

REPORT TO: **COUNCIL ASSESSMENT PANEL**

DATE: **28 JANUARY 2021**

SUBJECT: **NON-COMPLYING DEVELOPMENT APPLICATION - DECISION TO PROCEED**

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ATTACHMENTS: **1. PLANS AND SUPPORTING INFORMATION**

ABSTRACT OF REPORT

Development Application 110/00986/20 was lodged with Council as a non-complying form of development for the subject site at 20 Augusta Street, Glenelg. Pursuant to Section 39 (4)(d) of the Development Act 1993, the relevant authority may refuse an application that relates to a development of a kind that is described as a non-complying development under the relevant Development Plan without proceeding to make an assessment of the application. Accordingly, a decision is sought on whether to proceed with further processing of the Development Application.

1. Site and Locality

The subject site is located within the Residential Character Zone Policy Area 14. It is one allotment removed from the District Centre Zone to the east (eastern side of Rose Street).

The site is on a rectangular shaped allotment on the south eastern corner of Augusta Street and Eitzen Street. It has a frontage of 23 metres to Augusta Street and 40.8 metres to Eitzen Street with a total area of approximately 942m². The site contains a single storey turn of the century bluestone fronted residence, which is divided into four self-contained dwellings. Two driveways from Augusta Street accommodate three parking spaces. Access is also provided from Eitzen Street to the rear yard and a garage adjoining the southern boundary.

The site is one property removed from the District Centre Zone to the east. The locality comprises a mix, primarily residential with some non-residential uses. Non-residential uses within the Residential Character Zone include:

- Linton's garage 28 Gordon Street
- Glenelg Fine Art Gallery 26 Gordon Street
- Glenelg Day Surgery 24 Gordon Street
- Fullarton House Assessment Therapy 22 Gordon Street
- Abache Hair and Beauty 14 Gordon Street
- Holdfast Bay Medical Centre 2 Gordon Street
- Offices 3 Gordon Street.

2. Proposal

The proposed development comprises:

- A change in use from residential to 5 consulting rooms;
- Demolition of the rear lean to section of the building and the free standing garage;
- Establishment of 12 off-street parking spaces to the front, side and rear of the site;
- Replacement of the front Bessor-block fence with a blade-style fence with additional front landscaping; and
- Operational hours of between 8am and 7pm Monday to Friday with occasional appointments on Saturdays between 8am and 1pm.

3. Assessment of Proposed Land Use

Within the Residential Character Zone a 'consulting room' is listed as a non-complying form of development. The applicant however has the right to submit application for its consideration. In the first instance Council must decide whether there is merit for a more detailed assessment. If so the application will be subject to a category 3 public notification followed by a more detailed assessment. Pursuant to recent legislative changes the concurrence of the State Commission Assessment Panel is not required should Council grant Development Plan Consent.

Where a non-residential land use is proposed within a residential zone, consideration is given to the current use of the site, land uses in the surrounding locality and whether the proposed use is likely to have a detrimental impact on surrounding residences.

The building is currently used for residential purposes in accordance with the Objectives and Desired Character Statements for the zone and policy area. While the Objectives and Desired Character Statements are silent in regard to non-residential uses, Residential Character Zone Principles 1 and 3 allow some consideration of non-residential uses. Arguably the development does not comply with Principle 1 as that relates to small scale community uses such as child care facilities, open space, primary and secondary schools and recreation areas. Principle 2 is more general stating that non-residential development should be of a nature and scale that serves the local community, is consistent with the character of the area and does not detrimentally impact the amenity of nearby residents. It is arguable whether a facility comprising 5 consulting rooms is small scale. In regard to the character of the locality the supporting planning report mentions a proposal for a large scale private hospital at 16 Augusta Street. At the time of writing this report however no application for that site has been lodged and the site remains as residential. Although there are some non-residential uses within the locality the majority of sites within the Residential Character Zone remain residential. There is some concern regarding the erosion of the primary residential character particularly having regard to Residential Character Zone Principle 2, which states that development listed as non-complying is generally inappropriate.

The Panel may also consider some benefits of the proposal which include retention of the existing building, removal of an existing access from Augusta Street and improved landscaping adjoining Augusta Street. On-site manoeuvring areas, particularly for the front spaces and reversing movements/sightlines for the side of site spaces will need to be more fully assessed if the Panel deem the development has sufficient merit to proceed.

4. Summary

While the development will provide some benefits, careful consideration is required regarding the consequences of further erosion of the residential zone objectives. As a comparison, in the past most approved non-complying developments within the area have comprised properties that were either already used for non-residential purposes or immediately adjacent to the District Centre Zone.

5. MANAGER DEVELOPMENT SERVICES RECOMMENDATION

- 1. That the Council Assessment Panel considers that the development application 10/00986/20 does not have merit and pursuant to Section 39(4)(d) of the Development Act 1993 resolves to refuse the Development Application as it is seriously at variance with the Residential Character Zone and Policy Area 14 Desired Character Statements, Residential Character Principle 2 and 3 and Policy Area 14 Principle 3. OR**
- 2. That the Council Assessment Panel considers the development application 110/00986/20 has merit to proceed.**