

Council Assessment Panel Minutes

16 December 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

Page No.

1.	CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 18 NOVEMBER 2019	1
2.	STAFF REPORTS	2
2.1	SCHEDULE OF COUNCIL ASSESSMENT PANEL MEETINGS FOR 2020 – 2021	2
2.2	DEVELOPMENT APPLICATION 155/568/2019 – ST JOSEPH'S SCHOOL PAYNEHAM – 5 TARCOMA AVENUE, PAYNEHAM SOUTH	3
2.3	DEVELOPMENT APPLICATION 155/C031/2019 – KSBA INVEST PTY LTD – 413 PAYNEHAM ROAD, FELIXSTOW	12
3.	OTHER BUSINESS	19
4.	CONFIDENTIAL REPORTS	19
5.	CLOSURE	19

VENUE Mayors Parlour, Norwood Town Hall

HOUR 7PM

PRESENT

Panel Members Mr Terry Mosel
Ms Jenny Newman
Mr Phil Smith
Ms Fleur Bowden
Mr John Minney

Staff Mark Thomson Manager Development Assessment
Nenad Milasinovic Senior Urban Planner
Adam Bowey Senior Urban Planner
Ellen de Souza Development Officer Planning

APOLOGIES Nil

ABSENT Nil

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 18 NOVEMBER 2019**

Seconded and carried

2. STAFF REPORTS

2.1 SCHEDULE OF COUNCIL ASSESSMENT PANEL MEETINGS FOR 2020 – 2021

PURPOSE OF REPORT

The purpose of the report is to obtain the Panel's endorsement of the draft Schedule of Meetings of the Council Assessment Panel for the period January 2020 to October 2021.

BACKGROUND

Pursuant to Clause 7.1 of the Terms of Reference, ordinary meetings of the City of Norwood Payneham & St Peters Council Assessment Panel (CAP) will be held at such times and places as determined by the CAP.

The CAP previously determined the times and places of meetings up until October 2019, corresponding with the expiration of the term of Panel Members. On 8 October 2019, the Council extended the term of Members of the Panel until October 2021. Accordingly, the times and places of Panel Members for that period now need to be established.

DISCUSSION

In the past, ordinary meetings of the Council Assessment Panel have been held commencing at 7.00pm on the third Monday of each month, unless otherwise determined by the Panel. In the event of a public holiday and or the re-scheduling of a Council meeting which clashes with a scheduled Panel meeting, the Council has previously resolved that Panel meetings be held on the third Wednesday of the month.

A draft Schedule of Meetings for this period has been prepared for consideration by the Panel based on this practice of conducting Panel meetings on the third Monday of the month. A copy of the draft Schedule is attached (**Attachment A**).

This Schedule has worked well in the past and in order to ensure consistency with the Elected Member on the Panel, staff and the community, it is recommended that this schedule be followed, unless the time and date is such that one or more Members of the Panel is unable to attend the scheduled meetings on a regular basis.

The venue of the Mayor's Parlour is also recommended, as it has worked well in the past.

CONCLUSION

Determination of the times and places for ordinary meetings of the Panel, will ensure compliance with the requirements of the Terms of Reference and enables Administration to communicate these dates and times to the community.

COMMENTS

Nil.

RECOMMENDATION

That the Council Assessment Panel meetings for the period January 2020 to October 2021 be held in accordance with the Schedule of Council Assessment Panel Meetings attached to this report.

Moved

That the Council Assessment Panel meetings for the period January 2020 to October 2021 be held in accordance with the Schedule of Council Assessment Panel Meetings attached to this report.

Seconded and carried

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/568/2019 – ST JOSEPH’S SCHOOL PAYNEHAM – 5 TARCOMA AVENUE, PAYNEHAM SOUTH

DEVELOPMENT APPLICATION:	155/568/2019
APPLICANT:	St Joseph’s School Payneham
SUBJECT SITE:	5 Tarcoma Avenue, Payneham South (Certificate of Title - Volume: 5172, Folio: 639)
DESCRIPTION OF DEVELOPMENT:	Change of use of the land to a primary school and the installation of a transportable building to be used as two (2) classrooms
ZONE:	Residential Zone – Norwood Payneham and St Peters (City) Development Plan (dated 21 March 2019)
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 a change of use from a dwelling site to a school area associated with St Joseph’s School, with the installation of a transportable building to be used as two (2) classrooms.

Staff do not have delegated authority to determine the Application, as the proposed development is a Category 3 development for the purposes of public notification.

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:	18.288 metres
Depth:	54.864 metres
Area:	1003.5m ²
Topography:	essentially flat
Existing Structures:	Dwelling
Existing Vegetation:	mature trees and shrubs

The subject land is occupied by a detached dwelling and associated outbuildings.

A portion of the rear yard was fenced off and incorporated into the school site as an expansion of the school play areas at some time between 14 January 2019 and 28 March 2019, and is currently an unauthorised land use, constituting a breach of the *Development Act 1993*.

The subject land is located in the Residential Zone.

Locality Attributes

Land uses:	mix of residential, educational and community uses
Building heights (storeys):	predominantly single storey
Streetscape amenity	Medium level of amenity, given the proximity to Portrush Road and St Joseph's school.

The subject land is bounded by St Joseph's School to the north and west, group dwellings to the east and Tarcoma Avenue to the south.

The wider locality comprises residential development of various low and medium density forms to the east and south of the subject land.

The school site to the north and west of the subject land is located in the Community Zone.

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

Proposal in Detail

The Applicant seeks consent to change the use of the land from a dwelling site to a primary school, which involves the installation of a transportable building to be used as two (2) classrooms, a rear deck and verandah/covered walkway structure to the rear of the building, a small vehicle parking area and the establishment of landscaping to the rear of the subject land.

The subject land abuts St Joseph's School and would effectively form a contiguous expansion of the existing school into the subject land.

A transportable building is proposed to be installed on the site to provide two additional classrooms. The classrooms are to be of a weatherboard construction and painted "Classic Cream" in colour. This includes portions between the ground and the finished floor level.

A 2.7 metre wide covered deck is proposed along the rear of the building. A ramp is proposed along the western side of the building, providing access to the deck. A verandah/shade structure is proposed over this ramp, as well as over a path alongside it and another path leading to the deck from the adjacent school property,

Existing landscaping at the front of the subject land is proposed to be retained, in order to maintain a residential presentation to the Tarcoma Avenue streetscape.

A 2.5 metre wide landscaping strip is proposed along portions of the eastern boundary of the subject land, adjacent to group dwellings at 7 Tarcoma Avenue, as well as the retention of some existing vegetation located along the rear boundary of the subject land.

The proposal includes the provision of two vehicle parking spaces, to be located between the street and the proposed transportable building, off the existing driveway. .

New pool fencing is proposed between the car parking area and the transportable building, while the existing 2.2 metre high fencing along the eastern side boundary is to be retained.

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

Notification

The proposal has been identified and processed as a Category 3 form of development.

The change in the use of the land to a primary school is Category 3, pursuant to Part 4, Subdivision 2 38 (2)(c) of the *Development Act 1993*.

One (1) representation was received (opposing the proposed development) in response to public notification of the application, with the representor not wishing to be heard by the panel. This representor has since notified Council that they wish to withdraw their representation, as a result of discussions with the School's headmaster.

A copy of the representation and withdrawal request is contained in **Attachment C**.

The applicant has provided a response to the representation, which comprises **Attachment D**.

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

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

Residential Zone Desired Character Statement	
Residential Zone Objectives:	3
Residential Zone PDC's:	1 & 4
City Wide Objectives:	1, 7, 10, 26 & 27
City Wide PDC's:	1, 3, 4, 12, 19, 80, 82-85 & 320-322

The subject land is located within the Residential Zone. Development within the Residential Zone should primarily be for residential purposes, which is reinforced by the range of dwelling types listed as envisaged within Principle of Development Control 1 for the zone.

However, whilst the Residential Zone should be primarily for residential land uses, some non-residential development is also envisaged. Principle of Development Control 4 of the Residential Zone states:

"Non-residential development should be of a nature and scale that:
(a) serves the local community;
(b) is consistent with the desired character of the locality; and
(c) does not detrimentally impact on the amenity of nearby residents."

Does the development serve the local community?

Whilst St Joseph's School is a private school, it forms an important part of an educational system that contributes to the social well-being of the local community.

In this instance, the School has been able to acquire land that is contiguous to the school for the purpose of providing additional play areas and the installation of additional classrooms.

City Wide Principle of Development Control 320 states that community facilities should be conveniently located in relation to the population they are to serve. Traditionally, most school facilities were located within Residential Zones prior to the Educational Establishments Review Development Plan Amendment on 21 March 2019 whereby educational establishments within the Council area were rezoned into a new Education Policy Area of the Community Zone. In this regard, the proposal is located within a Residential zone, and is considered to be close to the population it serves.

Where schools now exist within this zone, it is reasonable to expect that some expansion may occur over time. In the case of St Joseph's, the majority of the school falls inside the Education Policy Area of the Community Zone, with the allotments to the west and south of the subject land zoned as such.

In this context, the proposed development is considered to serve the local community, in accordance with part (a) of Residential Zone PDC 4.

Is the development consistent with the desired character of the locality?

The Desired Character Statement for the Residential Zone primarily envisages residential development. However, non-residential development is anticipated within the Zone, particularly along arterial roads.

The Desired Character Statement for the Residential Zone states (in part):

“Along arterial roads, some opportunity for the establishment of non-residential uses will be provided through the conversion of existing dwellings, small-scale purpose built buildings and on the ground floor of mixed-use buildings in close proximity to centres. Careful management of the building envelope and vehicle access/egress arrangements for this type of development will be required to ensure that it does not have an unreasonable impact on the amenity of residents located to the rear of arterial road sites and on local and arterial road networks.”

St Joseph's School has a frontage to Portrush Road, which is an arterial road as identified within Map NPSP/1 (Overlay 1) Part A. The subject land would form a contiguous expansion of the school, albeit along the Tarcoma Avenue frontage.

Whilst the Desired Character Statement for the Residential Zone does not specifically refer to schools or other community uses, it does provide some guide for non-residential development adjacent to arterial roads. Importantly, it reiterates that non-residential development should not have an unreasonable impact on the amenity of residents in the local area.

Does the development detrimentally impact on the amenity of nearby residents?

The potential for the proposal to detrimentally impact on the amenity of nearby residents relates to two potential impacts relating to noise and visual amenity. Noise associated with a school is likely to reach its peak periods during lunch breaks, with some noise attributed to student pickup and drop off times and movement between classrooms.

The areas at the rear of the proposed classrooms are to be used for a vegetable plot and nature play area and comprises some 360m². Due to the layout of the area, it is not conducive to being used for sporting activities and limits the amount of students which can occupy this area. The incorporation of landscaping buffers aids to keep children and associated noise away from property boundaries.

Student pickup/drop-off primarily occurs on the northern side of the school site, from Marian Road and is not proposed to change as part of this application.

Given the context described above, noise associated with the School is not expected to be exacerbated to an unreasonable extent as a result of the proposed development.

In terms of the streetscape, the replacement of a detached dwelling with a transportable building, landscaping and fencing is not considered to result in an unreasonably compromised streetscape character.

In terms of visual impact to adjoining allotments, the transportable classroom displays side setbacks typical of residential dwellings found through the residential zone, and would be reasonably anticipated were the proposal for a replacement dwelling.

The proposed development is considered to be acceptable from a land use perspective, and the proposed development is considered to be reasonably consistent with Residential Zone PDC 4, insofar as the development serves the local community; is reasonably consistent with the desired character of the locality; and will not have an unreasonable impact on the amenity of nearby residents.

Streetscape/bulk/scale/height/character/

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

Residential Zone Desired Character Statement

Residential Zone Objectives: 3
Residential Zone PDC's: 6, 8

City Wide Objectives: 8, 18, 22 & 25
City Wide PDC's: 28, 30, 37, 40, 59, 63 & 83

The proposed transportable building has a setback of approximately 17 metres from the Tarcoma Avenue frontage, which is greater than the existing dwelling located on site and buildings found on adjoining allotments, with the setback consistent with existing setbacks found within the locality.

Side setbacks are proposed to be 1.6 metres from the eastern boundary, with this area comprising landscaped areas. The rear setback is proposed to be 28 metres from the rear boundary. It is noted that these setbacks exceed dwelling setbacks of Zone Wide Principle of Development Control 8.

Finished Floor Levels are proposed to be 450-600mm above natural ground level, which creates wall heights above ground level to the east and west of 3.5 metres.

The building includes a rear deck area and covered verandah which extends 2.9 metres away from the northern wall of the building, and extends to the western property boundary, which is approximately 600mm above natural ground level, and is intended to provide undercover access to the building for students, as is apparent by its connection to the covered walkway connecting the subject site to the main school buildings.

The replacement of a detached dwelling with classrooms and open space and landscaping is not considered to result in an unreasonably compromised streetscape character in the context of the existing locality, with the proposed built form bulk and scale reflective of its location within a residential zone.

Overlooking

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

City Wide PDC's: 83, 235 & 236

The proposed floor height of 600mm creates some potential to overlook into the private open space of adjoining allotments, given the 1.5 metre boundary setback to the eastern boundary of the deck area. Taking into account the height of existing fencing in this location (2.15 metres in height), and the proposed deck height of 600mm, an effective screening height of 1.55 metres is to be provided, which when combined with the provision of taller landscaping (deciduous Capital Pears) and the transitional nature of this area, the overlooking potential is not considered to be unreasonable.

Car-parking/access/manoeuvring

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

City Wide Objectives: 34
City Wide PDC's: 95, 96, 98, 104, 113 & 120

Table NPSP/9

The Applicant has advised the Council that the subject land has been acquired exclusively for the purpose of providing additional classroom space and flexibility for how existing classrooms can be used. The School has advised that they do not currently have any plans to expand student numbers.

Despite this, the application includes the provision of an additional two off-street parking spaces through the reuse of the existing crossover, which is suitably located behind existing landscaping partially on the footprint of the existing dwelling. As such, the proposed development results in a net increase of two on-site car parking spaces. No additional vehicular access points are proposed and the existing traffic management strategy will remain in place.

Trees (regulated, 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:

Residential Zone Objectives:	3
City Wide Objectives:	24
City Wide PDC's:	73-78

No street trees are impacted by the proposal, with existing vegetation at the front and rear of the site to be retained. This existing vegetation is located along the southern and northern property boundaries and forms part of the proposed landscaping. The retention of this landscaping forward of the transportable building helps to maintain a suburban feel, consistent with Objective 3 of the zone.

The Applicant has proposed 2.2 metre wide landscaping strips adjacent to residential dwellings on the eastern boundaries of the subject site. The landscaping strips are proposed to include a mix of low level ground covers including native and exotic plants, and larger ornamental pears (*Pyrus Calleryana*).

Accordingly, should the panel determine to grant development plan consent to the application, it is recommended that a condition be imposed requiring all areas nominated as landscaping or garden areas on the approved plans to be planted prior to the occupation of the building, with all plants to be nurtured and maintained in good health and condition at all times, and suitably watered by an irrigation system to the reasonable satisfaction of the Council or its delegate.

In addition, it is recommended that a condition be imposed, requiring that the landscaping shown on the approved plans between the transportable building and the street to be either retained or replaced with new landscaping which includes three trees, to the reasonable satisfaction of the Council prior to the occupation of the building, with all plants to be nurtured and maintained in good health and condition at all times, and suitably watered by an irrigation system.

The flexibility in the above condition, allowing for the existing landscaping to be replaced, is due to the possibility of the existing landscaping being damaged during demolition of the dwelling.

The demolition plan is contained in **Attachment B2**.

The landscaping plan contained in **Attachment B7**.

Environmental Sustainability

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

City Wide Objectives:	42
City Wide PDC's:	148

The proposed built form is similar in roofed area to the previous dwelling located on the site and with large amounts of pervious landscaping contained on the subject site, resulting in similar amounts of stormwater runoff from the subject land as a result of the proposed development

The proposed play area will provide an outdoor activity area for students to play and learn which will assist in facilitating a healthier lifestyle and outdoor education activities.

Summary

Whilst the proposed use of the subject land as school and the installation of classroom building associated with St Joseph's School is not specifically anticipated within the Residential Zone, the proposed change of use and built form represents a reasonable expansion of an existing land use, which has been designed such that it will not have an unreasonable impact on the character or amenity of adjacent and nearby residential property occupiers.

The proposed classrooms on the subject land are to be developed with some peripheral landscaping, which will provide a physical separation between the building and the adjacent residents. Having a source of noise relocated closer to residential properties is not ideal and is considered to be a negative aspect of the proposed development. However, the primary use of the area for classes and the infrequent use of the rear grassed areas outside of school hours will not unreasonably compromise the amenity of adjacent and nearby property occupiers.

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 155/568/19 by St Joseph's School Payneham to change the use of the land from a dwelling to a primary school and the Installation of a transportable building to be used as two (2) classrooms associated with St Joseph's School, with associated landscaping; on the land located at 5 Tarcoma Avenue, Payneham South; 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:

- the demolition plan, site plan and elevations and landscaping plan prepared by Brown Falconer, received by the Council on 23 October 2019; and
- the supporting planning report prepared by URPS, dated 22 October 2019 and received by Council on 23 October 2019.

Conditions

1. All areas nominated as landscaping or garden areas on the approved plans shall be planted prior to the occupation of the premises, to the reasonable satisfaction of the Council or its delegate.
2. All plants existing and/or 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.
3. All plants shall be watered through the installation of a suitable irrigation system which shall be maintained to the reasonable satisfaction of the Council or its delegate.
4. The landscaping shown on the approved plans between the transportable building and the street is to be either retained or replaced with new landscaping which includes three trees, to the reasonable satisfaction of the Council prior to the occupation of the building, with all plants to be nurtured and maintained in good health and condition at all times, and suitably watered by an irrigation system.

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.
6. 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.

Mr Smith declared a perceived conflict of interest due to his involvement with the school in the past.

Mr Smith left the meeting at 7:01pm.

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 155/568/19 by St Joseph's School Payneham to change the use of the land from a dwelling to a primary school and the installation of a transportable building to be used as two (2) classrooms associated with St Joseph's School, with associated landscaping; on the land located at 5 Tarcoma Avenue, Payneham South; 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:

- *the demolition plan, site plan and elevations and landscaping plan prepared by Brown Falconer, received by the Council on 23 October 2019; and*
- *the supporting planning report prepared by URPS, dated 22 October 2019 and received by Council on 23 October 2019.*

Conditions

1. *All areas nominated as landscaping or garden areas on the approved plans shall be planted prior to the occupation of the premises, to the reasonable satisfaction of the Council or its delegate.*
2. *All plants existing and/or 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.*
3. *All plants shall be watered through the installation of a suitable irrigation system which shall be maintained to the reasonable satisfaction of the Council or its delegate.*
4. *The landscaping shown on the approved plans between the transportable building and the street is to be either retained or replaced with new landscaping which includes three trees, to the reasonable satisfaction of the Council prior to the occupation of the building, with all plants to be nurtured and maintained in good health and condition at all times, and suitably watered by an irrigation system.*

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.*
6. *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.*

Seconded and carried

Mr Smith returned to the meeting at 7:35pm

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/C031/2019 – KSBA INVEST PTY LTD –
413 PAYNEHAM ROAD, FELIXSTOW

DEVELOPMENT APPLICATION:	155/C031/19
APPLICANT:	KSBA Invest Pty Ltd
SUBJECT SITE:	413 Payneham Road, Felixstow (Certificate of Title - Volumes: 5189 & 5190 and Folios: 928 & 40)
DESCRIPTION OF DEVELOPMENT:	Community Title Land Division creating eleven (11) Community Lots and the construction of a mixed use development comprising ten (10) three-storey townhouses and a two-storey office, including a car parking area, civil works and landscaping
ZONE:	Residential Zone – Medium Density Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)
PUBLIC NOTIFICATION CATEGORY:	Category 3

Purpose of Report

The purpose of this report is to provide details to the Panel on amended plans submitted in relation to an Application which was refused by the Panel and that is the subject of an Appeal to the Environment Resources and Development (ERD) Court. The Panel is required to consider the amended plans and advise the ERD Court as to whether or not they satisfactorily address the concerns identified with the Application, such that consent would now be warranted.

Background

Development Application 155/C031/19 was lodged in July 2019 for a Community Title Land Division creating eleven (11) Community Lots and the construction of a mixed use development comprising ten (10) three-storey townhouses and a two-storey office, including a car parking area, civil works and landscaping.

The Panel considered the Development Application at its meeting held on Monday 21 October 2019 and determined to refuse the Application for the following reasons:

“That the proposal inadequately addresses the provisions of the Development Plan (mainly in respect of City Wide PDCs 120, 267, 275 & 276, 279 & 282, 284 & 285, Medium Density Policy Area PDC 7) with respect to:

- *Setback to St Johns Lane/massing*
- *Usability of private open space and relationship to living areas*
- *Street interface*
- *Dwelling orientation*
- *Landscaping*
- *Site facilities and storage*
- *Adequacy of parking”*

A copy of the relevant section of the Minutes of the Panel meeting held on 21 October 2019, including the refused plans, is contained in **Attachment A**.

Following the refusal of the Application by the Panel, the Applicant lodged an Appeal with the ERD Court. A preliminary conference was held at the ERD Court on Monday 2 December 2019, at which the Court directed the matter into the pending track at the request of the appellant, to provide an opportunity to seek to resolve the issues of contention and to gain the Panel's support of the proposal.

Amended plans and details have been provided by the Appellant, which are the subject of this report and are contained in **Attachment B**.

In summary, the proposed amendments include:

- The second level of the residential flat building adjacent St Johns Lane incorporates a setback from the south-western side boundary that ranges between 1.0 metre for Dwellings 1 and 4 and 3.4 metres for Dwellings 2 and 3.
- Dwellings 2 and 3 have only two bedrooms each as opposed to three bedrooms.
- The ground level living area of Dwelling 5 has been deleted in order to enable both a larger communal landscaping area and a residential waste bin storage area (ie. general waste and recyclable material).
- The residential flat building containing Dwellings 1 – 4 has had its setback from the north-western rear boundary increased from 6.9 to 7.9 metres.
- The landscaping areas have been increased throughout the site, namely adjacent the open-air car parking area (ie. situated adjacent St Johns Lane and Payneham Road), in front of the office building and adjacent the communal areas along the northern section of the site.
- Green waste bins are to be accommodated adjacent the north-western side of the ten (10) space open-air car park.
- Permeable paving is introduced adjacent the front and side of the office building, the waste bin storage areas and to portions of the ground level private open space areas of Dwellings 1 – 4 (which also include lawned areas).

Discussion

The following discussion is based on the reasons for refusal that were given by the Panel at its meeting held on 21 October 2019.

Setback to St Johns Lane/massing

In terms of setback guidelines for three storey residential development from a secondary frontage, Medium Density Zone Principle of Development Control 7 states that development should be designed within the following setback parameters:

“Minimum setback from a secondary road frontage:

- Arterial roads 6.5 metres
- All other (public) roads 0.9 (single storey)
2 metres (where it does not exceed 2 storeys in height)”

When read in isolation, this guideline states that single storey development should be set back at least 900mm from a non-arterial road, while development of two storeys in height should be set back at least 2.0 metres. Principle 7 does not provide a setback distance for development exceeding two storeys despite there being a separate policy stating three storey development is anticipated. However, this policy should not be read in isolation.

The property at 413 Payneham Road is located in the Medium Density Policy Area of the Residential Zone. Therefore, guidelines for development in the Residential Zone generally are also applicable. In this respect, Residential Zone Principle of Development Control 8 is applicable, which states:

“Minimum setback from secondary road frontage:

- Arterial roads 4.5 metres
- Non-arterial roads 0.9 (single storey)
2 metres (upper storey)”

Principle 8 provides that any upper storey should be set back at least 2.0 metres.

The Applicant has sought to address the concern raised by the Panel by revising the configuration of the residential flat building containing Dwellings 1 to 4 at the second floor level (ie. third storey). More specifically, Dwellings 1 and 4 have been set back 1.0 metres from St Johns Lane and Dwellings 2 and 3 have been set back 3.4 metres from St Johns Lane. This equates to an average setback from the secondary street frontage of 2.2 metres.

The proposed revised setback is considered to result in an improvement and somewhat less dominant appearance, which is more consistent with Residential Zone Principle of Development Control 8 as well as the Residential Zone Desired Character Statement (in part) and City Wide Principle of Development Control 30(a), which state respectively:

“Dwellings will be designed to provide a good level of visual interest and articulation and should avoid large expanses of uninterrupted walling, tilt-up concrete or glass, or the monochromatic use of materials and finishes.”

And

“Buildings should be designed to minimise their visual bulk and provide visual interest through design elements such as:

(a) Articulation”

That said, the balconies of the first floor level (ie. second storey) of Dwellings 1-4 remain on the boundary of St Johns Lane, as per the original proposal and contrary to the 2.0m setback guideline in Medium Density Zone Principle of Development Control 7 for development.

Usability of private open space and relationship to living areas

The Panel was concerned that ground level private open space associated with all proposed dwellings, was not associated with internal living areas and was therefore not convenient or functional. This is a factor of the dwellings having their main living areas upstairs, which the Panel acknowledged, however considered that more generous balcony areas should be provided in association with the main living areas in those circumstances.

The compromise proposal does not change the relationship of ground level open space with living areas, other than in respect of Dwelling 5, where the relationship has actually been worsened, through the removal of the main living area from the ground level.

Similarly, the compromise proposal does not improve the size of the balconies at upper level. The balconies of Dwellings 5-10 remain below the dimension and area guidelines in City Wide Principle of Development Control 222. In particular, instead of being 2.0m wide, they are 1.7m wide and instead of having an area of 8m² they have an area of 7.5m².

Street interface

At the street level and within St Johns Lane, the proposed front fencing and design appearance to Dwellings 1 – 4 remains unchanged. Accordingly, there is no change with respect to activation/connectivity with the street frontage at ground level. Whilst the 1.8 metre high solid front fencing lessens the possibility of passive surveillance to occur and activating the street frontage of the subject land as part of the proposed development, having a high solid front fence has the benefit of supplementing the noise control as called for by City Wide Principle of Development Control 238. That said, it is acknowledged that this aspect does not address the Panel’s previous concerns.

Dwelling orientation

The ten proposed Community Lots and the ten proposed dwellings are configured and orientated the same as the original proposal considered by the Panel at its meeting in October 2019. It is acknowledged that all of the proposed dwellings do not maximise access to northern sunlight due to the orientation of the proposed lots and subsequent configuration of the dwellings, and as such, this aspect of the compromise proposal is considered to achieve a poor outcome.

Landscaping

The Applicant has provided a detailed landscaping scheme, which provides additional levels of landscaping. In particular, the compromise proposal includes the provision of wider landscaping strips and buffers primarily adjacent to the internal residential driveway and adjacent to the two (2) visitor car parking areas and waste bin enclosures. Within these areas, a variety of trees (for example Crepe Myrtles and Upright Flowering Plums) and grasses in combination with small shrubs are proposed which is considered to be a positive aspect of the amended proposal. On this basis, the proposed landscaping provision is considered to satisfy City Wide Principle of Development Control 73 and 76.

Some additional ground level landscaping (ground covers and shrubs) of individual dwelling lots is proposed for Dwellings 5 – 10 with lawned areas proposed for Dwellings 1 – 4. Accordingly, the proposed landscaping for the ten dwellings is considered to accord with City Wide Principle of Development Control 221 in that the proposed landscaping will enhance the living amenity of the future occupiers of these dwellings.

With respect to Dwellings 5 - 10, it is anticipated that any future residential occupiers are likely to incorporate potted plantings within the internal courtyard areas and in overall terms, the landscaping provision for each of these dwellings is considered to enhance the living amenity for the future occupiers as these dwellings have an outlook to their individual private open spaces provision from their internal living areas.

Site facilities and storage

The Applicant has amended the proposal in order to create a general waste and recycling bin collection area (comprising 4.2 metres x 3.9 metres) adjacent the north-western rear boundary for the residential occupiers of the ten proposed dwellings. The proposed area would provide for sufficient space for ten 240 litre (ie. recycling) and ten 140 litre (ie. general waste) bins to be placed within this area. The waste bins for future occupier of the office component are to be placed in a designated collection area (comprising 6.9 metres x 1.7 metres) adjacent the northern side of the open-air car parking area. This area is also to accommodate communal green waste collection for occupiers of the ten dwellings.

In this context, this aspect of the amended proposal is consistent with City Wide Principle of Development Control 233(c), which states:

*“Site facilities for group dwellings and residential flat buildings of greater than six dwellings should include:
(c) household waste and recyclable material storage areas away from dwellings.”*

Adequacy of parking

The configuration and number of car parking spaces both in the open-air car park (including shared access to three of the ten spaces) and associated with the ten dwellings remains unchanged. The car parking configuration and the proposed number of car parking spaces is considered acceptable and in accordance with the relevant Development Plan policies, as set out in the original report presented to the Panel.

Other Matters - Vehicular access/egress and traffic movements

City Wide Principle of Development Control 189 provides guidelines for the configuration of driveway and manoeuvring areas for residential flat buildings, so as to achieve safe and convenient access arrangements. In particular, the shared driveway should have a 6.0 x 6.0 metre paved carriageway at the front of the property and the remainder of the paved carriageway should be no less than 5.0 metres in width with 1.0 metre of landscaping along one or both sides. The original proposal considered by the Panel at its October meeting was consistent with this criteria.

However, the Applicant has amended the compromise proposal so that the landscaping area adjacent the north-western elevation of Dwelling 1 is increased in width which in turn results in the paved carriageway being only 3.5 metres (for a section) in width as opposed to 5.0 metres in its entirety. This is a negative aspect of the proposal as it creates a “pinch point” that does not allow for vehicles to turn into and out of the site simultaneously within this section of the carriageway. This is considered problematic, particularly as ten (10) dwellings would utilise the access/egress point.

Summary

The amended proposal partially addresses the reasons for refusal that were given at the Panel meeting held on 21 October 2019.

The landscaping areas and provision of plantings have both been increased and enhanced, resulting in improved amenity for both future occupiers of the land as well as enhancing the visual appearance of the development when viewed from the public realm.

The second level of the south-westernmost residential flat building incorporates a modulated setback from the secondary frontage which in turn assists in reducing the extent of visual massing when viewed from St Johns Lane.

Two designated site waste storage facilities has been introduced that are well separated from the proposed dwelling dwellings.

The proposed changes are generally considered to add further merit to the proposed development. That said, some of the changes have consequential negative impacts, such as the constriction of the driveway access/egress point and the removal of the ground level living area/private open space relationship from Dwelling 5.

The number and configuration of the dwellings remains unchanged, as does the location and size of the office and the overall proposed bulk and scale of the development.

Although the Appellant has not substantially addressed all of the Panel's reasons for refusal, it remains the view of staff that the proposal is considered to sufficiently accord with the Development Plan to warrant consent, for the reasons set out in the previous report and the further analysis provided in this report.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan, the Environment Resources & Development Court be advised that Development Application No 155/C31/19 by KSBA Invest Pty Ltd, to undertake a Community Title Land Division creating eleven (11) Community Lots and the construction of a mixed use development comprising ten (10) three-storey townhouses and a two-storey office, including a car parking area, civil works and landscaping , at 413 Payneham Road, Felixstow, is acceptable subject to the following conditions, or similar conditions as deemed suitable by the Court:

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 Plan of Division (Reference Number 19705.2; Drawing Number 19705.2-COM; and Version Number 1) prepared by John C Bested 7 Associates Pty Ltd and received by the Council on 25 July 2019.
- Scheme Description prepared by Raymond 7 Co. Conveyancers and received by the Council on 15 October 2019.
- plans and elevations (Project Number 30044) prepared by TECTVS and received by the Council on 27 November 2019 and 5 December 2019.

SCAP Conditions of Consent

1. The financial requirements of the SA Water Corporation shall be met for the provision of water supply and sewerage services. (SA Water H0087476)

The developer must inform potential purchasers of the community lots in regards to the servicing arrangements and seek written agreement prior to settlement, as future alterations would be at full cost to the owner/applicant.

For SA Water to assess this application, the developer must advise SA Water the preferred servicing option. Information can be found at: <http://www.sawater.com.au/developers-and-builders/building,-developing-and-renovating-your-property/subdividing/community-title-development-factsheets-and-information>. For queries call SAW Land Developments on 74241119

2. Payment of \$65,277.00 into the Planning and Development Fund (9 allotment/s @ \$7253.00 /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 State Planning Commission marked "Not Negotiable" and sent to GPO Box 1815, Adelaide 5001 or in person, by cheque or credit card, at Level 5, 50 Flinders 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 State Commission Assessment Panel for Land Division Certificate purposes.

Department of Planning, Transport and Infrastructure Conditions

1. Any obsolete crossover(s) on Payneham Road shall be closed and reinstated to Council's kerb and gutter standards at the applicant's expense prior to operation of the development.
2. Stormwater run-off shall be collected on-site and discharged without jeopardising the safety and integrity of the road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's expense.

Council Conditions

1. The portion of all upper floor windows on the two residential flat buildings, less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwellings 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. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
2. The portion of all upper floor windows on the south-western elevation of the office building, less than 1.7 metres above the internal floor level shall be treated prior to occupation of the office area 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. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
3. The portion of the upper floor balcony areas of Dwellings 1 – 4 less than 1.7 metres above the floor level of the balcony shall be treated prior to occupation of the dwellings 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 (Suggested treatments include, but are not restricted to, wing walls, solid or translucent panels or perforated panels or metal trellises which have a maximum of 24% openings).

4. The northwest side of the upper level balcony of Dwelling 5, shall be screened to a minimum height of 1.7 metres above the finished floor level of the balcony, in order to prevent views of the private open space area at 13 and 15 Pearce Avenue.
5. 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 either the adjacent street kerb & water table or a Council underground pipe drainage system.
6. A Stormwater Management Plan shall be prepared and provided to the Council with the documentation for Building Rules Consent, which illustrates stormwater discharge from the subject land at pre-development levels. On-site retention of stormwater may be required during high rainfall events. Sufficient storage (above or below ground) shall be provided to safely contain stormwater runoff from the contributing catchments for a 5 year ARI rainfall event.
7. Each dwelling shall be installed with a rainwater tank with a storage capacity not less than 2 kilolitres (2,000 litres), or alternatively, a 20 kilolitre communal rainwater tank shall be installed, with each dwelling contributing rainwater from at least 50m² of its roof catchment area to the communal tank and in either case, water shall be plumbed to each individual dwelling to 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.
8. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the landscaping plan and schedule, prior to the occupation of the premises and shall be maintained to the reasonable satisfaction of the Council or its delegate.
9. 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.
10. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
11. All of the car parking, driveways and vehicle manoeuvring areas shall be constructed of concrete or paving bricks and drained in accordance with recognised engineering practices prior to occupation of the premises.
12. All car parking spaces shall be linemarked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.
13. All trade waste and other rubbish 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.
14. All refuse and stored materials shall be screened from public view to the reasonable satisfaction of the Council or its delegate.
15. At no time shall any goods, materials or waste be stored in designated car parking areas, driveways, manoeuvring spaces or landscaping.
16. All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Council or its delegate.

Moved

The panel does not accept the compromise proposal for the reasons previously given.

Seconded and carried

3. **OTHER BUSINESS**
(Of an urgent nature only)
4. **CONFIDENTIAL REPORTS**
Nil
5. **CLOSURE**
7:59pm

Terry Mosel
Presiding Member

Mark Thomson
Manager Development Assessment