frontage widths of two of the allotments, are less than that anticipated within the Evandale/Maylands/Stepney Policy Area. In addition, it involves the creation of an allotment which would accommodate a group dwelling, which is not an anticipated land use within the policy area. 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:	regular
Frontage width:	24.39 metres
Depth:	61.25 metres
Area:	1,494m <sup>2</sup>
Topography:	slightly sloping
Existing Structures:	dwelling, outbuildings
Existing Vegetation:	regulated tree, mature trees, other vegetation

The subject land contains a single storey villa style dwelling located in the front north-western corner of the allotment, with a carport and outbuilding located behind. The dwelling comprises two separate semi-independent accommodation units. They are not considered separate dwellings, as they are not entirely self-contained. In particular, they share a rear yard and car parking facilities. This appears to be a very long-standing arrangement.

The balance of the subject land is vacant and devoid of vegetation of any note.

### Locality Attributes

Land uses:	predominantly residential
Building heights (storeys):	predominantly single storey
Streetscape amenity	moderate - high

The majority of dwellings within Phillis Street are traditional single storey detached dwellings, however there are also semi-detached dwellings at 14-16 Phillis Street, 26-28 Phillis Street and 30-32 Phillis Street and group dwellings at 10-12 Phillis Street and 4 Phillis Street.

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

### Proposal in Detail

The Applicant seeks consent for a Torrens Title land division creating two (2) additional allotments. All three propose allotments have frontages to Phillis Street.

Allotment 13 has a frontage of 10.83m and is intended to accommodate the existing dwelling. It is proposed to be together with a right of way over the 'handle' of Allotment 12 to allow vehicular access to parking at the rear of the allotment.

Allotment 11 has a frontage of 9.77m and is intended to accommodate a dwelling fronting Phillis Street. It is also proposed to be together with a right of way over the 'handle' of Allotment 12 to allow vehicular access to parking at the rear of the allotment.

Allotment 12 is a 'battle-axe' allotment with a frontage of 4m to Phillis Street and widens out to the full width of the subject land at a point 42.37m back from Phillis Street, to accommodate a dwelling at the rear.

The proposed plan of division is contained in **Attachment B**.

The Applicant has lodged a separate development application (155/354/19) for the construction of dwellings on proposed Allotments 11 and 12 and which indicates that the existing dwelling on allotment 13 is to remain.

The manner in which each of the dwellings shown in DA 155/354/10 are defined is not clear-cut.

The dwellings on Allotments 11 and 13 could either be defined as detached dwellings or group dwellings, depending on whether they are considered to be on sites held exclusively by those dwellings; which in turn depends on how the 'site' of each dwelling is considered. A site is defined as a building and its curtilage. There are legal authorities which suggest that the driveway 'handle' of Allotment 12 is part of the sites of the dwellings on Allotments 11 and 13, and other legal authorities which suggest otherwise.

Having considered the various legal authorities, it is considered that the most appropriate approach is to consider the dwellings on Allotments 11 and 13 as detached dwellings. With respect to Allotment 13 in particular, if the owner of that property chooses to continue the current arrangement of two semi-independent accommodation units, then that could occur pursuant to existing use rights.

If the same approach is taken to the 'site' of the dwelling on Allotment 12, then that site would not have a frontage to a public road (as the 'handle' would not be taken to form part of the site of the dwelling). Alternatively, if the 'handle' was taken to be part of its site, it would not be held exclusively by that dwelling. Accordingly, this dwelling would be best described as a group dwelling.

A copy of the plans associated with DA 155/354/10 is contained in **Attachment C**.

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	Allotment 11	Allotment 12	Allotment 13	Development Plan Merit Assessment Quantitative Guideline
<b>Future Dwelling Type</b>	detached	group	detached	detached dwellings are anticipated group dwellings are not anticipated
<b>Site Area</b>	411m <sup>2</sup>	630m <sup>2</sup>	460m <sup>2</sup>	500m <sup>2</sup>
<b>Allotment Width</b>	9.77m	4.0m – 24.39m	10.83m	12m
<b>Allotment Depth</b>	42.37m	61.25m	42.46m	N/A

**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 Character Zone and specifically within the Evandale/Maylands/Stepney Policy Area 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:

Evandale/Maylands/Stepney Policy Area Objectives: 1  
Evandale/Maylands/Stepney Policy Area Desired Character Statement  
Evandale/Maylands/Stepney Policy Area Principles of Development Control: 1, 2

Residential Character Zone Objectives: 1, 2  
Residential Character Zone Desired Character Statement  
Residential Character Zone Principles of Development Control: 1

City Wide Objectives: 1, 2, 7, 15, 16, 17, 56, 57  
City Wide Principles of Development Control: 1, 2, 3, 21, 23, 24, 185, 186, 188, 189

The proposed allotment size and configuration is similar to nearby developments at 10-12 Phillis Street and 4 Phillis Street. However, these existing developments were approved under a previous version of the Development Plan. The current Residential Character Zone policies were introduced in July 2015.

The Evandale/Maylands/Stepney Policy Area states, in part:

*“Group dwellings may be proposed in Evandale and Payneham and dwellings on battle-axe or hammerhead configuration allotments may be proposed in Maylands, Evandale and Payneham providing that, in both cases, such development complements the existing streetscape character and is designed to maintain relatively spacious siting characteristics between buildings.”*



In support of the above statement, Evandale/Maylands/Stepney Policy Area Principle of Development Control 2 provides minimum site area and frontage widths for detached dwellings, semi-detached dwellings and detached Dwellings on hammerhead allotments for Maylands, however site area and frontage width requirements for group dwellings are only provided for Evandale and Payneham.

As explained in the '*Proposal in Detail*' section of this report, a future dwelling on proposed allotment 12 would be defined as a group dwelling. If, on the other hand, the land division created a site which was exclusively for the dwelling at the rear (for instance if the dwellings on Allotments 11 and 13 had no rights over the 'handle' of Allotment 12), it would be a 'hammerhead allotment' accommodating a detached dwelling, which is envisaged in the Policy Area.

These policies primarily seek development which results in low densities at the rear of allotments with spacious siting around the building, as this is the predominant development pattern in the broader Maylands area. A group dwelling can take the form of more than one dwelling in the middle and/or rear of the site which is likely to result in less space around the dwellings and less opportunities for landscaping.

As the proposed land division is seeking only one allotment at the rear, the development has similar characteristics, and thus similar potential planning impacts, to a detached dwelling in a hammerhead development configuration. The notable difference between these development types is the establishment of shared access and car parking, which is anticipated to be of limited amenity impact to adjoining properties. Additionally, a development with a single shared driveway is likely to have a lesser streetscape impact than a development of two detached dwellings which would require two separate driveways.

In light of the above, it is considered that a group dwelling development with similar characteristics to a detached dwelling on hammerhead allotment may be appropriate in Maylands, subject to the size of the allotment and siting of the dwelling.

Evandale/ Maylands/Stepney Principle of Development Control 2 states that detached dwellings on hammerhead allotments in Maylands should be provided with a site area of 450m<sup>2</sup> exclusive of the driveway 'handle' and the allotment should have a driveway handle width of 4 metres and an overall allotment width of 15 metres. Proposed Allotment 12 has an area exclusive of the common area of 460m<sup>2</sup>, a driveway 'handle' width of 4.0 metres and an overall width of 24.39 metres, all of which are consistent with the requirements for a detached dwelling.

Therefore, as a group dwelling development on Allotment 12 would have similar characteristics to an anticipated detached dwelling hammerhead development, this aspect of the proposed land division is considered appropriate.

As explained in the '*Proposal in Detail*' section of this report, dwellings on proposed allotments 11 and 13 would be defined as detached dwellings. Evandale/Maylands/Stepney Policy Area Principle of Development Control 2 provides minimum site area and frontage widths for detached dwellings in Maylands of 500m<sup>2</sup> and 12m respectively. Where a double garage facing the street is proposed, the frontage requirement increases to 12.5m.

From a frontage perspective, this means that the subject land could be divided through the middle to create two allotments, each with a frontage width of 12.2m, satisfying the frontage criteria for detached dwellings. The streetscape outcome of such a division, would be two detached dwellings fronting the street, each with their own separate driveways and crossovers to the street.

Proposed Allotments 11 and 13 have frontages of 9.77m and 10.93m respectively and are therefore narrower than specified in Principle 2. That said, the streetscape outcome is the same as or better than the outcome resulting from the hypothetical scenario described above. In this context, the shortfall in frontage width of Allotments 11 and 13 is considered acceptable.

With respect to site area, Allotments 11 and 13 have site areas of 411 and 460m<sup>2</sup> respectively and are therefore lesser in area than the 500m<sup>2</sup> specified in Principle 2. On average, the shortfall is approximately 13%. The proposed site areas are similar to or greater than many other dwellings in the locality, including dwellings at 1/4 and 2/4 Phillis Street, which are approximately 350m<sup>2</sup> each, 1/10-12 and 2/10-12 Phillis Street, which are approximately 310m<sup>2</sup> each, 14 and 16 Phillis Street which are 400m<sup>2</sup> each.

The extent to which the site areas are consistent with other dwellings in the locality is of lesser relevance in the context that new policy has recently been introduced, than would otherwise be the case. However, the culmination of those dwellings listed in the locality creates a character of a density which is compatible with that which is proposed and is therefore of some relevance.

On balance, the shortfall in site area of Allotments 11 and 13 is considered acceptable.

streetscape/bulk/scale/height/character

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

Evandale/Maylands/Stepney Policy Area Objectives: 1

Residential Character Zone Principles of Development Control: 8, 11

City Wide Objectives: 8, 18, 19, 20

City Wide Principles of Development Control: 201

The existing villa at the front of the allotment is indicated as being retained which would assist in preserve the existing streetscape character. While there is no demolition control over the dwelling (ie. demolition can occur as of right), the land division at least facilitates its retention.

The plans in DA 155/354/19 illustrate a single storey dwelling for the rear allotment, consistent with City Wide Principle of Development Control 201, which states that dwellings located in hammerhead style developments should be single storey. A future dwelling at the rear of the allotment is likely to have little to no impact on the streetscape.

The plans in DA 155/354/19 also illustrate a single storey dwelling for Allotment 11, consistent with Residential Character Zone Principle of Development Control 6.

Setbacks and Site Coverage

The following Development Plan provisions provide guidance with respect to set-backs and site coverage considerations:

Evandale/Maylands/Stepney Policy Area Principles of Development Control: 3

City Wide Principles of Development Control: 202

City Wide Principle of Development Control 202 states:

*“The distance between any portion of a single-storey dwelling or any single-storey component of a two storey dwelling (including a verandah, garage or carport, which is an integrated part of the development) on a battleaxe, hammerhead or similar configuration allotment or site (including those accommodating group dwellings), and a side or rear boundary of the parent development site, should be no less than 2.5 metres.”*

The plans in DA 155/354/19 illustrate 2.5m setbacks from side and rear boundaries for the dwelling on Allotment 12, consistent with City Wide Principle 202.

Evandale/Maylands/Stepney Policy Area Principle of Development Control 3 provides site coverage criteria of 50% for dwellings fronting public roads (therefore applying to dwellings on Allotments 11 and 13 only). The plans in DA 155/354/19 illustrate the dwellings and garages on Allotments 11 and 13 occupying 58% and 44% of their respective sites. Whilst the site coverage is slightly high for the dwelling on Allotment 11, the allotments are considered to be of adequate size to cater for dwellings which are reasonably compatible with the site coverage criteria.

### 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, 229

City Wide Principle of Development Control 225(a) states that private open space should equate to 20% of site area per dwelling. The plans in DA 155/354/19 illustrate that this can be achieved, with the Dwelling on Allotment 11 having an area equal to 20% and the other two dwellings having a greater percentage.

### Carparking/access/manoeuvring

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: 101, 113, 117, 120, 122, 123, 189, Table NPSP/8

The proposed development relies on vehicular access from a common driveway area. City Wide Principle of Development Control 189 states (in part):

*“Residential allotments or sites in the form of a battleaxe, hammerhead or similar configuration, (including those accommodating group dwellings), should:*

- (d) in relation to the driveway servicing dwellings to the rear of the allotment or site:*
  - (i) have a driveway ‘handle’ length of no more than 35 metres and a width of no less than 4 metres and not more than 6 metres;*
  - (ii) the driveway ‘handle’ should have a vehicle carriageway of no less than 3 metres in width for a site that accommodates up to two dwellings and no less than 6 metres in width for at least the first 6 metres and 5 metres in width thereafter, for a site that accommodates three or more dwellings (Refer to Figure 4). A reduced paved area width of not less than 2.8 metres may be considered if any existing dwelling is retained; and*
  - (iii) the driveway ‘handle’ should incorporate a combined total width of 1 metre of landscaping along the length of the driveway ‘handle’ unless the driveway abuts unfenced areas of landscaping”*

Given that the common driveway is proposed to service three (3) dwellings, the access driveway should have a minimum width of six (6) metres comprising of a 5.0 metre paved area and a 1.0 metre landscaping strip to comply with the above provision.

The proposed land division does not accord with part (d)(ii) of Principle 189, in that the ‘handle’ of Allotment 12 is not 6m wide so as to facilitate the stated driveway carriageway width and landscaping width criteria.

If the driveway was to service only two (2) dwellings, the ‘handle’ width of 4.0m as proposed would be sufficient. The difference in the frequency of vehicle movements between a scenario where two dwellings are using the driveway and a scenario where three dwellings are using the driveway, is not considered significant and the reduced width is not considered to be problematic in this instance. It is noted that the verge width between the property boundary and the kerb in Phillis Street is quite wide at approximately 4.0m, improving the ability for vehicles entering and leaving the site simultaneously to do so conveniently.

In terms of the provision of car parking spaces, the plans in DA 155/354/19 illustrate that each future dwelling can be provided with parking in accordance with the rates in Table NPSP/8.

### 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 Principles of Development Control: 10, 20, 21(e), 148, 164

The property is not within a recognised floodplain.

The subject land has a gentle gradient from east to west (back to front) which would enable stormwater to be readily drained from all proposed allotments.

The proposed plan of division would require a slight widening of the existing driveway crossover, however this would not encroach excessively upon adjacent street trees.

### Summary

The proposed land division would result in an allotment configuration and allotment size which is similar to other group dwelling and semi-detached development within the immediate locality. That said, the proposed development does not result in allotment sizes, frontage widths, or in the case of Allotment 12 dwelling type, which are anticipated within the Evandale/Maylands/Stepney Policy Area.

Each of the quantitative shortfalls are relatively minor and the separate development application for the development of the proposed allotments demonstrates that the proposed land division would result in a form of development which is entirely compatible with the character and amenity of the locality.

Accordingly, it is considered that the proposal 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 No 155/D026/2019 by Gimenez Investments Pty Ltd for a Torrens Title Land Division creating two (2) additional allotments on the land located at 11A Phillis Street, Maylands, subject to the following relevant plans, drawings, specifications and other documents:

#### Relevant Plans

- Pan of division, Drawing Number 19931.2-DIV, Version 2, prepared by John C Bested & Associates, received by the Council on 14 June 2019.

#### Conditions

1. The existing sheds and carport shall be demolished prior to Section 51 Clearance being issued by the Council.

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#### *Moved*

*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/D026/2019 by Gimenez Investments Pty Ltd for a Torrens Title Land Division creating two (2) additional allotments on the land located at 11A Phillis Street, Maylands, subject to the following relevant plans, drawings, specifications and other documents:*

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- *Plan of division, Drawing Number 19931.2-DIV, Version 2, prepared by John C Bested & Associates, received by the Council on 14 June 2019.*

#### Conditions

1. *The existing sheds and carport shall be demolished prior to Section 51 Clearance being issued by the Council.*

*Seconded and carried*

**3. OTHER BUSINESS**

*The Council Assessment Panel acknowledged and thanked Kathryn Clausen for her services to the Council and the Council Assessment Panel over the years. The Panel wished her well in her future endeavours.*

**4. CONFIDENTIAL REPORTS**

Nil

**5. CLOSURE**

*The Acting Presiding Member declared the meeting closed at 7:25pm.*

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**Phil Smith**  
**Acting Presiding Member**

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**Carlos Buzzetti**  
**General Manager, Urban Planning and Environment**