

Council Assessment Panel Minutes

20 July 2020

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 Norwood Concert Hall, Norwood Town Hall

HOUR 7.00 PM

PRESENT

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

Staff Mark Thomson Manager Development Assessment
Tala Aslat Planning Assistant
Adam Bowey Senior Urban Planner
Nenad Milasinovic Senior Urban Planner

APOLOGIES

ABSENT

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 15 JUNE 2020**

Motion was put that the minutes of the Meeting of the Council Assessment Panel, held on 15 June 2020 be taken as read and confirmed.

Seconded and Carried

2. STAFF REPORTS

2.1 DEVELOPMENT APPLICATION 155/306/2020 – KEYLEND PTY LTD – 30 BEULAH ROAD, NORWOOD

DEVELOPMENT APPLICATION:	155/306/2020
APPLICANT:	Keylend Pty Ltd
SUBJECT SITE:	30 Beulah Road, Norwood (Certificate of Title Volume: 5873 Folio: 190)
DESCRIPTION OF DEVELOPMENT:	Demolition of a warehouse and showroom and construction of a mixed use development comprising basement car parking, office accommodation and four (4) dwellings (non-complying)
ZONE:	Business Zone Beulah Road 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 information to the Panel in order for a determination to be made on an Application for the demolition of a warehouse and showroom and construction of a mixed use development comprising basement car parking, office accommodation and four (4) dwellings.

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

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.

Background

At the meeting held on 17 February 2020, the CAP considered Development Application 155/739/19 for the construction of a mixed use development comprising basement car parking, office accommodation and five (5) dwellings on the subject land.

The CAP determined to refuse Development Application 155/739/19 for the following reasons:

1. *The scale of the building is excessive resulting in impacts on the residential property to the south.*
2. *The amount of car parking is inadequate.*

At the meeting held on 18 May 2020, the CAP considered Development Application 155/146/20 for the construction of a mixed use development comprising basement car parking, office accommodation and four (4) dwellings on the subject land.

The CAP determined to refuse Development Application 155/146/20 for the following reasons:

1. *The amount of car parking is insufficient having regard to the two proposed uses of the land and resulting total floor area.*

Development Application 155/306/2020, which is the subject of this report, was lodged on 2 June 2020. The application is very similar to Development Application 155/146/20, with the key differences being a decrease in office space of 30m² and an increase in the number of car parking spaces from 21 to 25 car parking spaces.

Subject Land Attributes

Shape:	rectangular
Frontage width:	19.28 metres
Depth:	33.48 metres
Area:	645.5m ²
Topography:	essentially flat
Existing Structures:	single storey warehouse and showroom
Existing Vegetation:	nil

The subject land is located on the corner of Beulah Road and Charlotte Place and contains a brick warehouse constructed in the mid to late twentieth century. The latest use included a showroom facing Beulah Road. There are no Council records of previous approvals, indicating that it was constructed prior to the introduction of a planning regime in the 1970's.

The warehouse/showroom is constructed to the northern, eastern and western boundaries of the subject land. Behind the warehouse is a hard-stand loading area and behind that, adjacent to the southern (rear) boundary is a right-of-way in favour of 26 Beulah Road, ranging in width from 2.74m to 2.82m.

Locality Attributes

Land uses:	mix of commercial uses and some residential
Building heights (storeys):	one and two storey

The locality is considered to extend approximately 100 metres east and west of the subject land along Beulah Road and also include the section of Charlotte Place between Beulah Road and Fisher Street.

The portion of the locality along Beulah Road is located within the Business Zone (Beulah Road Policy Area) while Charlotte Place is located within the Residential Historic (Conservation) Zone (Norwood 1 Policy Area).

The locality on Beulah Road contains a mix of single and double storey office buildings constructed in a variety of architectural styles which have been constructed over different periods. A mixed use development comprising ground floor office areas and four residential apartments within a two storey building with undercover at-grade car parking is located at 27 Beulah Road, opposite the subject land. A Local Heritage Place (the former Salvation Army Hall, and now the Council's Beulah Road Community Hall) is located adjacent the subject land at 31 Beulah Road. Building setbacks along Beulah Road are generally in the order of 2- 3 metres.

Charlotte Place contains dwellings in the form of single storey detached and semi-detached cottages, also with street setbacks in the order of 2-3 metres. Whilst making a positive contribution to the historic character of Charlotte Place, none of the dwellings in the street have any heritage listing.

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

Proposal in Detail

The Applicant seeks consent to demolish the existing warehouse/showroom and construct a mixed use development comprising basement car parking for twenty five (25) cars, office accommodation and four (4) dwellings.

The basement car parking area is almost entirely below ground at the northern end of the site adjacent Beulah Road and ramps up towards the southern end, such that it is up to 1.3 metres above ground adjacent to the right of way. Of the 25 car spaces provided, 7 are proposed to be associated with the dwellings and 18 are proposed to be associated with the office.

The office accommodation is approximately 1 metre above ground floor level at the northern end of the site adjacent Beulah Road, whilst at the southern end it is approximately 1.6m above ground level, to enable vehicular access to the car parking off Charlotte Place. The ceiling level is consistent across the entire office area, resulting in 3.3m high ceilings over the northern section and 2.7m high ceilings over the southern section.

The apartments are located above the office level and are accessed by a common lift and access foyer. All four apartments have two bedrooms. Clerestory windows provide access to northern sunlight to the inboard bedrooms of all apartments and each apartment has a balcony. A skylight provides access to natural light to the common foyer.

The proposal presents as an approximately 6 metre high detailed red brick building, with slightly recessed steel and glass above that, to a total height of 8 metres. The clerestory window sections protrude higher, to a total height of approximately 9.4 metres.

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	Office	Apartments	Development Plan Merit Assessment Quantitative Guideline
Site Area		645.5m ²	N/A
Allotment Width		19.28 m	N/A
Allotment Depth		33.48m	N/A
External Wall Height*		8.0m	N/A
Maximum Overall Height (to roof apex)*		9.4m	Two storey
Floor Area (footprint)		580m ²	N/A
Site Coverage		90%	N/A
Floor Area (total)	440m ²	80.5m ² – 102.8m ²	N/A
Private Open Space	N/A	15.0m ² – 29.3m ²	10m ² (1 bedroom) 12m ² (2 bedroom)
Street Set-back	Nil	Nil	N/A
Side Set-back	Nil	Nil	N/A
Rear Set-back	2.8m	Nil	N/A
Car Parking Provision	18 spaces	7 spaces	18 spaces (office) 10 spaces (dwellings)

* Heights are taken from the finished ground floor level and in the case of external wall heights, are measured to the under-side of the gutter or where there is no external gutter, to the top of the parapet wall. Where wall heights vary at different points of the dwelling, a range is given.

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

Notification

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

Three (3) representations were received (all opposed) in response to this notification, copies of which are attached (**Attachment C**). The key issues of concern raised by representors are, in summary:

- Insufficient on-site car parking
- Conflict between residential and established non-residential uses

The following representors desire to be heard personally by the Council Assessment Panel (CAP):

- *Mr Martin Oldfield*

A letter was also received from Ms Christine Francis in support of the proposal, prior to the commencement of the public notification period. Ms Francis intended to re-submit the letter during the public notification period, however failed to observe notice of the Development Application. A copy of the letter by Ms Francis is contained in Attachment C, however as it was not received during the public notification period, Members should not consider it as a valid representation.

The Applicant has responded to the representations received and a copy of their response is attached (**Attachment D**).

A summary of the response is provided below:

- The proposed amount of car parking now complies with the relevant Development Plan criteria, due to an increase in supply and decrease in office floor area.
- The application is prepared to accept a condition to include double glazing for the dwellings, to address concerns regarding land use conflict;

State Agency Consultation

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

Discussion

The subject land is located within the Business Zone of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is a non-complying form of development, due to the office having a gross leasable area greater than 250m² (it is 440m²).

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:

Business Zone Objectives: 1, 3
Business Zone Desired Character Statement
Business Zone Principles of Development Control: 1, 3, 8, 12

City Wide Objectives: 1, 2, 3, 7, 67
City Wide Principles of Development Control: 3, 291, 303, 305, 306

Objectives 1 and 3 of the Business Zone state respectively:

“Development providing a range of business and related activities, including offices, consulting rooms and retail showrooms.”

and

“Residential development located above compatible ground level non-residential development in identified locations along arterial road frontages, with some opportunity for wholly residential development in identified locations.”

Relevant excerpts from the Desired Character Statement for the Business Zone are set out below:

“The Business Zone accommodates a range of existing business activities in premises of variable nature and quality, with opportunity for the development and consolidation of offices and consulting rooms with some retail showrooms as well as for the upgrading, expansion and consolidation of business activities. Progressive improvements should be made to the environmental and servicing aspects of business, and development in the zone should progressively upgrade existing business areas and main road frontages.

Opportunities for residential development located above compatible non-residential land uses will be provided where identified in the West Norwood and Magill Road West Policy Areas along arterial road locations. In addition, wholly residential development located behind the arterial road frontage is appropriate within the Magill Road West Policy Area.”

Beulah Road Policy Area

“Beulah Road Policy Area relates to established business development at the western end of Beulah Road and extends to encompass land on the eastern side of Sydenham Road. Development should achieve further consolidation of the existing office and warehouse functions with associated showrooms.”

West Norwood Policy Area

“The West Norwood Policy Area comprises localities along the arterial road frontages of The Parade, Fullarton Road and Kensington Road in West Norwood should be consolidated as an area for high quality offices and consulting rooms. The establishment of residential dwellings above ground level non-residential land uses will be considered within this Policy Area.”

Magill Road West Policy Area

“The area is generally an appropriate location for offices and warehouses. Additional industry or light industry should only be introduced in the context of reasonable on-site expansion of Caroma Industries, and having regard to the protection of the amenity of the residential development to the south of the site. Along the Magill Road frontage, the establishment of residential dwellings above ground level non-residential land uses will be considered within this Policy Area. Behind the Magill Road frontage, wholly residential buildings are appropriate.”

Principle of Development Control 1 of the Business Zone states:

“Development in the Business Zone should primarily be for offices, consulting rooms, retail showrooms and in identified locations, residential development above ground floor non-residential land uses.”

Principle of Development Control 3 of the Business Zone states:

“Development within the Business Zone should not include land uses which by their operation will adversely affect the amenity of the adjacent residential zones.”

Principle of Development Control 8 of the Business Zone states:

“For office and/or consulting room development, the gross leasable area should not exceed 250 square metres per individual building, except in the West Norwood Policy Area where the gross leasable area should not exceed 500 square metres per individual building.”

The proposed use of the land for office and residential purposes is consistent with the objectives of the Business Zone generally. However, the proposed residential use is inconsistent with the stated policy for the Beulah Road Policy Area, as is the size of the proposed office use.

Residential development is only envisaged in the Business Zone where it is located above non-residential land uses and where it is located in either the West Norwood Policy Area or Magill Road West Policy Area.

Office development over 250m² is only envisaged in the West Norwood Policy Area, where it may be up to 500m² in area.

The Beulah Road Policy Area extends from Fullarton Road (not including properties fronting Fullarton Road) to Sydenham Road and includes some properties along the eastern side of Sydenham Road north and south of Beulah Road. On the other hand, the West Norwood Policy Area (where offices of the scale proposed and first floor dwellings are anticipated) includes part of Fullarton Road and Edmund Street and is approximately 100 metres away from the subject land. It also includes the southern side of The Parade west of Sydenham Road and the eastern side of Fullarton Road, south of The Parade.

The policy intent for not allowing first floor dwellings or offices greater than 250m² in the Beulah Road Policy Area is not clear. The adversity to dwellings in the policy is likely due to a concern that this section of Beulah Road and Sydenham Road contains several warehouse/showrooms with associated noise impacts which may not be compatible with residential use, whereas other policy areas have more of a focus on office uses, which are relatively low-impact.

In this respect, the section of Beulah Road in the immediate locality of the subject land contains mostly office uses and also includes residential development at first floor level opposite the subject land at 27 Beulah Road. The subject land is also on the border of the Residential Historic (Conservation) Zone. In this context, the introduction of dwellings as proposed, is considered to be appropriate and not likely to lead to land use conflicts. The adjacent hall at 31 Beulah Road is a potential conflict source, however the use of acoustic glazing as proposed in the response to representations is a suitable way of addressing this and in any event, the subject land is located further from the hall than several existing dwellings in the locality at 27 Beulah Road and in Runge Place.

The adversity to offices over 250m² in the policy is potentially aimed at encouraging larger office buildings along arterial roads, due to character considerations and/or a desire to promote those arterial road frontages as large-scale administration precincts. That said, Edmund Street is a nearby local street and is partly included in the West Norwood Policy Area where larger offices are envisaged.

If the policy intent behind restricting office size relates to character, the proposal does not present as a typical large office building. Its design is sympathetic to the mix of building types in the street, including warehouse/showroom buildings. If, on the other hand, the policy intent relates to promoting other locations as large-scale administration precincts, then it is acknowledged that the proposal is inconsistent with that intent. Allowing offices of the size proposed within the Beulah Road Policy Area could lead to less demand in the West Norwood Policy Area, where larger scale offices are envisaged.

That said, despite being greater than the 250m² threshold for offices in the policy area, the proposal is for only one (split) floor level and is not of a scale which is considered incongruous with surrounding offices in the locality. It also would seem consistent with the objective of the policy area to achieve further consolidation of the existing office and warehouse functions.

streetscape/bulk/scale/height/character

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

Business Zone Principles of Development Control: 4, 5, 6, 7, 9

City Wide Objectives: 18-22

City Wide Principles of Development Control: 28-47

Principle of Development Control 7 of the Business Zone states:

“Development in the Business Zone should not exceed two storeys in height above mean natural ground level, except where identified in the West Norwood Policy Area and the Magill Road West Policy Area, where development incorporating a residential component above ground level non-residential land use/s, should not exceed three (3) storeys above natural ground level.”

City Wide Principle of Development Control 32 states:

“The height of buildings, structures and associated component parts should not exceed the number of storeys or height in metres above the natural ground level prescribed in the relevant Zone and/or Policy Area.

For the purposes of this Principle, ‘storey’ refers to the space between a floor and the next floor above, or if there is no floor above, the ceiling above. A mezzanine floor level shall be regarded as a floor. A space with a floor located below natural ground level shall be regarded as a storey if greater than one metre of the height between the floor level and the floor level above is above natural ground level.”

As the floor level of the office is more than 1 metre above natural ground level at the southern end of the building, the proposed building is considered three storeys at that point. However, overall, the building is considered to appear as a two storey building and is compatible with the scale of two storey buildings in the locality.

The use of brick for the ground level and upper level balcony balustrades, creates a 6.0m high street wall, which is approximately the same height as the existing warehouse/showroom building on the subject land and lower than most 2 storey buildings in the locality. The visually recessive glass and steel sections above the red brick take the height to 8.0m which is taller than some two storey buildings in the locality, but akin to the adjoining building at 26 Beulah Road. The clerestory window/roof sections are further recessed and unlikely to be readily visible in the streetscape.

The height of the proposed building is therefore considered appropriate, despite being technically more than two storeys for a small section.

Principles of Development Control 5 and 6 of the Business Zone state respectively:

“Car parking and service areas should be located at the rear of buildings or in the form of basements or part-basements except in the West Norwood Policy Area east of Charles Street, Beulah Road Policy Area and Magill Road East Policy Area, where car parking and service areas in basements, part-basements or at-grade beneath occupied areas of buildings should not be included in development.”

and

“Where development includes basement, part-basement or at-grade beneath-building car parking, it should not interrupt the continuity of the streetscape in both the horizontal and vertical planes and should be visually screened from the street.”

The policy intent behind not allowing car parking in basements, part basements or at grade beneath occupied areas of buildings in certain parts of the zone (including the Beulah Road Policy Area) is likely to relate to the streetscape impact that such an arrangement typically has. In particular, the basement is typically visible at street level through the need for ventilation, resulting in poor levels of street activation and a relatively poor streetscape outcome.

In Development Application 155/739/19, the basement was entirely below ground, other than a section facing Charlotte Place, where the office floor was raised, to provide ventilation and access to the car park. In the current proposal, the office floor ranges in height above ground from 1.0 to 1.4 metres. The reason that the office floor level is no at ground level at the northern end adjacent Beulah Road, is because stacker car parking spaces are now proposed at that end. In addition, the applicant has received advice from a Traffic Engineer, that the ramp down to the stacker spaces could not be made any steeper.

As a result, whilst the building is no higher than it was in the previous application, the Beulah Road facade differs insofar as the windows no longer begin at ground level. Instead, they begin 1m above ground, with narrow openings (with steel flat bars) below to provide ventilation to the basement. The same treatment is used for the Charlotte Place façade. This treatment is considered to have a minimal impact on the character of the locality and is considered acceptable.

It is also noted that the mixed-use building opposite the subject land at 27 Beulah Road has 'at grade beneath occupied areas of building' parking off Runge Place contrary to PDC 5 and forms part of the established character of the area.

Principle of Development Control 9 of the Business Zone states:

"Development should incorporate architectural features and variations in set-back on street frontages so as to break-up facades and enhance the streetscape. Long, continuous facades of greater than 20 metres should not be developed."

The proposal is considered to be consistent with Principle 9. Although the building does not have large variations in setbacks, it is very well detailed, with a high level of visual interest, using high quality materials and finishes.

Principle of Development Control 4 of the Business Zone states:

"Development adjacent to the Kensington 1 and Kensington 2 Policy Areas of the Residential Historic (Conservation) Zone should be compatible in design and scale with the character sought for that Zone and those Policy Areas."

There is no such requirement for development adjacent to the Norwood 1 Policy Area of the Residential Historic (Conservation) Zone.

The proposed building is considered to make a positive contribution to the streetscape of both Beulah Road and Charlotte Place.

Setbacks/Overshadowing/overlooking

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

Business Zone Principle of Development Control: 4

City Wide Principles of Development Control: 11, 31, 35, 71, 195, 196 & 235

The occupier of the adjoining residential property at 1 Charlotte Place, which is located in the Residential Historic (Conservation) Zone, raised concern that the first proposal in Development Application 155/739/19 would cause excessive overshadowing of windows and solar panels. The second proposal and the current proposal addresses that concern, by reducing the number of dwellings, allowing an increase in the setback of the upper level from the property at 1 Charlotte Place to the south from 2.8 metres to 6.6 metres, whilst retaining a curved wall to further reduce overshadowing. The result of this change is access to winter sunlight to the south facing windows of the dwelling at 1 Charlotte Place. The occupier of 1 Charlotte Place submitted a representation on the second proposal and thanked the applicant for the changes to the plan in response to her concerns regarding access to sunlight.

City Wide Principle of Development Control 46 states:

"Development adjacent to the boundary of a Residential Historic (Conservation) Zone, should provide a transition down in scale and mass to complement the built form within the Residential Historic (Conservation) Zone."

The current application is considered to sufficiently address Principle 46.

Also applicable is City Wide Principle of Development Control 71, which states:

"Development should maintain solar access, for a minimum of 3 hours between 9am and 3pm on 21 June, to:

- (a) any existing solar collectors (such as solar hot water systems and photovoltaic cells) on adjoining properties; or*

- (b) *an area of at least 10m² on the north facing roof of the existing building/s, in the event that there are no existing solar panels and/or photovoltaic cells on the adjoining property; and in any case development should not increase the overshadowed area by more than 20 per cent in cases where overshadowing already exceeds these requirements.*

Drawing number SKDA 12 shows that the proposal will maintain solar access during the winter solstice (21 June) to the entirety of the existing photovoltaic cells on the adjoining property, throughout the day.

With respect to overlooking, the private open space at the rear of 1 Charlotte Place is enclosed with a shade structure, such that overlooking of this area from the office and/or apartments windows will not result in a loss of privacy. Similarly, the two windows on the northern side of the dwelling at 1 Charlotte Place comprise obscure lead-light. As such, it is considered that privacy screening is not required for the proposed balconies at the southern end of the building.

Private open space

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

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

City Wide Principle of Development Control 226 states:

“Residential development in the form of apartments within a multi storey building should have associated private open space of sufficient area and shape to be functional and capable of meeting the likely needs of the occupant(s) and should be in accordance with the following requirements:

- (a) studio (no separate bedroom) or one bedroom, a minimum area of 10 square metres of private open space;*
- (b) two bedrooms, a minimum area of 12 square metres of private open space; or*
- (c) three bedrooms or greater; a minimum area of 15 square metres of private open space.”*

The proposal accords with Principle 226, with the two-bedroom apartments having balconies ranging in area from 15m² to 29.3m². The dimensions of the balconies accord with City Wide Principle of Development Control 222, as they have a depth of at least 2.0 metres.

Carparking/access/manoeuvring

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

Business Zone Desired Character Statement

City Wide Objective: 34

City Wide Principles of Development Control: 98, 102, 113, 115, 118, 120, 122, 123, 124, 130, 134

The Desired Character Statement for the Beulah Road Policy Area states:

“Vehicular movement is dominated by Beulah and Sydenham Roads which should provide the primary point of access for delivery, service and visitor vehicles, in preference to access via adjoining residential areas.”

The above statement is directed at delivery, service and visitor vehicles. Unlike the current warehouse/showroom, the proposed office use will not have any significant associated delivery or service vehicle movements. Unlike a retail showroom, which is also envisaged in the zone, any visitor vehicle movements associated with the proposed office and residential use would also be minimal. On balance, the impact on the amenity of the adjoining residents on Charlotte Place resulting from vehicular movements associated with the proposed development, is likely to be similar to impacts associated with the existing use.

With respect to the adequacy of the proposed amount of car parking spaces, City Wide Principles of Development Control 120 and 122 respectively state:

“Development should provide off-street vehicle parking in accordance with rates contained in Tables NPSP/8 and 9.”

and

“A lesser on-site car parking rate may be applied to applicable elements of a development in any of the following circumstances:

- (a) development includes affordable housing or student accommodation; or
- (b) sites are located within 200 metres walking distance of a convenient and frequent service fixed public transport stop; or
- (c) mixed use development including residential and non-residential development has respective peak demands for parking occurring at different times; or
- (d) the proposed development is on or adjacent to the site of a heritage place, or includes retention of a desired traditional building and its features, which hinders the provision of on-site parking or the most effective use of the spaces within the site; or
- (e) the parking shortfall is met by contribution to a Car Parking Fund (where one is available); or
- (f) the development qualifies for certification under the Green Energy rating program, or similar program; or
- (g) where it can be demonstrated that it would not result in a greater demand for on-street car parking on existing streets in the locality.”

The following table outlines the car parking demand and supply associated with each element of the proposal.

Element	Tables NPSP/8 and 9	Required
Office	4 spaces per 100m ²	18
Apartment occupants	2 spaces per 2 bedroom dwelling	8
Apartment visitors	1 space (exclusive of vehicle manoeuvring areas) for every 2 dwellings	2
Total Demand		28
Proposed		25

The proposal qualifies for discounting of car parking in accordance with clause (c) of Principle 122, as:

- the proposal is a mixed use development including residential and non-residential development with respective peak demands for parking occurring at different times.

While Principle 122 does not quantify the amount of discounting which should apply, in a practical sense, the visitors to the dwellings would use the office car parking spaces outside of business hours. Therefore, discounting of 2 spaces (ie. the amount of visitor parking required for the dwellings) is considered reasonable. This lessens the shortfall from 3 spaces to 1 space.

As the subject land is located in close proximity to the Urban Corridor Zone and District Centre (Norwood) Zone, it is considered reasonable to consider the car parking rates which apply to development within those zones. Frequent public transport along The Parade and Magill Road is within a reasonably short walking distance of the subject land. In addition, Beulah Road is a cycling route. The following table outlines the car parking demand and supply associated with each element of the proposal, if the Urban Corridor /District Centre (Norwood) Zone rates were applied:

Element	Table NPSP/9A	Required
Office	3 spaces per 100m ²	13
Apartment occupants	1 per dwelling	4
Apartment visitors	0.25 per dwelling	1
Total Demand		18
Proposed		25

Whilst it may not be appropriate to strictly apply the above rates, since the subject land is not in the Urban Corridor Zone or District Centre (Norwood) Zone, given the close proximity and similar characteristics of the locality, applying a similar car parking rate would not be unreasonable.

Another approach to the assessment of car parking adequacy, is to consider City Wide Principle of Development Control 121, which states:

“Development in the nature of additions to existing non-residential premises should provide on-site car parking in accordance with the principles of development control to serve new floor area while maintaining existing car parking numbers for the existing floor area.”

The intent behind Principle 121, is to ensure any existing on-site car parking shortfalls associated with an existing non-residential site, carry through when additions are undertaken, provided that those existing shortfalls are not worsened.

Applying the rates in Table NPSP/9, the current warehouse/showroom has a car parking demand of 1 space per 100m² for the warehouse and a rate of 2-4 spaces per 100m² for the showroom. This results in a demand for approximately 6-9 spaces. The rate for all non-residential uses in the Urban Corridor /District Centre (Norwood) Zone (Table NPSP/9A) is 3/100. Applying this rate, the current warehouse/showroom has a demand for 12 spaces.

There are no on-site car parking spaces on the subject land currently. Whilst the area between the rear of the building and the right-of-way has been used for parking of vehicles, it is a loading/unloading area associated with the warehouse. Therefore, depending on what rates are used, the current use rights associated with the subject land result in a car parking shortfall of between 6 and 12 spaces. Even at the lower end, this is a greater shortfall than that of the proposed development.

Accordingly, the proposal is not likely to result in a greater demand for on-street parking than what would result from a use of the building consistent with existing use rights. On balance, the amount of car parking proposed is considered appropriate.

Summary

The proposed development is non-complying, due to the office component having a floor area greater than 250m². Despite this, the policy intent of providing a floor area cap is considered to be achieved, as the proposed building is of a scale which conforms with the character of the locality.

The residential component of the proposal is not envisaged in the Beulah Road Policy Area, however the character of the immediate locality is considered to be compatible with residential use, particularly taking into account adjoining and adjacent residential uses and a prevalence of low-impact office uses nearby.

Basement car parking is not envisaged in the Beulah Road Policy Area, however has been designed in such a way as to not detract significantly from the streetscape and car parking below occupied areas of buildings forms part of the established character of the locality.

Minimal overshadowing will result over the adjacent residential property at 1 Charlotte Place, which in the context of the zoning of the subject land and the land uses (and associated buildings) which can be anticipated, is considered an acceptable impact.

The extent of car parking is considered to be appropriate, as it accords with the relevant Development Plan criteria for the office component and there is only a one (1) space shortfall for the residential component when taking into account the ability to discount when visitor parking is shared between residential and non-residential uses. In any event, the proposal results in a lesser calculated shortfall than the existing shortfall associated with the site.

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 155/306/20 by Keylend Pty Ltd to demolish a warehouse and showroom and construction of a mixed use development comprising basement car parking, office accommodation and four (4) dwellings (non-complying), on the land located at 30 Beulah Road, 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:

- plans and elevations (Project Number 484KEY and dated 3 June 2020) prepared by Alexander Wilkinson.
- Statement of Effect (dated 1 June 2020) prepared by Alexander Wilkinson.

Conditions

1. All four (4) dwellings are to incorporate suitable acoustic measures by way of insulation, glazing or other similar treatments so as to reduce the impacts of non-residential activity and noise within the immediate area to the reasonable satisfaction of the Council or its delegate, prior to Development Approval being granted.
2. 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.

Notes to Applicant

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

The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
4. The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.

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

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

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

Mr Oldfield addressed the Council Assessment Panel from 7:04pm until 7:08pm
Mr Wilkinson addressed the Council Assessment Panel from 7:09pm until 7:16pm

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 **refused** to Development Application No 155/306/20 by Keylend Pty Ltd to demolish a warehouse and showroom and construction of a mixed use development comprising basement car parking, office accommodation and four (4) dwellings (non-complying), on the land located at 30 Beulah Road, Norwood, for the following reasons:*

- *The amount of car parking is insufficient having regard to the two proposed uses of the land and resulting total floor area.*

Seconded and Carried

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 155/173/2020 – DR M BOCHNER – 65 EDWARD STREET, NORWOOD

DEVELOPMENT APPLICATION:	155/173/2020
APPLICANT:	Dr M Bochner
SUBJECT SITE:	65 Edward Street, Norwood (Certificates of Title Volume: 5830 Folio: 984)
DESCRIPTION OF DEVELOPMENT:	Change of use from offices to consulting rooms (non-complying)
ZONE:	Residential Character (Norwood) 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 involving the change of use from offices to consulting rooms.

Staff do not have delegated authority to determine the Application, as it was subject to Category 3 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:	Rectangular
Frontage width:	16.15 metres
Depth:	60.35 metres
Area:	974.66m ²
Topography:	essentially flat
Existing Structures:	single-storey vacant building and a freestanding carport (located adjacent the rear western boundary).
Existing Vegetation:	small trees and landscaped areas within the front yard area.

The subject land is located on the interface of the Residential Character (Norwood) Zone and the District Centre (Norwood) Zone. It contains an original villa that is identified as a Local Heritage Place (ie. a "*Late Victorian Sandstone Villa*") that was likely constructed between 1880 - 1890. A large flat roof carport measuring approximately 5 metres wide and spanning the width of the land (ie. 16.15 metres) is located at the rear of the land. The carport can accommodate six cars.

A sealed open-air car park is located between the rear of the vacant building and the carport and accommodates seven car parking spaces. In terms of the existing office land use, this was approved as part of Development Application 155/346/2008, which comprised a *change of use from a dwelling to an office, including alterations and additions to the rear of the existing building and construction of a car park to rear, with associated landscaping (Non-complying)*.

Locality Attributes

Land uses: residential and commercial
Building heights (storeys): mix of single-storey and two-storey

The subject land is part of a group of former dwellings that have been converted to non-residential land uses over the years. These include:

- 67 Edward Street – consulting rooms (approved in 1981);
- 69 Edward Street – offices (approved in 2009); and
- 71 Edward Street – offices (approved 1978).

Directly south of 71 Edward Street, the locality is characterised by residential land uses, comprising dwellings of various forms and densities.

Directly to the east of the subject land is the Coles car parking area and north of 65 Edward Street, is a linemarked car parking area associated with café tenancies at 61 Edward Street. These properties are all located in the District Centre (Norwood) Zone.

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

Proposal in Detail

The Applicant seeks change the use of the building from offices to consulting rooms. No increase to the floor area of the building is proposed. The existing carport and open-air sealed car parking area are to be retained for on-site parking.

No external changes to the existing Local Heritage Place are proposed.

Plans and details of the proposed development, including a Statement of Effect pursuant to Regulation 17(4) of the *Development Regulations 2008*, are contained in **Attachment B**.

Notification

The proposal has been identified and processed as a Category 3 form of development. No representations were received in response to the notification.

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 a non-complying form of development. Council staff determined to proceed to assess the application, pursuant to Regulation 17(3) of the *Development Regulations 2008*.

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

Land Use

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

Residential Character (Norwood) Zone Objective: 1, 2 & 3
Residential Character (Norwood) Zone Desired Character Statement
Residential Character (Norwood) Zone PDC: 1 & 2

City Wide Objectives: 1, 2, 3, 5, 7, 12, 26 & 27
City Wide PDC's: 1, 2, 3, 4, 5, 6, 12, 80, 82, 85 & 87

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

'Non-residential development will be limited in size and nature and will generally only occur in locations along arterial road frontages, or where there is a recent history of lawful non-residential use, or where the building was originally constructed for non-residential use (such as original corner shops).'

This proposal is located directly adjacent the District Centre (Norwood) Zone and amongst non-residential uses in the Residential Character (Norwood) Zone. The subject land, being at the periphery of the major retail areas of the District Centre and already surrounded by other non-residential uses, is considered to be appropriately located, having regard to the land use that is proposed.

As the subject land is currently used for a commercial use and has consulting rooms and offices to the south, there is no concern that approving the proposal could act as a precedent and result in 'creep' of commercial use up the street. This is a very different situation to one where an existing dwelling adjacent to other dwellings within the Residential Character (Norwood) Zone is proposed to be converted to a commercial use.

City Wide Principle of Development Control 82 states:

"Non-residential development in residential zones should:

- (a) not detrimentally impact on the amenity of nearby residents;*
- (b) provide adequate protection for residents of adjoining sites from air and noise pollution, traffic disturbance and other harmful effects on health or amenity; and*
- (c) not negatively impact on adjoining open space, mature trees or vegetation."*

Principle of Development Control 2 of the Residential Character (Norwood) Zone states:

"Non-residential development such as shops, offices and consulting rooms 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."*

The proposed is not expected to result in any significant increase in noise or other nuisance than that already associated with existing non-residential uses in the locality. Residents behind the subject land in Church Avenue are not likely to be subject to any unreasonable impact associated with the consulting room car park, as vehicle movements are likely to be limited to typical business hours and will be similar to those experienced on surrounding land uses.

Residential Character (Norwood) Zone Principle of Development Control 2 anticipates non-residential development of a nature and scale that serves the local community but which is not incompatible with the desired character of the locality and does not detrimentally impact on the amenity of surrounding residents. The proposed consulting rooms are considered to be consistent with both part (a) and (c) given the anticipated intensity (ie. limited to three (3) consulting rooms) and the proposed hours of operation being limited to 8:00 am to 6:30pm, Monday to Friday.

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 Character (Norwood) Zone Objectives: 3
Residential Character (Norwood) Zone PDC's: 9, 14 & 15

City Wide Objectives: 8, 18 – 20, 111 & 113
City Wide Principles of PDC's: 28, 29, 30, 32, 33, 35, 38, 39, 346, 348, 350, 351, 352, 353, 356 & 358

Through their Planning Consultant, Mr Phillip Brunning, the Applicant has advised that they are not proposing and changes to the exterior of the existing building.

Car parking/access/manoeuvring

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

City Wide Objectives: 31, 32 & 34

City Wide PDC's: 98, 101, 113, 120, 121, 122, 123, 124, 126, 127, 129 & 130

The proposal seeks to maintain the existing thirteen (13) on-site car parking spaces on the subject land.

The proposal comprises three (3) consulting rooms which in turn generates a theoretical parking demand of twelve (12) parking spaces, based on a rate of four (4) spaces per consulting room in Table NPSP/9. The proposal is therefore consistent with the off street parking provisions of the Development Plan.

Access to all proposed off-street parking is via existing crossovers and considered reasonably safe and convenient.

Signage

No signage has been proposed. Therefore, if the application is granted consent, the applicant would need to lodge a separate application for signage. Pursuant to principle of Development Control 21 of the Residential Character (Norwood) Zone, any such signage will need to be for identification purposes only and be complementary to the architecture and scale of the building. In this respect, the scale of signage seen on the commercial properties to the south within the Residential Character (Norwood) Zone, would likely be considered reasonable.

Summary

The proposed consulting rooms use is small in scale and expected to have minimal to no adverse impact on the amenity of nearby residential properties.

Adequate on-site parking is available and vehicle movements are considered reasonable safe and convenient, using the existing driveway crossovers.

The proposed development is considered to be a suitable re-use of the villa, which is likely to result in the continued longevity of the Local Heritage Place.

The application is not considered to be seriously at variance with the Development Plan and is considered to sufficiently accord with the Development Plan to merit 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 155/173/20 by Dr M Bochner, to change the use from offices to consulting rooms, 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:

- site plan and floor plan (Drawing Numbers: 00420/SkA3-01 and 00420/SkA3-02) prepared by Kym Glastonbury Architect both dated March 2020.
- Statement of Effect prepared by Phillip Brunning & Associates, dated 14 April 2020.

Conditions

1. The hours of operation of the premises shall be restricted to following times:
 - 8:00am to 6:30pm, Monday to Friday.

Notes to Applicant

1. 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.
2. 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 is likely to be at the Applicant's cost.
3. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
4. The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

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 155/173/20 by Dr M Bochner, to change the use from offices to consulting rooms, 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:

- *site plan and floor plan (Drawing Numbers: 00420/SkA3-01 and 00420/SkA3-02) prepared by Kym Glastonbury Architect both dated March 2020.*
- *Statement of Effect prepared by Phillip Brunning & Associates, dated 14 April 2020.*

Conditions

1. *The hours of operation of the premises shall be restricted to following times:*
 - *8:00am to 6:30pm, Monday to Friday.*

Notes to Applicant

1. *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.*
2. *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 is likely to be at the Applicant's cost.

3. *This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.*
4. *The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.*

Seconded and Carried

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 155/283/2020 – D’ANDREA & ASSOCIATES – 12-14 ELIZABETH STREET, NORWOOD

DEVELOPMENT APPLICATION:	155/283/2020
APPLICANT:	D’Andrea & Associates
SUBJECT SITE:	12-14 Elizabeth Street, Norwood (Certificate of Title Volume: 5088 Folios: 717 and 718)
DESCRIPTION OF DEVELOPMENT:	Variation to Development Plan Consent 155/C071/18, comprising changes to dwelling configuration and setbacks from boundaries at all levels
ZONE:	Residential Character (Norwood) Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 17 December 2017)
PUBLIC NOTIFICATION CATEGORY:	Category 2

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on an Application to vary Development Plan Consent 155/C071/18, comprising changes to dwelling configuration and setbacks from boundaries at all levels.

Staff do not have delegated authority to determine the Application, as it is a Category 2 development application for public notification purposes and representations were received from persons opposed to the Application.

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.

Background

On 20 February 2019, the Panel considered Development Application No. 155/C071/18, for a Community Title land division (creating fifteen lots from two existing allotments), demolition of two dwellings and construction of a two-storey residential flat building (comprising fifteen dwellings) with basement car parking. The Application was refused for the following reasons:

- 1. The application is not consistent with the desired character of the zone.*
- 2. The proposal does not achieve a mostly single storey appearance to the street.*
- 3. The height and length of upper level walls have not been minimised.*
- 4. The proposal includes undercroft garaging whereas the development plan states that undercroft should only be on the western side of Osmond Terrace.*
- 5. The bulk and scale of the proposal will have an unreasonable overshadowing and visual impact variously on the properties immediately to the south and east of the subject land.*

Following the refusal of the Application by the Panel, the Applicant lodged an appeal with the ERD Court.

A compromise proposal was considered by the Panel at its meeting held on 20 May 2019 but was not endorsed on the basis that it did not address the reasons for the Panel's refusal of the original Development Application.

As part of its consideration of the compromise proposal, the Panel was provided with an amended landscaping plan and an opinion from an Urban Designer about the suitability of the development proposal, but the Panel was not provided with any amended plans due to miscommunication between the Applicant's lawyers and the Council's Assessment Manager.

Since that time, and in light of the Panel's concerns with the first compromise proposal, the Applicant proposed further changes to the development proposal. In particular, the amendments comprised:

- a reduction in the total number of dwellings from 15 to 13;
- redesign of the layout of the dwellings, with a resulting reduction to the overall bulk and scale of the development, through:
 - redesigning the rear (eastern) two dwellings so as to make them single storey;
 - in conjunction with the redesign of the rear dwellings, reducing the overall length of the upper level component by 4.0 metres, giving the upper level a setback of 10 metres to the rear (eastern) boundary;
 - increasing the substantive upper floor setback from the northern boundary to 4.35 metres;
 - increasing the substantive ground floor setback from the southern boundary to 4.86 metres;
 - reducing the height of the north, south, east and west elevations by 1.0m -1.3m through the removal of parapets and replacement with a corrugated iron roof with a 3 degree pitch.
- removal of all four north and south facing upper level balconies;
- an overall reduction in the building footprint at undercroft, ground and first floor level, which results in:
 - an increase in the area of private open space at ground level for each dwelling;
 - an increase in the landscaping area provided; and
 - a reduction in the extent of site works required.

At the meeting held on 15 July 2019, the Panel determined to advise the ERD Court that it accepts the compromise proposal. A copy of the plans which were accepted by the Panel at the meeting held on 15 July 2019, is contained in **Attachment A**.

The ERD Court subsequently issued consent orders, granting Development Plan Consent to the compromise.

Subject Land Attributes

Shape:	regular
Frontage width:	24.53 metres
Depth:	59.74 metres
Area:	1,465m ²
Topography:	the land falls approximately 1.5 metres from back to front (east to west)
Existing Structures:	there are two vacant early cottages on the land, together with a range of outbuildings
Existing vegetation:	scattered vegetation comprising trees, shrubs and groundcovers, none of which is regulated

The subject land is located on the eastern side of Elizabeth Street, approximately 100 metres south of The Parade. It comprises two allotments, each of which contains an early (circa 1900) cottage, sited close to the street. The balance of the allotments contains various outbuildings and extensive vegetation including olive and other fruit trees.

The land has a gentle slope from the back down to the front. Whilst gentle, the change in level amounts to 1.5 metres, due to the nearly 60 metre depth of the site.

Locality Attributes

Land uses: predominantly residential
Building heights (storeys): combination of single-storey and two-storey

The locality of the subject land is considered to extend along Elizabeth Street approximately 100 metres north and south, comprising the section between Gloucester Terrace to the south and The Parade to the north. As the subject land is adjacent to Edsall Street, the locality is also considered to extend approximately 100 metres (or half way) down Edsall Street.

The locality contains a wide mix of dwelling types and densities.

The subject land is bounded by:

- a two storey residential flat building containing five dwellings to the north at 6-10 Elizabeth Street;
- a pair of two-storey semi-detached dwellings to the north at 2&2A Essery Street;
- a pair of two-storey semi-detached dwellings to the north at 4&4A Essery Street;
- two pairs of single storey maisonettes to the east at 9-15 Hampton Grove; and
- two single-storey group dwellings to the south at 16 and 1/16A Elizabeth Street.

The section of Elizabeth Street south of the subject land, between 18 and 26 on the eastern side of the street and between 13 and 29 Elizabeth Street, is identified in Figure RC(N)/1 of the development plan, as a 'remaining pocket of housing pre-dating 1940 that make an important contribution to the mixed character Norwood'. The balance of the locality, including the subject land, is not located in such a designated area.

There are two Local Heritage Places in the locality, located at 15 Elizabeth Street and 12-14 Edsall Street.

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

Proposal in Detail

The development application is for a variation to Development Application 155/C071/18, comprising changes to dwelling configuration and setbacks from boundaries at all levels. More specifically, the proposed variations comprise:

Basement Level

- reduction in rear setback from 6.65m to 3.95m;
- increase in number of car parking spaces from 32 to 35;

Ground Floor Level

- change to the configuration from four single level dwellings and the ground level of six two-level dwellings, to six single level dwellings and the ground level of two, two-level dwellings;
- reduction in setback of a portion of Dwelling 2 from the southern side boundary, from 1.54m to 1.0m;
- reduction in the setback of a portion of the building adjacent 16 Elizabeth Street to the south, from 4.86m to 3.8m;
- reduction in the setback of a portion of the building adjacent 16 and 1/16A Elizabeth Street to the south, from 4.86m to 3.8m;
- reduction in the setback of a portion of the building adjacent the northern boundary from 4.35m to 4.1m, with another section being less at 3.4m.

First Floor Level

- change to the configuration from three single level dwellings and the upper level of six (6) two-level dwellings, to five single level dwellings and the upper level of four two-level dwellings;
- reduction in the setback from the rear boundary from 10m to 6m, with a section being less at 5.3m;
- reduction in the setback of a portion of the building from the southern side boundary, from 4.86m to 1.86m;
- reduction in the setback of a portion of the building from the southern side boundary from 4.35m to 4.0m; and
- Introduction of balconies facing the northern and southern side boundaries, comprising the sole private open space of the associated dwellings.

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

Notification

The proposal has been identified and processed as a Category 2 form of development.

Two (2) representations were received (both opposed). The following is a summary of the issues and concerns raised in the representations:

- the building is not consistent with the desired character of the zone, in terms of scale;
- the building does not achieve a mostly single storey appearance to the street (it should be noted that this criteria does not apply to the subject land, as it is not a site identified in Fig RC(N)/1);
- height and length of upper level walls;
- undercroft parking is not anticipated in the Residential Character (Norwood) Zone, other than on the western side of Osmond Terrace;
- overshadowing;
- the reduction in setbacks to the adjacent property at 4A Essery Street to the north will result in an adverse visual impact and loss of light;
- the lack of space for plants to grow (due to the basement level proximity to side boundaries) will potentially cause damage to the building and paving of 4A Essery Street, constant maintenance and overhanging foliage.

A copy of the representations is contained in **Attachment C**.

Neither of the representors wish to be heard by the Panel.

A response to the representations has been prepared by Mr Frank Perrone of D'Andrea Architects on behalf of the applicant, a copy of which is contained in **Attachment D**.

State Agency Consultation

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

Discussion

The following points summarise the impact of the proposed varied setbacks on the outlooks and visual impact to surrounding properties.

10 Elizabeth Street

The adjoining townhouse at 10 Elizabeth Street has blank walls on the boundary, including a high courtyard wall for their central private open space, restricting any direct outlook onto the proposal.

Therefore, the slight reduction in setback of a portion of the building in this vicinity will have no impact. Similarly, the introduction of a balcony at the upper level adjacent to 10 Elizabeth Street, will not cause overlooking or loss of amenity. In any event, a solid 1700mm high balustrades are proposed.

2A, 2B, & 4 Essery Street

The setback of the upper level section of the building located directly adjacent to 2A, 2B and 4 Essery Street, has decreased slightly, from 4.35m to between 4.1m and 4.32m. This change would have a negligible impact to the outlook and amenity of the occupiers of those dwellings.

4A Essery Street

In the approved plans, the upper level of the building did not extend as deep into the subject land and therefore there was no upper level section located directly adjacent to the property at 4A Essery Street. The proposed variation extends the upper level to within 6m of the rear boundary, such that it is now adjacent to the rear of 4A Essery Street, with a 4.32m setback.

The Development Plan provides quantitative guidance with respect to side and rear boundary setbacks for dwellings on a 'battleaxe, hammerhead or similar configuration allotment'. The proposed plan of division is not considered to comprise a lot layout in a battleaxe, hammerhead or similar configuration, particularly as there are different lots at different floor levels. Therefore, City Wide Principle 206 is considered most relevant, and states:

"..the set-back of dwellings from their side and rear boundaries should be progressively increased as the height of the building increases:

- (a) to minimise the visual impact of the building from adjoining properties;*
- (b) to minimise the overshadowing of adjoining properties;*
- (c) to ensure adequate natural light and winter sunlight is available to the main activity areas and private open space of adjacent dwellings."*

As the subject land is located to the south of 4A Essery Street, it would not result in any overshadowing. Overlooking is proposed to be addressed by way of high level windows and obscure glazing to a height of 1700mm above floor level.

The proposed upper level setback of 4.32 metres, is approximately the same distance from the boundary as the dwelling at 4A Essery Street, which was approved in 2011. In this context, it is considered that a building with an upper level located 4.32m from the boundary could be reasonably anticipated.

9, 11 and 13 Hampton Grove

The semi-detached dwellings at 9, 11 and 13 Hampton Grove do have a direct outlook onto the rear of the proposed building, which is generally set back 6.0m at ground and first floor level. This is a decrease from the previously approved setback of 10.0m at the upper level.

These dwellings currently have an outlook onto olive trees on the subject land. If the proposed variation was approved, the landscaping plan which was approved in DA 155/C071/18 would continue to apply. This plan includes the planting of various trees and shrubs adjacent to the rear boundary.

Importantly, there are no upper level balconies adjacent to 9, 11 and 13 Hampton Grove, as the rear dwellings are two-level, with private open space at ground level.

The proposed setback of 6.0m is considered to result in an acceptable visual impact on the properties at 9, 11 and 13 Hampton Grove, particularly with the proposed plantings.

1/16A Elizabeth Street

The dwelling at 1/16A Elizabeth Street, has a blank wall on the boundary in the location where the setback of the upper level of the building is proposed to be reduced to 1.86m. The rear yard of the dwelling at 1/16A Elizabeth Street is adjacent to the rear yards of the proposed dwellings.

16 Elizabeth Street

The dwelling at 16 Elizabeth Street has an outlook from side windows. The outlook is currently predominantly of the side of the villa at 14 Elizabeth Street, the side wall of which is less than 1m from the boundary and approximately 4m high. There is no outlook from the rear alfresco of this dwelling, as it is enclosed with what appears to be a dense shade cloth material. Behind the alfresco is a small service courtyard used for clothes drying and growing herbs, from which there would be an outlook. The proposed variation to a portion of the ground level setback adjacent to 16 Elizabeth Street, from 1.54m to 1.0m and another portion from 4.86m to 3.8m, is considered reasonable in this context.

Summary

Having regard to the above circumstances, the level of articulation and finishing to the walls, their length and height and setbacks from boundaries, it is considered that the impact of the proposed building from neighbouring properties, resulting from the proposed variation, is acceptable.

Accordingly, the proposal is not considered to be seriously at variance with the Development Plan and to 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 Number 155/283/20 by D'Andrea & Associates for a variation to Development Plan Consent 155/C071/18, comprising changes to dwelling configuration and setbacks from boundaries at all levels, on the land located at 12-14 Elizabeth Street, Norwood, subject to the imposition of the following conditions and notes:

Relevant Plans

In addition to all plans, drawings, specifications and other documents associated with Development Plan Consent 155/C071/18 which are not affected by this application under Section 39(6) of the *Development Act 1993*, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- Plan of Division prepared by Cavallo Forest & Associates, Reference Number 18-256, Revision 13, dated 21 May 2020.
- plans and elevations by D'Andrea Architects, Sheet 2 Rev F, Sheet 3 Rev K, Sheet 4 Rev J and Sheet 5 Rev F

Conditions

Nil.

All conditions imposed with respect to the original Development Plan Consent 155/C071/18 continue to apply.

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 Number 155/283/20 by D'Andrea & Associates for a variation to Development Plan Consent 155/C071/18, comprising changes to dwelling configuration and setbacks from boundaries at all levels, on the land located at 12-14 Elizabeth Street, Norwood, subject to the imposition of the following conditions and notes:*

Relevant Plans

In addition to all plans, drawings, specifications and other documents associated with Development Plan Consent 155/C071/18 which are not affected by this application under Section 39(6) of the Development Act 1993, it is required that the development be undertaken, used, maintained and operated in accordance with the following relevant plans, drawings, specifications and other documents:

- *Plan of Division prepared by Cavallo Forest & Associates, Reference Number 18-256, Revision 13, dated 21 May 2020.*
- *plans and elevations by D'Andrea Architects, Sheet 2 Rev F, Sheet 3 Rev K, Sheet 4 Rev J and Sheet 5 Rev F*

Conditions

Nil.

All conditions imposed with respect to the original Development Plan Consent 155/C071/18 continue to apply.

Seconded and Carried

2. STAFF REPORTS

2.4 DEVELOPMENT APPLICATION 155/D018/2020 – BRYANT MCPHEE PTY LTD – 88 GEORGE STREET, NORWOOD

DEVELOPMENT APPLICATION:	155/D018/2020
APPLICANT:	Bryant McPhee Pty Ltd
SUBJECT SITE:	88 George Street, Norwood (Certificate of Title Volume: 5418 Folio:487)
DESCRIPTION OF DEVELOPMENT:	Torrens Title land division (1 into 2), demolition of existing dwelling and the construction of two two-storey detached dwellings and a swimming pool.
ZONE:	Residential Character (Norwood) Zone – Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on a development application for a combination of a Torrens Title land division (1 into 2), demolition of existing dwelling and the construction of two two-storey detached dwellings and a swimming pool.

Staff do not have delegated authority to determine the Application, as the proposed allotment sizes do not meet the relevant quantitative Development Plan criteria with respect to site frontage. In particular, the Development Plan establishes a minimum frontage width for detached dwellings of 9 metres, whereas the proposal is for frontage widths of 7.62 metres per dwelling. 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:	15.24 metres
Depth:	50.73-50.75 metres
Area:	770m ²
Topography:	The land has an average incline of 1.10 metres from front (east) to rear (west)
Existing Structures:	Dwelling and outbuildings
Existing vegetation:	vegetation within the front and rear yards of the existing dwelling which consists of small scale shrubs and terraced lawn areas.

The subject land is located on the eastern side of George Street. The subject land contains a detached dwelling, small outbuildings and associated landscaping. The site has been terraced with internal retaining walls of approximately 500-600mm, and a 300mm plinth and fence along the rear boundary.

Locality Attributes

Land uses:	predominantly residential
Building heights (storeys):	combination of single-storey and two-storey
Streetscape amenity:	Medium to High - George Street is characterised by a mixture of building stock set in landscaped settings with well-established street trees and landscaping

The eastern side of George Street is characterised by low and medium density dwellings, in the form of detached dwellings and residential flat buildings. There are some recent examples of infill dwellings north of the subject land, which comprise singular dwelling replacements in the form of 2 storey detached dwellings. The western side of George Street is similar in its description, albeit with a higher proportion of original dwellings including a State Heritage Listed two storey dwelling (former hotel) located on the corner of George and William Street. Most of the infill development in the form of group dwellings and residential flat buildings occurred in the 1970's.

The locality is considered to have a medium level of amenity, resulting from the mix of residential land uses, densities, landscaping and the large amount of vehicular traffic on George Street. The site is within close proximity to The Parade shopping district, with the Coles carpark approximately 120 metres to the north west of the subject land.

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

Proposal in Detail

Development Application 155/D018/20 is for a Torrens Title land division (1 into 2), Demolition of existing dwelling and the construction of two two-storey detached dwellings and a swimming pool.

The dwellings are designed to appear as two semi-detached dwellings, with single garages. However, contrary to the definition of a semi-detached dwelling, the dwellings are not 'joined together and forming, by themselves, a single building'. If approved, it will be necessary for all components of the development application to be undertaken within the relevant legislative timeframes. It would not be legally possible for the land division component of the approval to be undertaken and the dwelling construction component of the approval to not be undertaken.

This is relevant if Panel members have concerns that the approval of the development application could result in the division of land and a subsequent development application or applications being approved for dwellings which do not appear as semi-detached dwellings. For that to occur, it would be necessary for a 'stand alone' development application for the division of the land to be lodged and approved in the first instance. Such an application would be determined by the CAP and may be problematic, due to the fact that the built form outcome would be uncertain and the frontage width requirement for detached dwellings is greater than it is for semi-detached dwellings.

As the dwellings appear as semi-detached dwellings and for all relevant purposes function as semi-detached dwellings, the criteria for semi-detached dwellings has been used for their assessment throughout this report.

The dwellings mirror each other, with an open plan living/dining/kitchen area, master bedroom and alfresco on the ground floor, while two bedrooms a flexible space and a secondary living area with a terrace are located on the upper floor. Dwelling 1 contains additional elements including an internal lift and a swimming pool within the rear yard.

The proposed dwellings have a rectilinear design appearance with an overall horizontal massing that is punctuated by a combination of vertically proportioned windows to the outer sections of the front facade and recessed balcony areas along with framed-out feature facade elements with concealed roof areas. The dwellings have a combination of bagged brickwork and standing seam metal sheet cladding with infill vertical timber battens and external venetian louvres to the front façade win a warm tonal range, while bagged brickwork to the lower floors and stucco render to the upper levels feature along the rear and side elevations.

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	Dwellings 1 and 2	Development Plan Merit Assessment Quantitative Guideline
Site Area	385m ²	250m ²
Site Width	7.62m	9m (detached dwellings) 8m (semi-detached dwellings)
Site Depth	50.73-50.75m	N/A
External Wall Height*	7.3m	N/A
Maximum Overall Height (to roof apex)*	8.552m (i.e. measured to the top of the second level roof area)	Two-storey
Floor Area (total)	419m ² (Dwelling 1) 420m ² (Dwelling 2)	N/A
Site Coverage	66%	N/A
Private Open Space	96m ² (25%)	20%
Street Set-back	5.7m	N/A
Side Set-back (southern side) Upper Floor	.9 – 1.5m 1.3-3.6	N/A
Side Set-back (northern side) Upper Floor	.9 – 1.5m 1.3-2.6	N/A
Rear Set-back Upper Floor	6.8 10.25m	4.0m (single-storey) 6.0m (two-storey)
Car Parking Provision	2 spaces per dwelling (both covered)	2 spaces per dwelling (one covered)

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

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

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.

As the proposed dwellings are not clearly labelled on plans, the dwelling on allotment 31 shall be referred to as dwelling 1, and the dwelling on allotment 32 shall be referred to as dwelling 2 throughout this report.

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 Character (Norwood) Zone Objective: 1, 2 & 3
Residential Character (Norwood) Zone Desired Character Statement
Residential Character (Norwood) Zone PDC: 1 & 10

City Wide Objectives: 1, 2, 3, 5 & 7
City Wide PDC's: 1, 2, 3, 4, 5, 6, 12, 20, 21, 23-26, 364 & 366

Residential Character (Norwood) Zone Objective 2 and the Desired Character Statement for the Residential Character (Norwood) Zone (in part) state respectively:

“Infill development in specified localities, including affordable housing, providing a variety of housing types and densities, which enhances the character of the locality.”

and

“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...”

The subject land is not within a locality identified on Concept Plan Fig RC(N)/1. Detached and semi-detached dwellings are anticipated land uses within the Residential Character (Norwood) Zone, as Principle of Development Control 10 sets out minimum site area and frontage requirements for those dwelling types.

As such, the proposed land division is considered appropriate from the perspective of accommodating a land use which is anticipated within the Residential Zone.

Principle 10 states that a minimum site area of 250m² is required per semi-detached dwelling, provided that the development site has a minimum frontage of 8 metres. In this instance, each proposed allotment has an area of 385m² and a frontage width of 7.62 metres, representing a 0.38 metre (5%) shortfall against Principle 10, when applying the semi-detached dwelling criteria to the proposal.

The extent of departure from the minimum frontage width for semi-detached dwellings is relatively small and while it is considered a negative aspect of the proposal, given the varied streetscape character and inconsistent allotment pattern found along George Street, the proposed frontage width is considered acceptable in this instance.

It is therefore important to consider whether the proposed dwellings are able to achieve the range of other quantitative and qualitative provisions of the Development Plan, relating to matters such as private open space, setbacks, site coverage, height, car parking etc. This will assist in concluding whether, on balance, the frontage of the allotments proposed are able to be supported and is discussed under the relevant headings of this report.

From a land use perspective, dwellings with the appearance of semi-detached dwellings are considered to be 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:

Residential Character (Norwood) Zone Objectives: 3
Residential Character (Norwood) Zone PDC's: 5, 7, 9, 12, 15 & 18

City Wide Objectives: 8, 18 – 20 & 114
City Wide Principles of PDC's: 28, 29, 30, 32, 33, 35, 36, 37, 38, 39, 190, 346, 349, 359, 360 & 361

City Wide Principle of Development Control 190 States:

“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.”

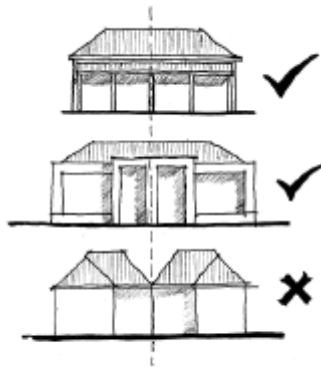


Figure 5

The proposed dwellings are designed to present as a single building, in accordance with the above principle.

The rectilinear design of the proposed dwellings is distinctly contemporary in its form, which is consistent with the Desired Character Statement, which states (in part):

“The design of buildings will be innovative and contemporary, however, large unbroken expanses of glass or walling and monochromatic colour schemes will not occur where it will be highly visible in the streetscape or from surrounding properties.”

The finishes and modulation to the overall built form is considered to provide visual interest consistent with City Wide Principle of Development Control 30 and the proposed building materials (i.e. bagged brickwork, flatlock zinc sheeting and anodised vertical batten screening), complement the existing residential urban character of the immediate locality as called for by both the Desired Character Statement and City Wide Principle of Development Control 29.

The provision of a singular garage entry recessed behind blade walling and monument garage door reduces the impact of the garages to the street, and increases the prominence of the dwellings entry.

There are several large two storey residential flat buildings in close proximity to the subject site, with the proposed built form compatible with the overall dwelling heights, as demonstrated in the streetscape elevation (Attachment B4).

On balance, the proposed dwellings are considered to be reasonably consistent with the Development Plan provisions which relate to bulk, scale and streetscape appearance.

Setbacks and Site Coverage

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

Residential Character (Norwood) Zone PDC: 12
City Wide PDC's: 50, 204, 205, 206 & 208.

City Wide Principle of Development Control 204 states:

"Dwellings should be set back from front or side boundaries so as to:

- (a) contribute to the desired character of the area; and*
- (b) provide adequate visual privacy by separating habitable rooms from pedestrian and vehicle movement."*

City Wide Principle of Development Control 205 states:

"Where the Zone and/or Policy Area does not specify a minimum distance, and where there is a consistent front set-back pattern evident within a locality, dwellings should be set back from the allotment boundary on the primary street frontage:

- (a) the same distance as one or the other of the adjoining dwellings (or any distance in between), provided the difference between the setbacks of the two adjoining dwellings is not greater than 2 metres;*
- (b) not less than the average of the setbacks of the adjoining dwellings, if the difference between the setbacks of the adjoining dwellings is greater than 2 metres; or*
- (c) the same distance as the greater of the two adjoining dwelling setbacks, in all circumstances where a new dwelling comprising of 2 or more storeys is being introduced, and one or both of the adjoining properties are single storey."*

The setback pattern of buildings along the eastern side of George Street is varied. The adjoining properties at 86 and 88A George Street have carports located forward of the main building facades, 4.6 and 3.5m from the street. The adjacent two-storey residential flat building to the north at 86 George Street has a 14.2 metre setback to the main facade. The adjacent single-storey dwelling to the south at 88A George Street has a front setback of 5.9 metres to the main facade.

As there is no consistent front set-back pattern evident within the locality, City Wide Principle of Development Control 205 does not apply. Therefore, Principle 204 is most relevant, requiring that setbacks contribute to the desired character of the locality. In this respect, the Desired Character Statement for the Residential Character (Norwood) Zone does not specifically address street setbacks, however states that the "high level of vegetation, including mature street trees and landscaped gardens, are elements that assist in unifying the various eras of built form development in Norwood". The desire for landscaped gardens to characterise the zone is reinforced in Principle of Development Control 9, which states that development should preserve and enhance streetscapes within the zone by (amongst other things) incorporating a sufficient amount of soft landscaping between the street and the dwelling, including trees.

Therefore, in order to contribute to the desired character of the locality, consistent with City Wide Principle 204, it is necessary for the proposal to provide sufficient space between the dwellings and the street for landscaped gardens, including space for trees. The proposal is considered to satisfy this, with reasonably sized landscaped front gardens containing a mix of plants, including trees.

The proposed dwellings are set back 5.7 metres, with the garage components having a setback of 6.2 metres in a staggered arrangement which is further than the front setback of the adjoining dwelling at 88A George Street. In this context, the proposed front setbacks of the new building are considered appropriate.

Side setbacks for the ground floor level of each dwelling are 900mm and the upper floor levels are set back from side boundaries between 1.3m and 3.6m. These setbacks are considered to satisfy Principle of Development Control 9(b), which seeks to ensure development maintains space between dwellings in keeping with the pattern of surrounding development.

The proposed ground floor level and upper floor level are set back from the eastern (rear) boundary by 6.8 and 10.25 metres respectively. Residential Character (Norwood) Zone Principle of Development Control 12 prescribes that the minimum setback from a rear boundary for single-storey and two-storey development should be 4.0 metres and 6.0 metres respectively. The proposal is consistent with these criteria.

Overall, it is considered that the proposed setbacks and the potential visual impact of the proposed dwellings on existing occupiers of directly adjacent land are acceptable in the context of the existing locality.

The Residential Character (Norwood) Zone does not prescribe any quantitative site coverage assessment criteria. The proposed buildings display a site coverage of 66%, which is not inconsistent with the site coverage of development found within the immediate locality.

Accordingly, the site coverage of the proposed dwellings is considered to be acceptable.

Private open space

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

City Wide PDC's: 222-225, 227, 228 & 230

City Wide Principle of Development Control 225 (a) states:

a dwelling with a site area of 250 square metres or greater, 20 per cent of the site area should be private open space, of which one portion should be equal to or greater than 10 per cent of the site area and have a minimum dimension of 4 metres;

The proposed dwelling features 78m² of POS within the rear yard of the dwelling, which also includes a covered alfresco area. In addition 14m² of POS is contained on an upper level terrace which is accessed from the second living area, to create a combined total of 96m² (25%) of private open space, satisfying the above principle.

Overshadowing/Overlooking

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

City Wide PDC's: 11, 31, 71, 72, 196, 235, 236 & 273

City Wide Principle of Development Control 71 states:

Development should maintain solar access, for a minimum of 3 hours between 9am and 3pm on 21 June, to:

- (a) any existing solar collectors (such as solar hot water systems and photovoltaic cells) on adjoining properties; or*
- (b) an area of at least 10m² on the north facing roof of the existing building/s, in the event that there are no existing solar panels and/or photovoltaic cells on the adjoining property; and in any case development should not increase the overshadowed area by more than 20 per cent in cases where overshadowing already exceeds these requirements.*

The applicant has provided shadow diagrams contained in **Attachment D4** demonstrating the development meets the above principle.

City Wide Principle of Development Control 196 states:

"Unless otherwise specified in the relevant Zone and/or Policy Area, development should ensure that at least half of the ground level private open space of existing dwelling(s) receive direct sunlight for a minimum of two hours between 9.00am and 3.00pm on 21 June. Development should not increase the overshadowed area in cases where overshadowing already exceeds these requirements."

The Applicant has provided shadowing diagrams to demonstrate the extent of overshadowing that would result from the proposed development during the winter solstice. In relation to 88A George Street and 111A William Street, which are directly south of the subject land, the shadowing analysis demonstrates that the properties will experience some shadowing to their rear yards at midday and to a greater extent in the afternoon period. The shadow diagrams demonstrate that at least half of the ground level private open space areas of these dwellings will receive a minimum 2 hours of direct sunlight in accordance with Principle 196.

City Wide Principle of Development Control 206 States:

Unless otherwise specified in the relevant Zone and/or Policy Area, the set-back of dwellings from their side and rear boundaries should be progressively increased as the height of the building increases:

- (a) *to minimise the visual impact of the building from adjoining properties;*
- (b) *to minimise the overshadowing of adjoining properties;*
- (c) *to ensure adequate natural light and winter sunlight is available to the main activity areas and private open space of adjacent dwellings.*

and;

Residential Character Norwood Principle of Development Control 7 States;

Where two-storey development is proposed:

- (a) *the height and length of upper storey walls should be minimised and finished and articulated in such a way so that they are visually recessive (refer to Figure 17 above);*
- (b) *the length and overall size of upper storey windows and the extent of balconies should be minimised to obviate the need for privacy screening and reduce perceptions of overlooking (refer to Figure 17 above) (contained below).*



In terms of visual privacy, the proposed dwellings incorporate a combination of 1.7 metre high sill levels and privacy screening above the internal upper floor level to all of the south, east and north facing upper level windows and balcony areas. The applicant has amended their design to increase the sill height of windows which are prominently visible from adjoining private open space areas to the north and south of the site to reduce the perception of overlooking, in line with Residential Character Norwood Principle 7 (b).

The proposed privacy measures are consistent with City Wide Principle of Development Control 235, which seeks privacy treatment to a height of 1.7 metres. In any event, if the Panel determine to approve the proposed development, it is recommended that a condition be imposed reiterating these screening measures.

With respect to the open rear yard areas of 88A George Street, 111A William Street and the residential flat buildings at 86 William Street, the occupants of these properties will not be subject to an unreasonable level of overshadowing or loss of natural light, resulting from the proposal.

Shadow diagrams for the proposed development are contained within **Attachment D1-D4**.

Car parking/access/manoeuvring

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

City Wide Objectives: 31, 32 & 34
City Wide PDC's: 98, 101, 113, 120, 121, 122, 123, 124, 126, 127, 129 & 130

Table NPSP/8

City Wide Principle of Development Control 120 states that development should include on-site car parking in accordance with the rates prescribed in Table NPSP/8. In relation to detached and semi-detached dwellings, Table NPSP/8 states that two spaces per dwelling should be provided, one of which must be covered.

The proposal includes a single garage which features a vehicle stacker and a pit, designed to provide independent access for 2 vehicles. The internal dimensions of the garage satisfy the requirements of City Wide Principle of Development Control 212.

Trees (significant, mature & street) and landscaping

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

Residential Character (Nwd) Zone PDC:	9
City Wide Objectives:	24, 120 & 121
City Wide PDC's:	73, 74, 75, 76, 77, 78, 220, 221 & 409 - 415

Residential Character Norwood Principle of Development Control 9 states:

*“Development should preserve and enhance streetscapes within the zone by:
(d) incorporating a sufficient amount of soft landscaping between the street and the dwelling, including trees.”*

and;

City Wide Principle of Development Control 220 states:

Residential development should incorporate soft landscaping of a scale and intensity to offset built form and to reinforce the established garden and mature tree lined character of the City.

The application includes a detailed landscaping plan which includes a mixture of plantings including ground covers, shrubs and trees. The driveway areas include Magnolia Teddy Bear trees, New Zealand Rock Lily's and Japanese Boxus plantings, while the front yards include Japanese Buxus, Pyrus Chanticleer trees and a Cycad Revoluta, while entrance paths are boarded by Japanese Buxus and Viburnum Tinus plantings.

When reviewing the extent of landscaped areas and their orientation, and the detailed planting list, it is considered that there is sufficient space and quality of landscaping to meet the intent of the above principles and in this context, the provision of landscaping is considered to be acceptable and will complement the development.

Should the Panel determine to approve the proposed development, it is recommended that a condition be imposed requiring these areas to be suitably planted prior to occupation of the premises, and an ongoing condition requiring that any diseased or dying plants are replaced. Conditions have been applied to the application to this effect.

Finished floor levels/flooding/retaining/fencing

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

City Wide Objectives:	42, 43 & 44.
City Wide PDC's:	147, 148, 149, 151, 154, 155, 157, 160 & 161.

The subject land is not located within a recognised flood plain.

The proposed dwellings feature a split level design to cater for the 1.1 metre incline from the front to the rear of the allotment. The finished floor levels of the Dwellings are 450mm above the adjacent top of kerb level for the front portion, before stepping up to 820mm above kerb level 14.5 metres into the allotment, working with the levels of the site.

The rear yards of the site feature retaining walls of between 400 and 600 mm setoff from the allotment boundary, while some retaining up to 300mm is proposed on the southern side boundary of dwelling 2. Paved areas surrounding both dwellings feature a slight inline towards the rear of the allotment which indicates that the dwellings will have rebated footings to deal with this change in levels.

The application includes fencing to all boundaries of the allotments. The front fence is proposed to be a mix of solid masonry and timber batten fencing, to a height of 1.6 metres. This solid fencing returns down the driveway towards the dwelling to create a secure the front yard, while leaving the driveway open to the street. While this is a somewhat solid appearance, tall fencing forms part of the locality, with recent examples at 74 and 82 George Street being higher than that proposed as part of this application.

Side fencing comprises a mixture of 2.1m good neighbour fencing (monument) and 1.8 bagged masonry fencing (light tonal range) towards the rear of the proposed allotments.

Stormwater disposal from the roof area and the surrounding ground surface area can be disposed of to the George Street water table by gravity. In this context, stormwater disposal is considered to be acceptable.

Environmental Sustainability

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

City Wide Objectives:	23 & 42.
City Wide PDC's:	67-72, 147, 148, 151, 154, 159 & 160.

Having regard to the orientation of the subject land it is considered that the siting of the proposed dwellings floor, terrace and private open space areas allows a reasonable amount of natural light for both dwellings. While there is limited access to northern light to internal living areas of dwelling 2, given the orientation of the allotments, this it is to be reasonably anticipated with this form of development on an east west orientated allotment.

City Wide Objective 42 seeks development that is designed to maximise the harvest and use of stormwater, with Principle of Development Control 159 prescribing that new dwellings should be provided with a 2000 litre rainwater tank, which is plumbed to the dwellings for reuse. While plans display the provision of rainwater tanks, no detail has been provided on their size.

As such, it is recommended that if the Panel determine to approve the proposed development, that a condition be imposed to require the Applicant to install a 2,000 litre rainwater tank for each proposed dwelling, in accordance with Principle 159.

Summary

The Residential Character (Norwood) Zone is intended to accommodate infill development and a mix of housing forms in specified localities and at varying densities.

The proposed dwellings are well articulated and are sited on the land to provide a good level of internal amenity for their occupants while minimising impacts to adjoining properties from a visual bulk, privacy and overshadowing perspective.

While the site frontage shortfall is considered a negative aspect of the proposal, the proposed dwelling density is considered to be acceptable as the varied streetscape, allotment width and pattern is not incompatible with the immediate locality and the dwellings design demonstrates compliance with Development Plan principles.

On balance, it is considered that the proposal is not seriously at variance with the Development Plan and the development sufficiently accords with the Development Plan to merit consent.

RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application Number 155/D018/20 by Bryant McPhee Pty Ltd to undertake a Torrens Title land division (1 into 2), demolition of existing dwelling and the construction of two abutting two storey detached dwellings and a swimming pool on the land located at 88 George Street, Norwood, subject to the imposition of the following conditions and notes:

Relevant Plans

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

- Plan of Division prepared by Pinksterboer Property and received by the Council on 30 April 2020.
- Plans and Elevations (Project Number 20.010 Drawing Numbers SK01, SK02.B, SK 03.D, SK04.D, SK05.D and SK09) prepared by PROSKE Architecture + Interiors.

Conditions

1. All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the final 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.
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. Each dwelling shall be installed with a rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres), 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.
4. The portion of the upper floor windows and balconies on the northern, eastern and southern elevations less than 1.7 metres above the respective finished floor levels, shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person within the room or balcony 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 m above the internal floor level, or a window sill height of above 1.7 above the internal floor level.)
5. The swimming pool filter pump associated with the swimming pool on allotment 31 shall be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.

Notes to Applicant

1. The Applicant is reminded of its general environmental duty, as required by section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause harm.

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

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

All works on Council owned land required as part of this development are likely to be at the Applicant's cost.
6. This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.
7. 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.

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 Number 155/D018/20 by Bryant McPhee Pty Ltd to undertake a Torrens Title land division (1 into 2), demolition of existing dwelling and the construction of two abutting two storey detached dwellings and a swimming pool on the land located at 88 George Street, Norwood, subject to the imposition of the following conditions and notes:*

Relevant Plans

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

- *Plan of Division prepared by Pinksterboer Property and received by the Council on 30 April 2020.*
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Conditions

1. *All areas nominated as landscaping or garden areas on the approved plans shall be planted in accordance with the final 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.*
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. *Each dwelling shall be installed with a rainwater tank with a storage capacity not less than 2 kilolitres (2000 litres), 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.*
4. *The portion of the upper floor windows and balconies on the northern, eastern and southern elevations less than 1.7 metres above the respective finished floor levels, shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person within the room or balcony 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 m above the internal floor level, or a window sill height of above 1.7 above the internal floor level.)*
5. *The swimming pool filter pump associated with the swimming pool on allotment 31 shall be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.*

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1. *The Applicant is reminded of its general environmental duty, as required by section 25 of the Environment Protection Act, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes or may cause harm.*
2. *The Applicant is reminded of its responsibilities under the Environment Protection Act 1993, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA on 8204 2004.*
3. *The granting of the consent does not remove the need for the Applicant to obtain all other consents which may be required by any other legislation or regulation.*
The Applicant's attention is particularly drawn to the need to consult all relevant electricity suppliers with respect to high voltage power lines.
4. *The Applicant's attention is drawn to the Environment Protection Authority's Guidelines IS NO 7 "Construction Noise". These guidelines provide recommended hours of operation outside which noisy activities should not occur. Further information is available by contacting the Environment Protection Authority on 8204 2004.*
5. *The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections) will require the approval of the Council's Urban Services Department, prior to any works being*

undertaken. Further information may be obtained by contacting Council's Urban Services Department on 8366 4513.

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

6. *This Development Plan Consent will lapse within 12 months of the date of this notice unless full Development Approval has been obtained.*
7. *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

2. STAFF REPORTS

2.5 DEVELOPMENT APPLICATION 155/C024/2020 – RINALDI PROPERTY & CONSTRUCTION – 36 & 38 JOHN STREET, PAYNEHAM

DEVELOPMENT APPLICATION:	155/C024/2020
APPLICANT:	Rinaldi Property & Construction
SUBJECT SITE:	36 & 38 John Street, Payneham (Certificate of Title Volume: 5521 Folio: 861 & Volume: 5795 Folio: 540)
DESCRIPTION OF DEVELOPMENT:	Community Title land division (2 into 6)
ZONE:	Residential Zone Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)
PUBLIC NOTIFICATION CATEGORY:	Category 1

Purpose of Report

The purpose of this report is to provide information to the Panel in order for a determination to be made on a Development Application for a Community Titled Land Division creating six allotments from two 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 frontage widths and site areas. In particular, the proposed allotments have frontage widths ranging between 5.82 to 7.85 metres, and site areas of 161-217m², whereas the relevant quantitative Development Plan criteria for row dwellings is a 6 metre frontage width and 250m² site area, and an 18 metre frontage for residential flat buildings and a 250m² average site area.

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

Subject Land Attributes

Shape:	regular
Frontage width:	31.99 metres
Depth:	45.72 metres
Area:	1462.58m ²
Topography:	essentially flat
Existing Structures:	two detached dwellings and outbuildings
Existing Vegetation:	lawned areas with surrounding shrubs and non-regulated trees

The subject land is a relatively flat site, occupied by a two single storey dwellings which were originally constructed between 1940 and 1960, and associated landscaping and outbuildings

Locality Attributes

The locality is bound by Arthur Street to the west, and Ashbrook Avenue to the east, and is characterised a mixture of dwelling types in landscaped settings, with consistent setbacks. The subject land is bounded by infill development in the form of semi-detached dwellings, group dwellings and residential flat buildings. Allotment sizes within the immediate locality are varied, and are more akin to a medium density forms of development. Allotment sizes along John Street range between 7.4 metres (32 & 32a John Street) to 34.5 metres (26 John Street). The proximity of the site to Payneham Oval results in a medium to high level of amenity, despite the mix and density of development within the locality.

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 6 community title allotments, and has lodged a built form application for the construction of four row dwellings and a residential flat building.

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

TABLE 1: DEVELOPMENT DATA:

Lot Number	Frontage Width	Site Area	Development Plan Merit Assessment Quantitative Guideline
1	6.45m	178m ²	6m & 250m ²
2	5.82m	161m ²	6m & 250m ²
3	5.87m	162m ²	6m & 250m ²
4	7.85m	217m ²	6m & 250m ²
5	31.99m	178m ²	18m & 250m ²
6	31.99m	180m ²	18m & 250m ²

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

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

Land Use and Density

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

Residential Zone Desired Character Statement	
Residential Zone Objectives:	1, 2 & 3.
Residential Zone PDCs:	1
City Wide Objectives:	1, 15, 16 & 55-57
City Wide PDCs:	20, 21, 181, 185 & 186

City Wide Objective 15 sets out that land divisions should create allotments appropriate for the intended use of the land. The proposed land division is intended to cater for the construction of four two-storey row dwellings and a two-storey residential flat building (comprising two dwellings). Plans showing the design of the intended buildings, upon which the land division has been derived, are contained in **Attachment C1-C5**.

City Wide Principle of Development Control 21(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.

The plan of division displays 4 allotments fronting John Street which according to indicative built plans are designed to cater for row dwellings, while allotments to the rear are designed to cater for a residential flat building. The plan of division also includes a 6 metre common driveway intended to provide rear loading access to all allotments. Principle of Development Control 1 of the Residential Zone states that all dwelling types are envisaged in the zone.

As such, the proposed land division is considered appropriate from the perspective of accommodating land uses which are broadly consistent with the Objectives of the Residential Zone.

With regard to the size and dimensions of the proposed allotments, the Residential Zone desired character statement states, in part;

The zone will provide opportunities for a range of low-scale infill development to support population growth and provide a diverse range of housing, including affordable housing.

and;

In locations where there are large allotments or where the amalgamation of allotments has occurred, there may be opportunity to develop low-rise (one or two-storey) group dwellings, row dwellings and residential flat buildings.

Principle 7 of the Residential Zone quantifies the above statements and requires row dwellings (with rear access) to have a minimum frontage width of six metres, and a minimum site area of 250m². Allotments 2 and 3 fail to meet frontage width requirements by 130mm and 180mm respectively, while all row dwelling allotments (1 – 4) fail to achieve minimum site area requirements. Site area shortfalls range between 33m² (13%) and 89m² (36%) per dwelling.

The two rear allotments (5 and 6) are intended to cater for two dwellings within a single residential flat building. Principle of Development Control 7 of the Residential zone requires a total development site frontage of 18 metres and 250m² average site area (exclusive of all common areas). In this regard, the site exceeds the total development site frontage with 31.99 metres, while both allotments fall short of the 250m² average (179m²) by 71 m², representing a shortfall of 28.4%.

Excluding the common property, the total area available for dwelling sites on the subject land is 1076m². Applying the minimum site area requirement of 250m² per dwelling, the number of dwelling sites able to be accommodated is 4 (ie. 1076/250=4.3).

The following comments from the Supreme Court case of *Town of Gawler v Impact Investment Corporation* (2007) SASR 115, set out the relevant considerations that the relevant authority should have regard to, when considering a proposal that is at variance with a clearly expressed policy:

“In order to determine whether a relevant Planning Authority or the ERD Court is justified in departing from a clearly expressed policy, I consider that each of the following matters is relevant:

- 1. The language of the principle or principles concerned – whether it is direct or contemplates some flexibility in approach;*
- 2. Whether the relevant principle is in conflict with some other applicable planning principle. That is likely to happen only rarely, in which case the more specific principle may displace the more generally expressed principle;*
- 3. The evident purpose and objective of the policy expressed in the principle or principles concerned;*
- 4. The significance of the policy to this particular Development. The clearer the policy in its application to a particular development, the more compelling the reasons for departing from the policy will need to be;*
- 5. Where the policy contemplates possible degrees of compliance, the extent of the Development’s compliance with the policy;*
- 6. Consistency of the Development with other objectives and purposes of the Zone;*

7. *Whether there is something unusual about the Development or the land on which it is to take place which makes the policy inapplicable or inappropriate;*
8. *Whether other events have happened since the Development Plan was adopted which make the policy redundant, either generally or in respect of this particular development;*
9. *The probable effect of non-compliance with the policy on the planning objectives of the Zone; and*
10. *Whether non-compliance with the policy in this case is likely to encourage other non-complying developments in the Zone.”*

Each of the ten (10) considerations are addressed below:

1. the language of the policy is direct. It sets a minimum site area;
2. the policy is not in conflict with another clearly expressed planning principle.
3. The purpose of the policy regarding density is evident and well expressed, in that “*The zone will provide opportunities for a range of low-scale infill development*”.
4. The policy is directly applicable to the proposed development.
5. The wording does not contemplate degrees of compliance.
6. The Policy is consistent with the purpose of the Zone.
7. There is nothing unusual about the development or the land on which it is to take place which makes the policy inapplicable or inappropriate.
8. No events have happened since the Development Plan (Residential Development DPA 2 July 2015) was adopted which make the policy redundant. There are no approvals of similar density contained within the locality under the current Development Plan.
9. The probable effect of non-compliance with the policy is that the planning objectives of the Policy Area (ie. Development that contributes to the desired character of the zone) would not be achieved.
10. If the proposed land division was approved, it is considered likely that it would be referred to by future applicants seeking to develop other land in the Residential Zone. As there is nothing unusual about the development or its locality that justifies the divergence from the policy with respect to site area/density, it would likely serve to encourage other future applicants to pursue a design approach similarly at odds with the desired character of the Policy Area, if not more so.

In this situation, the immediate locality on John Street Payneham and surrounding the development site is varied, with a two storey residential flat building immediately behind the subject site having dwelling site areas averaging 174.5m² which were approved in 1977.

The current Residential Zone policies were introduced on 2 July 2015. Since that time, there have been no approvals of dwellings at a similar density to that which is proposed, within the locality. Despite the presence of some older development within the locality of a similar density to that which is proposed, upholding the current density standards is not considered a futile exercise. The locality generally maintains a ‘suburban feel’ as per the desired character of the Residential Zone. If the proposal was approved and constructed, it would detract from that ‘suburban feel’ and potentially serve as a precedent for further development which further detracts from that desired character.

Further considerations with regard to how the indicative proposal performs against the range of other quantitative and qualitative provisions of the Development Plan are discussed below, in order to assist in concluding whether, on balance, the allotments of the size proposed are able to be supported.

Streetscape/bulk/scale/height/character

The following Development Plan provisions provide guidance with respect to considerations relating to appearance, streetscape, bulk, scale and character insofar as they are relevant to the proposed land division:

Residential Zone Desired Character Statement	
Residential Zone Objectives:	3
Residential Zone PDC:	6
City Wide Objectives:	18, 19 & 20
City Wide PDCs:	28-35, 37, 39, 211

The proposed land division, if approved, would allow for the construction of four two-storey row dwellings and a two-storey residential flat building (comprising two dwellings).

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

“Although it is expected that residential densities will increase over time, resulting in more dense forms of development and smaller site and allotment sizes, it is intended that the overall character of the zone will maintain a ‘suburban’ feel with a high level of amenity”. This will be achieved by generally maintaining a rhythm of buildings comprising one and two storeys, set back from the street so that front gardens can be established and also by requiring ‘space’ to be established between buildings.”

The streetscape of John Street has for the most part evolved in line with the Desired Character and frontage widths envisaged within Residential Principle of Development Control 7, albeit with a varied character of allotment frontages and widths and dwelling types.

Allotment frontages range between 7.5 metres (32 & 32A John Street) to 19.5 metres (30 & 42 John Street), with opportunity for further divisions within the locality. The frontage widths proposed as part of this application are not considered to be out of character with the existing allotment pattern, despite the departure from the envisaged allotment widths contained within the Development Plan.

City Wide Principle of Development Control 201 States:

The height of a dwelling/s sited behind a dwelling/s fronting a public road on a battleaxe, hammerhead or similar configuration allotment or site (including those accommodating group dwellings) should not exceed one storey, nor should the dwelling contain a second storey in the roof space, except where:

- (a) the predominant height of the surrounding existing dwellings is greater than one storey. In this instance the development should not be more than two storeys above the natural ground level; or*
- (b) a height greater than one storey is envisaged in the zone or policy area for such dwellings.*

The size and dimensions of the proposed allotments 5 and 6 are likely to result in a demand for two storey dwellings to be constructed as per the indicative plans. It is noted that two storey dwellings are located at the rear of 40 John Street (Units 2 and 3) and to the rear of the subject site at 34 John Street. As such it is considered that two storey dwellings on allotments 5 and 6 would be consistent with this principle.

In this respect, the indicative two storey dwellings are consistent with the intent of the Residential Zone.

Setbacks and Site Coverage

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

Residential Zone PDC:	8
City Wide PDCs:	201, 202, 203, 207, 208

Residential Zone Principle of Development Control 8 states that dwellings should have a minimum set-back from the primary road frontage of 6 metres. Indicative row dwelling designs have front setbacks of 4 metres, which is inconsistent with sighting characteristics of adjoining dwellings which feature setbacks of between 5 and 6 metres.

Row dwellings have side and rear setbacks consistent with Principle 8, while site coverage varies between 57% and 71%, exceeding the zone maximum of 60% on Allotments 2 and 3.

The indicative residential flat buildings have rear setbacks of 4 metres for lower and upper floors, while side setbacks are 1.9 metres for lower and upper floors, falling short of the requirements of Principle 203. The indicative plans demonstrate that the residential flat buildings, would be able to be constructed on the subject land without exceeding the maximum allowable site coverage requirements.

Overshadowing/Overlooking

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

City Wide PDCs: 11, 31, 71, 72, 195, 196, 235 & 236

The subject land is orientated north-south with the orientation of the land suggests that most overshadowing of any built form would fall over the subject rear yards and would be unlikely to have any unreasonable impact on the adjacent neighbours.

Issues relating to overlooking would be able to be addressed through the assessment of the built form Application.

Private open space

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

City Wide PDCs: 222-225, 227, 229 & 230

City Wide Principle of Development Control 225 requires that dwellings with sites less than 250m² should provide a minimum of 35m² private open space, of which one portion should have an area of 16 m² and a minimum dimension of 4m. Indicative built form plans detail that all sites are capable of exceeding this requirement.

The indicative plans show that the private open space areas would be accessible from the main living areas of the dwellings. The orientation of the subject land creates the potential for private open space areas to be impacted by overshadowing by the two storey built form during the winter months.

Overall, it is considered that the size of the proposed allotments is not likely to prevent the ability to design dwellings with sufficiently sized and sited private open space areas.

Car parking/access/manoeuvring

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

City Wide Objectives: 38
City Wide PDCs: 98, 101, 104, 118, 120, 122, 181, 198, 200 & 219
Tables NPSP/8

City Wide Principle of Development Control 120 states that development should include on-site car parking in accordance with the rates prescribed in Table NPSP/8. In relation to row dwellings, the following rate applies:

'2 (1 covered) spaces per dwelling; whereby the covered space is set back no less than 5.5 metres from the primary street frontage...'

The row dwellings are rear loaded with access provided via a community driveway. Two parking spaces are provided for each row dwelling, consistent with the requirements of CWPDC 120.

Table NPSP/8 prescribes a rate of 2 car parks per residential flat building, one of which needs to be covered. In addition, 1 visitor parking space is required for every two dwellings.

The indicative residential flat building provides double garages for each dwelling, and 2 visitor spaces for both dwellings which are centrally located for convenience purposes.

A new crossover will need to be constructed in order to provide access, as demonstrated by indicative plans. The application demonstrates that access can be provided in accordance with Council requirements.

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 PDCs: 148, 154, 155, 160, 170 & 171

The subject land is not within an identified flood plain and as such there is no requirement for finished floor levels to be high relative to natural ground level.

Given the likelihood that the site will be developed at a higher level of site coverage than what currently exists, stormwater management and on-site detention requirements would be assessed as part of the built form/land use Application.

The north western corner of the allotment is 430mm lower than the rest of the site, which is reasonably flat. Indicative plans demonstrate that no retaining walls are required to facilitate the development, with row dwellings displaying finished floor levels 200mm – 400mm above top of kerb (58.8), and the residential flat buildings displaying finished floor levels of 59.00.

Regulated Trees/Landscaping

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

City Wide Objectives: 24, 118, 119
City Wide PDCs: 185, 186, 220, 221, 409, 410 & 411

There are no regulated trees located on the subject land, nor are any of the Street trees abutting the subject site of a regulated size.

The indicative plans contain a landscaping schedule which includes landscaped areas within the front and rear yards, and common areas including driveway plantings.

The indicative plans contain sufficient areas within the front and rear yards for the provision of meaningful landscaping, which would be reviewed as part of a built form application.

Environmental Sustainability

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

City Wide Objectives: 23 & 42.
City Wide PDCs: 67-72, 147, 148, 151 & 159.

Having regard to both the orientation of the subject land and the indicative dwelling floor plans, it is considered that the proposed land division pattern is conducive to good access being achieved to northern light in the winter months for the internal living areas, while private open space areas would have limited access to sunlight during winter due to the orientation of the allotments. It is considered that the dwellings generally meet the intent of City Wide Principle of Development Control 68.

Summary

The subject land is located within the Residential Zone whereby land division intended for row dwellings and residential flat buildings is envisaged, subject to a 250m² site area and 6 & 18 metre minimum frontage widths respectively.

The proposed land division does not achieve the minimum frontage width or site areas for either the row dwelling or residential flat building sites. While the applicant has demonstrated that dwellings can be constructed on each of the proposed allotments while generally meeting Development Plan criteria, the

shortfall in site area is considered to be so far at odds with the density sought for the zone, that it is fatal to the application.

There is considered to be insufficient justification to deviate from the expressly stated policy with respect to site areas. While there are examples of allotment sizes in the locality which are similar to the application, the density of development in the locality generally is not so far at odds with the current desired character so as to make the criteria redundant or inapplicable. There are no special circumstances which would prevent the division of the subject land from representing a precedent for further similar land divisions.

Accordingly, it is considered that the proposal is not seriously at variance with the Development Plan, however does not 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 **refused** to Development Application No 155/C024/20 by Rinaldi Property & Construction, for a Community Title land division (2 into 6), on the land located at 36 & 38 John Street Payneham, for the following reasons:

Reasons for Refusal

1. The proposed allotments have site areas less than 250m², contrary to Principle of Development Control 7 of the Residential Zone.
2. The resulting allotments would not generally reflect low scale infill development, contrary to the Desired Character Statement for the Residential Zone.
3. The proposal is inconsistent with the desire for the overall character of the Residential Zone to maintain a 'suburban feel' with a high level of amenity.

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 **refused** to Development Application No 155/C024/20 by Rinaldi Property & Construction, for a Community Title land division (2 into 6), on the land located at 36 & 38 John Street Payneham, for the following reasons:*

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2. *The resulting allotments would not generally reflect low scale infill development, contrary to the Desired Character Statement for the Residential Zone.*
3. *The proposal is inconsistent with the desire for the overall character of the Residential Zone to maintain a 'suburban feel' with a high level of amenity.*

Seconded and Carried

3. **OTHER BUSINESS**
Nil
4. **CONFIDENTIAL REPORTS**
Nil
5. **CLOSURE**

The Presiding Member declared the meeting closed at 8:28pm