

# Special Council Assessment Panel Minutes

**14 November 2018**

## **Our Vision**

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

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

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City of  
Norwood  
Payneham  
& St Peters

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**VENUE**                      Mayors Parlour, Norwood Town Hall

**HOUR**                        7pm

**PRESENT**

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

**Staff**                         Mr Carlos Buzzetti – General Manager Urban Planning & Environment  
                                      Mark Thomson - Manager Development Assessment  
                                      Adam Bowey – Urban Planner  
                                      Nenad Milasinovic - Senior Urban Planner

**APOLOGIES**                Nil

**ABSENT**                      Nil

**1.            CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT  
                  PANEL HELD ON 15 OCTOBER 2018**

*Motion was put that the minutes of the Meeting of the Council Assessment Panel, held on 15  
October 2018 be taken as read and confirmed.*

*Seconded and carried*

## 2. STAFF REPORTS

### 2.1 DEVELOPMENT APPLICATION 155/972/2017 – PROGETTO DESIGN – 382 PAYNEHAM ROAD, PAYNEHAM

<b>DEVELOPMENT APPLICATION:</b>	<b>155/972/2017</b>
<b>APPLICANT:</b>	<b>Progetto Design</b>
<b>SUBJECT SITE:</b>	<b>382 Payneham Road, Payneham (Certificates of Title 5898/789, 5791/806, 5633/986, 5633/987, 5709/415, 5704/414, 5574/795 &amp; 5881/854</b>
<b>DESCRIPTION OF DEVELOPMENT:</b>	<b>Change of use of land from industry to a large format retail centre comprising seven (7) tenancies, involving the reuse of existing buildings, the demolition of buildings and the construction of a new building, together with car parking and landscaping (non-complying)</b>
<b>ZONE:</b>	<b>Light Industry Zone Norwood, Payneham and St Peters (City) Development Plan (dated 19 December 2017)</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 an Application for the change of use of land from industry to a large format retail centre comprising seven (7) tenancies, involving the reuse of existing buildings, the demolition of buildings and the construction of a new building, together with car parking and landscaping

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

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

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

#### **Subject Land Attributes**

Shape:	Irregular
Frontages:	Payneham Road - 130 metres; Ashbrook Avenue - 57 metres; Lewis Road - 120 metres; and Thelma Street - 52 metres.
Area:	11,886m <sup>2</sup>
Topography:	slightly sloping
Existing Structures:	single storey factory buildings and hard stand areas
Existing Vegetation:	Low level shrubs and ground covers

The subject land was used between approximately 1950 and March 2016, for the production of Schweppes beverages. Factory buildings cover approximately two thirds of the land, including buildings abutting Payneham Road and Lewis Road and set close to Thelma Street. A large hard-stand area is located adjacent to Ashbrook Avenue, behind a high metal fence.

Third Creek runs through the subject land in a box culvert (1.25m x 2.5m), in a south-east to north-west direction. An easement exists over the land occupied by the culvert, providing the Council with free and unrestricted access to the culvert for drainage purposes. The culvert does not have sufficient capacity to contain a 100 year average return interval (ARI) flood and as such, the Council is intending to upgrade it in the near future.

There are currently eight vehicle crossing points to the subject land, comprising:

- two loading docks at the western end of Lewis Road;
- an access to car parking and loading at the eastern end of Lewis Road;
- two access and egress points to the hard-stand area adjacent Ashbrook Avenue;
- an access/egress point from Payneham Road; and
- an access to a loading dock at the northern end of Thelma Street; and
- an access to car parking and loading docks on Thelma Street.

### **Locality Attributes**

Land uses: mix of commercial and residential land uses  
Building heights (storeys): mostly single storey

The locality of the subject land contains a mix of commercial and residential land uses, as outlined in detail below.

#### North of the Subject Land

The subject land is bounded by Payneham Road to the north. On the northern side of Payneham Road is Patterson Reserve, a large open space reserve owned by the Council, as well as a large two storey office building occupied by Hewlett Packard on the corner of O G Road. All adjacent land located north of the subject land is located in the Residential Zone, Medium Density Policy Area.

#### South of the Subject Land

The subject land is bounded by Lewis Road to the south. On the southern side of Lewis Road are single storey detached dwellings and a pair of two storey semi-detached dwellings, located in the Residential Zone (not Medium Density Policy Area).

#### East of the Subject Land

The subject land is bounded by Ashbrook Avenue to the east, save and except that there are three properties which separate parts of the subject land from Ashbrook Avenue; namely 388 and 390 Payneham Road and 9 Ashbrook Avenue. The property at 388 Payneham Road is occupied by a single storey retail showroom selling gardening power tools. The property at 390 Payneham Road is occupied by a single storey office. The property at 9 Ashbrook Avenue is a two storey residential flat building containing six (6) units.

On the eastern side of Ashbrook Avenue is a mix of detached and semi-detached dwellings within the Residential Zone, Medium Density Policy Area.

#### West of the Subject Land

The subject land is bounded by Thelma Street to the west. On the western side of Thelma Street is a single storey office on the corner of Payneham Road, in the Residential Zone. Further south along Thelma Street is a range of detached and semi-detached dwellings, also within the Residential Zone (not Medium Density Policy Area).

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

### **Proposal in Detail**

The proposal ostensibly involves modifications to the layout of the site, to accommodate the use of the site as a large format retail centre (also known as a homemaker centre).

More particularly, the proposal involves the demolition of buildings fronting Payneham Road, alterations to other buildings and the construction of a new building adjacent to Ashbrook Road, to create a total of seven (7) separate tenancies. The remaining areas north of the tenancies are proposed to be used for at-grade car parking.

Modifications which are proposed to existing buildings in order to accommodate the tenancies, involve:

- internal construction of dividing walls,
- a new 8.0 metre high pre-cast concrete front façade painted Dulux Grand piano double strength;
- a higher corner treatment at the corner of Payneham Road and Thelma Street, to 9.8 metres, to accommodate future signage;
- new aluminium framed glass shopfronts in the pre-cast facade;
- an alucobond clad pedestrian canopy along the front of the facade;
- painted compressed cement sheet signage panels;
- a pedestrian canopy;
- Some side walls re-clad in new monument colour colorbond sheeting; and
- Painting of the existing walls facing Thelma Street and Lewis Road in Dulux Grand piano double strength.

The new building is to be set back between 1.0 metre and 2.3 metres from the southern boundary of the site and between 1.0 metre and 2.4 metres from the eastern (Ashbrook Avenue) boundary. It is to be 8.0 metres high, matching the height proposed for the other (modified) buildings on the site. It is to be of pre-cast concrete construction in a painted finish (Dulux Grand piano double strength).

Vehicle access/egress arrangements for on-site parking are proposed to be:

- left turn in and left turn out on Payneham Road;
- left and right turn in, but left turn out only on Ashbrook Avenue; and
- continued use of existing parking along Thelma Street by staff only.

Loading is proposed to be via an on-site internal loading zone adjacent to tenancies 6 and 7. Existing loading zones on Thelma Street and Lewis Road are to be decommissioned.

Although not forming part of the development application, the proposal facilitates drainage works which the Council intends to undertake in the future. As existing and proposed buildings (Tenancies 6 and 7 respectively) straddle the existing culvert, a new alternative alignment has been discussed and agreed in principle with Council staff, which runs from Ashbrook Avenue to Payneham Road, beneath the proposed car parking area.

No specific operating times for the proposal have been nominated. As such, the operating hours would be controlled by the Shop Trading Hours Act and Shop Trading Hours Regulations.

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

### **Notification**

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

Nineteen (19) representations were received in response to this notification, copies of which are contained in **Attachment C**.

In addition a petition opposing to the proposal was received. The petition was coordinated by one of the representors, Ms Helenka Jiricek. The petition has therefore been regarded as supporting information in respect of the representation by Ms Jiricek, rather than a separate representation or representations.

The key issues raised by representors are, in summary:

- increased traffic resulting from the proposal will worsen already dangerous conditions at the junctions of Thelma Street and Ashbrook Avenue with Payneham Road;
- the proposal will create increased traffic volume in the local streets, including but not limited to Thelma Street, Lewis Road and Ashbrook Avenue;
- the local roads cannot support the increase in traffic;
- the site should be rezoned to residential;
- the proposal will cause noise impacts, due to traffic noise including heavy trucks and noise from shoppers and workers;
- the proposal will worsen existing traffic problems at the O G Road / Payneham Road intersection;
- the increase in traffic will present a safety risk to children using footpaths on their way to/from local schools;
- the existing factory buildings should be removed and replaced with new buildings of good architectural quality and merit;
- the development should include a 4-5 metre wide landscaped 'nature strip' around all four boundaries;
- the car parking area should be smaller and indoor, to avoid light spill from car park lighting;
- the only vehicular access to the site should be from Payneham Road;
- the old loading bays on Lewis Road and Thelma Street should be closed;
- concern with the capacity of the existing creek culvert running through the site;
- the proposal will cause increased on-street parking in Thelma Street, Lewis Road and Ashbrook Avenue, as employees will likely be directed to park in the street;
- the proposed land use is fundamentally at odds with the Light Industry Zone objectives;
- the proposal offends City Wide policies of the Development Plan regarding the appearance and design of land and buildings;
- insufficient landscaping is proposed;
- insufficient detail of stormwater management has been provided;
- insufficient on-site parking is proposed;
- internal loading areas are not separated from passenger vehicles and car parks;
- the proposal would create appreciable nuisance and generate heavy traffic, contrary to Principle 1 of the zone;
- there has been no need demonstrated for the proposed use; and
- no report has considered how this development will impact on flood potential of properties in the area.

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

- Mr Grazio Maiorano, on behalf of:
  - Mr M and Ms B Saccardo;
  - Mr B and Ms E Rajcic;
  - Mr A Rajcic;
  - Mr J Nardi;
  - Ms J Jolly; and
  - Ms L Fuss
- Mr Steven and Ms Stefanie Beltrame;
- Ms Rebecca and Mr Brett Clarke;
- Mr Terry Ernst, on behalf of Ms Rosemary Nicol;
- Mrs Tze Shen Siow;
- Mr Yao Wei and Ms Nan Zhou.

The Applicant has responded to the representations received and a copy of their response is attached (**Attachment D**). Included with the response to the representations was a set of amended plans, seeking to address some of the concerns raised by the representors. A summary of the amendments is provided below:

- the development now includes a 'left turn exit only' restriction from the site to Ashbrook Avenue, via signage and a combination of line marking and raised angled kerbing;
- all existing loading bays off Lewis Road and Thelma Street will be decommissioned;

- the previously proposed new loading bay off Lewis Road has been abandoned in favour of 'staff parking;
- the parking spaces in front of tenancies 2-6 will be available for loading/unloading purposes between 7.00a.m. and 9.00a.m. Monday to Friday;
- additional landscaping has been introduced and more particularly to the Ashbrook Avenue, Lewis Road and Thelma Street frontages;
- waste areas and bin enclosures have been relocated further away from neighbours and will be appropriately screened at all times; and
- materials and finishes have been amended.

### State Agency Consultation

The Application was referred to the Transport Services Division of the Department of Planning, Transport and Infrastructure, pursuant to Schedule 8 of the *Development Regulations 2008*.

The Transport Services Division has advised that it, in principle, raises no objection to the proposed development, however a concern was raised that vehicles which leave the site and cross over to the right hand lane on Payneham Road in order to use O G Road, may interfere with traffic flow on Payneham Road. Therefore, they have requested that consideration be given to moving the access point further east (eg. to the location of either of the proposed north-south parking aisles). They have requested that a condition be imposed, requiring a final access and parking plan be provided to the satisfaction of DPTI and the Council. The applicant has verbally advised that they would be accepting of a condition to that effect.

The Transport Services Division has also requested that landscaping be selected and maintained so as to not be greater than 1.0m in height adjacent to the Payneham Road property boundary, so as to ensure adequate sight lines.

A copy of the referral response from the Transport Services Division is contained in **Attachment E**.

### Discussion

The subject land is located within the Light Industry Zone of the Norwood, Payneham and St Peters (City) Development Plan. The proposed development is a non-complying form of development, on the basis that a large format retail outlet is a type of shop and a shop or group of shops with a gross leasable area of greater than 250m<sup>2</sup> is contained within the list of non-complying land uses within the Light Industry Zone.

Pursuant to Regulation 17(3)(b) of the Development Regulations 2008, it was determined by Council staff under delegated authority, to proceed with a full assessment of the Application.

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

#### Land Use

The following Development Plan provisions provide guidance relevant to the question of the suitability of the proposed use of the subject land:

Light Industry Zone Objectives: 1

Light Industry Zone Principles of Development Control: 1, 3 & 5

City Wide Objectives: 1, 2, 6, 7, 8, 12, 26, 27, 75, 80, 81, 82, 84

City Wide Principles of Development Control: 1, 3, 4, 5, 6, 12, 18, 19, 80, 289, 290, 300.

The proposed large scale retail use is clearly not an anticipated use within the Light Industry Zone, as is evidenced by the listing of shops over 250 square metres in area as non-complying and the Objective of the zone, which encourages primarily industries which manufacture on a small scale.

However, it is necessary to assess the Application against the entirety of the Development Plan, including all City Wide provisions, to gain an understanding of the policy intent as it applies to the Application at hand and ultimately determine whether, on balance, the proposal is firstly seriously at variance with the Development



Plan as a whole and if not, whether the proposal sufficiently accords with the Development Plan to merit consent.

Whilst the inconsistency with the stated objectives of the zone is an important factor in the assessment, the following comments made by the Supreme Court are relevant:

*“the assessment of the planning merits of a development is assessed “by reference to the Plan” and not by a mechanical application of its express provisions. It cannot be expected that the express provisions will speak directly to every conceivable development. A development may merit approval on balance even if it is not expressly supported by a particular provision, whilst another, perhaps more exceptionally, may not warrant approval even if it is not inconsistent with any of the Development Plan’s express provisions.”*

(Lakshmanan & Anor v City of Norwood Payneham & St Peters & Anor [2010] SASCFC 15 (30 July 2010))

City Wide Objectives 75 and 76 appear to recognise that bulky goods retailing may be appropriate outside of centres in some circumstances, stating:

City Wide Objective 75

*Retail showroom development should only be allowed outside of designated centres if it can be clearly demonstrated that it could be undesirable or impractical to locate them in the vicinity of designated centres.*

*Retail showrooms, trading in furniture, floor coverings, household appliances and other similar bulky merchandise, require extensive indoor areas for the display of products and exhibit a lower parking demand than convenience shops. Retail showrooms complement the overall provision of facilities in centres and should be located on the periphery of those centres.*

*In inner areas, the designation of service retail zones for retail showroom development may be appropriate in the event that a centre location cannot be achieved. Such a zone should not be created in a linear fashion along arterial roads.*

City Wide Objective 76

*Retailing not consistent with facilities envisaged in a centre located and operated so as not to adversely affect any designated centre, commercial, business or residential zones or areas and traffic movements on secondary and primary arterial roads.*

*The diversification of locations for retailing providing goods and services not compatible with the grouping of facilities envisaged for regional, district and neighbourhood centres may be considered so long as the integrity of the centre hierarchy is not compromised and the development is compatible with land uses in the locality.*

*Retail development of this kind should be evaluated having regard to:*

- (a) its locational and operational compatibility with existing shopping, business, commercial zones, or areas, including the nature of the goods and materials to be stocked, and the noise levels of vehicles and plant used on, and servicing, the site;*
- (b) its effect on adjacent residential development;*
- (c) the increased use of local and arterial roads;*
- (d) the adequacy of vehicular access and car parking; and*
- (e) the maintenance of building and site development standards required for centres.*

Having regard to Objectives 75 and 76, it is considered that the proposed development is a kind of bulky goods outlet which is not likely to compromise core retailing activities within existing centres zones in the area. In particular, the nearby District Shopping Zone containing Marden Shopping Centre, on the corner of Payneham Road and Lower Portrush Road, is intended to accommodate ‘a range of shops serving the needs of a wider area than that of a Local Shopping Zone. It currently contains a supermarket and a range of speciality shops, banks, post office etc, all of which form part of typical of the shops found in a centre zone.

A homemaker centre is not typically found in such zones, as the type of shopping which is undertaken in a centre is usually of a 'day to day' shopping nature, whereas shopping at a homemaker centre is typically more of a specific and less frequent nature. Also it is unlikely that land of sufficient size would be available in a centre zone within an inner-urban area.

Consistent with Objective 75, the proposal would however be complementary to the nearby District Shopping Zone and is located at the periphery of that zone.

An assessment of the proposal against considerations (b) to (e) of Objective 73 is provided under the relevant headings later in this report.

For the reasons outlined above, it is considered that there are compelling reasons, supported by the Development Plan, for enabling a bulky goods outlet such as that proposed to establish outside of a centre zone. Having said that, it is also relevant to consider the relative suitability of the subject land to continue to be used for industrial purposes, in accordance with the primary intent of the Light Industry Zone.

The Light Industry Zone exists in two main locations within the Council area; Stepney and Glynde, in addition to a number of sites which have been 'spot zoned' to reflect long-standing manufacturing land uses. The subject land is one such site. In other words, rather than there being a strategic reason for the site being zoned to allow for light industry, when a planning regime was introduced in South Australia in the 1970's, the zoning was likely chosen in the interest of 'protecting' the interests of Schweppes.

When land which was zoned in those circumstances is vacated, it is considered that there is good reason to look outside of the constraints of the existing zoning to consider what might be an appropriate future use.

An example of a similar scenario is a site on Second Avenue, Payneham South, which was zoned as Local Commercial Zone on the basis that it was a Council works depot site when a planning regime was introduced. The site is located on a local street in the middle of a residential area. Whilst it was used for a period of time by a borehole drilling company after the Council vacated, a development authorisation was granted for residential purposes, notwithstanding that residential uses are non-complying in the Local Commercial Zone.

An important consideration in trying to determine whether the proposed use of the site is appropriate, is the major arterial road frontage and resultant commercial exposure and accessibility. A retail land use benefits from that arterial road frontage more than does a manufacturing land use.

Some representors indicated a desire for the land to be used for residential purposes. Although a residential use would also be non-complying, there are good reasons why such a use would also be appropriate for the land. Arguably, an ideal use would be an integrated mixed use development. However, those uses are not proposed and the application must be assessed as it is proposed.

In early 2017, the Council wrote to the Minister for Planning and requested that the subject land (amongst several other strategic sites) be considered for inclusion in the Inner and Middle Metropolitan Corridor (Sites) DPA, to be zoned to enable commercial, shopping and residential uses to be assessed as 'merit' forms of development. The Minister determined not to include the site, without explanation.

It is also relevant to consider that the subject land continues to have existing use rights for light industry. As the previous light industry on the site existed prior to a planning regime, there is no development approval in place which sets any operational parameters for the use. Therefore, a future industry could operate from the site without limitation of operating hours, loading/unloading locations etc.

It has been suggested by one of the representors that the existing 'light industry' use rights preclude any future use of the site which operates pursuant to existing use rights, from creating substantial noise or nuisance, due to the definition of light industry in the *Development Regulations 2008*. That is not entirely accurate, as the test for whether or not a future industry use requires development approval, would not be whether the proposed use is in accordance with the definition of light industry, but rather whether or not the proposed use is substantially the same as the previous lawful use of the land. In this respect, the previous use did cause noise and nuisance to nearby dwellings and therefore arguably was not a light industry.

On balance, it is considered that the proposal is appropriate from the perspective of the nature of the land use.

streetscape/bulk/scale/height/character/set-backs

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

Light Industry Zone Principle of Development Control: 3

City Wide Objectives: 18, 19 & 20

City Wide Principles of Development Control: 29-35, 37-39, 41- 44, 50-55

The Light Industry Zone Objectives and Principles of Development Control do not provide any guidance on the height of buildings, however it is a zone in which warehouses and light industries, amongst other things, are listed as complying forms of development (subject to conditions).

Warehouses and light industries, typically comprise buildings of considerable height and floor area. The proposed alterations to the existing buildings and new building, are essentially consistent with the existing height of buildings on the land. The new pre-cast concrete facade which faces internally, is of sufficient height to conceal the tallest parts of existing buildings. Similarly, the 9.8m high corner treatment on the corner of Payneham Road and Thelma Street conceals existing tall building elements up to a similar height in that location.

Having regard to the City Wide provisions of the Development Plan, there are several relevant Principles of Development Control which relate to the design and appearance of the proposal; particularly the new building adjacent to Ashbrook Avenue. Discussion has been provided in relation to each below:

City Wide Principle of Development Control 30

*"Building and structures should have a visual bulk and architectural scale consistent with structures on adjoining or nearby land and should not visually dominate surrounding spaces, unless the zone or policy area objectives or principles of development control provide otherwise."*

It is considered that the Light Industry Zone does allow for built form outcomes that differ from the built form on adjoining and nearby land, pursuant to the exclusion clause in Principle 30. A warehouse, for example, could be constructed as of right within the Light Industry Zone, with no conditions relating to the height or scale. Therefore, it is not considered an appropriate assessment approach to expect that development on the subject land will reflect the visual bulk and architectural scale of offices or dwellings nearby. Accordingly, whilst the building is clearly significantly larger in floor area, length and height than buildings on adjoining and nearby land, it is not considered to be inconsistent with Principle 30.

City Wide Principle of Development Control 31

*"New buildings should complement the urban context of existing buildings on adjoining and nearby land in terms of:*

- (a) maintenance of existing vertical and horizontal building alignments;*
- (b) architectural style, building shape and the use of common architectural elements and features; and*
- (c) consistent colours, materials and finishes."*

The proposed building is consistent with Principle 31 in terms of its relationship with existing commercial buildings on the subject land and given that the subject land comprises several different allotments, it strictly comprises adjoining land. Similarly, the 8 metre height of the proposed building is complementary to the height of the two storey residential flat building on adjoining land at 9 Ashbrook Avenue. Whilst not complementary to the scale of adjacent single storey dwellings on the eastern side of Ashbrook Avenue, the proposed 17m long x 8m high wall facing Ashbrook Avenue is considered to result in an improved streetscape outcome, compared with the existing high fence extending across the whole 57m frontage to Ashbrook Avenue.

City Wide Principle of Development Control 33

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

- (a) articulation;*
- (b) colour and detailing;*
- (c) materials, patterns, textures and decorative elements;*
- (d) vertical and horizontal components;*
- (e) design and placement of windows;*
- (f) window and door proportions;*
- (g) roof form and pitch;*
- (h) verandahs and eaves; and*
- (i) variations to facades."*

City Wide Principle of Development Control 35

*Buildings should be designed and sited to avoid creating extensive areas of uninterrupted walls facing areas exposed to public view.*

The proposed alterations introduce a greater range of materials and finishes to the existing buildings, through the inclusion of glass shopfronts, alucobond clad canopy and painted pre-cast concrete. In general, the proposal is considered to result in a significant improvement to the streetscape along of all frontages of the site.

City Wide Principle of Development Control 40

*Buildings, landscaping, paving and signage should have a coordinated appearance that maintains and enhances the visual attractiveness of the locality.*

The plans show landscaping areas along all frontages of the site, including creepers to be grown up boundary walls along Lewis Road, as well as landscaping throughout the car parking area.

Aside from an indication as to the location of landscaping and indicative images within 'Streetscape Artist Impressions', no specific detail has been provided regarding the landscaping. Accordingly, if the Panel determines to consent to the application, it is recommended that a condition be imposed, requiring a detailed landscaping plan to be provided, to the reasonable satisfaction of the Council or its delegate.

The extent of landscaping which is proposed is substantially greater than the existing situation. In particular, the demolition of buildings which currently abut Payneham Road provides opportunity for landscaping across this entire frontage and it is considered that sufficient depth has been provided for this purpose, exceeding the depth of already generous landscape beds at the western end of the frontage near the corner of Thelma Street.

On balance it is considered that the proposal is generally consistent with the provisions of the Development Plan relating to the design and appearance of buildings.

*Carparking/access/manoeuvring*

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

City Wide Objectives:	29, 30, 31, 32, 33, 34
City Wide Principles of Development Control:	92, 93, 98, 99, 100, 101, 102, 103, 104, 112, 113, 115, 117, 118, 119, 120, 123, 124, 125, 126, 127, 128, 129, 130, 134.

Table NPSP/9

The discussion in this section of the report is provided under the following headings, representing the key traffic related issues which have been identified though the course of the assessment of the Application:

- adequacy of on-site car parking provision;
- impact of additional traffic in local streets;
- Payneham Road traffic safety and function
- Loading / Unloading

### Adequacy of On-site Car Parking Provision

Table NPSP/9 in the Development Plan provides a rate of 2-4 car parking spaces per 100m<sup>2</sup> of floor area for Retail Showrooms (bulky goods outlets are included in this definition).

It is proposed that 146 on-site car parking spaces are to be provided within the car parking areas, including nineteen (19) staff spaces adjacent the Thelma Street and Lewis Road frontages. The report by GTA Traffic Consultants states that 131 parking spaces are provided, however the plans state that 146 are provided and the number of spaces has been counted and verified as 146. This equates to a rate of 2.4 spaces per 100m<sup>2</sup> of gross leasable floor area.

The Council engaged a Traffic Consultant, Tonkin Consulting, to review the proposal and provide advice on the various traffic related aspects. In relation to car parking provision, Tonkin Consulting also had regard to the recommended rate for retail showrooms in the LGASA Guidelines of 3 spaces per 100m<sup>2</sup> with allowance for up to 40% discounting, which at the maximum discounting would result in a demand for 107 spaces.

Tonkin Consulting consider that a supply of 131 spaces (as stated in the GTA report) is appropriate. As discussed, 146 spaces are actually proposed.

Tonkin Consulting initially queried the width of the car parking spaces, as the GTA report stated that the width was only 2.4 metres, whereas the relevant standard for spaces for short term, high turn-over parking is 2.6 metres. GTA have since advised that their initial reference to 2.4 metres was a typographic error and that the spaces are to be 2.6m wide.

Tonkin Consulting noted that the parking along Thelma Street is 'not ideal' from a pedestrian safety point of view. The applicant has subsequently proposed that these spaces be dedicated as staff parking spaces. In light of the relatively infrequent access/egress movement associated with staff parking, Tonkin Consulting consider this to be an acceptable situation. The availability of these spaces along Thelma Street and Lewis Road to staff, would also reduce the incidence of staff parking in local streets, as was the concern of one of the representors.

It is therefore considered that the provision of car parking is acceptable and in accordance with the relevant provisions of the Development Plan.

### Impact of Additional Traffic in Local Streets

A number of the representations raised concerns with the potential for increased traffic in the local streets as a result of the proposal.

GTA have calculated a weekday peak hour traffic generation of 160 trips, with the distribution assuming 45% of vehicles will arrive from the eastern approach on Payneham Road, 45% from the western approach on Payneham Road and 10% from Ashbrook Avenue. However, departing the site, they have assumed 10% using Ashbrook Avenue, 14% travelling west on Payneham Road and 76% travelling east on Payneham Road.

Tonkin Consulting were initially uncertain about the assumptions of distribution of traffic, both in terms of the difference in distribution on Payneham Road between arrival and departure and the low use of Ashbrook Avenue (and other local streets beyond).

With respect to the difference in distribution on Payneham Road between arrival and departure, GTA subsequently explained that customers who arrive at the site from the east, will be able to turn left into the site at the Payneham Road entrance, whereas when they leave the site their options will be to either leave via the Ashbrook Avenue egress point and turn right onto Payneham Road, or turn left onto Payneham Road and make their way back towards the east via an alternative route using the street network (eg. via O G Road). Given the difficulty associated with turning right onto Payneham Road, they predict that a large proportion of drivers will choose the latter option. Tonkin Consulting accepted this explanation.

With respect to the assumed low incidence of customers using Ashbrook Avenue and the local street network, GTA explained that any traffic originating from Ashbrook Avenue is local to the area and non-local traffic will arrive at the site via the arterial road network. The also explained that their assumption of 10% of

traffic using the local street network was made prior to the amended design of the Ashbrook Avenue access/egress, limiting egress to left out only. Therefore, they consider the distribution to local streets will be far less than 10%.

After reviewing GTA's explanation, Tonkin Consulting advised that the distribution of 10% is reasonable and noted that it would be reduced further with the proposed prohibition of right turns onto Ashbrook Avenue. In this respect, they have advised that the concept design produced by GTA will effectively prevent traffic turning right into Ashbrook Avenue, with the exception of some minor level of disregard by some motorists.

Based on the experience of Council staff with the enforcement of similar controls with other developments, the use of raised angled kerbing in combination with signage (as opposed to signage only), will greatly assist in directing traffic to turn left only.

#### Payneham Road Traffic Safety and Function

GTA produced modelling (using SIDRA modelling software) of the impact of the assumed traffic generation and distribution on the function of Payneham Road, including the intersection with Ashbrook Avenue. This modelling was provided to DPTI, who have advised that they are satisfied that the existing right turn lane from Payneham Road into Ashbrook Avenue will be able to cope with the projected traffic demand.

Tonkin Consulting queried why the report by GTA only provided details of the weekday peak, when it is likely that traffic during the weekend peak for the proposal would be higher. GTA subsequently explained that the weekend peak was of less relevance for the consideration of traffic flows on Payneham Road, as background traffic volumes on Payneham Road are lower than during the weekday peak. In any event, they advised that modelling of both peaks was provided to DPTI and this is evident in the comments provided by DPTI.

As stated previously (under the heading of State Agency Referrals), DPTI have requested that the access/egress point on Payneham Road be moved further east, to improve traffic flow on Payneham Road, due to vehicles leaving the site and moving over to the right lane to turn up O G Road. The applicant is willing to accept a condition requiring final detail of the access to be to the satisfaction of DPTI and the Council.

#### Loading / Unloading

Following amendments to the application in response to representations received through public notification, all existing loading bays off Lewis Road and Thelma Street are to be decommissioned and all loading and unloading is to occur on-site, either via a dedicated loading bay adjacent Tenancies 6 and 7, or via the parking spaces in front of tenancies 2-6 between 7.00a.m. and 9.00a.m. Monday to Friday. Tonkin Consulting consider those arrangements to be appropriate. The removal of loading and unloading from adjacent to Lewis Road and Thelma Street is a positive aspect of the proposal, as it removes a potential noise disturbance source for adjacent dwellings.

#### Stormwater Management / Flooding

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

City Wide Objectives: 42-45

City Wide Principles of Development Control: 147-149, 151, 154, 155, 160-162, 165

The subject land is currently almost entirely either roofed or hard paved. The proposal replaces some roofed area with hard paving and vice versa, resulting in no significant change to the total stormwater discharge from the site, save and except that the landscaping area across the Payneham Road frontage is likely to result in a small reduction in stormwater discharge.

The proposal therefore will not contribute to flooding of surrounding properties as has been suggested in some representations. Flooding is as a result of numerous factors, including the current inadequacy of the capacity of the culvert running beneath the subject land. The Council intends to replace the culvert and has been liaising with the applicant, to ensure that a convenient path for the new culvert is achievable.

As there is currently an easement over the property, the Council has the legal ability to access the culvert and undertake necessary drainage works, irrespective of whether or not this development is approved and/or proceeds. The fact that the applicant is willing to accommodate a suitable path for the culvert will help to facilitate the drainage upgrade works.

### Summary

The proposed development is clearly an unanticipated land use within the Light Industry Zone. That said, the Development Plan acknowledges that bulky goods outlets will be appropriate in some circumstances outside of designated centres. In this respect, there are very limited opportunities in the Council for such a development to establish in a zone which anticipates such a use or at the periphery of established centre zones. Whilst not zoned accordingly, the subject land is considered to be well located to accommodate the proposed use, representing a large land holding with arterial road frontage, at the periphery of the District Shopping Zone.

The building is large in scale and in this respect does not accord with the scale of some existing buildings around it. However, the scale of the building is consistent with that which buildings are able to be constructed to within the Light Industry Zone as of right, and which already exist on the site. Sufficiently dimensioned landscaping areas are proposed within the setbacks, however more detail is required.

Adequate on site car parking is provided and traffic impacts on the local street network are considered to be acceptable whilst not interfering with the flow and function of Payneham Road.

The proposed use is not considered likely to have a significant adverse impact on adjacent and nearby residents and in this respect, is likely to represent an improvement to amenity, compared to past and potential future uses operating pursuant to existing use rights.

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

### RECOMMENDATION

That having regard to the relevant provisions of the Norwood, Payneham and St Peters (City) Development Plan and pursuant to Section 33(1) of the *Development Act 1993*, Development Plan Consent be **granted** to Development Application No 155/972/17 by Progetto Design for the change of use of land from industry to a large format retail centre comprising seven (7) tenancies, involving the reuse of existing buildings, the demolition of buildings and the construction of a new building, together with car parking and landscaping (non-complying) on the land located at 382 Payneham Road, Payneham subject to the concurrence of the Development Assessment Commission and the following requirements, conditions and notes:

#### Relevant Plans and Details

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 prepared by Future Urban Group, dated 5 May 2018, except where varied by any of the following;
- Letter of 'response to representations' by Future Urban Group, dated 18 August 2018, as supplemented by the email from Tony Kelly dated 26 September 2018, 9:52am;
- Architectural plans prepared by Progetto Design, dated October 2017 and received by the Council on 17 August 2018, drawing numbers:
  - 1710/060/001;
  - 1710/060/002;
  - 1710/060/003;
  - 1710/060/004;
  - 1710/060/005F;
  - 1710/060/006E;
  - 1710/060/007E; and
  - 1710/060/008C.

- Plan by GTA Consultants showing 'left turn out only' treatments at Ashbrook Avenue, drawing number S141800-SK01-01P5, dated 9 November 2018.

Conditions

1. A detailed landscaping plan shall be provided, showing a mix of trees, shrubs, ground covers and green wall treatments, to the reasonable satisfaction of the Council or its delegate, prior to the granting of development approval. Such landscaping shall ensure clear sightlines as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in AS/NZS 2890.1:2004 at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath. All landscaping adjacent the access points and the Payneham road / Thelma Street junction shall have a mature height of less than 1.0m in order to maximise driver sight lines in these locations.
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. A final access and car parking plan shall be submitted to the reasonable satisfaction of the Department of Planning, Transport and Infrastructure and the Council, prior to the granting of Development Approval.
5. A stormwater management plan shall be submitted to the reasonable satisfaction of the Council, prior to the granting of Development Approval.
6. Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.
7. All refuse and stored materials shall be screened from public view to the reasonable satisfaction of the Council or its delegate.
8. All redundant crossovers to/from the site shall be reinstated to Council standard kerb and gutter at the applicant's expense prior to the operation of the development.
9. All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site, or create a distraction for passing motorists on the abutting roads, to the reasonable satisfaction of the Council or its delegate.
10. All car parking shall be designed in accordance with Australian/New Zealand Standard AS/NZS 2890.1.2004 Parking Facilities-Off Street car parking and AS/NZS 2890.6.2009 Parking facilities – Off Street parking for people with disabilities, and the facilities for commercial vehicles shall conform to the Australian Standard AS 2890.2-2002 Parking facilities – Off street commercial vehicle facilities.
11. A traffic management plan for the construction phase of the development shall be developed in consultation with and to the satisfaction of the Department of Planning, Transport and Infrastructure and the City of Norwood Payneham & St Peters.
12. Stormwater runoff shall be collected on-site and discharged without jeopardising the integrity and safety of the adjacent roads. An alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.



Notes to Applicant

1. The metropolitan Adelaide road widening plan shows a possible requirement for a 4.5 metre x 4.5 metre cut-off at the Payneham Road / Thelma Street corner of this site for possible future road purposes. The consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act 1972 is required to all new building works located on or within 6.0m of the possible requirement. As no new building works are occurring in this location, consent is not required in this instance.
2. 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.
3. 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.
4. 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.

5. 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.
6. 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.

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

Mr G Maiorano from URPS representing;

- Mr M & Ms B Saccardo
- Mr B & Ms E Rajcic
- Mr A Rajcic
- Mr J Nardi
- Ms J Jolly
- Ms L Fuss

addressed the Panel from 7:06 pm until 7:12

Mr S & Ms S Beltame addressed the Panel also on behalf Mr B & Ms R Clarke from 7:13 until 7:23

Tony Kelly, Future Urban Group, on behalf of the Applicant addressed the Panel from 7:23 until 7:38

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## RECOMMENDATION

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 155/972/2017 by Progetto Design to Change of use of land from industry to a large format retail centre comprising seven (7) tenancies, involving the reuse of existing buildings, the demolition of buildings and the construction of a new building, together with car parking and landscaping (non-complying); on the land located at 382 Payneham Road Payneham, for the following reasons:

- The proposal is inconsistent with the Light Industry Zone provisions of the Development Plan and City Wide Objectives 75 and 76.

Seconded and carried

**3. OTHER BUSINESS**

Nil

**4. CONFIDENTIAL REPORTS**

Nil

**5. CLOSURE**

The Presiding Member declared the meeting closed at 8.15pm

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**Terry Mosel**  
Presiding Member

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**Mark Thomson**  
Manager Development Assessment