

# Council Assessment Panel Minutes

**20 June 2022**

## **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** 7:00 pm

**PRESENT**

**Panel Members** Mr Terry Mosel  
Mr Mark Adcock  
Mr Ross Bateup  
Ms Jenny Newman  
Mr Carlo Dottore

**Staff** Adam Bowey Acting Manager, Development Assessment  
Kieran Fairbrother Compliance Officer, Planning Services  
Tala Aslat Planning Assistant

**APOLOGIES** Mr John Minney

**ABSENT**

**1. CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT  
PANEL HELD ON 16 MAY 2022**

Seconded and Carried

**2. STAFF REPORTS**

**2.1 DEVELOPMENT APPLICATION 21041485 – GAVIN TONKIN – 64 PORTRUSH ROAD, PAYNEHAM**

<b>DEVELOPMENT NO.:</b>	21041485
<b>APPLICANT:</b>	Gavin Tonkin
<b>ADDRESS:</b>	64 PORTRUSH RD PAYNEHAM SA 5070
<b>NATURE OF DEVELOPMENT:</b>	Construction of Consulting rooms including signage, landscaping and vehicle parking area
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• General Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Advertising Near Signalised Intersections</li> <li>• Affordable Housing</li> <li>• Hazards (Flooding - General)</li> <li>• Major Urban Transport Routes</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Traffic Generating Development</li> <li>• Urban Tree Canopy</li> </ul>
<b>LODGEMENT DATE:</b>	13 Jan 2022
<b>RELEVANT AUTHORITY:</b>	Assessment panel at City of Norwood, Payneham and St. Peters
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>REFERRALS STATUTORY:</b>	Commissioner of Highways
<b>REFERRALS NON-STATUTORY:</b>	Urban Services Traffic

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## DETAILED DESCRIPTION OF PROPOSAL:

The applicant seeks consent to construct consulting rooms including signage, landscaping and vehicle parking area. The Consulting rooms includes four consulting rooms, a nurse practitioners office, a special isolation treatment room, a pathology room, reception area and ancillary office and staff room. The carpark includes 20 vehicle parking spaces which includes 4 stacked spaces. Four signs are proposed to be affixed to the outside of the building. The gross leasable floor area of the proposed Consulting rooms is 331.2m<sup>2</sup>.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 64 PORTRUSH RD PAYNEHAM SA 5070

**Title ref.:** CT 5832/307      **Plan Parcel:** F135329 AL78      **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Shape: irregular  
Frontage width: 18.64 metres (21.7 metre effective frontage)  
Depth: 50.8 metres  
Area: 1317.5 m<sup>2</sup>

Topography: incline of up to 400mm from front to rear of allotment  
Existing Structures: single storey dwelling, vehicle car park and carport structure  
Existing Vegetation: low plants, shrubs and mature trees

The subject land is located on the north eastern intersection of Portrush and Marian Roads. The Subject land contains a return retain villa, carport structure and advertising signage, and vehicle parking areas. The property frontage and carpark areas are surrounded by mature landscaping. All vehicle access is provided via two crossovers from Marian Road. The former dwelling is utilised as consulting rooms (3 rooms), with a Gross Leasable Floor Area of 185m<sup>2</sup>.

The allotment has a 30 metre long, 7 metre wide strip at the rear which sits behind 60 and 62 Portrush Road, which contains landscaping and a vehicle driveway. The application seeks to use part of this area for stacked vehicle parking, and as bin storage.

### Locality

Land uses: Commercial land uses, dwellings and an educational establishment  
Building heights (storeys): predominantly single-storey

The locality is considered to be confined to dwellings on the western and eastern sides of Portrush Road, between Albert Street and Tarcoma Avenue, and Marian Road Second Avenue and the north western side of Fist Avenue between 82 First and east along Marian Road until Douglas Place.

Most of the buildings on the western side of Portrush Road are former dwellings used for commercial activities within the Business Neighbourhood Zone, while the eastern side of Portrush road north of the subject land contains residential properties within the General Neighbourhood Zone, with exception of the allotment immediately to the north, which is a former dwelling used as consulting rooms. To the south, on the eastern side of Portrush Road is St Joseph's School which is located within a Community Facilities Zone. Properties to the east of the subject land along Marian Road are primarily residential on the northern side (also within the General Neighbourhood Zone), while St Joseph's School continues on the southern side of Marian Road.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Consulting room: Code Assessed - Performance Assessed  
Advertisement: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
P&D Code

## PUBLIC NOTIFICATION

- **REASON**  
The proposed Gross Leasable Floor Area exceeds DPF 1.4
- **LIST OF REPRESENTATIONS**

Four (4) representations were received during the public notification period.

Given Name	Family Name	Address	Position	Wishes To Be Heard
Sandra	Ker	3 Cashel Street, Pasadena	Oppose	No
Colin	May	82 Avenue Road, Highgate	Oppose	No
David and Lis	Brittan	10 Marian Road Payneham	Oppose	No
Simon	Mechis	78 Portrush Road Payneham	Support	No

- **SUMMARY**

The key issues raised by representors are, in summary:

- Potential for loss of vehicle parking along Marian Road
- Increase in traffic along Marian Road/traffic congestion with existing uses (school and church)
- Loss of character from demolition of existing building

## AGENCY REFERRALS

- Commissioner of Highways

## INTERNAL REFERRALS

- Urban Services
- Traffic

## PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

## Land Use

Performance Outcome 1.1 of the General Neighbourhood Zone States:

*“Predominantly residential development with complementary non-residential uses that support an active, convenient, and walkable neighbourhood.”*

And;

Performance Outcome 1.2 of the General Neighbourhood Zone States:

*“Non-residential development located and designed to improve community accessibility to services, primarily in the form of:*

- (a) small scale commercial uses such as offices, shops and consulting rooms*
- (b) community services such as educational establishments, community centres, places of worship, pre-schools, and other health and welfare services*
- (c) services and facilities ancillary to the function or operation of supported accommodation or retirement facilities*
- (d) open space and recreation facilities.”*

The proposed building contains multiple consulting rooms, and a pathology room. Consulting rooms are envisaged land use within a General Neighbourhood Zone (PO1.1), provided that they are small scale (PO1.2).

Designated Performance Feature 1.4 sets criteria for the establishment of consulting rooms in the General Neighbourhood Zone, so as to achieve the associated performance outcome (PO1.4) of improving community access to services are of a scale and type to maintain residential amenity. In order to satisfy DPF 1.4, a consulting room located on an arterial road needs to either:

- be associated with a dwelling and occupy no more than 50m<sup>2</sup>;
- reinstate a former commercial use in an existing building;
- be located more than 500m from an Activity Centre and not exceed 200m<sup>2</sup>; or
- be located abutting an Activity Centre and not exceed 200m<sup>2</sup>.

The development does not meet the criteria of Designated Performance Feature 1.4, as it is located 372 metres from an Activity Centre (Corner Bakewell Road and Portrush Road), and has a Gross Leasable Floor Area of 331.2m<sup>2</sup>. As the subject land is not more than 500m from an Activity Centre and not abutting an Activity Centre, consulting rooms should only be established if they are associated with a dwelling and up to 50m<sup>2</sup>, or replacing a commercial use in an existing building. The proposed building is 146.2m<sup>2</sup> larger than the footprint of the existing building.

While it is recognised that a Designated Performance Feature is just one way of achieving a Performance Outcome, it performs an important role in assisting the Panel to interpret the Performance Outcome. Specifically, it provides a quantitative ‘guideline’ as to what the authors of the Code meant when they wrote “small scale”.

It is recognised that the subject land is located at the interface of three zones, being the General Neighbourhood Zone (subject land), the Business Neighbourhood Zone to the west, and the Community Facilities Zone to the south. Reviewing the zoning within the Business Neighbourhood Zone, DPF 1.2 envisages consulting rooms up to 250m<sup>2</sup> in GLFA, while the Community Facilities Zone does not provide any guidance as to appropriate floor area for Consulting rooms.

The proposed hours of operation are consistent with General Development Policies, Interface Between Land Uses PO 2.1. Given the existing commercial building to the north, and the activities present on the subject land, the proposed hours of operation are not considered to impact on adjacent sensitive receivers.

## **Building Height**

The proposed building is single storey in height, with an overall height of 5 metres. This satisfies DPF 4.1 of the Zone, which facilitates development up to 9 metres in height and two building levels.

## **Setbacks, Design & Appearance**

Performance Outcome 1.3 of the General Neighbourhood Zone states:

*“Non-residential development sited and designed to complement the residential character and amenity of the neighbourhood.”*

The proposed commercial building has a front setback of 4 metres, which falls short of DPF 5.1, which seeks a setback no more than 1 metre forward of the adjacent dwelling to the north which has a front setback of 6 metres.

The proposed building is set back from the northern boundary of the allotment by 1 metre, and the secondary frontage by 1.7 metres. While the DPF (8.1) seeks 1.5 metres from the northern boundary, the proposed 1 metre setback is reasonably consistent with other buildings within the locality, and thereby satisfying PO 6.1 and 8.1 of the General Neighbourhood Zone.

The building is distinctly commercial in nature, being in a large rectilinear format for almost the whole width of the front boundary. An attempt has been made to provide some articulation to the structure, by way of vertical timber battening to the building's façade, and a raised canopy which extends out 500mm above the front doors. While it is noted that a new dwelling could be constructed on this site with similar proportions, the current proposal would not satisfy Design in Urban Areas DPF 20.2 or PO 20.2 which relate to articulation and visual appeal of the primary front façade of dwellings.

Given the shortfall in the proposed front setback, and the 'box like' architecture, it provides clear contrast to dwellings and former dwellings used for commercial activities within the locality and clearly distinguishes itself as a relatively large commercial building, which is not considered to complement the residential character and amenity of the neighbourhood in a manner consistent with PO 1.3.

## **Heritage**

The existing building on the land is not heritage listed, and so its demolition does not form part of this application, nor require any Development Authorisation. There are no other heritage implications of the proposed development.

## **Traffic Impact, Access and Parking**

The existing building contains three approved consulting rooms, a waiting room and two offices and provided 15 parking spaces within the 185m<sup>2</sup> footprint.

The application includes the provision of 20 parking spaces as part of the development, located to the rear of the proposed building. Two separate access points are proposed from Marian Road, being an entry only access point to the east, and an egress point closer to the west.

The Planning and Design Code applies a parking rate of 4 spaces per consulting room, excluding ancillary facilities. The carparking rate, importantly, excludes ancillary facilities, acknowledging that ancillary facilities generate their own parking rate.

The proposal includes 4 consulting rooms, a nurse practitioners office and a special isolation room which as detailed by the plans all share the same fit out. In addition, there is a Treatment Room, and a Pathology room, as well as reception, waiting room, office and staff facilities.



The application includes a supporting traffic report provided by Mr Weaver from Phill Weaver & Associates, which considers the total parking demand of the site as 16 parking spaces for the four consulting rooms, which would render the provision of 20 on site parking spaces compliant from a parking demand perspective.

The application was referred to Councils Manager, Traffic & Integrated Transport for review. In her review, Ms Buckby considered that the proposed parking arrangement did not adequately meet the parking demands of the proposal, as the Nurse Practitioners Office, Special isolation room and pathology room were considered to add an additional 8 spaces of parking demand, creating a requirement of 24 vehicle spaces for the proposed use.

Given the existing traffic/parking situation associated with Marian Road and St Joseph's School, there is limited street parking available to cater for parking overflow from the subject site, which is recognised within Ms Buckby referral.

Further concerns raised by Ms Buckby include:

- Non-compliant designated accessible parking bay
- Stacked parking is appropriate if all are designated as staff parking bays (not currently the case)
- Proposed dual access arrangement results in additional loss of on-street parking spaces
- Lack of bicycle parking

Accordingly, it is considered that the proposal results in a parking shortfall (General Development Policies, Traffic, access and Parking PO 5.1), and fails to achieve the relevant standards for Accessible Parking Bays (General Development Policies, Traffic, access and Parking PO 4.1).

While no detail has been provided, the report by Mr Tonkin from Toning Schutz Design & Build which was lodged with the application indicates that the vehicle parking area is intended to be illuminated. In the absence of any detail (light poles/illumination information) if the Panel determines to grant consent to the application it is recommended that a condition be imposed requiring any such lighting to be of a suitable intensity and directed so as not to impact on residential amenity.

The application was referred to the Commissioner of Highways as part of the assessment process, due to the proximity of crossovers to Portrush Road. The referral response raised no concerns with the proposal, and directed conditions to be applied to any consent. A copy of the referral is found within **Attachment 6**.

A copy of the traffic report by Mr Weaver is contained within **Attachment 1** (Pages 16-21)  
A copy of Councils referral response is provided within **Attachment 7** (Pages 41-42)

### **Waste Management**

The plans detail a single bin to the north of parking space 19. No further detail has been provided as to how waste (including medical waste) would be stored and collected as part of the proposal. It is considered that this area is of a sufficient size to accommodate waste storage bins which could service the activities on site, however the location of the bin (or bin area) would either require collection outside of business hours or require placement on the kerb on collection days.

Given the volume of traffic on Marian Road, access and egress during business hours could be problematic. This area is also located adjacent residential driveway areas and sensitive receivers, which could also make out of hours collection (prior to 7am) impactful to adjacent allotments. It is therefore unknown how the proposal intends to deal the collection of this waste, either on site or off site.

### **Signage**

The application includes 5 signs displayed across the building's primary and secondary frontage. The plans do not provide detail on the type of signage other than its location and size. For the purposes of assessment, given the lack of notations, the signage has not been considered to be illuminated and has not been referred to DIT due to its proximity to an intersection.

The General Neighbourhood Zone provides guidance for advertisements through PO 12.1 which states:

*Advertisements identify the associated business activity, and do not detract from the residential character of the locality.*

The proposed signage is sufficient to identify the associated business activity on site and replaces existing freestanding signs on the site. It is acknowledged that the site fronts an arterial road, and is at the interface of a community and commercial zone, however the extent of signage is beyond what is anticipated within a General Neighbourhood Zone (PO12.1), and only assists to outline the clear commercial nature of the building.

### **Soft Landscaping**

The application retains existing landscaping adjacent the Marian Road frontage and within the northern 'handle' of the site, and proposes new landscaping areas around the building and within the vehicle parking area. The site plan provides indicative locations of three trees to be planted along the northern fence line, and landscaping strips of 1.8 metres in width along the Marian Road frontage. The amount of landscaping area provided is a positive aspect of the proposal, provided that these areas are planted with a mix of vegetation.

### **Flooding/Stormwater/Levels**

The site is located in a Hazards (Flooding – General) Overlay and was referred to Urban Services for advice. This confirmed that the footprint of the building is not susceptible to flooding and a further referral was not required.

The application includes a 5000 litre rainwater tank at the rear of the building adjacent the parking area, which is intended to be plumbed internally and used for irrigation of landscaping areas. There is no Code requirement for the provision of rainwater tanks for commercial development, and so this is considered a positive aspect of the proposal.

The referral did request a stormwater management plan be provided for the development, with calculations are required to demonstrate that the flow of the total areas of post-development 1 in 100 year ARI storm event does not exceed those of the pre-development 1 in 5 year ARI storm event. Please note though that for these calculations, the relevant impervious areas are those that are connected to the drainage system. Due to the staff recommendation this information was not requested from the applicant, however could be resolved by either a reserved matter or condition, should the panel elect to grant planning consent to the application.

The application does not include a siteworks and drainage plan, and provides minimal levels detail, with a Finished Floor Level nominated relative to the rear parking area rather than a temporary benchmark (TBM). In any event, given that the site is relatively flat, it is considered the proposed consulting rooms could be constructed without the need for excessive retaining walls or fencing.

### **CONCLUSION**

The application seeks to replace a consulting rooms with a larger purpose-built commercial building. This building contains four designated consulting rooms, and three additional treatment rooms as well as a pathology room.

The proposed consulting rooms are not considered to be 'small scale' as per PO 1.2 of the General Neighbourhood Zone. The building is larger than surrounding buildings within the zone and does not compliment the residential character, due to its rectilinear design and advertising signage. While it is acknowledged that the property fronts an arterial road and is located at the interface of three zone boundaries, the Gross Leasable Floor Area of the building greatly exceeds that envisaged within the zone, while providing a shortfall in street setback and vehicle parking within a locality with limited access to on-street parking due to a nearby school, church, and funeral home.

The amount of landscaping area, in addition to the collection and re-use of rainwater on site are positive aspects of the proposal, and could assist in improving the outlook/soften the appearance of the building. Like waste collection detail, there is limited information provided as part of the application. While many of these aspects could be resolved via a condition or reserved matter, the fundamental issues relating to the extent of Gross Leasable Floor Area and shortfall in parking lead to the conclusion that the scale of the proposal is at odds with the General Neighbourhood Zone.

## RECOMMENDATION

It is recommended that the Council Assessment Panel/SCAP resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 21041485, by Gavin Tonkin is refused Planning Consent for the following reasons.

## CONDITIONS

Reason for refusal

The application is refused planning consent for the following reasons:

- The Gross Leasable Floor Area is considered to be beyond that envisaged within a General Neighbourhood Zone
- The application proposes a shortfall in vehicle parking spaces and proposes non-compliant accessible parking spaces.
- The front setback of the building is not considered to complement the residential character and amenity of the neighbourhood and falls short of Designated Performance Feature 5.1

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*Mr and Mrs Brittan addressed the Council Assessment Panel from 7:06pm until 7:11pm*

*Mr Hutchinson addressed the Council Assessment Panel via Teleconference from 7:12pm until 7:19pm*

## MOVED

*Development Application Number 21041485, is **granted** Planning Consent subject to the following conditions:*

1. *All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers within the following planting season after the occupation of the premises to the reasonable satisfaction of Assessment Manager or its delegate.*
2. *All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Assessment Manager or its delegate.*
3. *All vehicles shall enter and exit the land in a forward direction.*
4. *Access to buildings and designated accessible car parking spaces shall be designed and provided in accordance with the provisions contained in Australian Standard AS1428.*

5. *All of the car parking spaces, driveway and vehicle manoeuvring areas shall be constructed of concrete, paving bricks or bitumen and drained in accordance with recognised engineering practices prior to occupation of the premises.*
6. *All refuse and stored materials shall be screened from public view to the reasonable satisfaction of the Assessment Manager or its delegate.*
7. *All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Assessment Manager or its delegate.*
8. *At no time shall any goods, materials or waste be stored in designated car parking areas, driveways, manoeuvring spaces or landscaping.*
9. *Stacked parking spaces 17, 18, 19 and 20 shall be designated as staff parking spaces.*
10. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.*
11. *A Stormwater Management Plan shall be provided for the development. Calculations are required to demonstrate detention storage meets the minimum requirements of Council. The detention requirements for the site are to detain the post development 1 in 100 year ARI storm event, with discharge being at the pre development 1 in 5 year ARI rate. The Stormwater Management Plan is to conform to the Council's Urban Services requirements, to the reasonable satisfaction of the Assessment Manager or its delegate prior to issuing of development approval.*
12. *Final detail of materials, signage and finishes are to be provided to the reasonable satisfaction of the Assessment Manager or its delegate prior to issuing of development approval.*

*Seconded and Carried*

2. STAFF REPORTS

2.2 DEVELOPMENT APPLICATION 21037106 – ZEEK BADMAN – 67 SECOND AVENUE, ST PETERS

<b>DEVELOPMENT NO.:</b>	21037106
<b>APPLICANT:</b>	Zeek Badman
<b>ADDRESS:</b>	67 SECOND AV ST PETERS SA 5069
<b>NATURE OF DEVELOPMENT:</b>	Construction of a two level garage with upper level ancillary accommodation within the roof space
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Established Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Historic Area</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Traffic Generating Development</li> <li>• Urban Tree Canopy</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Minimum Frontage</li> <li>• Minimum Site Area</li> <li>• Maximum Building Height (Levels)</li> <li>• Site Coverage</li> </ul>
<b>LODGEMENT DATE:</b>	7 Dec 2021
<b>RELEVANT AUTHORITY:</b>	Assessment panel at City of Norwood, Payneham and St. Peters
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>REFERRALS STATUTORY:</b>	Nil
<b>REFERRALS NON-STATUTORY:</b>	Heritage Advisor

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APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Response to Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Internal Referral Advice
ATTACHMENT 3:	Zoning Map		

## DETAILED DESCRIPTION OF PROPOSAL:

The applicant seeks consent to construct a two storey outbuilding (garage) with upper level ancillary accommodation within the roof space, which backs onto Second Lane at 67 Second Avenue St Peters. The upper level includes a bedroom with ensuite, and open plan living room and kitchen, while the lower floor contains a 4 vehicle spaces. The total floor area of the outbuilding is 88m<sup>2</sup> with a total internal floor area of 136m<sup>2</sup>.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 67 SECOND AV ST PETERS SA 5069

**Title ref.:** CT  
5288/367

**Plan Parcel:** D698  
AL131

**Council:** THE CITY OF NORWOOD PAYNEHAM AND  
ST PETERS

Shape: rectangular  
Frontage width: 22.86 metres  
Depth: 45.72 metres  
Area: 1045.16 m<sup>2</sup>

Topography: incline of up to 400mm from front to rear of allotment  
Existing Structures: single storey dwelling, swimming pool and outbuilding (garage)  
Existing Vegetation: low plants, shrubs and mature trees

The subject land is located on the south-eastern side of Second Avenue, St Peters. The subject land contains a return verandah villa, swimming pool, and garage. Tall hedging surrounds the property frontage, with taller fencing along the secondary frontage. All vehicle access is provided via Second Lane.

### Locality

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

The locality is considered to be confined to dwellings on the south eastern side of Second Avenue and the north western side of First Avenue between 82 First and Winchester Street.

Most of the dwellings within the locality are Representative Buildings, with double fronted cottages and villas being the most common architectural styles. Outbuildings are commonly located at the rear of allotments, which are directly accessed from Second Lane.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
  - New housing
  - Ancillary accommodation: Code Assessed - Performance Assessed
  - Carport or garage
  - Outbuilding (Carport or garage): Code Assessed - Performance Assessed
  
- **OVERALL APPLICATION CATEGORY:**
  - Code Assessed - Performance Assessed

- **REASON**  
P&D Code

## **PUBLIC NOTIFICATION**

- **REASON**  
The proposed outbuilding exceeds the maximum building height of one level, specified in Established Neighbourhood Zone DTS/DPF 4.1.
- **LIST OF REPRESENTATIONS**  
One (1) representation was received during the public notification period.

<b>Given Name</b>	<b>Family Name</b>	<b>Address</b>	<b>Position</b>	<b>Wishes To Be Heard</b>
Daniel	Wong	65 Second Avenue St Peters	Opposed	Yes

- **SUMMARY**

The key issues raised by representors are, in summary:

- Loss of Privacy
- Impact on Laneway
- Use and Size of second residence
- Overshadowing

## **AGENCY REFERRALS**

Nil

## **INTERNAL REFERRALS**

Heritage

## **PLANNING ASSESSMENT**

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

### **Land Use**

Desired Outcome 1 for the Established Neighbourhood Zone is:

*“A neighbourhood that includes a range of housing types, with new buildings sympathetic to the predominant built form character and development patterns.”*

Performance Outcome 1.1 for the Established Neighbourhood Zone seeks:

*“Predominantly residential development with complementary non-residential activities compatible with the established development pattern of the neighbourhood.”*

The Designated Performance Feature associated with PO 1.1, is for development to comprise one or more of the following:

- a. Ancillary accommodation
- b. Community facility
- c. Consulting room
- d. Dwelling
- e. Office
- f. Recreation area
- g. Shop.

Designated Performance Feature 11.1 states in part:

*“Ancillary buildings and structures:*

*(a) are ancillary to a dwelling erected on the same site”*

Ancillary accommodation is defined within the Planning and Design Code as:

Means accommodation that:

- (a) is located on the same allotment as an existing dwelling;*
- (b) contains no more than 2 bedrooms or rooms or areas capable of being used as a bedroom; and*
- (c) is subordinate to and shares the same utilities of the existing dwelling.*

The proposal is for an outbuilding containing ancillary accommodation and garaging associated with a dwelling, containing a single dwelling and is subordinate to and shares the same utilities of the existing dwelling. The upstairs habitable area meets the definition of ancillary accommodation, and is envisaged by PO 1.1, therefore the proposed land use is envisaged within the zone.

### **Building Height**

Performance Outcome 10.2 of the Established Neighbourhood Zone states:

*“The appearance of development as viewed from public roads is sympathetic to the wall height, roof forms and roof pitches of the predominant housing stock in the locality.”*

Performance Outcome 2.2 of the Historic Area Overlay states:

*“Development is consistent with the prevailing building and wall heights in the historic area.”*

Performance Outcome 11.1 of the Established Neighbourhood Zone states:

*“Residential ancillary buildings and structures are sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties.”*

While Designated Performance Feature 11.1 states in part:

*“Ancillary buildings and structures:*

- (h) have a wall height or post height not exceeding 3m above natural ground level, and where located to the side of the associated dwelling, have a wall height or post height no higher than the wall height of the associated dwelling*
- (i) have a roof height where no part of the roof is more than 5m above the natural ground level”*

The Established Neighbourhood Zone prescribes that outbuildings which exceed the building height limit contained in DTS/DPF 4.1 (single storey) are notified as per the notification table. With exception to this notification trigger, the zone policy does not reference a storey limit for outbuildings/ancillary accommodation, rather the height limit is based on wall and roof heights. This is guided by DPF 11.1, which envisages wall heights of up to 3 metres, and a roof height of up to 5 metres. The proposed outbuilding has wall heights of 3 metres, and an overall height of 5.2 metres. The resultant 200mm over the height criteria is



a marginal amount not readily visible by adjacent properties to the south west, given the 35° roof pitch and therefore considered to generally accord with the PO.

### **Setbacks, Site Coverage, Siting**

Historic Area Overlay PO 2.4 states:

*“Development is consistent with the prevailing front and side boundary setback pattern in the historic area.”*

Performance Outcome 3.1 for the Established Neighbourhood Zone is:

*“Building footprints are consistent with the character and pattern of the neighbourhood and provide sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation.”*

Designated Performance Feature 3.1 states:

*“Development does not result in site coverage exceeding:  
Maximum Site Coverage is 50 per cent”*

Designated Performance Feature 11.1 states, in part:

*(b) “Ancillary buildings and structures:  
have a floor area not exceeding 60m<sup>2</sup>”*

*“(e) if situated on a boundary (not being a boundary with a primary street or secondary street), a length not exceeding 8m unless:*

- (i) a longer wall or structure exists on the adjacent site and is situated on the same allotment boundary and*
- (ii) the proposed wall or structure will be built along the same length of boundary as the existing adjacent wall or structure to the same or lesser extent”*

The proposed outbuilding increases site coverage to 36.5% of the site, well under the maximum stipulated by DPF 3.1 (50%).

The outbuilding is set back from the south western side boundary by 1 metre; and while there is no side setback requirement within Performance Outcome 11.1, given that part (e) allows boundary development along a side boundary for a length of up to 8 metres, with a wall height of 3 metres above natural ground level (taken from part (h) of the DPF), the proposed outbuilding, with its wall length of 13.9 metres, and a wall height of 3.2 metres is considered to be reasonably consistent with PO 3.1.

The outbuilding has a floor area of 88m<sup>2</sup>, which is 28m<sup>2</sup> greater than the 60m<sup>2</sup> envisaged by DPF 11.1(b). The development includes a 4 car garage and ancillary accommodation in the one building, and as such the 28m<sup>2</sup> departure from Part (b) is not considered to be fundamental given the size of the allotment, which could accommodate two individual 60m<sup>2</sup> outbuildings while still satisfying site coverage requirements. The proposed outbuilding is located at the rear of the allotment, which is common location within the locality providing for rear vehicle access from laneways.

It is also noted that if the proposed outbuilding did not contain an upper level, but instead had high ceilings and a steep roof up to 5.0m high instead of 5.2m high, it would satisfy all relevant code criteria, including floor area. The inclusion of an upper level within the roof space has no bearing on the visual impact of the proposal, other than potential overlooking from windows, which is addressed later in this report.

## **Design & Appearance**

Historic Area Overlay PO 4.1 states:

*“Ancillary development, including carports, outbuildings and garages, complements the historic character of the area and associated buildings.”*

The proposed outbuilding has been designed to appear as a single storey building from adjacent allotments to the south west and the laneway, with a 3 metre wall height and a 30° roof pitch. Due to the relatively shallow roof pitch, the ridge height (at 5.2 metres tall) is located 4 metres in from the south western boundary, which assists to reduce the impact of its overall height to neighbouring allotments. Internally to the site (those elevations facing north west and north east, the outbuilding has a 75° pitch.

The impact of this vertical walling and apparent height on allotments to the north east and east (67A Second Avenue and 10 Winchester Street) is negligible, as they do not have a direct visual outlook on to the structure to the layout of dwellings and positioning of outbuildings. The proposed outbuilding is to be clad in true oak corrugated roofing in Colorbond Basalt colour, which will assist it to appear as a recessive structure. The proposed design and appearance of the outbuilding is therefore considered to satisfy Historic Area Overlay PO 2. 1 and 4.1, and Established Neighbourhood Zone PO 11.1.

## **Traffic Impact, Access and Parking**

The proposed garage component attains access from the rear laneway, being located in a similar position to the existing garaging on the site. The proposed structure is located between 900mm and 1 metre metres from the rear laneway which is closer to the rear laneway than the existing. The laneway between Westminster Street and Winchester Street is 4.2 metres wide according to Council's road register, which creates a total width of 5.1-5.2 metres between the garage and the laneway, falling short of the 6.2 metres prescribed by Design in Urban Areas DPF 23.5. The garage has a 5.6 metre opening which is significantly wider than a standard entry width (4.8 metres), which facilitates additional manoeuvring room. Considering its depth, allows for the parking of a minimum of two vehicles side by side in a convenient manner which satisfies both the internal dimensions and minimum parking requirements of the Code.

## **Overlooking**

The outbuilding contains windows on the upper level along the north eastern elevation, which are not obscured and include openable components. While it is considered that there is limited potential for overlooking from these windows given the built form and layout of adjacent allotments, there could be opportunity to gain additional views into the windows of adjacent buildings which otherwise may not be obtained at ground level. In this instance, it is considered that a precautionary condition should be applied to the application to require screening to be installed to 1.5 metres above the upper-level FFL. If applied as part of any consent, this condition could be reviewed by the applicant by way of variation at a later date when this aspect can be reviewed from within the building. A condition has been applied as part of the staff recommendation.

## **Finished Floor Levels/Flooding/Retaining/Fencing**

The site at 67 Second Avenue is not located within a known flood zone, or a Hazards Overlay. The proposed outbuilding has a floor level of 46.1, which is between 80mm and 130mm above the rear laneway. While it is acknowledged that new fencing will be required as the proposed structure is now located off boundaries (as opposed to the on boundary existing structure to be replaced) it does not form part of this application and given the minor height difference between allotments, is unlikely to require approval.

### **Trees (Regulated, Mature & Street) and Landscaping**

The proposed garage requires the removal of a mature tree within the rear yard of the property. This tree is not a regulated tree, as it is not a Eucalyptus species and is within 10 metres of the existing dwelling. The proposal presents minimal impact to existing landscaping, as it is for the most part replacing existing impervious areas. As such its construction is consistent with Established Neighbourhood Zone DPF 11.1 (k).

### **Heritage**

The application was referred to Councils Heritage Advisor, David Brown. Mr Brown acknowledges that the heritage value of the rear laneway is its facilitation of the Avenues in being free of garages at the front of properties. Therefore, the structure has no streetscape impact and minimal impact on the Representative Building it sits behind. The proposal is therefore considered to satisfy the requirements of the Historic Area Overlay.

A copy of Mr Brown's referral response is found within Attachment 6.

### **CONCLUSION**

The application seeks planning consent to construct a two-level outbuilding for use as a garage and upper level ancillary accommodation at the rear of the allotment. From an external viewpoint, the outbuilding generally satisfies policy related to wall and roof heights, and is clad in a material which compliments the locality and the dwelling it relates to. It has a larger floor area than that envisaged within code policy, however is located on a large allotment where other parameters relating to private open space, soft landscaping and site coverage are met. The application has undergone a heritage referral, which has confirmed that the proposal presents minimal impact to the streetscape, and services its purpose of locating vehicle garaging at the rear of the allotment, consistent with the streetscape character of Second Avenue. The proposal is considered to generally satisfy the provisions of the planning and design code, and warrants consent.

### **RECOMMENDATION**

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 21037106, by Zeek Badman is granted Planning Consent subject to the following conditions

### **CONDITIONS**

#### Planning Consent

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
2. All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the street kerb & water table and not into the rear laneway.

3. The upper floor windows shall either have sill heights of 1500mm above floor level or be treated to a height of 1500mm above floor level, prior to occupation of the building, in a manner that restricts views being obtained by a person within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.
4. Any transition required to enable vehicle access to the rear garage shall be accommodated entirely on the subject land, and not within the Council laneway.

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Mr Badman addressed the Council Assessment Panel from 8:23pm to 8:26pm

### **MOVED**

*It is recommended that the Council Assessment Panel resolve that:*

1. *Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and*
2. *Development Application Number 21037106, by Zeek Badman is **granted** Planning Consent subject to the following conditions*

### CONDITIONS

#### *Planning Consent*

1. *The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.*
2. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the street kerb & water table and not into the rear laneway.*
3. *The upper floor windows shall either have sill heights of 1500mm above floor level or be treated to a height of 1500mm above floor level, prior to occupation of the building, in a manner that restricts views being obtained by a person within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.*
4. *Any transition required to enable vehicle access to the rear garage shall be accommodated entirely on the subject land, and not within the Council laneway.*

Seconded and Carried

2. STAFF REPORTS

2.3 DEVELOPMENT APPLICATION 22007840 – 46 FULLARTON PTY LTD – 46 FULLARTON ROAD, NORWOOD

<b>DEVELOPMENT NO.:</b>	22007840
<b>APPLICANT:</b>	46 Fullarton Pty Ltd
<b>ADDRESS:</b>	46 FULLARTON RD NORWOOD SA 5067
<b>NATURE OF DEVELOPMENT:</b>	addition of a third floor level to an existing office building and a change of use of the ground floor from office to consulting rooms.
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Business Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Historic Area</li> <li>• Heritage Adjacency</li> <li>• Hazards (Flooding - General)</li> <li>• Local Heritage Place</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Traffic Generating Development</li> <li>• Urban Transport Routes</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b> Maximum Building Height (Levels) (Maximum building height is 2 levels)</p>
<b>LODGEMENT DATE:</b>	29 Mar 2022
<b>RELEVANT AUTHORITY:</b>	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>REFERRALS STATUTORY:</b>	Nil
<b>REFERRALS NON-STATUTORY:</b>	David Brown, Heritage Advisor

**CONTENTS:**

<b>APPENDIX 1:</b>	<b>Relevant P&amp;D Code Policies</b>	<b>ATTACHMENT 5:</b>	<b>Response to Representations</b>
<b>ATTACHMENT 1:</b>	<b>Application Documents</b>	<b>ATTACHMENT 6:</b>	<b>Internal Referral Advice</b>
<b>ATTACHMENT 2:</b>	<b>Subject Land Map</b>		
<b>ATTACHMENT 3:</b>	<b>Zoning Map</b>		
<b>ATTACHMENT 4:</b>	<b>Representations</b>		

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## DETAILED DESCRIPTION OF PROPOSAL:

The proposal comprises the construction of a third floor level to an existing office building and a change of use of the ground floor from office to consulting rooms.

The existing building has a Gross Leasable Floor Area of 741m<sup>2</sup> with use rights as office across two levels, as well as common tenancy areas. There are currently 31 on-site car parking spaces, comprising 8 spaces adjacent Fisher Street and 23 spaces on the northern side of the building adjacent Fullarton Road, including 3 secure garage spaces.

The proposed new third floor area comprises an additional 246m<sup>2</sup> gross leasable floor area, as well as common tenancy areas and is proposed to be used for offices. A common balcony is proposed along the northern, western and southern sides. A service area is proposed at the eastern end, with 1500mm high acoustic lined screening.

The gross leasable floor area of the building is therefore increasing from 741m<sup>2</sup> to 986m<sup>2</sup>.\*

The use of the ground floor area is proposed to change from offices to consulting rooms, while the first floor level is proposed to remain as office use.

A stair and lift core is proposed to be added to the southern side of the building to service all floor levels. Where the new stair and lift connect to the south façade there are two bays of wall and window being removed to allow access on both levels.

Sunshades are proposed to the north side windows of the existing building, comprising a flat plate steel design set at the top of the window openings. There is a small portion of window on the north façade proposed to be built in to include a new fire exit, along with the removal of a set of external doors. The windows to the building are proposed to be replaced with higher performance frames and glass. The original front steps are proposed to be removed, but the landing is to remain.

An additional two (2)\*\* car parking spaces (resulting in 33 spaces) are proposed by:

- Expanding the car parking area adjacent Fisher Street from 8 spaces to 9 spaces; and
- Demolishing the existing 3 space garage and replacing it with 4 open-air spaces.

\* The plans and reports which were lodged with the application state that the proposed gross leasable floor area is 883m<sup>2</sup>. However, it appears this figure has not been calculated in accordance with the relevant definitions contained in the Planning & Design Code. To calculate GLFA, it is necessary to include the external walls. This does not appear to have been done in the application documents.

\*\* The report by Cirqa states that the proposal will result in an additional 5 car parking spaces on the site. This appears to have been based on the existing 3 car garage being incorrectly described as a 'shed' and not included as existing parking capacity.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 46 FULLARTON RD NORWOOD SA 5067

**Title ref.:** CT  
5170/764

**Plan Parcel:** D20862  
AL23

**Council:** THE CITY OF NORWOOD PAYNEHAM AND  
ST PETERS

The subject land is a large rectangular allotment of approximately 1700m<sup>2</sup> located on the corner of Fullarton Road and Fisher Street. It contains a two storey mid-twentieth century 'modernist' office building which is listed as a Local Heritage Place. The building is sited central to its Fullarton Road Frontage, with at-grade car parking areas to the north and south. A landscaped area is also located south of the building, adjacent the corner of Fullarton Road and Fisher Street. There are a number of regulated trees on the property, none of which are impacted by the proposal.

## Locality

The locality is characterised by commercial land uses along Fullarton Road, mostly comprising repurposed former dwellings, but also including some purpose built commercial buildings, which in turn have faux residential design features such as pitched roofs and verandahs. All buildings in the locality are either one or two storey in height. There is a prominent church building located adjacent the subject land on the western side of Fullarton Road.

The character of Fisher Street is significantly different, comprising mostly single storey cottages and row dwellings of historic character and significance.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
  - Office
  - Consulting room: Code Assessed - Performance Assessed
  - Demolition
  - Office: Code Assessed - Performance Assessed
  - Partial demolition of a building or structure: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
  - Code Assessed - Performance Assessed
- **REASON**
  - P&D Code

## PUBLIC NOTIFICATION

- **REASON**
  - building height exceeding 2 levels and commercial floor area exceeding 250m<sup>2</sup>
- **LIST OF REPRESENTATIONS**
  - One representation was received from Mrs Rose Wight, an adjoining land owner at 1 Fisher Street, Norwood. Mrs Wight is opposed to the development and wishes to be heard by the Panel in support of her representation.
- **SUMMARY**
  - In summary, Mrs Wight's concerns are:
    - The proposed increase in the number of car parking spaces into the landscaped frontage of the property
    - loss of the open space;
    - increased traffic and resultant increased difficulty accessing Fisher Street.
    - The proposed plan adds another storey, with a balcony, to the building, which negates the mid-century design.
    - The addition of a balcony will result in overlooking
    - The increase in mass and height will result in overshadowing

## AGENCY REFERRALS

Nil

## INTERNAL REFERRALS

The application was referred to David Brown, Heritage Advisor. Refer to the Heritage section of the below planning assessment for details of the advice received.

## PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in Appendix One.

### Land Use

Performance Outcomes 1.1 and 1.2 fall under the heading of "*Land Use and Intensity*" in the Business Neighbourhood Zone and state respectively:

*"Housing and accommodation types appropriate to the locality complemented by shops, offices, consulting rooms and other non-residential uses that do not materially impact residential amenity."*

and

*"Business and commercial land uses complement and enhance the prevailing or emerging neighbourhood character."*

The Designated Performance Feature associated with PO 1.2 is:

*"Shops, offices and consulting rooms (or any combination thereof) do not exceed 250m<sup>2</sup> in gross leasable floor area."*

Although a Designated Performance Feature is intended to represent just one way of achieving a Performance Outcome, in this case, it performs an important role in assisting the Panel to interpret the Performance Outcome. Specifically, it provides a quantitative 'guideline' as to what the authors of the Code meant when they were seeking shops, offices and consulting rooms of a scale which "*complement and enhance the prevailing or emerging neighbourhood character*".

There are other Zones established by the Code which are intended to accommodate an office building of this scale. For example, the Urban Corridor (Boulevard) Zone has a Performance Outcome which states: *Shops, offices and consulting rooms that provide a range of goods and services to the local community and the surrounding district.* The associated Designated Performance Feature seeks "*Shop, office or consulting room uses not exceeding a maximum gross leasable floor area of 2,000m<sup>2</sup> in a single building.*"

Another example is the Urban Corridor (Business) Zone, which seeks "*a range of small- to medium- scale non-residential uses, services and facilities such as shops, offices and consulting rooms that meet the day to day needs of the local community.*" The associated Designated Performance Feature seeks "*Shop, office or consulting room uses not exceeding a maximum gross leasable floor area of 500m<sup>2</sup> in a single building.*"

This clearly sets out the difference in what the Code is attempting to achieve, by guiding large scale commercial uses (up to 2000sqm) into the Urban Corridor (Boulevard) Zone, small to medium scale commercial uses (up to 500m<sup>2</sup>) in the Urban Corridor (Business) Zone, and even smaller scale commercial uses (up to 250m<sup>2</sup>) into the Business Neighbourhood Zone.

There is a wide range of commercial building sizes within the locality, also located in the Business Neighbourhood Zone. There are many buildings which were originally dwellings and which are now used as offices or consulting rooms. There are also some purpose built commercial buildings of a larger scale, such as those to the north of the subject land at 42 Fullarton Road (cnr of Beulah road) and Beaumont Tiles retail showroom at 1-5 Beulah Road. These examples of larger commercial buildings are not so prevalent so as to make the application of the Code policy inappropriate. This is particularly the case given that the policy is only approximately 18 months old.

### Building Height



Desired Outcomes 1 and 2 of the Business Neighbourhood Zone seek:

*“A variety of housing and accommodation types and compatible employment-generating land uses in an environment characterised by primarily low-rise buildings”*

*“Buildings of a scale and design that complements surrounding built form, streetscapes and local character and provide for landscaping and open space.”*

Performance Outcome 3.1 states:

*“Buildings are generally of low-rise construction, with taller buildings positioned towards the centre of the zone and away from any adjoining neighbourhood-type zone to positively contribute to the built form character of the locality.”*

The associated Designated Performance Feature (DPF 3.1) sets the maximum building height as 2 levels.

The subject land adjoins a neighbourhood-type zone to the east, ie. the Established Neighbourhood Zone. Therefore, the allowance for ‘taller buildings towards the centre of the zone’ does not apply.

The external walls of the proposed third building level are recessed in from the existing two storey building walls; 1.5m in the case of the northern and southern sides and 3.6m in the case of the eastern and western ends. They are also to be constructed of steel and glass, giving a ‘lighter’ appearance than the existing brick building at ground and first floor levels.

Despite the proposed setbacks and construction materials, the proposed third floor level is likely to remain obvious in the streetscape. As all other buildings along this section of Fullarton Road are one and two storey buildings, the proposed third level would not result in a building which is of a scale which complements surrounding built form, streetscapes and local character.

## **Heritage**

As the building is a Local Heritage Place, the Local Heritage Place Overlay applies to the assessment of the application. Performance Outcomes 2.1 and 2.2 of the overlay relates to Alterations and Additions and state:

*Alterations and additions complement the subject building and are sited to be unobtrusive, not conceal or obstruct heritage elements and detailing, or dominate the Local Heritage Place or its setting.*

*Adaptive reuse and revitalisation of Local Heritage Places to support their retention in a manner that respects and references the original use of the Local Heritage Place.*

Advice was sought from the Council’s Heritage Advisor, David Brown. Below is a summary of the advice received from Mr Brown:

- The new top level is a minimal, clean, glass walled structure with a thin floating roof with large overhangs. The lift and stair structure is also a minimal concrete and glass structure.
- The upper level addition option proposed is clearly a new structure on a refitted older building. The design of the addition is true to its era, and contrasts in a complementary way picking up on the rigour of the existing building.
- The significant heritage fabric impacted is minimal, with what is replacing it being a contemporary higher performing version of the existing fabric in the case of the windows. The stairs and lift are a necessary addition to give the building a practical long life, which necessitate changes to the external walls.
- The overall presentation and setting of the building are only impacted in a minor way by the proposed changes, as the lift and stair structure are set well back from the road, and are minimal in design. The addition of the upper level is generally quite subtle and well designed.
- However, this is still a large visual impact and change for the Local Heritage Place, and given the height restrictions, and that this overall type of development is not anticipated, it is pushing the boundaries.

- While the design is quite elegant, there is still a reasonable impact on the Local Heritage Place. The proposal is probably not fatal in heritage terms, as the renovations of the building are a welcome occurrence, and the heritage value and significance of the building will be retained.
- However, the heritage impact is only one small factor in this proposal; height and intensity of development are probably more important in this case.

Therefore, according to the advice of Mr Brown, the proposed development would not have a large impact on the heritage value of the property. In circumstances where the development was otherwise consistent with planning policy, Mr Brown considers that the impact on the heritage value would be acceptable, as it would be reasonable to expect the property owner to further develop the property in a manner which was as sensitive as possible to the heritage value. In this instance however, the proposed additions are inconsistent with planning policy with respect to height and intensity/scale of land use. The impacts on the heritage value are less acceptable in these circumstances.

### Traffic Impact, Access and Parking

Sites within the Business Neighbourhood Zone are recognised as being within a 'Designated Area', subject to achieving criteria related to access to public transport. Relevant to the subject land, they are required to be within 200 metres of any section of road reserve along which a bus service operates as a high frequency public transit service. The subject land does not achieve this criteria, as it is located 228 m from the closest high frequency public transport route (The Parade) and also 388 m from high frequency services on Magill Road.

The consequence of this is that the 'Table 1' car parking rates in the Code apply, instead of the 'Table 2' car parking rates. The difference between the applicable rates contained in the two tables is set out below.

Land Use	Table 1 Minimum Rate	Table 2 Minimum Rate
Consulting Room	4 spaces per consulting room	3 spaces per 100m <sup>2</sup> GLFA
Office	4 spaces per 100m <sup>2</sup> GLFA	3 spaces per 100m <sup>2</sup> GLFA

Performance Outcome 5.1 of the Transport Access and Parking section of the Code states that certain factors that may support a reduced on-site rate of car parking, such as (amongst other things) '*the adaptive reuse of a Local Heritage Place*'. As the proposed building was originally built as a commercial building, the proposal is arguably not an adaptive reuse. On the other hand, it is proposed to re-use the ground level as consulting rooms.

On balance, given that the site is only marginally outside of the 200m range from the closest high frequency public transport route and involves the re-use of a Local Heritage Place, it is considered reasonable and appropriate to apply the rates contained in Table 2.

Accordingly, the existing building, with a GLFA of 741m<sup>2</sup>, has a car parking demand of 22 spaces and with a GLFA of 986m<sup>2</sup> resulting from the proposed addition, it would have a car parking demand of 30 spaces. The proposed 33 spaces are therefore considered adequate.

The additional traffic associated with the additional 8 car parking space demand is relatively insignificant in the context of traffic volumes along Fullarton Road.

### Overshadowing and Overlooking

The adjoining property owner at 1 Fisher Street expressed concern that the proposed balcony at the third level could result in overlooking of her property. In this respect, the portion of the balcony at the eastern end of the building is a service area and generally inaccessible, other than for occasional maintenance purposes. In any event, the service area has a 1.5m high screen.

Regarding overshadowing, the diagrams provided by the applicant demonstrate that Designated Performance Feature 3.2 of the 'Interface Between Land Uses' section of the Code is achieved, in that at least 2 hours of direct sunlight is maintained between 9.00 am and 3.00 pm on 21 June to 35m<sup>2</sup> of the private open space of the adjacent residential property.

## CONCLUSION

The proposed development of the subject land is in some ways consistent with the performance outcomes sought by the Code. In particular, it is an adaptive reuse and revitalisation of a Local Heritage Place which would support its ongoing retention. It also provides sufficient car parking and retains the vast majority of landscaped space, including regulated trees on the site.

The addition has been designed in a way which is sympathetic to the heritage value of the original building. However, despite this, it still has some impact on its heritage value. It changes it from a two storey brick building to a three storey building, thus changing its overall appearance.

The addition would increase the gross leasable floor area of the building to nearly 1000m<sup>2</sup>, in a zone where commercial uses with a maximum GLFA of 250m<sup>2</sup> are anticipated. It would also increase the number of building levels to three, where a maximum of two levels is anticipated.

Due to the issues of height, scale of use and impact on heritage value, although not seriously at variance with the provisions of the Planning and Design Code, the application is not considered to sufficiently accord with the Planning & Design Code to merit consent.

## RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22007840, by 46 Fullarton Pty Ltd is **refused** Planning Consent for the following reasons:

### Reasons for Refusal

1. The scale and intensity of the office and consulting room uses will not complement and enhance the prevailing or emerging neighbourhood character, contrary to Performance Outcome 1.2 of the Business Neighbourhood Zone;
2. The proposal will not result in a low-rise building which positively contributes to the built form character of the locality, contrary to Performance Outcome 3.1 of the Business Neighbourhood Zone.
3. The proposed additions to the Local Heritage Place are not sited so as to be unobtrusive, contrary to Performance Outcome 2.1 of the Local Heritage Place Overlay.

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*Mr Burns addressed the Council Assessment Panel from 8:33pm until 8:40pm*

## **MOVED**

*Development Application Number 22007840, by 46 Fullarton Pty Ltd is **granted** Planning Consent subject to the following conditions:*

1. *The development granted planning consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.*

2. *All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers within the following planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager or its delegate.*
3. *All plants existing and/or within the proposed landscaped areas shall be nurtured and maintained in good health and condition at all times with any diseased or dying plants being replaced, to the reasonable satisfaction of the Assessment Manager or its delegate.*
4. *The Eastern portion of the third level balcony less than 1.7 metres above the floor level of the balcony shall be treated prior to occupation of the building in a manner that permanently restricts views being obtained by a person from the balcony, with details to be provided to the reasonable satisfaction of the Council or its delegate, prior to the issuing of Development Approval (Suggested treatments include, but are not restricted to, wing walls, solid or translucent panels or perforated panels or metal trellises which have a maximum of 24% openings).*
5. *All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.*
6. *All car parking spaces shall be line marked or delineated in a distinctive fashion, with the marking maintained in a clear and visible condition at all times.*

Seconded and Carried

3. **OTHER BUSINESS**  
Nil

4. **CONFIDENTIAL REPORTS**  
Nil

5. **CLOSURE**

The Presiding Member declared the meeting closed at 9:18pm

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**Terry Mosel**  
**PRESIDING MEMBER**

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**Adam Bowey**  
**ACTING MANAGER, DEVELOPMENT ASSESSMENT**