

# Council Assessment Panel Minutes

**19 April 2021**

## **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** Council Chambers, Norwood Town Hall

**HOUR** 7:00pm

**PRESENT**

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

**Staff** Carlos Buzzetti, General Manager, Urban Planning & Environment  
Nenad Milasinovic Senior Urban Planner  
Adam Bowey Senior Urban Planner  
Tala Aslat Planning Assistant

**APOLOGIES** Ms Fleur Bowden, Panel Member

**ABSENT**

1. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 15 MARCH 2021**

Seconded and Carried

## 2. STAFF REPORTS

### 2.1 DEVELOPMENT APPLICATION 155/726/2020 – YOGO DESIGN & CONSULTING PTY LTD – 34 SHELLEY STREET, FIRLE

<b>DEVELOPMENT APPLICATION:</b>	<b>155/726/2020</b>
<b>APPLICANT:</b>	<b>Yogo Design &amp; Consulting Pty Ltd</b>
<b>SUBJECT SITE:</b>	<b>34 Shelley Street, Firle (Certificate of Title Volume: 5713 Folio: 502)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Construction of a two-storey residential flat building containing four (4) dwellings</b>
<b>ZONE:</b>	<b>Residential Zone Medium Density Policy Area Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 2</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on a Development Application for the Construction of a two-storey residential flat building containing four (4) dwellings.

Staff do not have delegated authority to determine the Application, as it is a Category 2 form of development and objections to the Application were received through the public notification process.

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:	17.98 metres
Depth:	60.96 metres
Area:	1,096.06m <sup>2</sup>
Topography:	relatively flat
Existing Structures:	detached dwelling and outbuildings
Existing Vegetation:	low shrubs and small non-regulated trees

The subject land contains a single-storey dwelling with a tiled roof. Two driveways enter the property adjacent the side boundaries, with the eastern driveway leading to an attached flat roof carport. The land is relatively flat, with a slight rise of between 160-350mm from the front boundary up to the rear boundary.

A Development Application to divide the subject land via Community Title into four (4) Lots ranging in area from 163m<sup>2</sup> to 232m<sup>2</sup> and common property has recently been approved under delegated authority, as the land division ostensibly achieves the relevant quantitative provisions of the Development Plan with respect to site area (no minimum criteria) and frontage width (18m criteria). A copy of the approved land division is contained in **Attachment A**.

## Locality Attributes

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

The locality is characterised by a mix of low and medium density housing, predominantly single-storey in height. Dwelling types include detached dwellings, group dwellings and residential flat buildings. Approximately 18 metres to the west of the subject land at 30 Shelley Street are six dwellings contained within a single-storey residential flat building, and opposite that at 19 Shelley Street are five single storey group dwellings. At 48 Shelley Street there are five dwellings in a single-storey residential flat building.

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

## Proposal in Detail

The Applicant seeks consent to construct a two-storey residential flat building containing four (4) dwellings. A common driveway area is proposed along the western boundary of the site.

At ground level, the dwellings each have a double garage, an open-plan living/meals/kitchen area, laundry and WC. Each dwelling has an eastern-facing rear yard, while the southernmost dwelling (Dwelling 4) also has a side yard area.

At first floor level, the dwellings have three bedrooms (including a master suite) and two bathrooms.

The dwellings have a relatively traditional appearance, with pitched roofs (22.5 degrees) and a range of cladding materials, including rendered lightweight walls (colour "Colorbond Monument", "Dulux Vivid White" and "Dulux McGinley"), horizontally fixed wall cladding (Scyon Axon 133 painted "Dulux Buffalo Bill") and aluminium windows (colour 'Shale Grey').

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	Dwelling 1	Dwelling 2	Dwelling 3	Dwelling 4	Development Plan Merit Assessment Quantitative Guideline
<b>Site Area</b>	189m <sup>2</sup>	166m <sup>2</sup>	166m <sup>2</sup>	231m <sup>2</sup>	No minimum
<b>Allotment Width</b>	15.74m	14.24m	14.24m	16.74m	N/A
<b>Development site width</b>			17.98m		18.0m
<b>Allotment Depth</b>	11.98m	12.58m	12.58m	16.746m	N/A
<b>External Wall Height*</b>	5.6m	5.6m	5.6m	5.6m	Two-storey
<b>Maximum Overall Height (to roof apex)*</b>	7.65m	7.65m	7.65m	7.65m	Two-storey
<b>Floor Area (total)</b>	192.7m <sup>2</sup>	214.3m <sup>2</sup>	214.3m <sup>2</sup>	219.1m <sup>2</sup>	100m <sup>2</sup> internal floor area minimum
<b>Floor Area (footprint)</b>	114.8m <sup>2</sup>	129.2m <sup>2</sup>	129.2m <sup>2</sup>	128m <sup>2</sup>	N/A
<b>Site Coverage (excluding common area)</b>	61%	77.1%	77.1%	55.1%	70%

**TABLE 1: DEVELOPMENT DATA *continued...***

Consideration	Dwelling 1	Dwelling 2	Dwelling 3	Dwelling 4	Development Plan Merit Assessment Quantitative Guideline
<b>Site Coverage (including common area)</b>			45.7%		N/A
<b>Private Open Space</b>	34.2m <sup>2</sup> 0% covered	48.4m <sup>2</sup> 28% covered	48.4m <sup>2</sup> 28% covered	115m <sup>2</sup> 12% covered	35m <sup>2</sup>
<b>Street Set-back</b>	4m	N/A	N/A	N/A	4m
<b>Side Set-back (ground level western side)</b>	6m	5.4-6m	5.4-6m	5.4-6m	2.5m for Dwellings 2, 3 & 4 900m for Dwelling 1
<b>Side Set-back (ground level eastern side)</b>	3 – 5.4m	3 – 5.4m	3 – 5.4m	3-5.4m	
<b>Side Set-back (upper level western side)</b>	5-6m	5-5.4m	5-5.4m	5-5.4m	4.5m for Dwellings 2, 3 & 4 1.77m for Dwelling 1
<b>Side Set-back (upper level eastern side)</b>	4m	4.5m	4.5m	4.5m	
<b>Rear Set-back (ground level southern side)</b>	N/A	N/A	N/A	4m	2.5m
<b>Rear Set-back (upper level southern side)</b>	N/A	N/A	N/A	4m	4.5m
<b>Occupant Car Parking Provision</b>	2 spaces	2 spaces	2 spaces	2 spaces	2 spaces per dwelling
<b>Visitor Car Parking Provision</b>			1 space		1 space for every 2 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 contained in **Attachment C**.

### Notification

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

One (1) representation was received in response to this notification, a copy of which is contained in **Attachment D**. The sole representor is opposed to the proposed development. Key issues raised by the opposing representation are, in summary:

- Concern over the amenity impact of having multiple POS areas located on side boundary of allotment
- Overshadowing of solar panels (request for shadow diagrams)

- Concern over siting of buildings (request to flip design)
- On street parking as detailed on plan (driveway overhang)

The following persons have indicated in their representation that they wish to be heard by the Panel:

*Mario Pirone*

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

### **State Agency Consultation**

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

### **Discussion**

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

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

#### Land Use and Density

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

Medium Density Policy Area Objectives: 1 & 2  
Medium Density Policy Area Desired Character Statement  
Medium Density Policy Area Principles of Development Control: 3, 5 & 7

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

Objective 1 of the Medium Density Policy Area encourages a range of medium density dwellings, including a minimum of 15% affordable housing, designed to integrate with areas of open space, neighbouring centres or public transport nodes. Objective 2 speaks towards transitioning density down towards the edges of the policy area.

There is no minimum site area per dwelling for residential flat buildings within the Medium Density Policy Area, with the only quantitative requirement being that the property has a minimum frontage width of 18.0 metres. The subject land has a frontage width of 17.98 metres, representing a 0.1% shortfall, which was considered very minor and acceptable upon assessment and approval of the land division development application.

The Residential Zone Desired Character Statement explains:

*“Whilst detached and semi-detached dwellings will continue to be developed within the Medium Density Policy Area, more flexible development parameters for other forms of housing (including group dwellings, row dwellings and residential flat buildings) are included and will provide additional opportunities for increasing residential densities in these locations. While a minimum site area has not been allocated for dwellings within a residential flat building, a minimum floor area requirement for dwellings has been included and will, along with other policies relating to private open space, communal space, car parking and the design of the built form, ensure an acceptable level of amenity for occupants, as well residents in the locality.”*

Accordingly, residential flat buildings are clearly anticipated within the Medium Density Policy Area and whether or not the proposal is of an acceptable density will depend on whether policies related to private open space, communal space, car parking and the design of the built form are adequately addressed. These issues are discussed under the relevant headings in the preceding sections of this report.

Streetscape/bulk/scale/height/character

Medium Density PA Desired Character Statement  
Medium Density PA Objectives: 2 & 4  
Medium Density PA PDCs: 1, 3 & 7

Residential Zone Desired Character Statement  
Residential Zone Objectives: 3  
Residential Zone PDCs: 6 & 8

City Wide Objectives: 18, 19 & 20  
City Wide PDCs: 28-33, 35-37, 181, 184 & 197

The Desired Character Statement for the Medium Density Policy Area states (in part):

*“Development will include a range of range of residential development of up to two (2) storeys in height..”*

The proposed two-storey building height is consistent with the maximum height stated in the desired character statement of the Medium Density Policy Area.

With respect to the relatively traditional design style of the proposed dwellings, the Desired Character Statement for the Residential Zone states:

*“A variety of facade treatments will be permitted in the zone, allowing for individual preferences, however overall proportions of buildings as they present to the street, will be balanced and in accordance with good architectural practice, so as to provide a pleasant streetscape. Garages and carports will be located to the side or rear of dwellings and the placement of driveways will ensure minimal disruption to footpaths and street trees. Where double garaging is proposed, driveways will be tapered, where practicable, to reduce the extent of hard surface areas forward of dwellings.”*

The proposed residential flat building is considered to provide a reasonable level of visual interest and through a combination of painted modulated rendered walls, framed-out feature facade elements and pitched corrugated sheet roofing that is generally consistent with the Desired Character Statement.

From the street, the layout of development with the driveway on the western side of the residential flat building and the provision of a 4.5 metre setback at the upper level from the eastern side boundary, as well as a 4 metre front setback, would maintain a sense of space around the building consistent with what is anticipated in the Medium Density Policy Area.

Consistent with the desired character statement, there are no garages facing the street and one (1) driveway crossover services all four (4) dwellings.

Setbacks and Site Coverage

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

Medium Density PA PDCs: 7  
Residential Zone PDC: 8  
City Wide PDCs: 202, 203 & 208



Medium Density Policy Area Principle of Development Control 7 states that dwellings fronting a public road within the Medium Density Policy Area should be designed with a minimum setback from the primary road frontage of 4.0 metres. The proposal is consistent with this policy, with Dwelling 1 being set back from the street 4 metres.

In terms of side and rear setbacks, City Wide Principle of Development Control 202 states that any single-storey component of a two-storey dwelling on a battleaxe, hammerhead or similar configuration allotment or site and a side or rear boundary of the parent development site, should be set back no less than 2.5 metres. City Wide Principle of Development Control 203 states that any two-storey component of a two-storey dwelling on a battleaxe, hammerhead or similar configuration allotment or site and a side or rear boundary of the parent development site, should be set back no less than 4.5 metres.

Principles 202 and 203 apply to Dwellings 2, 3 and 4, all of which achieve and/or exceed the 2.5 and 4.5 metre criteria, with the exception of the upper level rear setback of Dwelling 4, which is 4 metres rather than 4.5 metres. The verandah/alfresco areas of Dwellings 2, 3 and 4 are considered to be reasonably subordinate to the dwellings, in that they are attached with separate flat roof forms. In this context, it is considered that these elements are not part of the dwellings for the purposes of the setback criteria in Principles 202 and 203.

The 4 metre upper level rear setback of Dwelling 4 is a negative aspect of the application and would result in that dwelling being slightly more visually obtrusive for the occupants of the adjacent properties at 23, 25 and 27 Gwynne Street.

Dwelling 1 is not located on a battleaxe, hammerhead or similar configuration allotment or site. As such, Residential Zone Principle of Development Control 8, which applies to dwellings fronting a public road, is relevant and provides a 900mm side back criteria for ground level and 900mm plus 1/3 of the increase in height above 3.0 metres for upper level. In this case, the upper level setback criteria for Dwelling 1 equates to 1.77 metres. Dwelling 1 is set back between 3-6 metres at ground level and between 4.5 and 5.4 metres at upper level. It therefore exceeds the minimum setback criteria for both levels.

In terms of site coverage, Principle of Development Control 7 of the Medium Density Policy Area states that the site coverage for dwellings within residential flat buildings should be designed with a maximum site coverage (inclusive of ancillary structures) of 70%. Dwellings 1 and 4 meet this Principle, while Dwellings 2 and 3 both have a site coverage of 77.1%. While considered a negative aspect of the proposal, these dwellings include a covered alfresco/verandah area and as such the site coverage is not expected to increase over time.

#### 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

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.”*

And

*“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 10m<sup>2</sup> 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, to demonstrate the extent of overshadowing that would result from the proposed development during the winter solstice as part of the response to representations. The majority of shadowing of neighbouring properties that is likely to occur, is during the morning period, over portions of the side and rear yard areas of 32 Shelley Street and 23 Gwynne Street. By midday, the extent of shadowing to the rear yards of these two properties has substantially reduced and is only confined to the rear yard of 25 Gwynne Street. In terms of the mid-afternoon period, the majority of shadowing that is likely to occur is over the portions of the rear yard of 25 and to a lesser extent the rear yard of 27 Gwynne Street.

Accordingly, the shadow diagrams demonstrate that the proposed development would result in at least half of the private open space for the three directly adjacent properties to the west and south receiving direct sunlight for a minimum of two hours between 9:00am and 3:00pm on 21 June, in accordance with Principle 196.

A concern which was raised by the representor, was the potential for the proposed building to overshadow the solar panels on the dwelling at 36 Shelley Street. The overshadowing diagrams demonstrate that the solar panels are marginally impacted by the proposed development with the level of overshadowing meeting the requirements of City Wide Principle 71.

A copy of the shadow diagrams is contained in **Attachment C8-C9**.

In terms of privacy, it is proposed that all upper level windows contain fixed obscure glazing to a height of 1.7 metres above floor level, consistent with City Wide Principle of Development Control 235. If the Panel determine to approve the proposed development, it is recommended that a condition be imposed requiring that the upper floor dwelling windows on the eastern, southern and western be fixed and obscured.

With respect to the upper floor windows on the northern elevation of Dwelling 1, it is not recommended that a condition be imposed requiring that these windows contain fixed obscure glazing and screening as these windows are adjacent a public road and any occupiers of this dwelling will only have an outlook into adjacent and neighbouring front yard areas.

Overall, it is considered that the proposal adequately addresses any potential overlooking issues.

#### 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 states (in part):

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

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

All of the proposed dwellings have site areas of less than 250m<sup>2</sup> and, as such, should have a minimum area of private open space of 35m<sup>2</sup>.

The proposed dwellings have private open space areas of 34m<sup>2</sup>, 48m<sup>2</sup>, 548m<sup>2</sup> and 115m<sup>2</sup> for Dwelling 1, 2, 3 and 4 respectively. With the exception of Dwelling 1, the proposed private open space provision is consistent with part (b) of Principle 225, with Dwelling 1 falling short of requirements by 0.8m<sup>2</sup>.

All of the ground level private open space areas are directly accessible from the main living areas of the respective dwellings. In terms of orientation, the private open space areas are oriented to the east (Dwelling 4 has a section of private open space that is south facing) which is not ideal as the yard areas will only have direct access to morning sunlight.

City Wide Principle of Development Control 229 states that 50% of the total private open space requirement provided at ground level should be open to the sky and developed in a manner to provide outdoor amenity, opportunities for landscaping and a reduction in stormwater runoff through the use of permeable surface treatments. All of the proposed private open space areas associated with each dwelling exceeds this requirement which in turn accords with Principle 229.

#### 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 PDC's:	98, 101, 104, 118, 120, 122, 181, 198, 200 & 219
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 residential flat buildings, Table NPSP/8 states that two (2) on-site car parking spaces should be provided for each three (3) bedroom dwelling, of which at least one (1) space should be covered. In addition, one (1) visitor space should be provided for every two (2) dwellings.

Each of the proposed dwellings includes two (2) covered car parking spaces within the double garage for use by the occupants of the dwellings. In addition, a centrally located dedicated visitor parking space is provided between Dwellings 2 and 3, for use by visitors to any of the four (4) dwellings. The shortfall of one visitor space is a negative aspect of the application, however is not considered likely to have a significant impact on the locality. Combined with two on-street parking spaces which would be available directly adjacent the subject land, the visitor car parking allocation is considered acceptable.

The visitor parking space is not delineated in accordance with City Wide Principle 200 which states:

*“On-site visitor parking spaces for group dwellings, multiple dwellings and residential flat buildings should be located and designed to:*

- (a) not dominate the internal site layout;*
- (b) not dominate the streetscape appearance;*
- (c) be clearly defined as visitor spaces not specifically associated with any particular dwelling; and*
- (d) ensure they are not sited behind locked garage doors, gates or fences and are accessible to visitors at all times.”*

Despite the central location of the visitor parking space between two dwellings, the visitor parking is not considered to be clearly defined. Should the Panel elect to grant planning consent to the Application, it is recommended that this aspect be conditioned (for example: delineating the visitor space by block paving, in contrast to the exposed aggregate driveway areas). A condition to this effect has been applied as part of the staff recommendation.

With respect to traffic generation, the increase in traffic in Shelley Street resulting from an additional three dwellings is insignificant in the context of existing levels and can be reasonably anticipated in light of the policy context whereby there is no maximum stated density for residential flat buildings.

City Wide Principle of Development Control 189 provides guidelines for the configuration of driveway and manoeuvring areas for battle-axe style allotments, so as to achieve safe and convenient access arrangements. In relation to developments involving more than two (2) dwellings utilising a common

driveway, Principle 189 states that the driveway should have a 6.0 metre x 6.0 metre paved carriageway at the front of the property, to enable safe and convenient access/egress for vehicles turning into and out of the site simultaneously. The proposal accords with this policy.

Principle 189 also states that the paved carriageway width should be no less than 5.0 metres in width, with an additional 1.0 metre of landscaping, resulting in a total width of paved carriageway and landscaping of 6.0 metres. The proposed development generally complies with this policy, providing .5-1 metre portions of landscaping on the western side of the driveway handle which has been located around vehicle manoeuvring paths, while the width of the driveway is reduced slightly after Dwelling 1, to 4.3 metres.

The 85<sup>th</sup> percentile vehicle turning templates within the Australian Standard for off-street car parking have been applied to the manoeuvring areas and it has been determined that vehicles are able to conveniently access and egress all car parking spaces.

#### 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:                      53-58, 79, 164 & 167-171

The subject land is not within an identified flood plain.

The subject land has an approximate fall of between 160-350mm from the southern rear boundary to the Shelley Street boundary. The Applicant has nominated the same finished floor level for Dwellings 1 and 2, while Dwelling 3 and 4 are slightly raised by 200mm. In terms of Dwelling 1, the proposed finished floor level is up to 190mm above the existing adjacent ground level, Dwelling 2 is 30-80mm higher, Dwelling 3 is 320-340mm higher and Dwelling 4 is 10 - 90mm higher than adjacent ground level.

Given existing levels on site, no retaining is required to facilitate the development, with 1.8 metre boundary 'good neighbour' fencing to be provided.

The Applicant has not provided no specific details of internal fencing other than indicated fencing on the site plan. It can be reasonably anticipated that the same 1.8 metre external fencing is utilised internally, which would not require a development authorisation.

On this basis, the resulting combined height of retaining and fencing at the boundaries of the site are consistent with City Wide Principles of Development Control 58, which states:

*"The combined height of a fence and a retaining wall should not exceed 2.4 metres (measured from the lower of the two adjoining natural ground levels)."*

Principle of Development Control 160 states:

*A development which includes:*

- (a) three or more dwellings;*
- (b) the replacement of one dwelling with three or more dwellings on one site, or on separate sites resulting from the land division of the original site; or*
- (c) in the case of a non-residential development, an impervious surface area that is greater than the pre-development state;*

*should incorporate an on-site stormwater detention system (either above or below ground) to ensure that stormwater discharged from the site and/or combined sites does not exceed the capacity of the existing or planned 1 in 5 year Average Recurrence Interval stormwater system and increase the risk of flooding to downstream properties or add any significant pollutant load to the downstream stormwater system.*

The Applicant has proposed to direct roof runoff to rainwater tanks for each dwelling, with no detail provided as to their size. As no site works drainage plan or detention/retention details have been provided by the applicant, it is recommended that should the panel elect to grant planning consent to the application, that a condition be imposed, requiring stormwater and engineering calculations detailing pre-development and

post-development levels in 1 in 5 year ARI events to be provided, to the satisfaction of Council or its Delegate, prior to the granting of Development Approval.

Trees (significant, mature & street) and landscaping

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

City Wide Objectives:	24, 117 & 118
City Wide PDCs:	73, 74, 220 & 221, 395 & 396

The subject land does not contain any regulated trees, however, contains a number of small mature trees, shrubs and vegetation.

The Applicant has provided a landscaping plan and species schedule, a copy of which is contained in **Attachment C5**.

Overall, it is considered that the proposed landscaping plan demonstrates a reasonable amount and mix of plantings, which will provide a level of screening at the boundaries of the site and provide some shading along the driveway area.

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

The subject land is orientated north-south. The proposed orientation of the ground level internal living areas and private open space, is a negative aspect of the proposal given that the yard areas are eastern facing.

The design includes verandahs at the rear of Dwellings 2, 3 & 4, to provide some relief from the summer sun angle and ensure practical year round use of private open space areas, while Dwelling 1 has no verandah element.

The proposed dwellings detail the installation of rainwater tanks (of an unknown size), which subject to the implementation of appropriate conditioning and as per building code requirements, will be plumbed back to each dwelling in accordance with City Wide Principle of Development Control 159.

**Summary**

The subject land is located within the Medium Density Policy Area, where increased dwelling densities are anticipated. There is no minimum site area for dwellings within a residential flat building and the acceptable density will depend on whether policies related to private open space, communal space, car parking and the design of the built form are adequately addressed.

The orientation of the private open space for all dwellings is a negative aspect of the proposal, however its functionality and relationship with internal living areas, is considered to be positive.

The communal open space, comprising a common driveway and landscaping also accords with the relevant Development Plan criteria. Sufficient space is provided for vehicle manoeuvring and meaningful landscaping areas.

The amount of off-street parking fails to satisfy the rates provided in Table NPSP/8, in that there is a shortfall of 1 visitor space for the development, however overall the amount of car parking is considered adequate to cater for the likely demands.

The design of the built form is considered appropriate, insofar as the layout provides functional living spaces at ground level with reasonable access to sunlight and generous accommodation upstairs for bedrooms and secondary living. The presentation of the development in the streetscape is considered to be compatible with the surrounding the built form character.

The upper level setback of Dwelling 4 from the rear boundary is .5 metres less than the relevant criteria, which would result in the dwelling being slightly more visually obtrusive to adjacent property occupants.

Overall, on balance it is considered that the development 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 155/726/2020 by Yogo Design & Consulting Pty Ltd for the Construction of a two-storey residential flat building containing four (4) dwellings, on the land located at 34 Shelley Street, Firle, 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, elevations and landscaping plan (Drawings No A001 (F), A002(D), A004 (D), A005(D), A006 (D)) prepared by Yogo Design & Consulting Pty Ltd

### Conditions

1. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into the adjacent street water table.
2. All plants within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.
3. All plants shall be watered through the installation of a suitable irrigation system which shall be maintained to the reasonable satisfaction of the Council or its delegate.
4. The portion of the upper floor windows on the eastern, southern and western elevations less than 1.7 metres above the internal floor level shall be treated prior to occupation of the dwellings in a manner that permanently restricts views being obtained by a person within the room to the reasonable satisfaction of the Council or its delegate. (Suggested treatments include, but are not restricted to, permanently fixed translucent glazing in any part of the window below 1.7 metres above the internal floor level or a window sill height of 1.7 metres above the internal floor level.)
5. Stormwater and engineering calculations detailing pre-development and post-development levels in 1 in 5 year ARI events shall be provided by the Applicant, confirming that the detention storage provided is adequate and conforms to the Council's Urban Services requirements, prior to the granting of Development Approval. 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.

6. Any obsolete crossovers shall be reinstated to upright kerb and gutter by the applicant to the reasonable satisfaction of Council or its delegate, prior to occupation of the dwellings.
7. Visitor parking shall be clearly delineated (for example: delineating the visitor space by block paving, in contrast to the exposed aggregate driveway areas) with details provided to the reasonable satisfaction of Council or its delegate, prior to the issuing of Development Approval.

#### 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 24 months of the date of this notice unless full Development Approval has been obtained.

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*Mr Pirone addressed the Council Assessment Panel from 7:02pm until 7:09pm*  
*Mr Edwards addressed the Council Assessment Panel from 7:10pm until 7:15pm*

#### **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 155/726/2020 by Yogo Design & Consulting Pty Ltd for the Construction of a two-storey residential flat building containing four (4) dwellings, on the land located at 34 Shelley Street, Firle, subject to the following requirements, conditions and notes:*

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*(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.*

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*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 24 months of the date of this notice unless full Development Approval has been obtained.*

*Seconded and Carried*

## 2. STAFF REPORTS

### 2.2 DEVELOPMENT APPLICATION 155/824/2020 – ACCESS PLANNING (SA) PTY LTD – 398 PAYNEHAM ROAD, GLYNDE

<b>DEVELOPMENT APPLICATION:</b>	<b>155/824/2020</b>
<b>APPLICANT:</b>	<b>Access Planning (SA) Pty Ltd</b>
<b>SUBJECT SITE:</b>	<b>398 Payneham Road, Glynde (Certificates of Title Volume: 6162 Folio: 189)</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Temporary change of use from offices to consulting rooms for a twelve (12) month period (Non-Complying)</b>
<b>ZONE:</b>	<b>Residential Zone (Medium Density Policy Area) – Norwood, Payneham and St Peters (City) Development Plan (dated 21 March 2019)</b>
<b>PUBLIC NOTIFICATION CATEGORY:</b>	<b>Category 3</b>

#### **Purpose of Report**

The purpose of this report is to provide information to the Panel in order for a determination to be made on a non-complying application involving the temporary 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:	irregular
Frontage width:	34 metres approximately
Depth:	42 - 45 metres approximately
Area:	1,293m <sup>2</sup> approximately
Topography:	essentially flat
Existing Structures:	two-storey vacant building with a freestanding carport located to the rear (ie. south-west of the existing building).
Existing Vegetation:	small trees and landscaped adjacent the car parking areas.

The existing two-storey building was utilised as offices when it was formerly occupied by the Consulate of Italy in Adelaide. The building was likely built in the 1970's/early 1980's and is a simple red face brick two-storey office building with painted cement sheet parapets and an entry canopy.

A sealed open-air car park is located between the front of the building and the Payneham Road frontage and accommodates seventeen (17) car parking spaces. Within the freestanding carport, four (4) car parking spaces are provided. Both the open-air spaces and the spaces within the carport are accessed via Avenue Road. A total of 21 car parking spaces currently exist on the subject land.

## Locality Attributes

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

The amenity of the locality is greatly influenced by the heavily trafficked nature of Payneham Road. The majority of the existing development within the locality (both along Payneham Road and Avenue Road) is of a residential nature.

Directly to the west of the subject land at 396 Payneham Road is a single-storey office building that was converted from a dwelling as part of Development Approval 155/367/11. Directly to the south-east of the subject land at 2 Avenue Road is a detached dwelling. Directly to the east at 398A Payneham Road is a vacant office building that was originally constructed as a dwelling.

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

## Proposal in Detail

The Applicant seeks to temporarily change the use of the building from offices to consulting rooms for a twelve (12) month period of time.

The initial proposal comprised a total of seven (7) consulting rooms. Since then, the Applicant has amended the application, reducing the number of consulting rooms to five (5).

No increase to the floor area of the building (comprising in the order of 589m<sup>2</sup>) is proposed. The existing carport and open-air sealed car parking area are to be retained for on-site parking.

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. Three (3) representations were received (two in favour and one opposed) in response to the notification. The main concern of the representor who is opposed to the application, Mr Barry Snell, is the lack of on-street car parking and traffic volumes along Avenue Road. Mr Snell wishes to be heard in support of his representation.

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

Through their Planning Consultant, Mr Iain McQuin, the Applicant has responded to the representations. A copy of the response is contained in **Attachment D**.

## State Agency Consultation

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

## Discussion

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

Medium Density Policy Area Objective: 4  
Medium Density Policy Area Desired Character Statement  
Medium Density Policy Area PDC: 1

Residential Character Zone Objective: 3  
Residential Character Zone Desired Character Statement  
Residential Character Zone PDC: 1, 2 & 4.

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 Zone states (in part):

*'Along arterial roads, some opportunity for the establishment of non-residential uses will be provided through the conversion of existing dwellings, small-scale purpose built buildings and on the ground floor of mixed-use buildings in close proximity to centres.'*

This proposal is located directly adjacent to Payneham Road and is located in close proximity to the District Shopping Zone which is approximately 480 metres to the southwest of the subject land. In this context, the proposal is considered to be appropriately located, having regard to the land use that is proposed.

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."*

The subject land has been historically used for offices. Office uses are located directly adjacent to the subject land to the southwest (396 Payneham Road) and to the northeast (398A Payneham Road). To the southeast, a driveway (approximately 7 metres in width) belonging to 398A Payneham separates the subject land from the nearest neighbouring residential property at 2 Avenue Road.

Potential noise impacts associated with the change of use from offices to consulting rooms, may relate to a difference in distribution of vehicle movements in the car parking area. Whereas vehicle movements associated with offices are typically concentrated in the morning (arrival) and afternoon (departure), vehicle movements associated with consulting rooms are more spread out throughout the day. That said, the closest car parking spaces to the nearest residential property are the four (4) car parking spaces within the freestanding carport. These parking spaces are proposed to be used by staff only. With that in mind, the proposed consulting rooms are 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 in Avenue Road 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. In this context, the proposal is considered to be consistent with part (a) and (b) of Principle 82 and from a land use perspective, the proposed consulting rooms use are considered appropriate.

Streetscape/bulk/scale/height/character

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

Medium Density Policy Area Desired Character Statement

Residential Zone Desired Character Statement

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 Iain McQuin, the Applicant has advised that they are not proposing any 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 twenty one (21) on-site car parking spaces on the subject land.

The proposal comprises five (5) consulting rooms, which generates a theoretical parking demand of twenty (20) parking spaces, based on a rate of four (4) spaces per consulting room, as set out 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.

**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 existing two-storey building.

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 155/824/2020 by Access Planning (SA) Pty Ltd, to temporarily change of use from offices to consulting rooms for a twelve (12) month period (Non-Complying), 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:

- Statement of Effect (Reference Number 8588 SoE) prepared by Mr Iain McQuin of Access Planning (SA) Pty Ltd, dated 30 November 2020.

### Conditions

1. The consulting rooms use herein authorised shall be cease operation no later than twelve (12) months after its commencement.
2. The hours of operation of the premises shall be restricted to following times:
  - 8:00 am to 6:00pm, 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 24 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 155/824/2020 by Access Planning (SA) Pty Ltd, to temporarily change of use from offices to consulting rooms for a twelve (12) month period (Non-Complying), subject to the following requirements, conditions and notes:*

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3. *This Development Plan Consent will lapse within 24 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*

**3. OTHER BUSINESS**

Nil

**4. CONFIDENTIAL REPORTS**

Nil

**5. CLOSURE**

The Presiding Member declared the meeting closed at 7:30pm

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Terry Mosel

**PRESIDING MEMBER**

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Carlos Buzzetti

**GENERAL MANAGER, URBAN PLANNING & ENVIRONMENT**