

Council Assessment Panel Minutes

19 August 2024

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

		Page No.
1.	COMMENCEMENT AND WELCOME	1
2.	APOLOGIES	1
3.	CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 15 JULY 2024	1
4.	DECLARATION OF INTERESTS	1
5.	DEVELOPMENT APPLICATIONS – PDI ACT	2
5.1	DEVELOPMENT NUMBER 23020223 – FP WHYALLA PTY LTD C/- FUTURE URBAN – 263-277 PAYNEHAM ROAD, ROYSTON PARK	2
5.2	DEVELOPMENT NUMBER 23018653 - TIA CONSULTING PTY LTD – 14 HARROW ROAD, COLLEGE PARK	34
5.3	DEVELOPMENT NUMBER 23006477 – JOSEPH CAMERLENGO & GARETH TOH – 7 GRAY STREET, NORWOOD.....	48
5.4	DEVELOPMENT NUMBER 24012200 – DAVID FRAZER & SIN POH CHAI - 417 MAGILL ROAD ST MORRIS	65
5.5	DEVELOPMENT NUMBER 23015730 – DAVID HILLE – 20 BEULAH ROAD, NORWOOD	83
5.6	DEVELOPMENT NUMBER 24017550 – MAGDALENA TROFIN – 9 GRENFELL STREET, KENT TOWN	95
5.7	DEVELOPMENT NUMBER 23029978 – KIORA SA PTY LTD – 59 KING WILLIAM STREET, KENT TOWN	105
5.8	DEVELOPMENT NUMBER 24019158 – TWENTY FOUR OUTDOOR AUSTRALIA PTY LTD C/- FUTURE URBAN – 149 PAYNEHAM ROAD, ST PETERS.....	114
6.	DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT	122
7.	REVIEW OF ASSESSMENT MANAGER DECISIONS.....	122
8.	ERD COURT APPEALS	122
9.	OTHER BUSINESS	122
10.	CONFIDENTIAL REPORTS	122
11.	CLOSURE	122

VENUE Council Chambers, Norwood Town Hall

HOUR 6.00pm

PRESENT

Panel Members Mr Stephen Smith
Mr Ross Bateup
Mr Paul Mickan
Mr Julian Rutt
Cr Christel Mex

Staff Kieran Fairbrother, Senior Urban Planner
Ned Feary, Senior Urban Planner
Marie Molinaro, Urban Planner
Matthew Walker, Compliance Officer, Planning Services
Tala Aslat, Planning Assistant

APOLOGIES Mr Mark Adcock

ABSENT

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 15 JULY 2024**

**Moved by Mr Mickan and Seconded by Mr Bateup
CARRIED**

4. **DECLARATION OF INTERESTS**

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER 23020223 – FP WHYALLA PTY LTD C/- FUTURE URBAN – 263-277 PAYNEHAM ROAD, ROYSTON PARK

DEVELOPMENT NO.:	23020223
APPLICANT:	FP Whyalla Pty Ltd C/- Future Urban
ADDRESS:	263-277 PAYNEHAM RD ROYSTON PARK SA 5070 263-277 PAYNEHAM RD ROYSTON PARK SA 5070
NATURE OF DEVELOPMENT:	Construction of a four-storey mixed use development comprising a restaurant, shops and offices at ground level, eighteen (18) dwellings across levels 2, 3 and 4, basement and ground level car parking, together with associated landscaping and rooftop plant
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Suburban Main Street <p>Overlays:</p> <ul style="list-style-type: none"> • Urban Transport Routes • Airport Building Heights (Regulated) • Advertising Near Signalised Intersections • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	17 Jul 2023
RELEVANT AUTHORITY:	Assessment panel at City of Norwood Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	2023.10 (20 July 2023)
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother Senior Urban Planner
REFERRALS STATUTORY:	Commissioner of Highways Environment Protection Agency
REFERRALS NON-STATUTORY:	Gayle Buckby, Manager, Traffic & Integrated Transport Matthew Cole, City Arborist Tonkin, External Hydrological Engineer David Brown, Heritage Advisor

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 6:	Response to Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 7:	Prescribed Body Responses
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 8:	Internal Referral Advice
ATTACHMENT 3:	Zoning & HAO Map	ATTACHMENT 9:	Original Proposal
ATTACHMENT 4:	Representation Map	ATTACHMENT 10:	Applicant's Responses
ATTACHMENT 5:	Representations		

DETAILED DESCRIPTION OF PROPOSAL:

This proposal involves the wholesale redevelopment of the subject land, being the full demolition of all existing improvements on the site and the construction of a new four-storey mixed use building with associated earthworks, basement, car parking and landscaping. The proposed development is to be comprised of:

- A 34-space basement car park, that also includes a bike enclosure for residents, a waste storage room, a services room, a lift well and stairs.
- At ground level, another 14 car parking spaces inclusive of one (1) accessible park space, a waste enclosure (outbuilding), and one-way vehicle circulation areas entering from Payneham Road and exiting onto Lambert Road.
- The ground level of the building has zero setback to both street frontages and is comprised of seven (7) commercial tenancies being a restaurant, shops and offices, one outdoor dining area associated with Tenancy 1, an amenities block, a private foyer, mailing room and stairs and lifts.
- Level 2 of the building is setback further from both street frontages, including a clearly defined podium level that forms the private open space for three (3) of the six (6), three-bedroom dwellings on this level.
- Levels 3 and 4 of the building are each comprised of six (6), three-bedroom dwellings, all of which include a balcony facing the front, side or rear boundary of the site.
- Externally, the building includes a canopy that extends over the footpath of both Payneham Road and Lambert Road. The second, third and fourth levels are constructed with a larger setback from Payneham Road such that they cantilever partially over the rear car parking area while providing shelter for the outdoor dining area associated with Tenancy 1. Landscaped areas have been included at ground and podium levels to try to soften the appearance of the development.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 263-277 PAYNEHAM RD ROYSTON PARK SA 5070

Title ref.: CT 5676/117	Plan Parcel: F135934 AL83	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
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Location reference: 263-277 PAYNEHAM RD ROYSTON PARK SA 5070

Title ref.: CT 5863/464	Plan Parcel: F135935 AL84	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
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Shape:	regular
Frontage width:	approx. 47.24m to Payneham Road and approx. 42.67m to Lambert Road
Area:	approx. 2004m ²
Topography:	relatively flat from south to north, with a slight fall from east to west of approx. 800-1000mm across the site
Existing Structures:	a single storey building containing several shop tenancies and associated advertising, and temporary fencing around the boundaries of the site
Existing Vegetation:	nil, except for weeds in hardstand areas

Locality

The locality chosen for this assessment is demonstrated in **Attachment 2**. It includes the sites fronting Payneham Road for a length of approximately 100m either side of the subject land, as well as the southeastern side of First Avenue extending for a similar distance and the section of Lambert Road between Payneham Road and First Avenue.

This locality includes a mix of land uses and building types. Directly southwest of the subject land is a three-storey aged care facility that dominates the built form landscape of this section of Payneham Road, being approximately 130m in width. Opposite the aged care facility are some two-storey residential flat buildings and a large single storey commercial building currently containing a bulky goods outlet and offices. Northeast of the subject land, along Payneham Road, are a mix of offices, shops, consulting rooms and dwellings up to two levels. Conversely, the sections of Lambert Road and First Avenue that are contained within this locality are comprised of single storey dwellings within an Historic Area Overlay, the majority of which are Representative Buildings (as shown in **Attachment 3**).

Payneham Road does not currently enjoy a high level of amenity, characterised by a diverse range of uses in older buildings, minimal and infrequent street tree plantings, numerous crossovers and hardstand areas and heavy volumes of traffic. The existing building on the subject land contributes to this low level of amenity and pedestrian activity. Lambert Road and First Avenue, however, enjoy a higher level of amenity. This section of Lambert Road serves as the thoroughfare between Payneham Road and 'The Avenues' but maintains frequent and mature street tree plantings that provide shade and promote pedestrian activity, as does First Avenue.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Other - Commercial/Industrial - Four-storey mixed-use building and basement parking: Code Assessed - Performance Assessed
Shop: Code Assessed - Performance Assessed
Dwelling: Code Assessed - Performance Assessed
Office: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
Exceeds the maximum building height TNV of two storeys expressed in DPF 3.1 of the Zone
- **LIST OF REPRESENTATIONS**

#	First Name	Family Name	Address	Position	Wishes to be heard?	Represented by
1	Rachael	Hunt	8 Wellesley Ave EVANDALE	Support	No	-
2	Danae	Underwood	3/226 Payneham Rd EVANDALE	Support	No	-
3	Paul	Hewett	12 Stephen Tce ST PETERS	Opposed	No	-
4	Stuart	Yates	133 First Ave JOSLIN	Opposed	Yes	Simon Moretta
5	Rebecca	Yates	133 First Ave JOSLIN	Opposed	Yes	Simon Moretta
6	Sue	Wills	152 First Ave ROYSTON PARK	Support, with concerns	Yes	Simon Moretta
7	Morten	Pedersen	153 First Ave ROYSTON PARK	Opposed	Yes	Simon Moretta
8	Jan	Laanekorr	145B First Ave ROYSTON PARK	Opposed	Yes	Simon Moretta

#	First Name	Family Name	Address	Position	Wishes to be heard?	Represented by
9	Jerry	Johnson	120 First Ave JOSLIN	Support, with concerns	Yes	Simon Moretta
10	Yvonne	Ioannidis	143 First Ave ROYSTON PARK	Opposed	Yes	Simon Moretta
11	George	Hodson	146 First Ave ROYSTON PARK	Opposed	Yes	Simon Moretta
12	Amanda	Diprose	1 Lambert Road JOSLIN	Opposed	Yes	Stephen Diprose
13	Stephen	Diprose	1 Lambert Road JOSLIN	Opposed	Yes	Self
14	Bruno	D'Apollonio	145A First Ave ROYSTON PARK	Opposed	Yes	Simon Moretta
15	David	Brown	140 First Ave ROYSTON PARK	Opposed	No	-
16	Matt	Baynes	179 First Avenue ROYSTON PARK	Opposed	Yes	Simon Moretta
17	Peter	Holmes	119 First Avenue JOSLIN	Support, with concerns	No	-
18	Jay	Wulf	61 Glenbrook Cl MARDEN	Support	No	-
19	K	Wicks	139 First Ave ROYSTON PARK	Opposed	Yes	Simon Moretta
20	Katie	White	3 Lambert Road JOSLIN	Support, with concerns	Yes	Simon Moretta
21	David	Murray	135 First Ave ROYSTON PARK	Support, with concerns	Yes	Self
22	Kun	Li	5/240 Payneham Rd PAYNEHAM	Opposed	No	-
23	Sarah	Trotta	10/240 Payneham Rd PAYNEHAM	Opposed	No	-
24	Yimin	Hu	5/240 Payneham Rd PAYNEHAM	Opposed	No	-
25	Sheridan	Cucchiarelli	141 First Ave ROYSTON PARK	Opposed	No	-
26	Julie	Brownwell	8 Lambert Rd ROYSTON PARK	Opposed	Yes	Simon Moretta
27	Stephen	Gryst	4 Lambert Road ROYSTON PARK	Opposed	Yes	Self
28	Chris	Holmes	119 First Ave JOSLIN	Opposed	No	-
31	Adriana	Moretta	2 Lambert Rd ROYSTON PARK	Opposed	Yes	Masterplan
32	Simon	Moretta	2 Lambert Road ROYSTON PARK	Opposed	Yes	Masterplan
33	St Peters Residents Association Inc		12 St Peters St ST PETERS	Opposed	Yes	David Cree / Evonne Moore

• **SUMMARY**

The three (3) representors in outright support of the proposal state their reasons for support as being the need for this site to be redeveloped and support for higher density housing in Adelaide.

The concerns raised by the thirty-one (31) representors who are either outright opposed to the proposal or are supportive with concerns can be summarised as follows:

- The height of the building exceeds the two-storey height limit expressed in the TNV for the Zone;
- The four-storey building is at odds with the height and character of surrounding development;
- The bulk of the building will compromise the amenity of the dwellings in the Historic Area Overlay adjacent the site;

- The height and design of the building fails to complement the existing main street character or the adjacent Established Neighbourhood Zone;
- The existence of overlooking opportunities from the rear-facing balconies will severely compromise the amenity of the adjacent dwellings;
- The lack of parking in the surrounding street network does not support a high-demand commercial use such as a restaurant, and sufficient parking has not been provided on the site;
- The increased traffic generation from this land use is unacceptable in an already strained surrounding road network;
- The absence of a dedicated on-site loading area;
- The potential for conflicts between delivery/waste vehicles using the entrance on Lambert Road (which passenger vehicles cannot use) while passenger vehicles try to exit the site;
- Noise and dust during construction will be an issue;
- Noise from the rooftop plant will be an issue for surrounding residents;
- Parking during construction will be a burden on the already strained surrounding road network;
- Overshadowing of apartments to the southeast;
- The potential for the development to decrease property values;
- The high-density residential living is not supported by the zoning of this site or surrounding area;
- Insufficient rear setback and secondary street setback; and
- Insufficient soft landscaping.

AGENCY REFERRALS

- Commissioner of Highways

A referral to the Commissioner of Highways was necessary because the development involves a change in the nature, frequency and/or number of vehicle movements using an access point on Payneham Road.

The Commissioner of Highways is supportive of the proposal subject to eight (8) conditions and one (1) advisory note.

- Environment Protection Authority (EPA)

A referral to the EPA was necessary because the development involves a change in the use of the land to a more sensitive use (from shops to dwellings) and the Preliminary Site Investigation Report provided by the Applicant indicated that a Class 1 Activity may have occurred on the land and therefore contamination may exist on or below the surface of the land, despite their soil, vapour and groundwater tests indicating no unsafe contaminant levels.

The EPA is supportive of the proposal and has imposed conditions requiring a statement of site suitability to be issued by an accredited site contamination auditor prior to the building being occupied.

INTERNAL REFERRALS

- Gayle Buckby, Manager, Traffic & Integrated Transport

Council's Manager, Traffic & Integrated Transport was not supportive of the original proposal (see **Attachment 8**). But, following changes to access arrangements and review of the MFY traffic report contained in **Attachment 1**, is now supportive of the proposal.

- Matthew Cole, City Arborist

Council's Arborist is not supportive of the proposed street tree removal from an arboricultural perspective. They would prefer to see the crossover location moved to ensure retention of the tree.

- External Hydrological Engineer, Tonkin (Flooding)

Tonkin are supportive of the proposal, noting that the proposed development provides sufficient flood protection in a 1% AEP event and the Stormwater Management Plan adequately provides for the detention and mitigation of peak flows post-development.

- External Heritage Advisor, David Brown (BB Architects)

Council's Heritage Advisor is not supportive of the proposal because of the lack of contextual design quality and the stark interface that will be created between this four-storey building and the single level Historic Area Overlay to the west.

PLANNING ASSESSMENT

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

Land Use

This application involves the construction of a four-storey mixed use building containing the following land uses: restaurant, shops, offices and dwellings.

Desired Outcome 1 of the Suburban Main Street Zone seeks:

"A mix of land uses including retail, office, commercial, community, civic and medium density residential development that supports the local area."

Performance Outcome 1.1 of the Suburban Main Street Zone states:

"Retail, office, entertainment and recreation uses are supplemented by other businesses that provide a range of goods and services to the local community."

The corresponding Designated Performance Feature suggests that dwellings, offices and shops are envisaged land uses in this respect.

Performance Outcome 1.2 of the Suburban Main Street Zone states:

"Land uses promote movement and activity during daylight and evening hours, including restaurants, educational, community and cultural facilities, and accommodation for visitors and residents."

Performance Outcome 1.3 of the Suburban Main Street Zone states:

"Ground floor uses contribute to an active and vibrant main street."

The ground floor of the proposed building is comprised of one (1) 212m² 'anchor' tenancy (restaurant) on the corner of Payneham Road and Lambert Road and six (6) other smaller tenancies of half the size that will be comprised of offices (tenancies 2, 3 and 6) and shops (tenancies 4,5 and 7). There is no doubt that shops, restaurants and offices are specifically envisaged within the Zone, by virtue of the wording of Performance Outcome 1.1. The proposal to include seven smaller tenancies rather than one or two larger tenancies will encourage visitors to the site and promote movement and activity during daylight and evening hours consistent with Performance Outcomes 1.2 and 1.3 of the Zone.

Performance Outcome 1.4 of the Suburban Main Street Zone states:

"Dwellings developed in conjunction with non-residential uses to support business, entertainment and recreational activities contribute to making the main street precinct and pedestrian thoroughfares pleasant and lively places."

The second, third and fourth level of the proposed building includes the eighteen (18) dwellings proposed as part of this application – six (6) on each floor – in accordance with this Performance Outcome. With respect to density, the eighteen (18) dwellings proposed achieves a net residential density of ninety (90) dwellings per hectare, which is considered a high net residential density per the definitions in the Planning & Design Code. The only reference to density within the Suburban Main Street Zone is in Desired Outcome 1 which states *"medium density residential development that supports the local area"*. Desired Outcomes are not policies in their own right but instead set the general policy agenda for the Zone. The high-density nature of this development is not considered at serious odds with the intent of the Zone. After consideration of the built

form elements and traffic and parking considerations for this development (discussed in the remainder of this report), it is evident that the proposed density can be supported on this site.

Performance Outcome 29.1 of the Design in Urban Areas module states:

“Buildings containing in excess of 10 dwellings provide a variety of dwelling sizes and a range in the number of bedrooms per dwelling to contribute to housing diversity.”

The application fails to satisfy the second limb of this Performance Outcome in that all eighteen (18) dwellings are three-bedroom dwellings. The application does, however, provide a variety of dwelling sizes with internal areas varying from 102m² to 124m², and total areas inclusive of private open space areas varying from 129m² to 293m². Therefore, although the number of bedrooms provided do not vary between dwellings, the varying sizes of the dwellings on offer will somewhat contribute to housing diversity.

Building Height & Visual Massing Impacts on Neighbours

Performance Outcome 3.1 of the Suburban Main Street Zone states:

“Building height is consistent with the form expressed in any relevant Maximum Building Height (Levels) TNV layer and the Maximum Building Height (Metres) TNV layer or is low-to-medium rise, where the height is commensurate with the development site’s frontage and depth as well as the main street width, to complement the main street character.”

The corresponding Designated Performance Feature contains the relevant Maximum Building Height (Levels) TNV layer, which is 2 levels.

The Panel should note a drafting error in the architectural plans. These plans note the incorrect length of the boundary along Payneham Road as 38.35m, when in fact it is 47.24m – it would appear that the drafter of the plans failed to include the width of allotment 83 when noting the frontage width, taking into account only the width of allotment 84. The true length of the development site has been drawn correctly (i.e. when scaled), simply noted wrong, and has been verified with the Certificates of Title in **Attachment 1**.

A large reason for non-support during public notification is because the building exceeds the two-storey TNV expressed in DPF 3.1 of the Zone and will become the only four-storey building within this locality. Concerns were also raised with respect to the interface between this building and the single-storey Historic Area Overlay adjacent to the site – concerns which have been echoed by the Council’s Heritage Advisor.

Performance Outcome 3.1 of the Zone (above) expressly provides two ways by which it may be satisfied. One is to be consistent with the TNV expressed in the corresponding DPF, which this proposal clearly fails to do. The second is for building height to be *‘low-to-medium rise, where the height is commensurate with the development site’s frontage and depth as well as the main street width, to complement the main street character’*. It is against this second limb of the Performance Outcome that this proposal is now to be assessed against.

“Low-to-medium rise” is not defined as a term within the Planning & Design Code. However, both low rise and medium rise are and, respectively, they mean 1-2 building levels and 3-6 building levels. The administration’s reading of the Code is that “low-to-medium rise” is to be interpreted as between 1 and 6 building levels. But this is not where the Performance Outcome ends; a building between 1 and 6 levels will not automatically satisfy the PO. What height is reasonable for a particular development site is to be determined by reference to the development site’s frontage and depth, the main street width, and whether such a height would be complementary to the main street character.

The subject development site has a frontage of 47.24m to Payneham Road and 42.67m to Lambert Road. Where a maximum building height TNV is not provided in DPF 3.1, the DPF suggests that sites with a frontage of 25m and depth of 50m may accommodate a building up to four storeys tall (maximum 15m). Although this provision is not applicable to this proposal – because there is in fact a maximum building height TNV – it does provide some guidance to relevant authorities as to how one might interpret the words *“where the height is commensurate with the development site’s frontage and depth”* that are expressed in

Performance Outcome 3.1. Further guidance in this respect can be obtained by Performance Outcomes 3.2 and 3.6 of the Zone.

Performance Outcome 3.2 of the Suburban Main Street Zone states:

“Buildings mitigate visual impacts of building massing on residential development within a neighbourhood-type zone.”

The corresponding Designated Performance Feature provides:

“Buildings constructed within a building envelope provided by a 45-degree plane measured from the height of 3 metres above natural ground level at the boundary of an allotment used for residential purposes in a neighbourhood-type zone.”

Performance Outcome 3.6 of the Suburban Main Street Zone states:

“Buildings that are set back from rear boundaries (other than street boundaries) minimise impacts on neighbouring properties, including access to natural light and ventilation.”

The applicant has demonstrated compliance with DPF 3.2 (above) in **Attachment 1**, by way of plan entitled ‘Proposed South Elevation – Interface Diagram’, and the overshadowing diagrams demonstrate that Performance Outcome 3.6 of the Zone has been appropriately satisfied.

Considered in the context of the site’s frontage to Payneham Road (the main street) and the site’s depth, and the fact that the building is sited entirely within the 45 degree building envelope suggested by DPF 3.2 of the Zone, a four-storey building on this site is not considered to be at odds with Performance Outcome 3.1 of the Zone, insofar as that PO states *“where the height is commensurate with the development site’s frontage and depth”*.

With respect to the height being commensurate with the width of the main street, Payneham Road (the main street) has a road carriageway width of approximately 15m adjacent the development site to accommodate five (5) lanes of traffic, and a total width of 20m including the footpaths on either side of the road carriageway. The building has a height similar to the width of the road carriageway and the podium level design helps to provide visual relief from the bulk of the building. Consequently, when measured from the boundary of the site on the opposite side of the road, the four-storey building is sited within a building envelope of 27.5 degrees. Accordingly, insofar as Performance Outcome 3.1 seeks for building heights to be *“commensurate with... the main street width”*, the proposed building achieves this.

The existing main street character for the purposes of this assessment is defined by the buildings that have a frontage to Payneham Road that are within a reasonable viewing distance of the subject land. To this end, the main street character is characterised by a three-storey residential care facility immediately southwest of the subject land; a large single-storey (unoccupied) bulky goods outlet and offices directly opposite the subject land; two-storey residential flat buildings of low design quality; and a mix of single-storey and two-storey dwellings, offices, shops and consulting rooms north of the subject land. Aside from the three-storey residential care facility, all other buildings on the same side of Payneham Road and within 100m of the development site are single storey in height. Notably, however, the three-storey residential care facility extends for more than 100m along Payneham Road, and although not situated within the Suburban Main Street Zone still forms part of the main street character.

The applicant has provided a streetscape elevation (**Attachment 1**) that demonstrates how the proposed building will sit in the immediate Payneham Road context. The term “complement” is defined by the Macquarie online dictionary as meaning *‘to suit or go well with; enhance the good qualities of’*. The ERD Court considered in *Jahk*¹ that complement in this context means *‘the built form appearance of a development can sit comfortably within its immediate environs (its locality) and not be overly jarring or appear out of place’*.

¹ *Jahk Enterprises Pty Ltd ATF Jahk Trust v Assessment Panel of The Corporation of the City of Campbelltown* [2023] SAERDC 6, at [99].

When compared to the existing building on the subject land, the proposed development does complement the main street character. The existing building is a run-down, unoccupied group of single storey shops that contributes little to the main street character, whereas the proposed development will encourage pedestrian activity while providing visual relief from the bulk of the building because of the increased primary street setbacks for the second level and above. For the reasons discussed in the following sections of this report, the four-storey building will complement the existing main street character.

Consequently, despite exceeding the two level TNV expressed in DPF 3.1 of the Zone, the proposed building is considered to satisfy Performance Outcome 3.1 of the Zone in that it is low-to-medium rise, has a height that is commensurate with the development site's frontage and depth as well as the main street width, and will complement the main street character.

Setbacks, Design & Appearance

Performance Outcome 2.1 of the Suburban Main Street Zone states:

"Buildings sensitively frame the main street and public spaces and provide overall visual relief from building height and mass."

The corresponding Designated Performance Feature suggests that one way of achieving this Performance Outcome could be to include a clearly defined podium level within the building design, setting back all subsequent levels at least 2m from the building line.

The proposed building does exactly this. The ground level is to be constructed along the Payneham Road boundary of the site with the bulk of the three levels above being constructed further back: 7.3m to the edge of the balconies of levels 3 and 4, and 10m to the building line of all levels. To avoid wasting space, the podium level will constitute the private open space for dwellings 1, 2 and 3, including outdoor entertaining areas and landscaped gardens.

Performance Outcome 12.4 of the Design in Urban Areas module states:

"Boundary walls visible from public land include visually interesting treatments to break up large blank elevations."

The narrower tenancies also help provide visual relief by avoiding large uninterrupted expanses of walling or glazing – albeit the design is monotonous. Combined with the canopy that extends over the footpath to provide shade and shelter, the building has been designed to sensitively frame the main street and provide visual relief along Payneham Road.

With respect to the Lambert Road frontage of the site, the building has a zero setback at ground level. On the second level, the building wall is setback 4.5m from the side boundary with this 'podium level' setback area forming the private open space of two of the dwellings on this level. Levels 3 and 4 maintain the same setback to the building line (4.5m) but include 2.5m deep balconies that cantilever over the second level, giving the impression of a 2m secondary street setback.

With respect to the design and appearance of the development above ground level, the walls of the building are constructed of a pale James Hardie Axon cladding, the balcony balustrades will be glazed, and a light-coloured rendered canopy surround is used to visually define each building level, providing a differentiation in materials and colours. Powder-coated aluminium battens are used to break up the otherwise monotonous building design. The balconies will create shadow and visual interest to minimise the bulk and mass of the structure as viewed from Lambert Road, but when juxtapositioned against the single storey Historic Area Overlay that is adjacent to this site, it is difficult to consider the building as 'sensitively' framing this public space in accordance with PO 2.1 of the Zone; despite its compliance with the corresponding DPF 2.1 criteria. Notwithstanding, the building does provide visual interest in its design, and employs an appropriate palette of materials and colours for this form of development within the Suburban Main Street Zone.

Performance Outcome 3.4 of the Suburban Main Street Zone states:

“Buildings with no setbacks from road boundaries achieve a continuity of street façade to the main street, but with sections of building set back to create outdoor dining areas, visually interesting building entrances and intimate, active spaces.”

Performance Outcome 2.5 of the Suburban Main Street Zone states:

“Buildings create visual interest, promote an active interface with the main street frontage and maximise passive surveillance.”

Performance Outcome 12.2 of the Design in Urban Areas module states:

“Architectural detail at street level and a mixture of materials at lower building levels near the public interface are provided to reinforce a human scale.”

The building achieves a continuity of street façade through the repeated entrances to the seven commercial tenancies that form the ground floor of this building and the single canopy that overhangs the footpath. Visual interest is provided at a basic level through the use of stone veneer and concrete columns to separate tenancies and define different entry points to the building. This Performance Outcome could be better satisfied through some differentiation in materials between entrances or further articulation in the building façade, but despite this the building design, on balance, accords with this Performance Outcome.

Performance Outcome 1.1 of the Design in Urban Areas module states:

“Buildings reinforce corners through changes in setback, articulation, materials, colour and massing (including height, width, bulk, roof form and slope).”

The building design fails to satisfy this Performance Outcome. Apart from the corner cut-off provided in the building setback, there is no difference in articulation, materials, colour or massing as the building ‘wraps around’ the Payneham Road and Lambert Road corner.

Performance Outcome 2.3 of the Suburban Main Street Zone states:

“Pedestrian shelter and shade is provided over footpaths through the use of structures such as awnings, canopies and verandahs.”

Performance Outcome 1.2 of the Design in Urban Areas module states:

“Where zero or minor setbacks are desirable, development provides shelter over footpaths (in the form of verandahs, awnings, canopies and the like, with adequate lighting) to positively contribute to the walkability, comfort and safety of the public realm.”

The building includes a 3.3m high canopy (to the underside) that extends approximately 1.5m over both the Payneham Road and Lambert Road frontages, consistent with both of these Performance Outcomes.

Performance Outcome 1.7 of the Suburban Main Street Zone states:

“Changes in the use of land encourage the efficient reuse of commercial premises to maintain and enhance the vibrancy within activity centres.”

Performance Outcome 2.4 of the Suburban Main Street Zone states:

“Buildings are adaptable and flexible to accommodate a range of land uses, including retail, office and residential without the need for significant change to the building.”

Performance Outcome 2.2 of the Suburban Main Street Zone states:

“Buildings preserve the main street appearance by complementing the key shop-front elements such as narrow buildings and tenancy footprints with frequently repeated frontages, and clear-glazed narrow shop front displays above raised display levels (base stall boards) and recessed entries.”

The proposal has been designed with the above Performance Outcomes in mind. The smaller tenancies will attract more prospective occupants, and the fine-grained narrow frontages, smaller footprints and 4.2m high ceilings allow for efficient future changes in use of these tenancies, which together will encourage continued vibrancy of this section of the main street.

Performance Outcome 2.6 of the Suburban Main Street Zone states:

“Outbuildings, carports and garages located behind the primary building facing the main street ensure vibrancy and activity along the main street.”

Performance Outcome 19.4 of the Design in Urban Areas states:

“Buildings and structures that are ancillary to an existing non-residential use do not detract from the streetscape character, appearance of buildings on the site of the development, or the amenity of neighbouring properties.”

Performance Outcome 1.5 of the Design in Urban Areas module states:

“The negative visual impact of ... waste management ... is minimised by integrating them into the building design and screening them from public view (such as fencing, landscaping and built form), taking into account the form of development contemplated in the relevant zone.”

The proposal includes an outbuilding for waste storage located on the rear of the site and set back 3.5m from the Lambert Road boundary. The outbuilding is 3m tall and has dimensions of 6.6m length x 4m width (along the rear boundary). The outbuilding is designed to complement the mixed-use building, employing the same 1m high stone veneer cladding for the street-facing elevation but with a darker fine textured cladding above. The building will not detract from the streetscape character consistent with the above Performance Outcomes. Despite the waste storage area not being integrated into the design of the building per Performance Outcome 1.5 (above), the design of the street-facing elevation of the building avoids any negative visual impact on the public realm.

Overlooking, Overshadowing, Occupant Amenity and Private Open Space

Overlooking

Another large cause of concern during public notification was the absence of any effective screening on the rear-facing balconies of the dwellings on levels 3 and 4 of the building, allowing the potential for views into the private open space and habitable windows of adjoining residential land uses.

Performance Outcome 16.1 of the Design in Urban Areas module states:

“Development mitigates direct overlooking of habitable rooms and private open spaces of adjacent residential uses in neighbourhood-type zones through measures such as:

- (a) Appropriate site layout and building orientation*
- (b) Off-setting the location of balconies and windows of habitable rooms or area with those of other buildings so that views are oblique rather than direct line of sight*
- (c) Building setbacks from boundaries that interrupt views or that provide a spatial separation between balconies or windows of habitable rooms*
- (d) Screening devices that are integrated into the building design and have minimal negative effect on residents’ or neighbours’ amenity.”*

The first thing to note is that this Performance Outcome seeks the mitigation of “direct overlooking”, which is a term defined in the Planning & Design Code as being:

“In relation to direct overlooking from a deck, balcony or terrace, is limited to an area that falls within a horizontal distance of 15 metres measured from any point of the overlooking deck, balcony or terrace.”

As demonstrated by the Applicant in their Response to Representations (**Attachment 6**), there is in fact no opportunity for “direct overlooking” – in the sense of the term as defined by the Code – because the balconies included in this proposal are all more than 15 metres away from any adjacent residential land use. Notwithstanding, in response to the same concern being raised earlier by Council staff and now the public response, the Applicant has amended their design to include 1.5m high screening to all rear-facing balconies, to mitigate against any overlooking of habitable rooms and private open space of adjacent residential land uses. This sufficiently satisfies Performance Outcome 16.1 of the Design in Urban Areas module, without negatively affecting occupant amenity per criterion (d) of that Performance Outcome.

Overshadowing

Performance Outcome 3.1 of the Design in Urban Areas module states:

“Overshadowing of habitable room windows of adjacent residential land uses in:

- a. A neighbourhood-type zone is minimised to maintain access to direct winter sunlight*
- b. Other zones is managed to enable access to direct winter sunlight.”*

The corresponding DPF criteria suggests that one way of satisfying this Performance Outcome is if:

“North-facing windows of habitable rooms of adjacent residential land uses in a neighbourhood-type zone receive at least 3 hours of direct sunlight between 9.00am and 3.00pm on 21 June.”

The shadow diagrams provided by the Applicant (**Attachment 1**) demonstrate that the north-facing windows of habitable rooms or residential land uses that will be impacted by this proposal belong to the residential aged care facility on the opposite side of Lambert Road and the dwellings at 1A and 1B Lambert Road. The shadow diagrams demonstrate that all north-facing windows of these residential uses will be shadowed by the development in the early morning but otherwise free of overshadowing from midday onwards, thereby satisfying the abovementioned Performance Outcome

Performance Outcome 3.2 of the Design in Urban Areas module states:

“Overshadowing of the primary area of private open space or communal open space of adjacent residential land uses in:

- a. A neighbourhood type zone is minimised to maintain access to direct winter sunlight*
- b. Other zones is managed to enable access to direct winter sunlight.”*

The corresponding DPF criteria suggests that one way of satisfying this Performance Outcome is if:

“Development maintains 2 hours of direct sunlight between 9.00am and 3.00pm on 21 June to adjacent residential land uses in a neighbourhood-type zone in accordance with the following:

- a. For ground level private open space, the smaller of the following:*
 - i. Half the existing ground level open space*
 - Or*
 - ii. 35m² of the existing ground level open space (with at least one of the area’s dimensions measuring 2.5m)*
- b. For ground level communal open space, at least half of the existing ground level open space.”*

The shadow diagrams provided by the Applicant (**Attachment 1**) demonstrate that the private open space of residential land uses that will be impacted by this proposal belong to the dwellings at 1A and 1B Lambert Road, 125 First Avenue, 127 First Avenue and 129 First Avenue. Some of the communal open space associated with the adjacent residential aged care facility will also be impacted by this proposal. Nonetheless, the shadow diagrams demonstrate that for all affected private and communal open spaces, they will be shadowed by the development in the early morning but otherwise free of any overshadowing by midday and thereafter, thereby satisfying the abovementioned Performance Outcome.

Occupant Amenity and Private Open Space

Performance Outcome 28.1 of the Design in Urban Areas module states:

“Residential accommodation within multi-level buildings have habitable rooms, windows and balconies designed and positioned to be separated from those of other dwellings and accommodation to provide visual and acoustic privacy and allow for natural ventilation and the infiltration of daylight into interior and outdoor spaces.”

Performance Outcome 28.2 of the Design in Urban Areas module states:

“Balconies are designed, positioned and integrated into the overall architectural form and detail of the development to:

- (a) Respond to daylight, wind, and acoustic conditions to maximise comfort and provide visual privacy*
- (b) Allow views and casual surveillance of the street while providing for safety and visual privacy of nearby living spaces and private outdoor areas.”*

All Payneham Road-facing dwellings are setback 10 metres from the front boundary of the site, providing sufficient acoustic protection from the traffic of Payneham Road for bedrooms and internal living areas. With respect to the dwellings on Level 1, although their private open space extends all the way to the front boundary of the site, these areas are appropriately shielded from noise and other nuisance on Payneham Road by way of the 1.5m tall masonry screen (the podium level parapet) and landscaping along this frontage. The undercover alfresco areas to these dwellings still maintain a 7.2m setback from the Payneham Road boundary too.

The balconies elevations that face both Payneham Road and Lambert Road have 1m high balustrades to maintain occupant amenity while still providing opportunities for passive surveillance of the public realm. As described in the preceding ‘Overlooking’ section, the 1.5m high balustrades applied to the rear-facing balconies still maintains sufficient occupant amenity without comprising neighbouring privacy. Every dwelling has a balcony of at least 2.5m depth that appropriately separates the main living areas and bedrooms from external source of noise or privacy intrusion, in accordance with the abovementioned Performance Outcomes.

Performance Outcome 28.4 of the Design in Urban Areas module states:

“Dwellings are provided with sufficient space for storage to meet likely occupant needs.”

Each bedroom of all eighteen (18) dwellings is provided with either a built-in or walk-in robe, for storage purposes. Similarly, all eighteen (18) dwellings have general storage space provided in the way of dedicated laundry and pantry rooms. The 2.7m high ceilings on each level also provide storage space within kitchens and living areas for ground level or overhead cupboards and the like, without compromising the functionality of these spaces, consistent with this Performance Outcome.

Performance Outcome 28.3 of the Design in Urban Areas module states:

“Balconies are of sufficient size and depth to accommodate outdoor seating and promote indoor/outdoor living.”

Performance Outcome 27.1 of the Design in Urban Areas module states:

“Dwellings are provided with suitable sized areas of usable private open space to meet the needs of occupants.”

Table 1 of the Design in Urban Areas module suggests that a three-bedroom dwelling within a multi-level building should be provided with at least 15m² of private open space, with a minimum dimension of 2.6m. The table below describes each dwelling’s performance against these criteria.

Building Level	Dwelling #	Form of Private Open Space	Total Private Open Space	Minimum Dimension
2	1	Undercover alfresco and open-to-the-air yard	190m ²	4.4m
	2	Undercover alfresco and open-to-the-air yard	147m ²	10.0m
	3	Undercover alfresco and open-to-the-air yard	107m ²	6.3m
	4	Balcony	80m ²	2.4m
	5	Balcony	37m ²	2.4m
	6	Balcony	27m ²	2.4m
3 & 4	1	Balcony	62m ²	2.6m
	2	Balcony	41m ²	2.6m
	3	Balcony	29m ²	2.6m
	4	Balcony	58m ²	2.4m
	5	Balcony	37m ²	2.4m
	6	Balcony	27m ²	2.4m

As can be seen, each dwelling provides sufficient private open space when compared to the Table 1 criteria. Although not every dwelling provides the minimum 2.6m dimension for the outdoor space, the smallest dimension provided is 2.4m which is still sufficient to accommodate outdoor seating on the respective balconies and promote indoor/outdoor living in accordance with Performance Outcome 28.3, above. As such, each dwelling is provided with suitable sized areas of usable private open space to meet the needs of occupants per Performance Outcome 27.1, above, also.

Traffic Impact, Access and Parking

Performance Outcome 1.1 of the Urban Transport Routes Overlay states:

“Access is designed to allow safe entry and exit to and from a site to meet the needs of development and minimise traffic flow interference associated with access movements along adjacent State maintained roads.”

Performance Outcome 3.1 of the Transport , Access and Parking module states:

“Safe and convenient access minimises impact or interruption on the operation of public roads.”

Performance Outcome 2.1 of the Urban Transport Routes Overlay states:

“Sufficient accessible on-site queuing adjacent to access points is provided to meet the needs of development so that all vehicle queues can be contained fully within the boundaries of the development site, to minimise interruption on the functional performance of the road and maintain safe vehicle movements.”

Performance Outcome 3.3 of the Transport, Access and Parking module states:

“Access points are sited and designed to accommodate the type and volume of traffic likely to be generated by the development or land use.”

Performance Outcome 3.8 of the Transport , Access and Parking module states:

“Driveways, access points, access tracks and parking areas are designed and constructed to allow adequate movement and manoeuvrability having regard to the types of vehicles that are reasonably anticipated.”

The proposal seeks to utilise one (1) existing access point on Payneham Road and create one (1) new access point on Lambert Road, while reinstating an existing crossover on Lambert Road to upright kerb & gutter. The report provided by the Applicant’s traffic consultant (MFY) sufficiently addresses the development’s satisfaction of each of these Performance Outcomes. The one-directional traffic flow combined with the fact that car parking facilities are set at the rear of the site, some 25 metres from the Payneham Road access point, means sufficient space is available on-site for vehicle queuing without interrupting traffic movements on Payneham Road, where required.

Both Council's traffic engineers and the Commissioner of Highways agree that the proposal provides for safe and convenient access, and manoeuvrability within the site, for the type and volume of anticipated traffic.

Performance Outcome 1.2 of the Transport , Access and Parking module states:

"Development is designed to discourage commercial and industrial vehicle movements through residential streets and adjacent other sensitive receivers."

The development fails to satisfy this Performance Outcome, albeit somewhat unavoidably given the scale and siting of the development. Lambert Road is a residential street and the one-way traffic flow through the site results in all vehicles exiting the site onto Lambert Road. Furthermore, large refuse vehicles and any large delivery vehicles (if required) will need to enter the site from Lambert Road too, contrary to this Performance Outcome.

Despite this, the crossover on Lambert Road is located closer to Payneham Road than any of the dwellings with a frontage to Lambert Road, meaning any larger vehicles can exit the site and travel towards Payneham Road without unreasonable interfering with the amenity or anticipated traffic volumes of Lambert Road.

Performance Outcome 3.5 of the Transport, Access and Parking module states:

"Access points are located so as not to interfere with street trees, existing street furniture... or infrastructure services to maintain the appearance of the streetscape, preserve local amenity and minimise disruption to utility infrastructure assets."

The proposed crossover location on Lambert Road is within 1m of an existing non-regulated street tree. The tree is considered non-regulated because this application was lodged prior to the changes to the tree regulations that came into effect in May 2024. Council's Arborist has undertaken a Visual Tree Assessment of this tree and determined it to be of good health, structure, shape and form, and worthy of retention (see **Attachment 8**). Further, Council's Arborist has calculated the theoretical Structural Root Zone of the tree to be 2.51m (radius) and the theoretical Tree Protection Zone to be 5.76m.

The crossover therefore encroaches into a substantial portion of the SRZ of the tree and for that reason the Council's Arborist does not support the proposed crossover location. However, this crossover location is the optimal location for this site, especially given the unknown regarding ownership and access rights of the laneway adjacent to the site.

In some circumstances, the Council permits applicants to undertake hydrovac excavation of the area adjacent to a street tree to determine the extent of root presence in a proposed crossover location; to determine if the construction of the proposed crossover would be possible without requiring unreasonable damage or removal of the tree. In this case, however, if the tree was to remain its canopy would require substantial pruning to avoid interfering with heavy vehicle movements. Such pruning which would severely reduce the amenity and landscape value of the tree, and likely result in an imbalance in the canopy that would be detrimental to the structural health of the tree. As such, retention of the tree is not possible unless the crossover location was moved. Given the proposed development is, in the administration's opinion, a reasonable development, and the crossover location is determined by the configuration of the car park and the siting of the building, the removal of the tree is considered appropriate by the administration.

As is the usual course of action for street tree removals, the Applicant is responsible for the costs involved in the Council removing the tree and planting new replacement trees. In this instance, given the landscape and amenity value of the existing tree, it is the administration's opinion that it is appropriate to require the Applicant to pay for two (2) replacement tree plantings, to offset this loss of canopy. To this end, Condition No. 2 has been recommended, which includes the cost for the removal of the tree (see **Attachment 8**) and \$500 per replacement tree.

Performance Outcome 1.3 of the Transport , Access and Parking module states:

"Industrial, commercial and service vehicle movements, loading areas and designated parking spaces are separated from passenger vehicle car parking areas to ensure efficient and safe movement and minimise potential conflict."

The application fails to satisfy this Performance Outcome with respect to waste collection. For residential waste collection, the waste truck must enter the site through the passenger vehicle exit point (Lambert Road), traverse the site towards the north corner and collect residential waste from the collection point next to the accessible car parking space, while at the same time obstructing car parking spaces numbered 7 through 10 (see **Attachment 1**). Upon completion of the waste collection, the truck is then required to undertake a three-point turn in the northern corner of the site to then exit back out onto Lambert Road.

With respect to commercial waste collection, the waste truck is required to make the same turning movements, but instead will collect the waste from the waste enclosure located near the Lambert Road exit. During waste collection, the waste truck will obstruct the four (4) car parking spaces numbered 11 to 14.

That being said, both residential and commercial waste collection will not be able to occur at the same time and it is therefore reasonable to expect that the Body Corporate will organise the respective waste collections at separate times. Additionally, each occurrence of waste collection is not expected to occur during peak movement periods for the site or for very long. Accordingly, the four (4) car parking spaces that are obstructed during each collection window will only be obstructed for a short period of time; a period of time not considered unreasonable. Finally, because of the substantial aisle width provided on site and the one-directional movement of traffic, waste collection will not inhibit the movements of passenger vehicles through the site nor any movements into and out of any of the other ten (10) car parking spaces at ground level (that will not be obstructed by the waste truck). For this reason, this aspect of the development is able to be supported despite the variance from the abovementioned Performance Outcome.

The Applicant's traffic consultant suggests that *"deliveries to the commercial tenancies will typically occur in small rigid vehicles"* which are able to park in one of the parking spaces. This will avoid interruption to other vehicle movements within the site consistent with this Performance Outcome.

Performance Outcome 2.1 of the Transport, Access and Parking module states:

"Sightlines at intersections, pedestrian and cycle crossings, and crossovers to allotments for motorists, cyclists and pedestrians are maintained or enhanced to ensure safety for all road users and pedestrians."

Performance Outcome 2.2 of the Transport, Access and Parking module states:

"Walls, fencing and landscaping adjacent to driveways and corner sites are designed to provide adequate sightlines between vehicles and pedestrians."

The angled entry wall for Tenancy 7 provides sufficient sightlines between motorists and pedestrians entering or exiting this tenancy. Similarly, the wall surrounding the outdoor dining area at the rear of the site has been angled to allow sufficient views from the car park onto the Lambert Road footpath, as demonstrated in the Applicant's traffic report (see **Attachment 1**). The landscaping proposed for the areas adjacent this exit includes low-lying ground covers and shrubs to ensure such sightlines are not impeded. For these reasons, neither the Council's Traffic engineer nor the Commissioner of Highways expressed concerns regarding sightlines for this development.

Performance Outcome 4.1 of the Transport, Access and Parking module states:

"Development is sited and designed to provide safe, dignified and convenient access for people with a disability."

The finished floor levels of the building are between 300mm to 400mm above existing footpath levels on Payneham Road. As such, the building entrances along the Payneham Road frontages have been designed to incorporate internal steps to avoid altering existing footpath levels (in accordance with Council requirements). However, all tenancies have openings to the rear car park, which contains the one (1) accessible car parking space adjacent to which is an access ramp, thereby providing the opportunity for safe, dignified and convenient access for people with a disability. Accordingly, to ensure the abovementioned Performance Outcome continues to be satisfied, and convenient access is available for all persons of all abilities notwithstanding, Condition No. 6 requires all rear access doors for the seven (7) non-residential tenancies to remain open to the public at all times.

Performance Outcome 5.1 of the Transport, Access and Parking module states:

“Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to [various] factors that may support a reduced on-site rate...”

The corresponding Designated Performance Feature suggests that satisfaction of the applicable car parking rates in the Table 1 or 2 of this module is one way by which this Performance Outcome may be met. The rates contained within Table 1 and 2 reflect the generally well-established approach for determining if a development provides sufficient car parking provision. In this case, the land uses proposed are not so unique as to warrant a different assessment, and so the rates prescribed in these Tables are considered appropriate for satisfaction of the Performance Outcome.

To this end, the subject land is located within a Designated Area for the non-residential uses of the land, and so Table 2 is applicable to these uses. Conversely, the Suburban Main Street Zone does not constitute a Designated Area for the purposes of the residential component of the proposal, and so Table 1 is applicable to this use. The table below demonstrates the quantitative assessment of the car parking provision on-site compared to the rates prescribed in the Planning & Design Code.

Land Use	Applicable Table of TAP Module	Rate Prescribed	No. of Car Parks Required		No. of Car Parks Provided
Non-residential	Table 2	3 spaces per 100m ² GLFA	876m ² x 0.03 = <u>26 spaces</u> (rounded down)	68 spaces	48 spaces
Dwelling	Table 1	2 spaces per dwelling, plus 0.33 visitor spaces per dwelling	36 + 6 visitor spaces = <u>42 spaces</u>		

As demonstrated, the site provides 20 fewer car parking spaces than the rates prescribed by Tables 1 and 2 of the Transport, Access and Parking module. The Applicant’s traffic consultants (see **Attachment 1 and Attachment 9**) both suggest that there seems to be an error in the Planning & Design Code insofar as the Code fails to designate the Suburban Main Street Zone as a Designated Area for residential car parking purposes. They argue that the “travel patterns from a known origin, such as a residential dwelling, are far more predictable and therefore better suited to a designated area status than the destination basis of retail uses, where the trip origins will be far more dispersed”.

The presumption of an error or discrepancy in the Code does not justify a shortfall against the applicable criteria in the Code, nor does that justify a decision to assess the car parking rates against the Designated Area rates when it is not a Designated Area; as the Applicant’s traffic consultants have done.

Instead, the administration considers it appropriate to determine whether there are any factors or characteristics of the development that support the proposed shortfall, consistent with Performance Outcome 5.1 of this module. In this respect, the following are notable characteristics of the development:

- the site is located on an arterial road along which a high frequency public transport service operates and that has dedicated cycling lanes (clearways) in both the AM (CBD inbound) and PM (CBD outbound) peak periods – thereby promoting alternate transport methods for visitors, residents and workers;
- the development includes a mix of land uses that are unlikely to all operate at their peak demand at the same time;
- the peak demand for the office and shop uses are unlikely to correspond with the peak demands of the residential dwellings, thereby supporting shared use of spaces;

- car parking spaces in the basement can be allocated to residents and staff of the non-residential uses, allowing the fourteen (14) ground level spaces to remain open for visitors to the site.

Considering the above and noting that the Council's internal traffic team have no objections to the number of car parking spaces provided, the development is considered to provided sufficient on-site vehicle parking to meet the needs of the development in accordance with Performance Outcome 5.1 (above).

Performance Outcome 9.1 of the Transport, Access and Parking module states:

“The provision of adequately sized on-site bicycle parking facilities encourages cycling as an active transport mode.”

As with Performance Outcome 5.1 above, this Performance Outcome is supplemented by a DPF that suggests that meeting the rates prescribed in Table 3 of this module is generally sufficient to satisfy the Performance Outcome. To this end, Table 3 prescribes the following applicable bicycle parking rates:

Land Use	Rate Prescribed	No. of Bicycle Parks Required		No. of Bicycle Parks Provided
Shop (incl. restaurant)	1 space per 300m ² GLFA, plus 1 space per 600m ² GLFA	2.67 (3 rounded up)	12	12+
Office	1 space per 200m ² GLFA, plus 2 spaces, plus 1 space per 1000m ² GLFA	3.45 (3 rounded down)		
Dwelling	1 space per 4 dwellings, plus 1 space per 10 dwellings for visitors	6		

A bike enclosure is provided in the basement for residents of the site. With internal dimensions of 4m x 2.75m and two security rails provided, this enclosure appears fit for storing between 6-8 bicycles. At ground level, a bike parking area is provided adjacent the Lambert Road exit and the waste enclosure. This space appears capable of storing 4-6 bicycles.

Performance Outcome 9.2 of the Transport, Access and Parking module states:

“Bicycle parking facilities provide for the secure storage and tethering of bicycles in a place where casual surveillance is possible, well lit and signed for the safety and convenience of cyclists and deters property theft.”

The basement level bike enclosure satisfies this Performance Outcome, and it will be in the interests of the Body Corporate responsible for this building to ensure this area remains secure. The ground level bicycle parking area, however, does not display any security or tethering features, such as a rail, and so Condition No. 7 has been recommended to ensure this area does allow for secure bicycle parking. This area is highly visible to patrons of the restaurant, as well as anybody else traversing the car parking area of the site or Lambert Road, therefore satisfying this Performance Outcome in one respect.

Performance Outcome 9.3 of the Transport, Access and Parking module states:

“Non-residential development incorporates end-of-journey facilities for employees such as showers, changing facilities and secure lockers, and signage indicating the location of the facilities to encourage cycling as a mode of journey-to-work transport.”

End-of-journey facilities are included in the amenities block on the ground floor of the building, adjacent the rear parking area and highly visible for employees attending the tenancies. Signage for such amenities are

usually commonplace in mixed-use buildings and therefore the administration feels no need to require this by way of a condition.

Environmental Factors

Soft Landscaping

Performance Outcome 3.1 of the Design in Urban Areas module states:

“Soft landscaping and tree planting are incorporated to:
(a) Minimise heat absorption and reflection
(b) Maximise shade and shelter
(c) Maximise stormwater infiltration
(d) Enhance the appearance of land and streetscapes.”

Performance Outcome 7.4 of the Design in Urban Areas module states:

“Street-level vehicle parking areas incorporate tree planting to provide shade, reduce solar heat absorption and reflection.”

Performance Outcome 7.5 of the Design in Urban Areas module states:

“Street level parking areas incorporate soft landscaping to improve visual appearance when viewed from within the site and from public places.”

Performance Outcome 7.6 of the Design in Urban Areas module states:

“Vehicle parking areas and associated driveways are landscaped to provide shade and positively contribute to amenity.”

Due to the siting of the building on both the Payneham Road and Lambert Road boundaries – consistent with the objectives of the Suburban Main Street Zone – no planting opportunities exist in front of the building. The Panel should note in this respect that the 3D renders provided in **Attachment 1** show landscaping to the verges adjacent the site but this is not proposed as part of the application; they are purely for artistic purposes. Nonetheless, opportunities for soft landscaping do exist at ground level beyond the building, adjacent the Lambert Road boundary, and within the car park. To this end, the application provides:

- A 19.4m² area around the proposed transformer location, adjacent the Lambert Road boundary;
- A 9.1m² area adjacent the Lambert Road boundary, surrounding the outdoor dining area associated within Tenancy 1 on the ground level, and adjacent to car parking space #1; and
- 500mm wide landscaping strips adjacent car parking spaces #11 and #14 separating these spaces from the basement car park wall and the waste outbuilding, and a 1m wide strip between car parking spaces #13 and #14 separating these spaces from the rear boundary of the site.

The two landscaping areas adjacent the Lambert Road boundary, on either side of the driveway crossover, are sufficient in size to allow for some ground covers and the planting of some small trees (subject to sightlines being maintained) to enhance the appearance of the car park from Lambert Road and provide some shade and shelter as pedestrians and vehicles enter and exit the site. Ten (10) of the fourteen (14) car parking spaces provided at ground level are sited under the building where the second and subsequent levels cantilever over the car parking area. Accordingly, in respect of these car parking spaces, Performance Outcome 7.4 (above) is met in another way; albeit not the way sought by the Code.

Where opportunities for ground-level soft landscaping do arise, the application provides space for plantings in accordance with these Performance Outcomes. Importantly, these areas are adjacent the secondary street frontage of the site where views of the street-level car parking area are available from the public realm, and consequently the application provides just enough to soften the appearance of the development from this public space. More soft landscaping would always be better, as with any application, but for the reasons explained in the ‘traffic’ section of this report, the proposed car parking areas and access arrangements appear to be the optimal configuration for this site which therefore restricts planting opportunities on the site.

With respect to soft landscaping above ground level, the application provides for:

- Permeable paving and lawned areas to the open-to-air areas of the balconies/private open space of Apartments 1, 2 and 3 on Level 1;
- Creeping ivy on steel wire mesh abutting the balustrades of the street-facing balconies of Apartments 1, 2 and 3 on Level 1;
- Tree plantings and ground covers for Apartments 1, 2 and 3 on Level 1; and
- Planter box hedges abutting the balustrades of all other balconies on all three levels of dwellings.

The Applicant has confirmed that the lawned areas shown on Level 1 will be artificial turf, which does not constitute soft landscaping. Raised planter boxes (1100mm high) will be constructed to accommodate the ground covers and tree plantings shown, and these range in depth from 600mm to 1200mm. It is the administration's understanding that installing real lawn above ground level on multi-level buildings is not feasible in any case, whereas the use of 1100mm high planter boxes will provide opportunities for soft landscaping. The use of artificial turf is not an environmentally sensitive design choice, but it does allow the occupants of these dwellings a softer ground material for part of their private open space, which should be well-shaded from the afternoon sun, thereby improving potential occupant amenity of these areas.

To ensure that the planter boxes on Levels 1, 2 and 3 are constructed, planted and maintained, Conditions No. 4 and 5 have been recommended. This requires the planter boxes to be constructed by the developer and not left to be the responsibility of each future dwelling owner, and for them to be planted prior to occupation of the dwellings.

Passive Surveillance

Performance Outcome 2.1 of the Design in Urban Areas module states:

“Development maximises opportunities for passive surveillance of the public realm by providing clear lines of sight, appropriate lighting and the use of visually permeable screening wherever practicable.”

Performance Outcome 2.4 of the Design in Urban Areas module states:

“Development at street level is designed to maximise opportunities for passive surveillance of the adjacent public realm.”

Performance Outcome 2.5 of the Design in Urban Areas module states:

“Common areas and entry points of buildings (such as the foyer areas of residential buildings) and non-residential land uses at street level, maximise passive surveillance from the public realm to the inside of the building at night.”

The Payneham Road façade of each ground level tenancy includes a high degree of fenestration to encourage passive surveillance of the public realm. Similarly, the outdoor dining area associated with Tenancy 1 is bound by a 1.5m wall, allowing passive surveillance over the Lambert Road public realm and the ground level bicycle and car parking areas. Tenancies 2 and 7 also include large amounts of glazing in their rear elevations, as do the foyer, mail room and amenities block, allowing passive surveillance of the ground level parking area. The proposal therefore achieves the outcomes sought by these Performance Outcomes.

Noise Emissions

Performance Outcome 1.1 of the Interface Between Land Uses module states:

“Sensitive receivers are designed and sited to protect residents and occupants from adverse impacts generated by lawfully existing land uses (or lawfully approved land uses) and land uses desired in the zone.”

No specific acoustic treatments have been specified for the construction of the eighteen (18) dwellings. However, the Level 1 dwellings have a finished floor level 4.7m above the finished floor level of the ground level commercial uses to provide good separation. The 10m setback from the Payneham Road frontage of the site, for all dwelling walls, provides good separation from the main street for these dwellings, where pedestrian activity is anticipated to occur.

With respect to noise from the land uses, the restaurant, shops and offices are not expected to be a source of unreasonable noise emissions. There is potential for patron and/or amplified music noise from the outdoor dining area associated with Tenancy 1 (restaurant). However, the cantilevered design of the three (3) levels of dwellings above this area restricts the ability for noise from this area to travel up towards the dwellings. Similarly, ten (10) of the fourteen (14) ground level car parking spaces are located under the cantilevered section of the building; again providing acoustic protection for the dwellings. Finally, the protruding balconies to all of the south, west and north elevations provide further separation between the ground floor noise sources and these dwellings.

Performance Outcome 1.2 of the Interface Between Land Uses module states:

“Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts.”

As earlier highlighted and shown in **Attachment 3**, the subject land is adjacent to low density residential land uses within the Established Neighbourhood Zone and the residential aged care facility to the southwest – all sensitive receivers. The development has been sited and designed so the non-residential land uses are oriented towards the main street (Payneham Road), with the exception of the outdoor dining area associated with Tenancy 1, to reduce the potential for adverse impacts to adjacent sensitive receivers. Shops, restaurants and offices are not generally associated with unreasonable noise levels, and so the anticipated impact on adjacent sensitive receivers is considered to be low and acceptable. The only anticipated sources of noise emissions associated with these uses are traffic movements within the site, deliveries and waste collections, and amplified music or patron noise associated with the outdoor dining area of Tenancy 1.

Performance Outcome 4.2 of the Interface Between Land Uses module states:

“Areas for the on-site manoeuvring of service and delivery vehicles, plant and equipment, outdoor works (and the like) are designed and sited to not unreasonable impact the amenity of adjacent sensitive receivers (or lawfully approved sensitive receivers) and zones primarily intended to accommodate sensitive receivers due to noise and vibration by adopting techniques including:

- (a) Locating openings of buildings and associated services away from the interface with the adjacent sensitive receivers and zones primarily intended to accommodate sensitive receivers*
- (b) When sited outdoors, locating such areas as far as practicable from adjacent sensitive receivers and zones primarily intended to accommodate sensitive receivers*
- (c) Housing plant and equipment within an enclosed structure or acoustic enclosure*
- (d) Providing a suitable acoustic barrier between the plant and/or equipment and the adjacent sensitive receiver boundary or zone.”*

The Suburban Main Street Zone seeks development with zero setbacks to the main street, thereby necessitating the siting of car parking areas behind the building – despite this also abutting the adjacent Established Neighbourhood Zone. Because of the smaller tenancies, large delivery vehicles are not anticipated to be required to enter the site; meaning a reduced noise impact to neighbours. The largest vehicle required to enter the site is the waste truck.

The *Local Nuisance and Litter Control Act 2016* (SA) provides that waste collection and deliveries are permitted and appropriate between the hours of 7am – 7pm, Monday to Saturday. This Act also provides the Council with enforcement powers should these provisions be breached. This development does not provide for any special consideration for waste collection or deliveries to occur outside of these hours and so this Act can be used to regulate any nuisances arising from such movements, if necessary. The Waste Management Plan recommends waste collection avoiding peak times for vehicle movements on this site, and it is the administration’s view that this should be left to be the responsibility of the Community Corporation for this building rather than by way of a condition that seeks to create a workable solution for the site.

Plant and equipment are sited in both the basement and on a small rooftop platform centralised to the building and behind a 500mm parapet wall. Neither location will be visible from the public realm and have been sited to minimise their potential impact in respect of noise and vibration.

With respect to any amplified music associated with the outdoor dining area of Tenancy 1, the Council has enforcement powers under the *Local Nuisance and Litter Control Act* unless the premises become licensed under the *Liquor Licensing Act 1997* (SA), in which case the power to deal with nuisances falls to the Liquor Licensing Commissioner. It is considered appropriate that any potential nuisances arising from the use of this area is dealt with under the appropriate legislation, and not by way of a planning condition, to avoid duplicity of responsible entities – all notwithstanding that the potential for such an issue to arise is considered to be low.

Performance Outcome 2.1 of the Interface Between Land Uses module states:

“Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:

- (a) The nature of the development*
- (b) Measures to mitigate off-site impacts*
- (c) The extent to which the development is desired in the zone*
- (d) Measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.”*

All of the proposed non-residential land uses are anticipated within the Suburban Main Street Zone and, per Performance Outcome 1.2 of the Zone, are encouraged to *“promote movement and activity during daylight and evening hours”*. Offices are not anticipated to operate during any unreasonable hours, and so the administration feels there is no need to place a condition on the hours of these tenancies.

With respect to the restaurant in Tenancy 1 and the shops in Tenancies 4, 5 and 7, DPF 2.1 of the Interface Between Land Uses module suggests appropriate hours of operation for shops to be 7am to 9pm, Monday to Friday and 8am to 5pm, Saturday and Sunday, while providing no guidance for restaurants. However, Performance Outcome 2.1 provides scope for extended hours given the extent to which these land uses are desired in the Zone (see PO 1.2 of the Zone) and the site being located on an arterial road.

Administration initially suggested to the Applicant a restriction on the hours of these uses being 7am to 9pm, Sunday to Thursday, and 7am to 11pm on Friday and Saturday. The Applicant sought to extend the closing time on Sunday to Thursday to 10pm, citing the ‘daytime’ hours in the *Environment Protection (Commercial and Industrial Noise) Policy 2023* as being 7am to 10pm as justification for this (see **Attachment 10**). It is the Applicant’s submission that: PO 2.1 seeks to limit impacts on sensitive receivers; the major impact for consideration is noise; the Noise Policy states that permitted noise levels at 9pm and 10pm are the same; and therefore it is appropriate for the hours of operation to reflect a 10pm close. Administration understands this rationale and considers that the appreciable difference between 9pm and 10pm will be minimal for adjacent sensitive receivers and is therefore supportive of these hours. With respect to Friday and Saturday, administration considers an 11pm finish appropriate to promote evening and nighttime activity on weekends consistent with the outcomes sought by the Suburban Main Street Zone. Condition No 8 reflects these hours of operation.

Performance Outcome 3.3 of the Transport, Access and Parking module states:

“Access points are sited and designed to accommodate the type and volume of traffic likely to be generated by the development or land use.”

Performance Outcome 3.4 of the Transport, Access and Parking module states:

“Access points are sited and designed to minimise any adverse impacts on neighbouring properties.”

Noise associated with traffic movements through the site are unlikely to be readily discernible from traffic movements on Payneham Road. The anticipated peak hour vehicle movements for this site are 20 trips in the AM and 45 trips in the PM. Most of the vehicle trips that occur outside of these peak periods will be associated with the dwellings, where vehicles enter the site from Payneham and travel down the east side of the building before entering the basement. These traffic movements restrict vehicle-associated noise even further, consequently limiting the impacts on adjacent sensitive receivers to appropriate levels in accordance with these Performance Outcomes.

Waste Management

The Planning & Design Code contains minimal helpful policy regarding the waste management of a mixed-use development except insofar as traffic movements and the need to screen waste storage areas from public view (which are discussed in other sections above). Nonetheless, it is prudent for a relevant authority to consider waste management for a development of this scale to ensure that any waste management plan proposed is feasible.

Performance Outcome 35.3 of the Design in Urban Areas module states:

“Where waste bins cannot be conveniently collected from the street, provision is made for on-site waste collection, designed to accommodate the safe and convenient access, egress and movement of waste collection vehicles.”

This application is supplemented with a Waste Management Plan, prepared by Colby Phillips Advisory (**Attachment 1**). The WMP identifies the anticipated waste volumes generated by the site each week and then deduces the number and size of bins required, ensuring that the plan proposed by the Applicant is suitable for storage and collection of waste. The WMP also appropriately identifies feasible collection pathways for residential and non-residential waste, which will be the responsibility of the Body Corporate/Property Manager.

It is unnecessary to repeat everything stated in the Applicant’s WMP, but it is important to note that residential waste is proposed to be collected by East Waste (Council’s waste contractor) whereas all commercial waste will be collected by a private contractor. This application was referred to East Waste (Council’s waste contractor) for comment on the proposal for them to undertake the residential collection. They have advised that they are broadly accepting of this proposal, subject to appropriate agreements being executed between East Waste, the Council and the Body Corporate and the turning movements shown by MFY being feasible on-site (see **Attachment 8**). Ultimately, if East Waste withdraw their support to collect residential waste from this site for any reason, then the Body Corporate will still be able to engage a private contractor for this purpose. Therefore, the WMP for this site is considered to be viable and appropriate. An advisory note has been included in the recommendation to advise the Applicant and future owners of the need to either execute a non-standard waste agreement with East Waste and the Council or arrange for residential waste collection through a third-party.

Flooding Susceptibility and Stormwater

Performance Outcome 2.1 of the Hazards (Flooding – General) Overlay states:

“Development is sited, designed and constructed to prevent the entry of flood waters where the entry of flood waters is likely to result in undue damage to or compromise ongoing activities within buildings.”

This application was necessarily referred to the Council’s External Hydrological Engineer for advice in this respect. That advice is contained in **Attachment 8** and was based on an earlier set of plans which sought to use the laneway adjacent the site for access. Notwithstanding, the advice is still valid despite the amendments.

The Applicant has suitably addressed the feedback provided and the proposal therefore satisfies Performance Outcome 2.1 above in that:

- The building maintains sufficient freeboard in a 1% AEP event;
- The threshold level for the Lambert Road car park exit maintains sufficient freeboard above the water table, and a gradient that falls towards Lambert Road, to prevent stormwater ingress into the building in a 1% AEP event; and
- The threshold level for the Payneham Road car park entrance is set at the flood level, and the threshold level of the basement entrance is set 630mm higher than required, with a gradient fall towards Payneham Road, to prevent stormwater ingress into the basement car park in a 1% AEP event.

Performance Outcome 42.2 of the Design in Urban Areas module states:

“Water discharged from a development site is of a physical, chemical and biological condition equivalent to or better than its pre-developed state.”

The Stormwater Management Plan provided by the Applicant includes the use of an ‘ECOSOL – RSF4200’ pollutant separator for water quality purposes. Council’s External Hydrological Engineer has confirmed this to be an appropriate stormwater treatment device to satisfy the abovementioned Performance Outcome.

Performance Outcome 7.7 of the Design in Urban Areas module states:

“Vehicle parking areas and access ways incorporate integrated stormwater management techniques such as permeable or porous surfaces, infiltration systems, drainage swales or rain gardens that integrate with soft landscaping.”

Performance Outcome 42.3 of the Design in Urban Areas module states:

“Development includes stormwater management systems to mitigate peak flows and manage the rate and duration of stormwater discharges from the site to ensure that development does not increase peak flows in downstream systems.”

The Applicant was asked to provide a Stormwater Management Plan that demonstrates that the site is able to detain the post-development 1% AEP storm event and discharge at the same or better rate than the pre-development 1-in-5 year ARI peak outflow; to satisfy the abovementioned Performance Outcomes. The Applicant’s engineer has provided a Stormwater Management Plan that includes 3 x 15,000L above-ground rainwater tanks with a restricted outflow that, combined with surface stormwater discharge post-treatment, achieves Council requirements in this respect; thereby satisfying these Performance Outcomes.

Site Contamination

Performance Outcome 1.1 of the Site Contamination module of the general development policies states:

“Ensure land is suitable for use when land use changes to a more sensitive use.”

Pursuant to the *State Planning Commission Practice Direction 14 (Site Contamination Assessment)*, because this application involves a change in use of the land to a more sensitive use (from commercial to residential), the Applicant was required to provide a Preliminary Site Investigation Report and a Site Contamination Declaration Form in accordance with the Regulations (see **Attachment 1**).

The Site Contamination Declaration Form indicated that a potential Class 1 activity in the form of dry-cleaning activities may have taken place on the land, although ‘all soil, vapour and groundwater investigations undertaken for the contaminants of concern indicate ... that dry cleaning is unlikely to have been undertaken on site. Notwithstanding, the application was necessarily referred to the EPA in accordance with Part 9.1 of the Planning & Design Code.

The EPA is supportive of the proposal as they believe there is sufficient evidence to demonstrate that the proposed land uses can be accommodated on the land without risk to health. Two (2) conditions have been imposed that require a site contamination auditor to issue a statement of site suitability certifying the land is suitable for the proposed use prior to a certificate of occupancy being issued.

Consideration of 'Seriously at Variance'

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2023.10, 20/07/2023), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- Although the development exceeds the maximum height (storeys) TNV that is spatially applicable, the Suburban Main Street Zone envisages low-to-medium rise buildings (PO 3.1) and the proposed building is consistent with the definition of a medium rise building per Part 8 of the Planning & Design Code;
- The building has been sited and designed to comply with the building envelopes provided in DPF 3.2 of the Zone;
- The land uses proposed (restaurant, offices, shops, dwellings) are all envisaged within the Suburban Main Street Zone (PO 1.1) and are low impact uses compatible with the adjacent Established Neighbourhood Zone;
- The building suitably addresses both street frontages to promote pedestrian activity per PO 1.2 of the Zone;
- Forty-eight (48) on-site car parking spaces are provided to try to meet the needs of the development;
- Vehicle movements in, within and out of the site are considered to be safe and convenient and are supported by the Commissioner of Highways;
- The building and basement have been designed to provide sufficient protection from flood waters in a 1% AEP storm event;
- Waste management and deliveries are demonstrably suitable for the development; and
- The site is able to be made suitable for the proposed use despite the potential for site contamination.

CONCLUSION

This proposal, perhaps understandably, received criticism during public notification from nearby residents. This development will be, if approved, the first four-storey building constructed within this locality and, to much of the representors' concern, in what is perceived to be a 'two storey zone'. However, the Suburban Main Street Zone does envisage buildings up to 6 levels; with the main street width, the site's dimensions and the building design determining how many levels may be appropriate for a particular site.

In this case, the development site has frontages of approximately 47.24m to Payneham Road and approximately 42.67m to Lambert Road, and a site area just over 2000m². Despite exceeding the 2 level TNV prescribed by DPF 3.1 of the Zone, the four-storey building is appropriately sited and designed to complement the main street character and not present as overly jarring when viewed from the main street - the tall three-storey residential care building southwest of the subject land aids in this respect. When viewed from Lambert Road, however, and especially when viewed against the single-storey dwellings located within the Historic Area Overlay to the north, it is difficult to conceive the building as sensitively framing this streetscape. The building does, however, satisfy the building envelope provisions contained within DPF 3.2 of the Zone. The siting of the building and the setbacks from side and rear boundaries appropriately mitigates overshadowing and visual impacts on neighbouring residential land uses.

The building has been designed to address and activate the main street (Payneham Road) with a zero setback from both street boundaries at ground level and a canopy that extends across the façade of the building to provide necessary shade and shelter to pedestrians. The building incorporates a defined podium level for the 2nd level and above, providing visual relief from the bulk and scale of the building. Balconies wrap around the south, west and north elevations of the building to assist further in this respect, where intermittent perforated screens help to break up the other monotonous elevations, producing shadow and articulation to create visual interest. The building employs an appropriate palette of materials and colours to sufficiently satisfy the provisions of the Planning & Design Code, although a better outcome in this respect could've been sought by the Applicant. Some soft landscaping has been provided on the site to try to soften the appearance of the development and improve its environmental performance, both at ground level and above. Appropriate conditions have been recommended to ensure the proposed landscaping across all building levels is implemented by the Applicant/developer and maintained thereafter.

With respect to land uses, restaurants, shops, offices and dwellings are all envisaged within the Suburban Main Street Zone and are considered to be low-impact uses that are compatible with the adjacent neighbourhood-type zones. The hours of operation proposed for the shops and restaurant are reasonable and the offices will be self-regulating in this respect. Noise from these uses is not considered to cause detrimental impacts to the amenity of adjacent sensitive receivers, nor is the noise from traffic movements associated with the development. Preliminary site contamination investigations evidence, to the EPA's satisfaction, that the site is able to be made suitable for these land uses subject to any necessary remediation and the certification of an accredited auditor.

The net residential dwelling density proposed is higher than that sought in Desired Outcome 1 of the Zone, but this is not considered fatal to the proposal given the site is able to accommodate this density. The proposal fails to properly provide housing diversity through an appropriate mix of housing sizes (number of bedrooms), only providing diversity in the total size of each dwelling lot. All dwellings are provided with an appropriate amount of private open space and suitable occupant amenity. Neighbouring residential amenity and privacy is similarly maintained at a satisfactory level by virtue of the rear-facing balcony balustrades being obscured and screened to a height of 1.5m above the internal floor level to prevent unreasonable overlooking opportunities from these areas.

Traffic movements into, within, and out of the site are safe and convenient, facilitated by the one-directional flow from Payneham Road to Lambert Road. The exception to this is in respect of refuse vehicles which will need to enter the site from Lambert Road and undertake a three-point manoeuvre within the site to then exit again. Swept path movement diagrams demonstrated the feasibility of these movements, but traffic movements within the site will be temporarily interrupted during this time. Nonetheless, refuse collection is expected to be undertaken outside of the peak traffic periods, to minimise interruption, and sufficient queuing space is available on the site to avoid any interruption to the operation of public roads. The Waste Management Plan provided for the development is appropriate in other respects.

The development provides 48 car parking spaces – 14 at ground level and 34 at basement level. The applicable car parking rates in Table 1 and Table 2 of the Transport, Access and Parking module suggests that 68 car parking spaces should be provided for this site. However, the various land uses proposed for this site are not all expected to simultaneously operate at their peak capacity, and so the sharing of car parking spaces is appropriate. For example, the peak demand for the offices is unlikely to coincide with the peak demand for the dwellings. Further, the site is located on an arterial road along which a high frequency public transit service operates, and dedicated cycling lanes exist, thereby promoting alternate transport methods to and from the site. Accordingly, although the site provides a theoretical 30% shortfall in car parking, the mixed-use nature of the site and the availability of alternate transport methods lends weight to supporting such a shortfall. The development will also provide facility for the parking of 12-14 bicycles as well as end of journey facilities, promoting the use of this transport method even further, for visitors, workers and occupants alike.

The Stormwater Management Plan provided for the development meets Council requirements in respect of discharge rates from the site and the proposed site and finished floor levels for the development provide sufficient freeboard in a 1% AEP storm event.

Overall, the proposed development is finely balanced – in that it sufficiently satisfies some provisions of the Planning & Design Code while clearly offending others. When assessed against all relevant provisions of the Code, the application is considered, on balance, to warrant planning 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 23020223, by FP Whyalla Pty Ltd C/- Future Urban is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 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 (if any).

Condition 2

Prior to construction works associated with the approved development commencing, payment must be made to the Council in the amount of \$2276.00 for the cost of removing the street tree by Council, necessary to enable vehicular access to the proposed development, and the planting of two (2) new street trees. Upon the issuing of full Development Approval and payment of the said amount, and prior to construction work commencing, please contact the Council's Planning Dept. to arrange for relocation of the tree.

Condition 3

The retaining walls requires along the Lambert Road side boundary and the rear boundary of the site shall be of a decorative style to complement the streetscape and the proposed development. Details of such retaining shall be provided as part of the building consent documentation, to the reasonable satisfaction of the Assessment Manager prior to the granting of development approval.

Condition 4

Details of the 1100mm high planter boxes to be installed on the three (3) residential levels of the building shall be provided as part of the building consent documentation. All such planter boxes shall be constructed by the applicant/developer during construction of the building and prior to the occupation of the building.

Condition 5

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 next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, 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.

Condition 6

The rear doors of all seven (7) ground level tenancies shall remain open for public access into the building at all times.

Condition 7

Secure bicycle tethering facilities shall be installed, to the reasonable satisfaction of the Assessment Manager, in the bicycle parking area shown on the Proposed Ground Floor Plan (prepared by Piteo Architects, Drawing No: PA-05, dated 04.03.24). Details of such facilities shall be provided as part of the building consent documentation.

Condition 8

The hours of operation of Tenancy 1 (restaurant) and Tenancies 4, 5 and 7 (shops) shall be restricted to the following times:

- Sunday to Thursday, 7am to 10pm
- Friday and Saturday, 7am to 11pm

Condition 9

The existing vehicular crossover on Lambert Road shall be reinstated to kerb and gutter so as to match the existing adjacent kerb and gutter profile, in accordance with Council specifications, prior to the occupation of the development and to the reasonable satisfaction of the Assessment Manager. All associated costs shall be borne by the developer/applicant.

Condition 10

Wheel stopping devices shall be placed at the end of each parking bay in the ground level car park so as to prevent damage to adjoining fences, buildings or landscaping to the reasonable satisfaction of the Assessment Manager.

Condition 11

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.

Condition 12

The balustrades of the rear-facing balconies (west elevation) shall 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 occupying the balcony, to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.

Condition 13

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.

Condition 14

All refuse and stored materials shall be screened from public view at all times, except when being presented for collection, to the reasonable satisfaction of the Assessment Manager.

Condition 15

All stormwater from buildings and paved areas shall be collected and disposed of in accordance with the Civil Plans (prepared by TMK Engineers) herein granted Planning Consent. Stormwater shall be disposed of 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.

Condition 16

Appropriate directional signage shall be installed at the Lambert Road exit of the site, with the words "No Entry, Authorised Vehicles Excepted" (or similar), to the reasonable satisfaction of the Assessment Manager. Such signage shall be maintained in good condition at all times and shall be constructed wholly on the subject site and with no part extending beyond the site boundary.

Conditions imposed by the Commissioner of Highways

Condition 17

All built form, except the veranda canopies, shall be located clear of the 3.5m x 3.5m corner cut-off at the Payneham Road/Lambert Road corner.

Condition 18

All access to/from the development shall be gained in accordance with the Proposed Ground Floor Plan produced by Piteo Architects, Project No. 2109, Drawing No. PA-05, dated 04/03/2024. The access on Payneham Road shall be limited to left turn in movements only.

Condition 19

All vehicles shall enter and exit the site in a forward direction. All on-site vehicle manoeuvring areas shall remain clear of any impediments.

Condition 20

The entry and exit points shall be suitably signed and line-marked to reinforce the desired traffic flow.

Condition 21

All off-street car parking shall be designed in accordance with *AS/NZS 2890.1:2004* and *AS/NZS 2890.6:2009*.

Condition 22

The largest vehicle permitted on-site shall be restricted to a 10.2m long refuse collection vehicle.

Condition 23

Any infrastructure within the road reserve that is demolished, altered, removed or damaged during the construction of the project shall be reinstated to the satisfaction of the relevant asset owner, with all costs being borne by the applicant.

Condition 24

Stormwater run-off shall be collected on-site and discharged without impacting the safety and integrity of the adjacent road network. Any alterations to the road drainage infrastructure required to facilitate this shall be at the applicant's cost.

Conditions imposed by the Environment Protection Authority

Condition 25

A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability (in the form described by *Practice Direction 14: Site contamination assessment 2021*) is issued certifying that any required remediation has been undertaken and the land is suitable for the proposed use.

Condition 26

For the purposes of the above condition and regulation 3(6) of the *Planning, Development and Infrastructure (General) Regulations 2017*, the statement of site suitability must be issued by a site contamination auditor informed by a completed site contamination audit report prepared in accordance with Part 10A of the *Environment Protection Act 1993*.

ADVISORY NOTES

Planning Consent

Advisory Note 1

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 2

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 4

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.

Advisory Note 5

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 6

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

Advisory Note 7

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), and any works that involve structures overhanging Council owner land (such as the canopy around the building), will require the approval of the Council pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 8

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Advisory Note 9

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 10

The applicant shall note that noise from the premises should not cause an unreasonable nuisance to occupiers of adjacent premises. In the event that noise emanating from the premises is alleged to cause an unreasonable nuisance, the Council necessarily reserves its rights under the *Local Nuisance and Litter Control Act 2016* to investigate and resolve those complaints as it deems necessary.

Advisory Note 11

The Applicant/Owner/Community Corporation shall note that per the Council's *Waste Management Policy*, this development falls outside the scope of the Council's standard waste collection service entitlement. Consequently, the Council provides no guarantee that it or its contractors can service residential waste collection from this site.

The Applicant/Owner/Community Corporation may apply to the Council for a Non-Standard Waste Agreement, in accordance with the Council's *Waste Management Policy*, for the collection of residential waste from the site. The Council, in consultation with its contractor, retains absolute discretion in determining the merits of any application and does not provide any guarantee of any such agreement being endorsed. Alternatively, the Applicant/Owner/Community Corporation may arrange for the collection of waste with a third-party contractor.

Advisory notes imposed by the Commissioner of Highways

Advisory Note 12

The Metropolitan Adelaide Road Widening Plan shows a possible requirement for a 4.5 x 4.5 metre corner cut-off at the Payneham Road/Lambert Road corner for future upgrading of the Payneham Road/Lambert Road intersection. The consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act is required to all building works on or within 6.0 metres of the possible requirement. As building works will encroach within the above areas, the attached consent form and a copy of the approved plan/s and decision notification form should be provided to DIT (via dit.landusecoordination@sa.gov.au) for consent purposes.

Advisory Note imposed by the Environment Protection Authority

Advisory Note 13

The applicant/owner/operator is reminded of the general environmental duty, as required by section 25 of the *Environment Protection Act 1993*, to take all reasonable and practicable measures to ensure that activities on the site and associated with the site (including during construction) do not pollute the environment in a way which causes or may cause environmental harm.

Mr Moretta addressed the Council Assessment Panel from 6:06pm until 6:19pm
Ms Moretta addressed the Council Assessment Panel from 6:22pm until 6:28pm
Mr Cree addressed the Council Assessment Panel from 6:29pm until 6:35pm
Mr Diprose addressed the Council Assessment Panel from 6:36pm until 6:40pm
Mr Cattonar from Future Urban addressed the Council Assessment Panel from 6:41pm until 6:53pm

Moved by Mr Mickan

- *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*

Seconded by Mr Bateup
CARRIED

MOTION 1

Moved Mr Smith

- *Development Application Number 23020223, by FP Whyalla Pty Ltd C/- Future Urban is refused for following reasons:*
 - *The proposal fails to satisfy Performance Outcomes 1.3 of the Transport, Access and Parking module of the General Development Policies as commercial and service vehicles are not separated from passenger vehicles*

- *The proposal fails to satisfy Performance Outcome 5.1, of the Transport, Access and Parking module of the General Development Policies as insufficient onsite carparking is provided to meet the demands of the land use; and*
- *The proposal fails to meet Performance outcome 6.6 of the Transport, Access and Parking module of the General Development Policies as loading areas and designated parking areas are not provided within the boundaries of the site.*

The motion lapsed for want of a seconder

MOTION 2

Moved by Mr Mickan

- *Development Application Number 23020223, by FP Whyalla Pty Ltd C/- Future Urban is refused for following reasons:*
 - *The proposal fails to satisfy Performance Outcomes 1.3 of the Transport, Access and Parking module of the General Development Policies as commercial and service vehicle movements are not separated from passenger vehicles;*
 - *The proposal fails to satisfy Performance Outcome 5.1, of the Transport, Access and Parking module of the General Development Policies as insufficient onsite carparking is provided to meet the demands of the land use,*
 - *The proposal fails to meet Performance Outcome 6.6 of the Transport, Access and Parking module of the General Development Policies as loading areas and designated parking areas are not provided within the boundaries of the site;*
 - *The proposal fails to satisfy Performance Outcome 3.1 of the Design in Urban Areas module of the General Development Policies as the development fails to provide sufficient soft landscaping; and*
 - *The proposal fails to satisfy Performance Outcome 29.1 of the Design in Urban Areas module of the General Development Policies as the development fails to provide a variety of dwelling sizes and typologies to contribute to housing diversity.*

Seconded by Cr Mex
CARRIED

5.2 DEVELOPMENT NUMBER 23018653 - TIA CONSULTING PTY LTD – 14 HARROW ROAD, COLLEGE PARK

DEVELOPMENT NO.:	23018653
APPLICANT:	TIA Consulting Pty Ltd
ADDRESS:	14 HARROW RD COLLEGE PARK SA 5069
NATURE OF DEVELOPMENT:	Construction of a carport, tennis court fence and lighting, swimming pool and safety fence and two storey pool house
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Hazards (Flooding) • Historic Area • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 18m) • Minimum Site Area (Minimum site area for a detached dwelling is 600 sqm) • Maximum Building Height (Levels) (Maximum building height is 1 level) • Site Coverage (Maximum site coverage is 50 per cent)
LODGEMENT DATE:	25 Aug 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	2023.12
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edmund Feary Senior Urban Planner
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	David Brown

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 5:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Response to Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 7:	Further Correspondence Regarding Representation and Response
ATTACHMENT 3:	Zoning Map		
ATTACHMENT 4:	Representation Map		

DETAILED DESCRIPTION OF PROPOSAL:

The proposed development involves a series of different elements relating to ancillary structures and the backyard.

Firstly, this involves the construction of a “pool house” (defined for the purposes of the Code as ancillary accommodation). This building is in the southern corner of the site, and would be two storeys in height (6.3m). This would contain a bathroom, studio, entertaining area and gym.

The “pool house” also includes a vertical louvre system on the upper floor windows in lieu of providing frosted glazing, with the intent to direct views into the yard of the subject site rather than neighbouring properties.

Integrated into the pool house is a pergola structure with retractable sails over a deck area.

The next element is the tennis court with associated lighting and fencing. The applicant has provided a report demonstrating compliance with AS/NZS 4282:2019 *Control of the obtrusive effects of outdoor lighting*. The fencing would be 3m high, with lighting installed at differing heights in order to account for representors’ concerns. The tennis court would comprise an artificial turf, with the applicant having agreed to construct this using a permeable material.

There is also a proposed carport which replaces an existing carport. The existing carport is non-original, and the new carport is to be constructed in substantially the same location (along the southeastern side boundary) albeit longer (to allow the parking of two vehicles in a stacked arrangement) with a new bin enclosure behind.

Finally, a new swimming pool is proposed adjacent to the southeastern side boundary, along with further landscaping works.

It should be noted that the application was lodged prior to the *Planning, Development and Infrastructure (Regulated and Significant Trees) Amendment Regulations 2024*, and as such, there are no regulated trees on the site for the purposes of this application.

BACKGROUND:

The application was submitted on 27 June 2023, but required additional information prior to lodgement, which was completed on 25 August 2023. Further requests for information and negotiations meant that the application was sent for public notification from 4-25 March 2024, with a response to representations provided on 17 May 2024.

The site previously contained a tennis court, which was decommissioned around 2006 in favour of the landscaping now seen on the site.

SUBJECT LAND & LOCALITY:

Site Description:

The site is a large residential allotment which reflects the original land division pattern of College Park.

Location reference: 14 HARROW RD COLLEGE PARK SA 5069

Title ref.: CT 6136/536	Plan Parcel: D371 AL38	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
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Shape:	mostly rectilinear (rear boundary is at an angle of approximately 7.25 degrees off perpendicular to the side boundaries)
Frontage width:	22.5m (approx.)
Area:	1572m ² (approx.)
Topography:	slightly undulating with a peak in the centre of the block some 500mm above top of kerb and 620mm above a low point towards the rear of the block.

Existing Structures: Existing bay-window villa constructed around 1890 (based on Valuer-General's data)- is identified as a Representative Building within the Historic Area Overlay. There are a series of later additions including a dwelling addition at the rear, carport, pergola and swimming pool.

Existing Vegetation: formal style garden in front of the property, with a relatively densely vegetated rear yard. Mostly non-native trees, none of which are considered regulated.

Locality

The locality is generally defined by large, historic homes, with large allotments, though there are some later infill dwellings such as the residential flat buildings to the northwest.

Tennis courts are not uncommon in the locality, with existing tennis courts at 6 and 12 Harrow Road, and another decommissioned former tennis court at 9 Marlborough Street.

Large ancillary buildings are also relatively common such as at 6, 10 and 12 Harrow Road, and at 9, 13 and 15 Marlborough Street.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 - Swimming pool or spa pool and associated swimming pool safety features: Code Assessed - Performance Assessed
 - Other - Residential - Tennis court fencing and lighting: Code Assessed - Performance Assessed
 - Carport: Code Assessed - Performance Assessed
 - Ancillary accommodation: Code Assessed - Performance Assessed
 - Demolition: Code Assessed- Performance Assessed
 - Deck: Code Assessed- Performance Assessed

- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed

- **REASON**
 - P&D Code; No other pathways available under the Established Neighbourhood Zone where the site is also in the Historic Area Overlay. Note that the demolition element is of an excluded building (being an existing carport)

PUBLIC NOTIFICATION

- **REASON**

Established Neighbourhood Zone - Table 5 - Point 3, 1 (building height)

- **LIST OF REPRESENTATIONS**

Given Name	Family Name	Address	Position	Wishes to be heard?
Nastasja	Agerman		Opposed	No
Peter	Balan	46 Fourth Avenue, St Peters*	Supportive with concerns	Yes
Timothy	Kleinig	Not given**	Supportive	No
David Burton on behalf of John and Laura Rogers		15 Marlborough Street, College Park	Support, with concerns	Yes

*Mr Balan is the owner of Unit 7 16-18 Harrow Road, College Park, immediately to the north of the subject site. He has advised that his concerns have been resolved by the applicant’s response to representations, and he no longer wishes to be heard.

**While Mr Kleinig did not state an address in the address section of the representation form, the body of the representation refers to 12 Harrow Road, College Park.

- **SUMMARY**

The opposed representor was concerned with the proposed removal of vegetation from the rear yard. Other representors’ concerns were primarily related to fencing, with some discussion of overlooking. In response to these concerns, the applicant has amended the proposed tennis court fencing to accord with the suggestions of the representors, and has agreed to retain existing fencing where possible, as well as planting new creeper vines to soften its appearance.

The supportive representor noted that the fence along the southeastern boundary is proposed to be retained, along with the existing mature hedge.

The applicant sought to make amendments to the application to address concerns from the representors. Mr Burton’s provided further commentary in response to the changes provided by the applicant. These comments, the applicant’s response to these comments, and a further response by the representor, is provided in **Attachment 7**, along with correspondence with the assessing officer relating to privacy conditions.

AGENCY REFERRALS

None required.

INTERNAL REFERRALS

- Heritage Advisor
 - The application was initially referred to Council’s Heritage Advisor, but in verbal conversations with him, it was determined that a formal referral was not required as the only street facing element was the carport, which is largely the same as what is already there. He indicated verbally that he had no objection to the proposal.
- Hydrological Engineer
 - The application was referred to Council’s consultant hydrological engineer, who provided advice which is outlined in the Flooding section below.

PLANNING ASSESSMENT

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

Land Use

The proposed development is ancillary to the existing residential use. This is consistent with the forms of development envisaged under the Established Neighbourhood Zone, as PO 1.1 envisages, “predominantly residential development”.

The entertaining room on the pool house is shown as having a bar and a fridge, but this is not considered to represent a kitchen, and therefore the proposed building is not considered to be a self-contained residence and therefore is not a dwelling. The definition of ancillary accommodation also states that there should be no more than two rooms capable of being used as a bedroom. In this case, the entertaining area is not considered to constitute such a room, in the same manner as an open plan kitchen/dining room is not a room capable of being used as a bedroom. In any event, as it is not a self-contained residence, it cannot be a dwelling, so it must be either ancillary accommodation or an undefined form of development.

While being undefined would trigger notification, the application triggered notification anyway due to its two-storey nature, so this has no material implications for the procedural matters of the application, and there are also no material differences in the merits of the proposal either way.

Building Height

The proposed pool house is two storeys, despite the TNV for the area being one storey.

Established Neighbourhood Zone Performance Outcome 4.1:

Buildings contribute to the prevailing character of the neighbourhood and complements the height of nearby buildings.

While it is two storeys, the building height of 6.43m (noting that the floor level needs to be raised by an additional 130mm for flood protection, as per the flooding section below) is relatively limited, being broadly commensurate with the 6m ridge height of the main dwelling.

It is also notable that it is proposed to be set among a cluster of outbuildings, abutting outbuildings on each of the three adjoining allotments. Notably, the garage at 12 Harrow Rd incorporates a loft element in the roof space, and the alterations and additions currently underway at 15 Marlborough St are two storey in nature.

The site is on the border between two different areas within the Historic Area Overlay, with this site being in “The Avenues (NPSP20)” but the allotments facing Marlborough St in “College Park (NPSP1)”. Nonetheless, the respective Historic Area Statements are relatively similar in their stipulations regarding building height:

- The Avenues: “Predominantly single-storey, up to two storeys in some locations.”
- College Park: “Single storey, two storey in some locations.”

Historic Area Overlay PO 2.2:

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

Established Neighbourhood Zone PO 4.1:

Buildings contribute to the prevailing character of the neighbourhood and complements the height of nearby buildings.

Two of the three allotments which abut the location of the proposed outbuilding also feature two storey development, either in an ancillary structure or as a dwelling addition. While a broader consideration of the locality shows a lesser prevalence of two storey development, there is a sufficient prevalence of two storey development that the proposed two storey form is complementary to the height of nearby buildings.

It is also noted that no representors expressed concern with the building height.

Setbacks, Design & Appearance

The proposal does include relatively extensive boundary walling along two sides, however both of these would abut existing boundary walls for either all or most of their length. The wall on the southeastern boundary would extend 3.5m beyond the existing wall on the neighbouring property, however it would abut and retain the existing fence with vine creeper, minimising its impact. This section of wall would also be abutting the neighbouring driveway, again minimising its impact.

Along the southeastern side the proposed boundary wall would be 3m high, consistent with Established Neighbourhood Zone DPF 11.1. The southwestern would be taller at 3.45m, but this would be invisible behind the abutting structure which has a wall height of approximately 4.5m.

The upper floor of the pool house has a side setback of 1.8m. With a wall height of 6.47m (based on the ground level shown on the plans and factoring in the increase in floor level of 130mm as outlined in the flooding section), Established Neighbourhood Zone DPF 8.1 would seek a side setback of 2.06m. However, it should be noted that it is difficult to determine natural ground level as the ground is undulating in this part of the site. It would also have a rear setback of 3.36m, which is short of the 5m expected under DPF 9.1.

While Established Neighbourhood Zone Table 3 does not show PO 8.1 and 9.1 as relevant policies for ancillary accommodation, this is because it does not generally expect ancillary structures to be two storey, and it expects that the guidance provided in PO 11.1 will be sufficient. While they are perhaps not directly applicable, in that some leeway should be provided given that ancillary structures will have a lower impact than dwellings, these policies can be instructive in terms of what the Code expects is a "reasonable" impact.

Given that the proposed pool house abuts ancillary structures on both boundaries, with another ancillary building to the south as well, its visual impact is considered to be reasonably limited. It is also noteworthy that no representors objected to the building's visual impact.

The proposed pool house has a contemporary styling, which provides a complimentary contrast to the historic building with which it is associated. The variation in colours, setback and roof form provides visual interest and it is considered to not detract from the other buildings surrounding it.

Heritage

No alterations to the original fabric of the representative building are proposed and, noting that the proposed carport is substantially similar to the existing carport in its street-facing presentation, the proposed works will be largely imperceptible from the street. This is therefore not considered to have any impact on the heritage value of the Representative Building, or the Historic Area.

Council's Heritage Advisor indicated verbally that he had no objection to the proposal.

Traffic Impact, Access and Parking

The proposed carport is 11m in length, therefore accommodating two stacked vehicles given the standard length of 5.5m per vehicle. The available driveway width is 5m, but the internal dimension of the carport is 5.4m allowing for two cars to park side-by-side as well, allowing for four undercover spaces.

Access is via the existing crossover, with no further impacts on the local road network.

Light Spill

The relevant P&D Code policy in this instance is Interface Between Land Uses module PO 6.1: *External lighting is positioned and designed to not cause unreasonable light spill impact on adjacent sensitive receivers (or lawfully approved sensitive receivers).*

The applicant has provided an obtrusive lighting analysis demonstrating compliance with *AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting* within the non-curfew hours.

In order to provide enforcement of the curfew hours provided, a condition is recommended which would require the lights to remain off from 11pm-6am.

While some adjustments have been made to the lighting layout subsequent to the analysis in response to concerns from representors, the engineer who prepared the analysis has confirmed to the applicant that the proposed amendments would still result in compliance with the standard.

While there is no DPF associated with PO 6.1 above, it is considered that compliance with the standard is sufficient to comply with the PO.

Fencing

With tennis courts being relatively common in the locality, tennis court fencing is also a fairly common feature of the locality. The proposed height of 3m is generally consistent with expected height for such fencing. The nature of tennis court fencing is lower impact than typical boundary fencing due to being visually permeable.

The applicant has also made changes to accommodate the representors' concerns as outlined in the response to representations, primarily involving retaining existing fencing where possible, and growing a new climbing plant in order to minimise the impact of the fence.

There is some contention between Mr Burton and the applicant as to the alignment of the fence, with Mr Burton suggesting that it should be aligned to be parallel to the baseline of the tennis court, with landscaping as a buffer between the two fences. The applicant has rejected this, and is seeking for the tennis court to be on the subject land, abutting the existing colorbond fence.

The relevant Performance Outcome is Design in Urban Areas PO 9.1:

Fences, walls and retaining walls of sufficient height maintain privacy and security without unreasonably impacting visual amenity and adjoining land's access to sunlight or the amenity of public places.

Given the number of such fences in the locality, it is considered that having a tennis court fence on the boundary might be reasonably expected. While Mr Burton's proposal to realign the fence such that it would be further from the boundary would reduce its visual impact, the PO above considered "unreasonable impact" rather than "minimisation". While the impact could be further minimised, the impact is not considered unreasonable.

Landscaping

The proposal includes 207sqm of soft landscaping- some 13.2% of the site's total area. This is well below the 25% sought by Design in Urban Areas DPF 22.1 and is primarily due to the tennis court comprising an artificial turf.

Design in Urban Areas PO 22.1:

Soft landscaping is incorporated into development to:

- *minimise heat absorption and reflection*
- *contribute shade and shelter*
- *provide for stormwater infiltration and biodiversity*
- *enhance the appearance of land and streetscapes.*

Each of these outcomes is addressed in turn below:

Urban Heat

The proposed pool would contribute an additional 32sqm of area which would contribute to heat absorption. The existing dwelling has a relatively light-coloured roof, and the overall level of tree canopy in the suburb will remain very high.

Shade and Shelter

It is noted that the trees on the site are all considered unregulated for the purposes of this application, and as such could be removed without approval. It has not been determined whether any of these trees could now be regulated, since it is immaterial to the application.

The proposed landscaping plan does nonetheless propose the planting of three new trees, along with a variety of shrubs and groundcovers. While these would be immature and there would be a net reduction of tree canopy as a result of this application (at least temporarily, depending on the mature canopy of the trees), it is considered on balance not to be sufficient justification to refuse the application.

There is also notable hard shelter provided in the form of the existing pergola and the proposed verandah integrated into the design of the pool house.

Stormwater Infiltration

The applicant has agreed to construct the tennis court from a permeable artificial turf material. This will allow the additional 445sqm of permeable area, meaning that some 652sqm of the site would be permeable, or some 41.5%. This is sufficiently substantial that the site's stormwater infiltration is suitable.

Biodiversity

The Code provides very little guidance on the expected level of biodiversity, since 25% of a given site could be lawn which contributes very little to biodiversity, and this would be sufficient to comply with the DPF. Most of the existing trees on the site are non-native, and the replacement trees would still provide some contribution to biodiversity.

Enhanced Appearance

The proposed development would not result in major changes to the site when viewed from the street or neighbouring properties. The applicant is proposing to retain existing hedging where possible, however where this is not possible, are proposing to plant a new creeper which will suitably soften the appearance of the development.

Privacy

The relevant Performance Outcome relating to overlooking from windows is Design in Urban Areas PO 10.1:
Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.

The associated DPF is:

Upper level windows facing side or rear boundaries shared with a residential use in a neighbourhood-type zone:

- a) *are permanently obscured to a height of 1.5m above finished floor level and are fixed or not capable of being opened more than 125mm*
- b) *have sill heights greater than or equal to 1.5m above finished floor level*
- c) *incorporate screening with a maximum of 25% openings, permanently fixed no more than 500mm from the window surface and sited adjacent to any part of the window less than 1.5 m above the finished floor level.*

The Code defines "direct overlooking" as:

In relation to direct overlooking from a window, is limited to an area that falls within a horizontal distance of 15 metres measured from the centre line of the overlooking window and not less than 45 degree angle from the plane of that wall containing the overlooking window.

The proposed upper floor window has louvres which would restrict opening to between 0 and 90 degrees, with zero meaning that the louvres were closed and there would be no visibility at all. The site plan provided by the applicant shows the fields of view taken from the centrepoint of the windows as outlined in the definition above. However, the sectors shown by the applicant only extend to the boundaries of the site, rather than showing the 15m outlined in the definition.

Once this is factored in, the view to the west would allow for a very small amount of direct overlooking when the louvres are in the 90-degree open position. This would amount to a small triangle of land in the garden bed behind the pool of 15 Marlborough St, which would likely be obscured by the fencing in any event.

To the east, there would be some direct overlooking of the driveway, but the 15m radius would not reach any windows or private open space.

In the 45-degree position, there is no direct overlooking of the adjoining land.

Noting that PO 10.1 above seeks only to “minimise” direct overlooking, and the context of the nature of the spaces that would be overlooked, it is considered that the extent of overlooking when the louvres are in the 90-degree position is acceptable. However, if the panel were sufficiently concerned about this to seek a condition limiting the louvres to the 45-degree position, such a condition could read:

The proposed louvres for the upper floor windows of the pool house herein approved shall be limited to opening between 0-45 degrees in order to prevent direct overlooking.

Nonetheless, this condition is not recommended as it is considered unnecessary for the purposes of satisfying PO 10.1.

The proposed deck would be at a slightly lower level than the ground floor of the pool house, meaning that any overlooking implications from this can be managed by the existing fencing and hedge.

Flood Risk

The site is located in both the Hazards (Flooding) and Hazards (Flooding- General) Overlays. The application was referred to Council’s consultant Hydrological Engineer who provided the following commentary:

The 1% flood level on the site is 41.43 mAHD. I would suggest a freeboard allowance of at least 200 mm to the proposed addition giving a minimum FFL of 41.63 mAHD.

I note that there are no levels provide for either the pool and its surrounding paving or the tennis court. Given that much of this area is shown to be flooded, I would be concerned about filling both these areas above a level of 41.25 mAHD, as I suspect that filling to a higher level may impact flooding on other properties (12 Harrow Road and properties facing Marlborough Street)

This would result in a floor level for the pool house which is some 130mm higher than is shown on the plans provided. A Reserved Matter is recommended in order to address these points.

Consideration of Seriously at Variance

Having considered the proposal against the relevant provisions of the Planning and Design Code version 2023.12, the proposal is not considered to be seriously at variance with the provisions of the Planning and Design Code for the following reasons:

- The land use is a residential use in line with Established Neighbourhood Zone PO 1.1; and
- The forms of development proposed are consistent with others in the locality;

CONCLUSION

The proposal includes a series of different elements, with the main one being the construction of an ancillary accommodation building known as a “pool house”. While the pool house is two storey in nature, this is consistent with a series of other two storey buildings in the immediate vicinity. Overlooking is suitably managed by proposed louvres which will direct views into the subject site and block views of neighbouring land.

The proposed tennis court would remove a substantial number of established trees, but the proposed landscaping plan and the proposal to construct the tennis court from a permeable surface will allow the proposal to suitably comply with Design in Urban Areas Performance Outcome 22.1.

Lighting associated with the tennis court complies with AS/NZS 4282:2019 and fencing has been amended by the applicant to address concerns from representors.

The proposed carport is consistent in its appearance with the existing carport on the site, while allowing additional space for parking more vehicles undercover.

Overall, the proposal is considered to sufficiently comply with the provisions of the Planning and Design Code so as to warrant 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 23018653, by TIA Consulting Pty Ltd is granted Planning Consent subject to the following reasons/conditions/reserved matters:

RESERVED MATTER

Planning Consent

Updated plans shall be provided reflecting the following:

1. That the Finished Floor Level of the proposed pool house is to be no less than 41.63 mAHD; and,
2. That the Finished Level of the pool paving and tennis court shall be no higher than 41.25 mAHD.

NOTE: Further conditions may be imposed on the Planning Consent in respect of the above matters.

Pursuant to Section 127(1) of the Planning, Development and Infrastructure Act 2016, the power to impose further conditions of consent in respect of the reserved matter(s) above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

Condition 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 (if any).

Condition 2

All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.

Condition 3

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 next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, 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.

Condition 4

The tennis court lighting herein approved shall be maintained in a manner consistent with AS/NZS 4282:2019, and shall only be operated in the "non-curfew" hours as specified by AS/NZS 4282:2019 i.e. outside the hours of 11pm-6am.

Condition 5

The proposed louvres shown to the upper floor of the “pool house” herein approved shall be installed prior to the occupation of the building, and shall be maintained at all times in a manner which reasonably restricts views from the room marked “gym” to the reasonable satisfaction of the Assessment Manager.

ADVISORY NOTES

Planning Consent

Advisory Note 1

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 2

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 4

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.

Advisory Note 5

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 6

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

Advisory Note 7

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 pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 8

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Advisory Note 9

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Mr Burton addressed the Council Assessment Panel from 8:19pm until 8:20pm

Mr Izzo addressed the Council Assessment Panel from 8:21pm until 8:22pm

Moved by Mr Juilian

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 23018653, by TIA Consulting Pty Ltd is granted Planning Consent subject to the following reasons/conditions/reserved matters:

RESERVED MATTER
Planning Consent

Updated plans shall be provided reflecting the following:

1. That the Finished Floor Level of the proposed pool house is to be no less than 41.63 mAHD; and,
2. That the Finished Level of the pool paving and tennis court shall be no higher than 41.25 mAHD.

NOTE: Further conditions may be imposed on the Planning Consent in respect of the above matters.

Pursuant to Section 127(1) of the Planning, Development and Infrastructure Act 2016, the power to impose further conditions of consent in respect of the reserved matter(s) above is delegated to the Assessment Manager.

CONDITIONS
Planning Consent

Condition 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 (if any).

Condition 2

All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into either the adjacent street kerb & water table or a Council underground pipe drainage system.

Condition 3

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 next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, 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.

Condition 4

The tennis court lighting herein approved shall be maintained in a manner consistent with AS/NZS 4282:2019, and shall only be operated in the "non-curfew" hours as specified by AS/NZS 4282:2019 i.e. outside the hours of 11pm-6am.

Condition 5

The proposed louvres shown to the upper floor of the "pool house" herein approved shall be installed prior to the occupation of the building, and shall be maintained at all times in a manner which reasonably restricts views from the room marked "gym" to the reasonable satisfaction of the Assessment Manager.

ADVISORY NOTES

Planning Consent

Advisory Note 1

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 2

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 4

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.

Advisory Note 5

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the Fences Act 1975 regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 6

The Applicant is advised that construction noise is not allowed:

- 1. on any Sunday or public holiday; or*
- 2. after 7pm or before 7am on any other day*

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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 pursuant to the Local Government Act 1999 prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

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Advisory Note 9

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

**Seconded by Mr Bateup
CARRIED**

**5.3 DEVELOPMENT NUMBER 23006477 – JOSEPH CAMERLENGO & GARETH TOH –
7 GRAY STREET, NORWOOD**

DEVELOPMENT NO.:	23006477
APPLICANT:	Joseph Camerlengo Gareth Toh
ADDRESS:	7 GRAY ST NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Demolition of a detached dwelling (pre 1920's); and the construction of a two-level detached dwelling and an inground swimming pool
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Established Neighbourhood <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Historic Area • Heritage Adjacency • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Traffic Generating Development • Urban Tree Canopy <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Site Area (Minimum site area is 200 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	3 Apr 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	2023.5 30/03/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Mark Thomson - Consulting Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	David Brown - Heritage Advisor

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 5:	Representations
ATTACHMENT 1:	Application Documents	ATTACHMENT 6:	Response to Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 7:	Internal Referral Advice
ATTACHMENT 3:	Zoning Map		
ATTACHMENT 4:	Representation Map		

BACKGROUND:

Development Application 23006477 was lodged on 3 April 2023. Public notification was first undertaken between 7 and 27 November 2023.

In response to concerns raised by representors and the Assessment Manager's delegate, the applicant varied the development application in April 2024. The changes can be summarised as follows:

- the addition of a transverse gable across the roof to assist in hiding the upper level portion of the house;
- the car parking area is now set under a lower roof and set back from the main front façade.

Pursuant to Section 119 (9) of the *Planning, Development and Infrastructure Act 2016*, a relevant authority may permit an applicant to vary an application, provided that the essential nature of the proposed development is not changed. The nature of the variations were not considered to change the essential nature of the proposed development and the applicant was permitted to vary the application.

When an application which has previously undergone public notification is varied, there is a requirement pursuant to Regulation 35(3) of the *Planning, Development and Infrastructure (General) Regulations 2017* to subject the varied application to public notification, unless the variations are not substantial. In this respect, the changes were considered to be a substantial change and as such, public notification of the varied application took place between 10 May and 24 May 2024.

In response to concerns raised by representors and the Assessment Manager's delegate, the applicant varied the development application again in June 2024. The changes can be summarised as follows:

- a reduction in the width of the carport doors, with a commensurate increase in dwelling facade width.

The applicant was permitted to vary the application and as this was not considered a substantial change, public notification was not repeated.

DETAILED DESCRIPTION OF PROPOSAL:

Planning consent is being sought for the demolition of an existing dwelling and the construction of a replacement dwelling on the subject land.

The existing dwelling is a single fronted 1880's hipped roof cottage. Although not listed as a heritage place or identified as a representative item, demolition requires planning consent due to the subject land being located within the Historic Area Overlay.

The proposed replacement dwelling is a two-level detached dwelling, with the upper level being confined to the rear portion. The dwelling contains two bedrooms, two living areas, a home office and a single car carport. It has a total floor area of 228m², of which 92m² is at the upper level.

The façade of the dwelling has a 3.5m wall height and is proposed to be clad in sandstone. The remaining external ground level walls comprise face brick. A simple flat-roof verandah extends 1.5m forward of the façade. The carport is set back 1.5m behind the façade and has a lower 3.0m wall height. A combination of hips and gables are proposed for the roofing over the single storey section of the dwelling, all of which is to be custom orb 'colorbond' at 35 degree pitch.

The upper level has an external wall height of 6.7m and is proposed to be clad in James Hardie Axon vertical cladding. The roof is concealed behind the walling.

Vehicular access to the carport is proposed via an existing crossover on the western side of the frontage. Landscaping is proposed to comprise a *murraya* hedge along the western side of the driveway and a mix of small trees (*magnolia*) and small shrubs (*kangaroo paws*) in the front yard.

An inground swimming pool is proposed alongside the eastern boundary at the rear of the dwelling.

Stormwater management is proposed to comprise rainwater tanks adjacent the rear boundary with 4,000 litres retention capacity and 1,000 litres detention capacity, with overflow directed to the street water-table.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 7 GRAY ST NORWOOD SA 5067

Title ref.: CT 5089/171 **Plan Parcel:** F100194 AL33 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

The subject land is a rectangular shape allotment with a frontage to Gray Street of 8.22m, a depth of 30.5m and an area of 250m². It contains a single fronted 1880's hipped roof cottage in poor condition. The land is essentially flat, with a slight fall of approximately 350mm from front to back. There are no Regulated or Significant trees on the land. A mature *Queensland Box* street tree is located directly adjacent the land in the Council verge. A crossover provides vehicular access to the site, to the west of the street tree.

Locality

Gray Street is a narrow local street characterised by small scale, single storey historic cottages in detached and semi-detached configuration, located close to the street. Front fencing is a prominent feature of the locality, with many fences being high. Mature *Queensland Box* trees are also a prominent streetscape element, combining with the historic buildings to provide a high level of amenity.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 - Demolition
 - New housing
 - Swimming pool, spa pool or associated
 - safety features: Code Assessed - Performance Assessed
 - Demolition: Code Assessed - Performance Assessed
 - Detached dwelling: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed

- **REASON**
 - P&D Code

PUBLIC NOTIFICATION

- **REASON**

Table 5 - Procedural Matters (PM) - Notification

The demolition of a building (except an ancillary building) in a Historic Area Overlay requires public notification.

LIST OF REPRESENTATIONS

Given Name	Family Name	Address	Position on Application	Wishes to be Heard
Nastasja	Agerman		Opposed	No
Irene	Moraw	Unit 518 Vaughan Place, Adelaide	Opposed	Yes
Tony	Frances	2 Gray Street, Norwood	Opposed	Yes

• SUMMARY

Ms Agerman has stated that her reason for opposing the application is that it includes the demolition of a pre 1920's dwelling and that no trees are being planted.

Ms Moraw has raised a number of concerns with the proposed development, which can be summarised as follows:

- the proposed two storey dwelling will be visually dominant, despite the addition of a transverse gable across the roof to assist in hiding the upper level portion;
- a two storey dwelling is not in keeping with the cottage style and charm of the area and will dwarf adjacent homes;
- the upper level will be visually dominant from the backyard of 5 Gray Street (and presumably 9 Gray Street) due to running the length of the property;
- the upper level will be dominant for the property owner at 7 Gray Street to the rear;
- the upper level windows will result in a loss of privacy to occupants of adjacent properties;
- the carport is dominant and not in keeping with the character of the area, despite being under a lower roof and set back from the main façade;
- the proximity of the western wall of the proposed dwelling to the eastern wall of the dwelling at 5 Gray Street raises potential privacy issues and may interfere with access to a hot water service on the eastern wall at the rear of 5 Gray Street. Access down the eastern side of 5 Gray Street is also essential for maintenance purposes; and
- The demolition and construction works may cause cracking and other damage to neighbouring properties.

Through his representative, Sandy Wilkinson, Mr Frances has raised concerns regarding the demolition of the existing dwelling and the appearance of the replacement dwelling. His specific concerns are summarised as follows:

- whilst very neglected, the cottage is in very original condition and could be readily restored;
- both the engineering and QS reports cover the entire building inside and out, rather than be limited in scope to just the parts that should be retained;
- the damage evident in the frontage is not severe or irreparable, including the 10-12mm crack over the front door;
- salt damp is evident in almost all late nineteenth century buildings which have not been properly underset or siloxane injected and is not irreparable;
- rotten timberwork is readily repaired or replaced;
- existing roofs are not required to be brought up to modern code, however if there is any failure or deflection of the ceiling and roof structure, it can be reinforced with additional timbers or completely replaced;
- stone footings generally perform perfectly adequately once stormwater is managed properly around the building;
- the 3.4m wide carport and 3.0m wide carport door needlessly dominate the street frontage and exceed the 30% maximum set out in Policy 24 (c); and

- as a consequence of the needlessly wide carport door the width of balance of the house is narrow and disproportionate.

In response to the representations, the applicant submitted amended plans which reduce the width of the carport to 3.0m and the width of the carport door to 2.55m. The width of the dwelling façade was increased commensurately from 4.3m to 4.75m.

In response to the concern raised by Ms Moraw regarding access to a hot water service and for maintenance, the applicant has advised that the site boundaries will be accurately surveyed, and where necessary new fencing will be constructed on the true boundary, preserving the lawful access arrangements.

The opinions of Mr Garth Heynen, Town Planning Consultant, have been provided in response to the various other concerns raised by the representors.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

The application was referred to the Council's Heritage Advisor, Mr David Brown, for advice on the suitability of the proposed replacement dwelling, due to being located in a Historic Area Overlay and Heritage Adjacency Overlay. The advice received is discussed within the assessment below under the heading of Heritage.

PLANNING ASSESSMENT

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

Demolition

Performance Outcome 7.1 of the Historic Area Overlay states:

"Buildings and structures, or features thereof, that demonstrate the historic characteristics as expressed in the Historic Area Statement are not demolished, unless:

- *the front elevation of the building has been substantially altered and cannot be reasonably restored in a manner consistent with the building's original style*
or
- *the structural integrity or safe condition of the original building is beyond reasonable repair."*

The cottage on the land demonstrates the following historic characteristics which are expressed in the Historic Area Statement:

"Eras, themes and context – Late 19th Century (pre 1920s). Residential. Range of dwelling types."

Therefore, pursuant to PO 7.1, the cottage should not be demolished unless either the front elevation has been substantially altered and cannot be reasonably restored in a manner consistent with the building's original style, or the structural integrity or safe condition of the original building is beyond reasonable repair.

There has been no suggestion by the applicant that the front elevation has been substantially altered, nor is there any evidence of such. Rather, the applicant has provided expert advice on the structural integrity of the building and the reasonableness of repairing it. In particular, reports have been prepared by Mr James Denton, an Engineer for Denlin Consulting and Mr Stephen Sentschuk, an Estimator for BPI Adelaide – Building and Pest Inspections.

The report from Denlin Consulting identifies a range of structural defects and/or dilapidated elements of the cottage. The defects which are considered most relevant to the assessment of the structural integrity and safe condition of the building are summarised below:

- front wall footing movement resulting in cracking and displacement of masonry;
- distortion of the façade as a result of soil shrink/heave phenomenon, resulting in crack width of 10-12mm;
- significant rear wall footing movement resulting in cracking and movement in wall, crack width above windows range from 5-10mm;
- substantial historical damp (salt damp) issues along the base of the western external wall;
- extensive cracking to internal walls, with typical crack widths ranging from 2-5mm to 10-15mm;
- as a result of movement and distortion within the building, some doors and windows jam;
- large portions of the floors frames are bouncy/spongy as a result of suspected subsidence/settlement/movement within floor frame supports (footings/dwarf walls etc);
- due to the severity of cracking and historical movement elsewhere in the building, the roof frame is expected to be displaying signs of distress such as split or cracked timber members, water damage timber due to failed (rusted or missing) roof cladding / flashings, failed rafter / ridge joints and or failed under purlins, dislodged roof struts, compromised ceiling frame due to water ingress, and corroded fixings.

Extensive photographs are provided in the report by Denlin Consulting, substantiating the written observations. Given the severity and extent of movement and damage to the structural elements of the building, it is evident that the structural integrity and safe condition of the building is substantially compromised.

Having determined that, the next consideration is whether or not the structural integrity and safe condition is beyond reasonable repair. Importantly, this is a different consideration to that which arises when assessing an application to demolish a Local Heritage Place. In that case, the consideration is whether or not the *“structural integrity or condition of the Local Heritage Place represents an unacceptable risk to public or private safety and is irredeemably beyond repair”*. The important distinction is that in the case of a building not listed as a Local Heritage Place, it is relevant to consider whether it is reasonable for the building to be repaired, whereas in the case of a Local Heritage Place, it is only relevant to consider whether it is repairable.

The report provided by BPI Adelaide includes itemised costs for the various defects identified by Denlin Consulting. The total cost estimate of approximately \$400,000 is considered to be of limited use to the assessment, as it includes costs to repair non-structural elements such as a new bathroom fitout. The costs associated with this type of work can be reasonably expected when renovating an ageing house, regardless of its structural integrity.

Notwithstanding that, the report by BPI Adelaide is considered to adequately demonstrate that although the building can be repaired, the structural integrity and safe condition of the building is beyond reasonable repair. As such, the proposed demolition is considered to satisfy PO 7.1.

Site Coverage

Performance Outcome 3.1 of the Established Neighbourhood Zone states:

“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.”

The associated Designated Performance Feature (DPF 3.1) specifies a standard outcome of 50%. Due to the small allotment sizes in the locality, the pattern of building footprints in the neighbourhood is that of buildings occupying a large proportion of their sites; often more than 50%. As such, DPF 3.1 is not

considered an appropriate standard to apply in this instance.

The proposed extent of site coverage is 63%, which is considered to be consistent with the character and pattern of the neighbourhood and provide sufficient space around the dwelling to limit visual impact, provide an attractive outlook and access to light and ventilation.

Building Height

Policies relating to the height of new buildings can be found in the Historic Area Overlay provisions and the Established Neighbourhood Zone provisions.

Performance Outcome 2.2 of the Historic Area Overlay states:

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

The reference in PO 2.2 to “the historic area” relates to the specific historic area within which the subject land is located, which in this case is *Historic Area (NPSP11)*. Therefore, in order to conform with PO 2.2, it is not necessary for the proposal to be consistent with the prevailing wall heights in the locality, but rather the prevailing wall heights in Historic Area (NPSP11).

In relation to building height, the Historic Area Statement relevant to *Historic Area (NPSP11)* notes the valued attributes as being “*up to two storeys*”. Therefore, despite the locality of the subject land being characterised by single storey buildings, the proposed two storey building is consistent with PO 2.2 because it is consistent with the prevailing building and wall heights in the historic area, as stated in the Historic Area Statement.

Performance Outcome 4.1 of the Established Neighbourhood Zone states:

“Buildings contribute to the prevailing character of the neighbourhood and complements the height of nearby buildings.”

The associated Designated Performance Feature (DPF 4.1) provides a maximum building height standard outcome of 2 levels.

The term “neighbourhood” in PO 4.1 is considered to relate to a wider area than a locality, likely extending from The Parade to Beulah Road and from Fullarton Road to Sydenham Road. This neighbourhood has a prevailing character of one and two level buildings, which the proposed two storey dwelling would contribute to. With the upper level set back from the street, the proposed dwelling is considered to complement the height of nearby buildings.

Historic Character

Performance Outcomes 2.1, 2.3 and 2.5 of the Historic Area Overlay state respectively:

“The form and scale of new buildings and structures that are visible from the public realm are consistent with the prevailing historic characteristics of the historic area.”

“Design and architectural detailing of street-facing buildings (including but not limited to roof pitch and form, openings, chimneys and verandahs) complement the prevailing characteristics in the historic area.”

“Materials are either consistent with or complement those within the historic area.”

As the subject land is adjacent to a Local Heritage Place at 5 Gray Street, the Heritage Adjacency Overlay is applicable. Performance Outcome 1.1 of the Heritage Adjacency Overlay states:

“Development adjacent to a State or Local Heritage Place does not dominate, encroach on or unduly impact on the setting of the Place.”

The application was referred to the Council’s Heritage Advisor, Mr David Brown for advice on the extent to which the proposal accords with the above policies. In summary, Mr Brown has advised:

- the revised design is a much better outcome with the higher roof and additional ridge line and gable. This goes a long way to hiding the upper level;
- the upper level at the rear is still a modern rectilinear form, but given its greater setback it is less likely to have an adverse impact on the streetscape;
- the large area of front glazing has been reduced now so there is more stone on the front of the house, and the verandah section forward of the carport has been removed, meaning the garage is visibly set further back on the block;
- the revised and confirmed materials are much more recessive, paler and less contrasting. This is a positive outcome for the streetscape and adjacent traditional dwellings;
- the proposed design is at a point where it could be considered as an acceptable contemporary infill dwelling in the historic streetscape.

Having regard to the advice of Mr Brown, the proposal is considered to sufficiently accord with the policies contained in the Historic Area Overlay and Heritage Adjacency Overlay relating to historic character.

Setbacks and Boundary Wall

Performance Outcome 2.4 of the Historic Area Overlay states:

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

Historic Area NPSP11 is characterised by dwellings sited close to the street, as is the case in Gray Street. The dwellings on the properties either side of the subject land are set back approximately 4m from the street to the building line, with verandahs coming forward closer to the street. The proposed setback of 4m is consistent with those setbacks and the prevailing front setback pattern in the area.

With respect to side boundary setbacks, the typical pattern for historic cottages in the street and wider area is for setbacks to be provided to both side boundaries, usually with one setback being greater than the other. On narrow sites containing single-fronted cottages, the side setbacks are generally insufficient to park a car and hence do not typically contain carports.

The proposed dwelling is inconsistent with the prevailing side boundary setback pattern, as the carport element extends to the western side boundary and the kitchen element extends to the eastern side boundary.

From a streetscape perspective, the proposed development would appear to provide a setback to the eastern side boundary, as the kitchen element located on the boundary is set well back on the allotment. The carport on the other hand would be readily visible and would not result in visual separation to the western side boundary.

With the carport height being lower and set back 1.5m behind the facade of the proposed dwelling and also the façade of the dwelling on the adjoining land, it would be a recessive element in the streetscape, while the primary façade would be the principal element, with space on either side. As a result, although the failure to provide a setback to the western boundary is a shortcoming of the proposal, the impact on the streetscape is considered to be reasonably mitigated through the design.

Performance Outcome 8.1 of the Established Neighbourhood Zone is similar to PO 2.4 of the Historic Area Overlay insofar as it seeks setbacks from side boundaries to provide separation between buildings that complement the established character of the locality, but it also seeks setbacks to provide access to natural light and ventilation for neighbours.

Designated Performance Feature (DPF 8.1) specifies a standard outcome of 900mm setbacks for walls up to 3m high and 0.9m plus one third of the additional height over 3m for higher walls. In the case of the proposed upper level, this equates to a distance of 2.1m. With the exception of the boundary walls, the proposed dwelling is set back between 600mm and 900mm for lower level walls and between 900mm and 1m for upper level walls.

With respect to boundary walls, Performance Outcome 7.1 states:

“Walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties.”

Despite not achieving the standard outcome for side setbacks in the Established Neighbourhood Zone, the proposed setbacks and boundary walls are considered to provide suitable access to light and ventilation for neighbours. In the case of the neighbour to the west at 5 Gray Street, that dwelling has a blank wall facing the subject land, with the exception of small windows of non-habitable rooms (a bathroom and likely a laundry) at the rear of the dwelling. All living areas of the dwelling face either west or north. As the proposed dwelling extends only approximately 1.8m further north than the rear of the dwelling at 5 Gray Street, any visual impacts from private open space at the rear would be minimal, despite being two storey in this location.

In the case of the neighbour to the east at 9 Gray Street, that dwelling has a bedroom window and a living area window which are located adjacent to the location of the proposed boundary wall. It also has a separate living / dining room at the rear with a window facing the proposed alfresco. Due to the fact that the existing dwelling on the subject land is located very close to the boundary and has high external walls, the proposal is unlikely to have a significant impact on the amount of light or ventilation experienced from the neighbouring property. The images below which were taken during the sale of the property in 2017, show the views from the said windows currently.

Images 1 and 2. Existing views from the lounge and bedroom windows of 9 Gray Street



Image 3. Existing view from the living/dining window of 9 Gray Street



The proposed dwelling extends approximately 4m further north than the rear of the dwelling at 9 Gray Street. As a result, the two-storey dwelling would be visible in views from the rear of 9 Gray Street, including from within the living / dining room and the outdoor area. Image 4 below demonstrates that the primary outlook from these areas is towards the north and would be unaffected by the proposal.

Image 4. Existing outlook from the rear of 9 Gray Street



With respect to rear setbacks, Performance Outcome 9.1 states:

“Buildings are set back from rear boundaries to provide:

- a) separation between buildings in a way that complements the established character of the locality*
- b) access to natural light and ventilation for neighbours*
- c) private open space*
- d) space for landscaping and vegetation.”*

The associated Designated Performance Feature (DPF 9.1) specifies a standard outcome of 4m for the first building level and 6m for the second building level.

The proposed rear setbacks of 6.2m to the ground level and between 4.4m and 5.4m to the upper level, are inconsistent with DPF 9.1, but are considered sufficient to achieve PO 9.1. Several dwellings within the locality are sited closer to their rear boundaries than the distances specified in 9.1. This is likely a factor of the small allotment sizes in the locality and resultant compact siting characteristics.

With a site area of 250m², the relevant private open space minimum rate specified in Table 1 – Private Open Space is 24m² and the relevant soft landscaping minimum rate specified in DPF 22.1 is 20%. The proposal includes 63m² of private open space and includes sufficient space around the building to achieve 20% soft landscaping.

That said, the indicative landscaping layout shown on the site plan indicates that much of the rear yard is intended to be hard paved. Combined with the proposed pool, this would leave limited space available for soft landscaping. If the Panel determines to grant planning consent, it is recommended that a reserved matter be imposed, requiring a revised and more detailed landscaping plan to be provided to the reasonable satisfaction of the Assessment Manager, which increases the amount of soft landscaping at the rear of the dwelling.

Overlooking

Performance Outcome 10.1 of the Design in Urban Areas section of the General Development Policies addresses overlooking and states:

“Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.”

The associated Designated Performance Feature (DPF 10.1) specifies a standard of 1.5m high window sills or obscure glass to a height of 1.5m.

The proposed side windows are unlikely to result in loss of privacy as they face in the direction of the roofs of adjoining properties. Notwithstanding that, the applicant has advised that they would be accepting of a condition which requires that all upper level windows either have a sill height of 1.5m above floor level or contain fixed obscure glass to a height of 1.5m above floor level.

Consideration of ‘Seriously at Variance’

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2023.5 30/03/2023), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- Demolition of buildings within the Historic Area Overlay is contemplated subject to (amongst other considerations) how reasonable or otherwise it is to restore structural integrity;
- The proposed land use is envisaged within the Established Neighbourhood Zone per PO/DPF 1.1;

- Two storey dwellings are envisaged within the Established Neighbourhood Zone per DPF 4.1 and Historic Area Overlay Performance Outcome 2.2 in combination with the Historic Area Statement.

CONCLUSION

The existing dwelling on the subject land is in very poor condition. The structural damage to the building resulting from uncontrolled soil moisture is extensive and remediation is considered an unreasonable expectation in this instance.

The proposed replacement dwelling has a mostly single storey presentation to the street, ensuring that it is compatible with the scale of nearby dwellings. The Code anticipates dwellings containing two levels in this particular historic area and therefore to the extent that the upper level is visible from the street and neighbouring properties, this is considered acceptable.

The site coverage, side and rear setbacks do not conform with the standard outcomes of the Code for dwellings in the Established Neighbourhood Zone, however this is understandable due to the small site areas and compact siting pattern in the locality. The two adjoining properties to the east and west are unlikely to be adversely affected by the proposal having regard to the location and orientation of their living room windows and private open space.

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 23006477, by Joseph Camerlengo and Gareth Toh is granted Planning Consent subject to the following conditions and reserved matter:

RESERVED MATTER

Planning Consent

An amended and more detailed landscaping plan shall be provided to the reasonable satisfaction of the Assessment Manager, including an increased amount of soft landscaping at the rear of the site and showing a suitable mix and density of trees, shrubs and groundcovers.

NOTE: Further conditions may be imposed on the Planning Consent in respect of the above matters.

Pursuant to Section 127(1) of the Planning, Development and Infrastructure Act 2016, the power to impose further conditions of consent in respect of the reserved matter(s) above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

Condition 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 (if any).

Condition 2

All 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.

Condition 3

The driveway crossover between the back of kerb and the property boundary shall be shaped to provide a verge slope no greater than 2.5% fall towards the road where a footpath is present and a maximum 5% where no footpath is present, suitable for pedestrian traffic and in accordance with Council's current standards.

Condition 4

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.

Condition 5

The approved development must include rainwater tank storage which is:

1. connected to at least 60% of the roof area;
2. connected to one toilet and either the laundry cold water outlets or hot water service;
3. with a minimum retention capacity of 2000 litres;
4. if the site perviousness is less than 30%, with a minimum detention capacity of 1000 litres; and
5. where detention is required, includes a 20-25 mm diameter slow release orifice at the bottom of the detention component of the tank

within 12 months of occupation of the dwelling(s).

Condition 6

Either:

1. Tree(s) must be planted and/or retained in accordance with DTS/DPF 1.1 of the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). New trees must be planted within 12 months of occupation of the dwelling(s) and maintained.
2. Where provided for by any relevant off-set scheme established under section 197 of the Planning, Development and Infrastructure Act 2016 (as at the date of lodgement of the application), payment of an amount calculated in accordance with the off-set scheme may be made in lieu of planting/retaining 1 or more trees as set out in the Urban Tree Canopy Overlay in the Planning and Design Code (as at the date of lodgement of the application). Payment must be made prior to the issue of development approval.

ADVISORY NOTES

Planning Consent

Advisory Note 1

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.

Advisory Note 2

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 3

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

Advisory Note 4

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 pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 5

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Advisory Note 6

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 7

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 8

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 9

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Ms Moraw addressed the Council Assessment Panel via Teams from 8:31pm until 8:37pm

Mr Wilkinson addressed the Council Assessment Panel from 8:38pm until 8:44pm

Mr Heynen addressed the Council Assessment Panel from 8:49pm until 8:56pm

Moved by Mr Mickan

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later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Advisory Note 6

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Advisory Note 7

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No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

**Seconded by Mr Bateup
CARRIED**

5.4 DEVELOPMENT NUMBER 24012200 – DAVID FRAZER & SIN POH CHAI - 417 MAGILL ROAD ST MORRIS

DEVELOPMENT NO.:	24012200
APPLICANT:	David Frazer Sin Poh Chai
ADDRESS:	417 MAGILL ROAD ST MORRIS SA 5068 CT 6148/199
NATURE OF DEVELOPMENT:	Two storey detached dwelling, part masonry front fence and combined fence & retaining walls
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Suburban Main Street <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development • Urban Transport Routes <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	6 May 2024
RELEVANT AUTHORITY:	Assessment Panel at City of Norwood Payneham & St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.7 18/04/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes – public notification period 12 June 2024 to 2 July 2024
RECOMMENDING OFFICER:	Marie Molinaro Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

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

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is for a part two-storey detached dwelling on a vacant allotment in the Suburban Main Street Zone. By way of background, Development Approval was granted for a land division to create one additional allotment – ref. 22038741. The proposal is contained to allotment 98 as per the approved land division, the other allotment is known as allotment 99. The new titles have not yet been issued, so by default the land is captured as 417 Magill Road, St Morris. Allotment 98 only has a frontage to Thomas Avenue, St Morris.

The dwelling will comprise the following:

- Lower level – two (2) bedrooms with attached bathrooms, open plan kitchen dining and living room, separate study, laundry, toilet and double garage with attached pergola. Upper level – two (2) bedrooms with attached bathrooms, open plan living area, study and storage space.
- The total floor area is 356 square metres.
- Site coverage is approximately 57.3 per cent.

The dwelling setbacks are as follows:

- Primary street (Thomas Avenue) – 1.7m - 2.7m at ground level and 2.5m - 3.5m at the upper level.
- Side Boundaries – 960mm -1.5m at ground level to the northern side, with garage wall on the southern side boundary and 8.09m at the upper level to the northern side and 2.4m to the southern side.
- Rear boundary – 1m - 4.5m at ground level and 4m at the upper level.
- The maximum wall height of the dwelling is 7.8m at the southern end. The dwelling incorporates a skillion roof over the two-storey part and a flat roof over the single storey part.

External materials and colours are as follows:

- Walls – Hebel panels rendered in Dulux 'Vivid White' with feature Basket Range stonework on the front façade. The applicant has advised the elevations and perspective showing dark grey dwelling walls are indicative only.
- Roof – Colorbond 'Wallaby' (dark grey).

Associated with the proposed dwelling is the following:

- A 1.9m high rendered Colorbond 'Wallaby' masonry fence along a portion of the front boundary for a length of 4.8m.
- Creation of a new driveway cross-over on the southern side of the land and closure of an existing driveway cross-over on the northern side of the land.
- Planting of landscaping comprising lawn, small trees and shrubs between the dwelling and the front boundary and on the northern side of the dwelling.
- Landscaping comprises approximately 19 per cent of the site area (exclusive of the indicative landscaping shown in front of the land).
- Provision of approximately 55 square metres of private open space behind the front wall (building line) of the dwelling.
- Earthworks comprise mostly filling of land, to a maximum height of 400mm on the northern side of the land. The earthworks are to be retained by concrete sleeper retaining walls along the northern side boundary and a portion of the rear boundary. 1.8m high Colorbond 'Wallaby' fencing is to be installed atop the retaining walls. The maximum height of combined fence & retaining wall structures is 2.2m.

- Stormwater will be directed to the street.

The application plans are included in **Attachment 1 – Application Documents**.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
9 March 2023	22038741	Torrens Title Land Division (creating one additional allotment)
17 July 2017 (Lapsed - Development Plan Consent only)	155/164/17 Development Act application (Allotment 99)	Demolition of a dwelling, outbuildings and swimming pool and the construction of a two-storey building comprising consulting rooms and two (2) dwellings, with associated car parking area, landscaping and fencing
1 September 2017 (Lapsed - Development Plan Consent only)	155/253/17 Development Act application (Allotment 98)	Construction of a pair of semi-detached dwellings facing Thomas Avenue with associated fencing and landscaping (non-complying)
1 December 2016 (Lapsed)	155/91/16 Development Act application (Allotment 99)	Community Strata Title Land Division creating two (2) additional allotments
19 December 2016 (Lapsed)	155/84/16 Development Act application (Allotment 98)	Torrens Title Land Division creating two (2) additional allotments with party wall rights facing Thomas Avenue

An assessment report for development approval 22038741 could not be found, so a rationale to support the division is not clear.

However, the approved boundaries of the allotments are the same as for the lapsed Development Act land division approvals. On this basis therefore, it is presumed development approval was granted on the basis that allotment 98 would be used for residential purposes in-line with the lapsed Development Act authorisations.

Under the Development Act, development applications were assessed against Council Development Plans. 417 Magill Road, St Morris was within the Local Shopping Zone under the Council Development Plan. The Local Shopping Zone primarily sought the development of non-residential uses, mostly in the form of shops, offices and consulting rooms.

Therefore, despite development approval 2202038741 being assessed against the Planning & Design Code the land use outcomes desired by the current zoning and the former zoning in the Council Development Plan are similar. However, the Suburban Main Street Zone anticipates a broader range of non-residential uses.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 417 MAGILL RD ST MORRIS SA 5068

Title ref.: CT 6148/199 **Plan Parcel:** D1984 AL3 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Allotment 98 is rectangular in shape with a frontage to Thomas Avenue of 24.6m and depth of 15.85m. The site is on the western side of Thomas Avenue, with a site area of 390 square metres. It is vacant, with a slight cross-fall to the north. There is a footpath and Council Street trees in front of the land. Thomas Avenue is a Council roadway, with upright kerb & gutter.

The land is on the fringe of the Suburban Main Street Zone, bordering the Established Neighbourhood Zone to the north. Thomas Avenue to the north is wholly residential, containing mostly detached dwellings of single storey height visible from Thomas Avenue.

The adjoining use to the west is commercial and the adjacent site to the east on the corner of Thomas Avenue and Magill Road is also commercial. Magill Road is a State maintained road.

Allotment 99 from land division approval 22038741 is to the south of allotment 98, on the corner of Magill Road and Thomas Avenue. The primary frontage is to Magill Road. It is vacant, with further Community Title land division approval granted via Development Authorisation 22038744.

The subject land is identified in **Attachment 2 – Subject Land Map**. The zoning is shown in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 - New housing
 - Detached dwelling: Code Assessed - Performance Assessed
 - Fences and walls
 - Fence: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed
- **REASON**

The proposal is not listed as Accepted, Deemed-to-Satisfy or Restricted development in the Planning & Design Code, so it defaults to being a Performance Assessed type of development.

PUBLIC NOTIFICATION

- **REASON**

Per Table 5 procedural matters of the Suburban Main Street Zone, a dwelling not above a non-residential building level is not exempt from public notification. Therefore, public notification was required.
- **LIST OF REPRESENTATIONS**

Two (2) opposing representations were received during the public notification period. One (1) of the representors wishes to be heard in support of their written representation.

The representor details are below:

Representor Name	Representor's Address	Wishes to be Heard	Nominated Speaker (if relevant)
Liana Jurjevic	1 Thomas Avenue, St Morris	No	
Chris Jurjevic	1 Thomas Avenue, St Morris	Yes	Chris Jurjevic

• **SUMMARY**

The issues contained in the representations can be briefly summarised as follows:

- Concern and seeking clarity regarding street addressing.
- Concern regarding the impact of a two-storey building, specifically concerned with setbacks, overlooking potential and impact on streetscape character.
- Concern and comment on the design of the proposal not incorporating enough storage space and inference that the garage will be used for storage, resulting in on-street parking congestion on Thomas Avenue.
- Comment on the size of allotment 98 being out of character – too small.
- Comment on a preceding development application.

The representor's location is shown in **Attachment 4 – Representation Map** and their written representations are included in **Attachment 5 – Representations**. The applicant's response is provided in **Attachment 6 – Response to Representations**.

No changes to the proposal were made following public notification.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

Nil

PLANNING ASSESSMENT

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

Land Use & Land Use Compatibility

Land use and land use compatibility matters are considered to be fundamental and are addressed in the Suburban Main Street Zone and Interface between Land Uses module provisions.

Suburban Main Street Zone

Desired Outcome (DO) 1

A mix of land uses including retail, office, commercial, community, civic and medium density residential development that supports the local area.

Performance Outcome (PO) 1.1

Retail, office, entertainment and recreation uses are supplemented by other businesses that provide a range of goods and services to the local community.

Performance Outcome (PO) 1.3

Ground floor uses contribute to an active and vibrant main street.

Performance Outcome (PO) 1.4

Dwellings developed in conjunction with non-residential uses to support business, entertainment and recreational activities contribute to making the main street precinct and pedestrian thoroughfares pleasant and lively places.

Interface between Land Uses

Desired Outcome (DO) 1

Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.

Performance Outcome 1.1

Sensitive receivers are designed and sited to protect residents and occupants from adverse impacts generated by lawfully existing land uses (or lawfully approved land uses) and land uses desired in the Zone.

The Zone is intended primarily to be developed with a mix of retail, office, entertainment and recreation uses. Residential development is also anticipated, but for it be associated with non-residential development.

PO 1.4 is interpreted further through corresponding Designated Performance Feature (DPF) 1.4 which speaks to the siting of residential development in the Zone to be contained to the upper levels of buildings or behind non-residential uses on the same allotment.

Whilst the proposal is at variance with PO 1.4 as it is for a stand-alone dwelling, the intent of the Zone is not considered to be prejudiced. The site, contained to allotment 98 from the preceding land division approval does not front the main street (Magill Road). Preceding development authorisation 155/164/17 demonstrates that allotment 99 in the preceding land division approval can be developed with non-residential uses, which is the main intent of the Zone and specifically PO 1.3 and PO 1.4 which seek the making of main street precincts framed by active (lively and vibrant) uses.

With regard to land use compatibility matters, the design of the proposed dwelling is considered to mitigate adverse effects from the future development of non-residential use(s) on adjoining allotment 99 fronting Magill Road as desired in the Zone.

The design of the proposed dwelling is such that on the lower level the garage and nominated service courtyard abuts the rear of allotment 99, which is considered likely to be the car-park area of future built form on this site. On the upper-level, solid south-facing walls separate bedrooms 2 and 3 from the rear of allotment 99. The car-park area of the anticipated non-residential uses is considered most likely to be the source of land use conflict through vehicle noise, lighting and waste storage. However, many of the anticipated non-residential uses in the Suburban Main Street Zone, including shops, offices, consulting rooms and tourist accommodation themselves are for the most part considered to be quite low-key in terms of amenity impact.

With this in mind, the existing adjoining non-residential use on Magill Road is a consulting room (physiotherapy). The adjacent non-residential use on the opposite corner of Thomas Avenue and Magill Road is a restaurant. Restaurants are considered to have greater potential impact on residential amenity, however in this instance impacts on adjacent residential amenity are minimised as the restaurant includes a mostly brick wall along most of the Thomas Avenue frontage.

The contemplated mix-use, residential and non-residential development of the Suburban Main Street Zone signals that residential development can sit comfortably with common and anticipated non-residential main street development types.

Building Height and Setbacks

Building height and setback matters are addressed in the Suburban Main Street Zone provisions.

Suburban Main Street Zone

Performance Outcome (PO) 3.1

Building height is consistent with the form expressed in any relevant Maximum Building Height (Levels) Technical and Numeric Variation layer and the Maximum Building Height (Metres) Technical and Numeric Variation layer or is low-to-medium rise, where the height is commensurate with the development site's frontage and depth as well as the main street width, to complement the main street character.

Performance Outcome (PO) 3.2

Buildings mitigate visual impacts of building massing on residential development in a neighbourhood type zone.

Performance Outcome (PO) 3.6

Buildings that area set back from rear boundaries (other than street boundaries) minimise impacts on neighbouring properties, including access to natural light and ventilation.

Performance Outcome (PO) 3.8

Buildings on an allotment fronting a road that is not a State maintained road, and where land on the opposite side of the road is within a neighbourhood-type zone provides an orderly transition to the built form scale envisaged in the adjacent zone to complement the streetscape character.

The built form Performance Outcomes in the Suburban Main Street Zone speak mostly to main street appearance, which in the assessment of this proposal do not hold particular relevance as allotment 98 does not front Magill Road.

In consideration of this, and the wholly residential nature of the proposal it is considered relevant to have regard to building height and setback provisions of the adjoining Established Neighbourhood Zone.

With respect to building height, PO 3.1 anticipates building height as low-to-medium which is defined in the Planning & Design Code as up to 2 building levels but to complement main street character. This is consistent with corresponding Designated Performance Feature (DPF) 3.1 which as a guide lists 2 building levels as the desired maximum building height.

As the site does not front the main street (Magill Road) achievement of Performance Outcome 3.8 is considered to hold more weight. Adjoining the site to the north on Thomas Avenue is the Established Neighbourhood Zone. The Performance Outcome seeks for development in this scenario to provide an orderly transition to the built form scale envisaged in the adjoining neighbourhood-type zone. The intent of this being to complement streetscape character.

Built form scale in this context is mostly considered in terms of height. Thomas Avenue north of the subject land is wholly residential in nature and consistent in terms of a single storey building height. There is one part two-storey dwelling in the locality on the eastern side of Thomas Avenue, however it is single-storey to the street. Thomas Avenue is also within a Character Area Overlay (Trinity Gardens/St Morris) that recognises single storey building height as a valued character attribute to be recognised in future development.

Nonetheless, the proposed two-storey dwelling is considered to achieve an orderly height transition to the adjoining single storey Character Area as the upper-level is not wholly over the lower level, with the two-storey part sited towards the Magill Road end of the site. The upper-level is 8m from the northern side boundary, which is considered to be a generous setback assisting in achieving the desired visual transition.

These factors are also considered to demonstrate achievement of Performance Outcome 3.2 in mitigating the visual impact of building mass on residential development.

Further regarding building height, whilst single storey development is the prevailing existing character and desired future character of Thomas Avenue, the subject site is an anomaly in terms of site area. The site area of allotment 98 is approximately 464 square metres smaller than 1 Thomas Avenue, which is consistent with existing allotments on the street. The smaller site area of the subject site is considered to be a mitigating factor in consideration of a two-storey building.

In addition, the layout of allotment 98 being more wide than deep is considered to preclude a part-two storey design that is single storey at the street and two-storey at the rear, similar to the example of this on the eastern side of Thomas Avenue.

Whilst the size of allotment 98 was raised as a concern in the representations, this application is only for built form. The land division has already received Development Approval.

With respect to setbacks, the proposed setbacks (lower and upper-level) to Thomas Avenue are considered to need the most analysis.

Performance Outcome 5.1 of the Established Neighbourhood Zone seeks for buildings to be setback from primary street frontages to be consistent with the existing streetscape. The corresponding Designated Performance Feature (DPF) 5.1 in this case as a guide seeks an 8.5m setback, the same as the existing dwelling at 1 Thomas Avenue, St Morris.

Allotment 98, the subject site is only 15m deep, so an 8.5m setback to Thomas Avenue is not achievable.

Due to allotment 98 originally forming part of a corner site it is also considered relevant to view the proposal in terms of the secondary street boundary setback provisions.

In this case, Designated Performance Feature (DPF) 6.1 of the Established Neighbourhood Zone as a guide seeks buildings to be setback a minimum of 1m at ground level and 3m at the upper level. The proposed setbacks to Thomas Avenue meet this DPF.

The Suburban Main Street Zone is silent on setbacks to secondary street boundaries, further reinforcing built form outcomes mostly focus on main street appearance.

On balance, considering all of the above, the proposed setbacks to Thomas Avenue are acceptable.

The proposed northern side boundary setbacks with the adjoining residential use meet or exceed the desired side boundary setbacks set-out in Designated Performance Feature 8.1 of the Established Neighbourhood Zone.

Design in Urban Areas module

Desired Outcome (DO) 1

Development is:

- (a) *contextual by a comprising, recognising and carefully responding to its natural surrounding or built environment and positively contributing to the character of the locality*
- (b) *durable – fit for purpose, adaptable and long lasting*
- (c) *inclusive – by integrating landscape design to optimise pedestrian and cyclist usability, privacy and equitable access and promoting the provision of quality spaces integrated with the public realm that can be used for access and recreation and help optimise security and safety both internally and within the public realm, or occupants and visitors*
- (d) *sustainable – by integrating sustainable techniques into the design and siting of development and landscaping to improve community health, urban heat, water management, environmental performance, biodiversity and local amenity and to minimise energy consumption.*

Performance Outcome (PO) 17.1

Dwellings incorporate windows facing primary street frontages to encourage passive surveillance and make a positive contribution to the streetscape.

Performance Outcome (PO) 17.2

Dwellings incorporate entry doors within street frontages to address the street and provide a legible entry point for visitors.

Performance Outcome (PO) 20.1

Garaging is designed to not detract from the streetscape or appearance of a dwelling.

Performance Outcome (PO) 20.2

Dwelling elevations facing public streets and common driveways make a positive contribution to the streetscape and the appearance of common driveway areas.

Performance Outcome (PO) 20.3

The visual mass of larger buildings is reduced when viewed from public streets.

The proposed dwelling design is considered to be of a high standard, appropriately addressing Thomas Avenue.

The façade of the dwelling includes the use of varying materials, with the floor plan incorporating habitable rooms facing the street and a clear front entry.

The double garage is on the side of the dwelling and set-behind the front wall of the dwelling to ensure it is not a dominate feature.

The mass of the two-storey design is considered to be reduced from Thomas Avenue through the articulated front façade and varying setbacks.

Residential Amenity & Amenity Impact on Adjacent Residential Uses

Amenity matters are addressed in the Suburban Main Street Zone and Design in Urban Areas module provisions.

Suburban Main Street Zone

Performance Outcome (PO) 3.3

Buildings mitigate overshadowing of residential development within a neighbourhood-type zone.

Design in Urban Areas module

Performance Outcome (PO) 4.1

Buildings are sited, oriented and design to maximise natural sunlight access and ventilation to maintain activity areas, habitable rooms, common areas and open spaces.

Performance Outcome (PO) 10.1

Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.

Performance Outcome (PO) 18.1

Living rooms have an external outlook to provide a high standard of amenity for occupants.

Performance Outcome (PO) 21.1

Dwellings are provided with suitable sized areas of useable private open space to meet the needs of occupants.

Performance Outcome (PO) 21.2

Private open space is positioned to provide convenient access from internal living areas.

External amenity impact through overshadowing is nil as the subject site is to the south of the adjoining residential development in the Established Neighbourhood Zone.

Regarding overlooking, and as raised as a concern in the representations, the north side facing upper-level living room window is at least 1.5m above floor level. This is consistent with Designated Performance Feature (DPF) 10.1 as a recognised measure to achieve PO 10.1.

The north facing upper-level stairway window is full-height and not obscure glazed. It however aligns with the front yard of 1 Thomas Avenue. Therefore, it is not considered necessary to include privacy treatment measures to this window as there is no direct overlooking. The west/rear facing upper-level windows are also at least 1.5m above floor level. Recommended condition two (2) requires privacy treatment to the side and rear facing upper-level windows, excluding the stairway window.

Living rooms on the lower-level face toward the street and also provide access to internal private open space and landscaped areas as desired by PO 18.1 and PO 21.2. Private open space at the rear of the dwelling has an area of approximately 55 square metres. Designated Performance Feature (DPF) 21.2 seeks as a guide in this case, the provision of 60 square metres of private open space as a way to achieve PO 21.2. Whilst there is a shortfall, it is supplemented by the screened courtyard area mostly to the side of the dwelling, with some intrusion forward, closer to the front boundary.

Traffic Impact, Access and Parking

Traffic Impact, Access and Parking matters are addressed in the Urban Transport Routes Overlay, Design in Urban Areas and Traffic, Access and Parking modules.

Urban Transport Routes Overlay

Per Overlay procedural matters a referral to the Commissioner of Highways was not required as the proposed access is more than 25m from in the intersection with Magill Road, a State maintained road. The setback is approximately 40m.

Design in Urban Areas module

Performance Outcome 23.1

Enclosed car parking spaces are of dimensions to be functional, accessible and convenient.

Performance Outcome 23.3

Driveways and access points are located and designed to facilitate safe access and egress while maximising land available for street tree planting, pedestrian movement, domestic waste collection, landscaped street frontages and on-street parking.

Performance Outcome 23.4

Vehicle access is safe, convenient, minimises interruption to the operation of public roads and does not interfere with street infrastructure or street trees.

Performance Outcome 23.5

Driveways are designed to enable safe and convenient vehicle movements from the public road to on-site parking spaces.

Performance Outcome 23.6

Driveways and access points are designed and distributed to optimise the provision of on-street visitor parking.

Traffic, Access and Parking module

Desired Outcome (DO) 1

A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.

Performance Outcome (PO) 5.1

Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:

- (a) availability of on-street car parking*
- (b) shared use of other parking spaces*
- (c) in relation to a mixed-use development, where the hours of operation in commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- (d) the adaptive reuse of a State or Local Heritage Place.*

Vehicle access to the double garage of the dwelling is proposed via a proposed 3.3m wide cross-over at kerb, flaring out to a 6m width at the property boundary. It is located near the southern end of the site. It is sited between two (2) street trees, a minimum 2.5m separation to each tree is provided, which is satisfactory per Designated Performance Feature (DPF) 23.4. A site inspection showed one (1) tree may need pruning to accommodate vehicle clearance. Recommended advisory note eight (8) reminds the applicant that such activity requires separate Council permit approval. There is no other street infrastructure in the proposed driveway location.

The proposal includes the closure of an existing access point located further north. This will ensure that street parking is optimised, or at least maintained as sought by Performance Outcomes 23.3 & 23.6. Recommended condition five (5) re-enforces re-instatement of the existing cross-over to upright kerb & gutter.

In respect to Performance Outcome 5.1, what is sufficient on-site vehicle parking is assessed against Designated Performance Feature (DPF) 5.1, which seeks off-street car-parking in this instance to be provided at a rate set-out in Transport, Access and Parking Table 1 – General Off-Street Car Parking Requirements.

Table 1 for a detached dwelling with two (2) or more bedrooms (including rooms capable or being used as a bedroom) seeks the provision of two (2) on-site car-parking spaces, one (1) of which is to be covered.

The proposal exceeds the minimum on-site car-parking rate set out in Table 1 as two (2) covered car-parking spaces are provided. The dimensions of the double garage are 5.99m x 6.53m with an opening width of 5.2m. This exceeds the minimum dimensions set-out in Designated Performance Feature (DPF) 23.1 to ensure that the enclosed car-parking space is functional.

In response to the representations, in the event that the double garage is used for storage, the end of the garage door is 5.4m from the front boundary to provide uncovered car-parking space on the land. Street parking on Thomas Avenue is not restricted.

Environmental Factors

Earthworks and flooding

The land is in the Hazards (Flooding) General Overlay. Performance Outcome (PO) 2.1 of this Overlay seeks for development to be sited, designed and constructed to prevent the entry of floodwaters likely to result in undue damage or which would compromise ongoing activities within buildings.

The proposed floor level of the dwelling is the same as that for the semi-detached dwellings approved via Development Act application 155/253/17. Notes on this application are that this floor level is acceptable for flood protection. The flood data has not changed since this time.

The required floor level for flood protection has informed the associated filling of land. The land is to be filled by approximately 400mm at the north-western corner of the land to achieve the nominated floor level. The fill is to be supported by retaining walls along part of both the northern side and rear boundaries with 1.8m high Colorbond fencing installed on top of the walls.

Performance Outcome (PO) 9.1 seeks for fences to be of sufficient height to maintain privacy without unreasonably impacting visual amenity of adjoining land. The 2.2m combined retaining and fencing is not considered to unreasonably impact 1 Thomas Avenue. It is not of an excessive height and will replace existing dilapidated fencing.

Recommended condition three (3) requires the retaining walls to be installed prior to construction of the dwelling to manage possible landslip/erosion.

Stormwater Management

Stormwater is to be directed to Thomas Avenue. Recommended condition six (6) controls stormwater management.

Regulated and Significant Trees

The land is in the Regulated and Significant Trees Overlay. There are no regulated trees on the subject land or adjoining land. The Council street trees in front of the land on Thomas Avenue are not regulated or significant.

Landscaping

Performance Outcome (PO) 22.1 of the Design in Urban Areas module seeks for soft landscaping to be incorporated into development to minimise heat absorption, contribute to shade and shelter, provide for stormwater infiltration and biodiversity and to enhance the appearance of land and streetscapes.

Corresponding Designated Performance Feature (DPF) 22.1 as a guide seeks in this instance approximately 20 per cent of the site to be soft landscaped. The proposed 19 per cent soft landscaping is accepted as a minor shortfall, which does not prevent the achievement of Performance Outcome 22.1.

Soft landscaping forward of the dwelling is supplemented with the inclusion of the pergola attached to the front of the garage incorporating a climbing plant on the frame.

Recommended condition seven (7) controls the planting and on-going maintenance of landscaping as shown on the approved plans.

Recommended advisory note eight (8) reminds the applicant to submit a separate permit application for assessment and approval for landscaping (amongst other matters) outside of the land.

Waste Storage and Management

The land is serviced by kerbside Council waste collection. There is space behind the garage for bin storage. The rear of the garage contains a door to wheel bins in and out of the garage to Thomas Avenue. This is consistent with Performance Outcome (PO) 24.1 of the Design in Urban Areas module which seeks for the convenient storage of waste bins in a location screened from public view.

Site Contamination

The former use of the land was residential, so on this basis site history information was not requested. This is consistent with Performance Outcome 1.1 of the Site Contamination module and Practice Direction 14 – Site Contamination Assessment.

Clearance from Overhead Powerlines

Aboveground powerlines are on the opposite side of Thomas Avenue, nevertheless the applicant has completed the declaration that the proposal will not be contrary to the Electricity Act 1996 with regard to separation from above ground powerlines. This is consistent with Performance Outcome 1.1 and Designated Performance Feature (DPF) 1.1 of the Clearance From Overhead Powerlines module.

Other

In response to the street address matter raised in the representations, street numbering is assigned by the Council Rates section. The advice from the Council Rates section is that allotment 98 will be known as 1/1 Thomas Avenue, St Morris and the representor's address will remain 1 Thomas Avenue, St Morris. A further comment from Council Rates is as follows:

"There is no option but to assign allotment 98 with the base number of 1 and have a prefix of 1, i.e. 1/1 Thomas Avenue. Clear identification on letterboxes is essential in these circumstances."

Recommended advisory note ten (10) advises the applicant of the future street address.

CONSIDERATION OF 'SERIOUSLY AT VARIANCE'

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2024.7, 18/04/2024) the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- Residential development is anticipated in the Suburban Main Street Zone, however when forming part of mix-use residential and non-residential proposals.
- Although the proposal is wholly residential in nature it is not considered to not prejudice the desire of the Zone to achieve lively and vibrant main street precincts. The siting of the subject site contained solely to allotment 98 is not on the main street (Magill Road).
- The proposed wholly residential development is not considered to prejudice the future development of desired non-residential uses in the Suburban Main Street Zone or the on-going operation of adjoining and adjacent non-residential uses.

SUMMARY & CONCLUSION

The proposal is for a part two-storey detached dwelling in the Suburban Main Street Zone. The Zone does not contemplate the development of wholly residential land uses. The intent of this though is to ensure main streets are developed as vibrant and lively precincts. The site (allotment 98) is not on the main street itself (Magill Road) and the current preceding land division approval is considered to support wholly residential development on allotment 98.

The built form of the proposed dwelling is considered to manage potential land use conflict with both adjoining residential development within the Established Neighbourhood Zone on Thomas Avenue and existing and future non-residential development on Magill Road.

Further, the built form outcome is considered to be of a high design standard that maximises amenity of dwelling occupants and manages height transition and setback interface matters with the adjoining single-storey residential Established Neighbourhood Zone.

RECOMMENDATION

GRANT PLANNING CONSENT

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 24012200, by David Frazer and Sin Poh Chai for two storey detached dwelling, part masonry front fence and combined fence & retaining walls at 417 Magill Road, St Morris is GRANTED Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 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 (if any).

Condition 2

The upper floor side and rear facing windows except for the window adjacent the stairway 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.

Condition 3

The retaining walls indicated on the approved plans are to be constructed prior to the commencement of the construction of the dwelling to ensure that the land is suitably stabilised to prevent slip and pollution through soil erosion.

Condition 4

The driveway crossover between the back of kerb and the property boundary shall be shaped to provide a verge slope no greater than 2.5% fall towards the road where a footpath is present and a maximum 5% where no footpath is present, suitable for pedestrian traffic and in accordance with Council's current standards.

Condition 5

The existing vehicular crossover on Thomas Avenue shall be reinstated to kerb and gutter so as to match the existing adjacent kerb and gutter profile, prior to the occupation of the dwelling to the reasonable satisfaction of the Assessment Manager. All associated costs shall be borne by the owner / applicant.

Condition 6

All stormwater from buildings and paved areas shall be disposed of in accordance with recognised engineering practices in a manner and with materials that does not result in the entry of water onto any adjoining property or any building, and does not affect the stability of any building and in all instances the stormwater drainage system shall be directly connected into the adjacent street kerb & water table.

Condition 7

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 next available planting season after the occupation of the dwelling to the reasonable satisfaction of the Assessment Manager and such plants 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.

ADVISORY NOTES

Planning Consent

Advisory Note 1

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 2

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 4

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.

Advisory Note 5

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 6

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

Advisory Note 7

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, verge landscaping, stormwater connections) will require the approval of the Council pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 8

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Advisory Note 9

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 10

The street address for allotment 98 will be 1/1 Thomas Avenue, St Morris.

Mr Chai addressed the Council Assessment Panels questions from 9:24 until 9:25pm

Moved by Mr Bateup

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*
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information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

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Advisory Note 9

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 10

The street address for allotment 98 will be 1/1 Thomas Avenue, St Morris.

**Seconded by Mr Rutt
CARRIED**

5.5 DEVELOPMENT NUMBER 23015730 – DAVID HILLE – 20 BEULAH ROAD, NORWOOD

DEVELOPMENT NO.:	23015730
APPLICANT:	David Hille
ADDRESS:	20 BEULAH RD NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Change of use to a motor repair station
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Suburban Business <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Heritage Adjacency • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	13 Oct 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) - Version 2023.14 - 12/10/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Kieran Fairbrother -Senior Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Representation Map
ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Representations
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Response to Representations
ATTACHMENT 3:	Zoning Map	ATTACHMENT 7:	Applicant's Responses

DETAILED DESCRIPTION OF PROPOSAL:

This application seeks to change the use of an existing building from office/warehouse to a motor repair station. More specifically, the use involves paint restoration, light mechanical repairs and assembly, vehicle restorations and engine building and restoration. No external alterations are proposed as part of this application, nor are any internal works that require planning consent. Similarly, no works are proposed to the hardstand area in front of the building which is being used for car parking.

BACKGROUND:

On 10 May 2023, the Council received a complaint regarding noise produced by the operations of the business that is the subject of this development application. As a result of investigating this complaint, it came to the Council's attention that the business was operating unlawfully in that development approval had not been obtained to change the use of the land to a motor repair station (from office and warehouse).

Following discussions with the Council's Compliance Officer, Planning Services, the Applicant submitted this development application in May 2023 and the application was lodged in October 2023. It is well-established in planning law that an unauthorised use of land constitutes a breach of the *Planning, Development and Infrastructure Act 2016*, and a new breach is committed each consequent day that the unauthorised use continues. Accordingly, the Council – as a designated authority under that Act – is not time-barred from undertaking enforcement action in respect of an unauthorised land use. Thus, to avoid such action being undertaken, the development application currently before the Panel seeks to regularise this land use by way of planning consent, and ultimately development approval.

The Panel should note that in making its assessment it should consider the application afresh (in other words, as if the proposed land use is not already taking place on the land), and consider if the proposal is appropriate and sufficiently accords with the Planning & Design Code.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 20 BEULAH RD NORWOOD SA 5067

Title ref.: CT 5093/386 **Plan Parcel:** F100172 AL42 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Shape:	regular
Frontage width:	approx. 18.5m
Area:	approx. 1071m ²
Topography:	relatively flat
Existing Structures:	a large single storey brick building
Existing Vegetation:	Pencil pines adjacent the eastern side boundary

Locality

The locality is considered to be the area bound by Fisher Street to the south, Charlotte Place and Runge Place the east, Fullarton Road to the west, and including the properties extending approximately 50m north of Beulah Road within these boundaries (Edmund Street), as shown in **Attachment 2**.

This locality is comprised of a mix of land uses (reflected in the mix of zones). Single storey dwellings in the Historic Area Overlay make up the prevailing character of Fisher Street and Charlotte Place, whereas two-storey dwellings dominate the Edmund Street landscape. Beulah Road and Fullarton Road are characterised by a mix of non-residential land uses in both single- and two-storey buildings, including offices, consulting rooms, warehousing, a retail showroom and a service trade premises. This locality currently enjoys a good level of amenity as a result of the complementary non-residential land uses that produce low levels of off-site

impacts. Beulah Road is a key bicycle route that links the eastern suburbs through to the CBD (via Rundle Street) which enjoys the shade and shelter provided by the consistent street tree plantings during hotter periods.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Motor repair station: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- **REASON**
The land use is not exempt from public notification in Table 5 of the Zone
- **LIST OF REPRESENTATIONS**

#	First Name	Family Name	Address	Position	Wishes to be heard?
1	Lachlan	McMichael	PO Box 627 KENT TOWN	Support, with concerns	No
2	Bradley	Thomas	Unit 4, 25 Beulah Road NORWOOD	Support, with concerns	No
4	Ping	Zhang	17 Fisher Street NORWOOD	Opposed	No
5	Rosemary	Wright	1 Fisher Street NORWOOD	Opposed	No

Representor 3 is unable to be identified and this representation is therefore considered to be invalid², which is why it is not included in this table or shown in **Attachment 4**.

- **SUMMARY**

Representor 1 was unclear as to why this application was notified since the business was already operating from the premises, and was unable to determine from the application documentation whether a material change in existing operations was being proposed.

The other representors' concerns can be summarised as follows:

- The development utilising on-street parking spaces, adding pressure to an existing strained road network where many dwellings do not have off-street parking provision;
- Noise pollution from the development causing a nuisance to neighbours;
- Whether appropriate chemical and oil storage and disposal methods exist on site, to avoid environmental and stormwater pollution;
- Air pollution from exhaust fumes and chemical vapours; and
- Safety risks associated with the handling of hazardous and potentially flammable materials.

² *Planning, Development and Infrastructure (General) Regulations* regulation 50.

PLANNING ASSESSMENT

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

Land Use

This application seeks to change the use of the land to a motor repair station, which is defined by the Planning & Design Code as:

"[A]ny land or building used for carrying out repairs, servicing and/or maintenance (other than panel beating or spray painting) to motor vehicles and/or farm machinery."

Performance Outcome 1.1 of the Suburban Business Zone states:

"Shops, office, consulting room, low-impact industry and other non-residential uses are supported by a variety of compact, medium density housing and accommodation types."

The corresponding Designated Performance Feature includes motor repair station in a list of land uses that may be considered appropriate land uses in this Zone. Whether the proposed development is appropriate, however, requires consideration of the scale of the development and any off-site impacts generated by the development, especially in the context of the site abutting an Established Neighbourhood Zone that is comprised solely of residential development.

Performance Outcome 1.2 of the Suburban Business Zone states:

"Retail, business and commercial development is of a scale that provides a local convenience service without undermining the vibrancy and function of zones primarily intended to accommodate such development."

There are other zones, such as the Employment Zone, that are intended primarily to host land uses such as motor repair stations and other forms of light industry, where expected amenity levels are typically lower and off-site impacts of such land uses can be more-easily managed. But that does not derogate from the ability of another zone, such as the Suburban Business Zone, from hosting a similar land use.

This development will re-use the existing large warehouse building, with a total gross leasable floor area of 922m². On face value, this appears to be a large-scale operation that is perhaps at odds with the abovementioned Performance Outcome in that it has the potential to undermine the function of other zones that are primarily intended to accommodate motor repair stations. However, floor area is not the sole determinant of scale in respect of land uses. As described by the Applicant, the three (3) tenants that operate within the facility offer boutique services and therefore do not operate like a typical motor repair station that might only service and repair vehicles day-in-day-out. Further, the floor plan demonstrates only two vehicle hoists being installed within the building, indicating a lower intensity of the use. The scale of the development provides a local convenience service without undermining the function of other zones, consistent with this Performance Outcome.

Environmental Factors

Noise Emissions

Performance Outcome 1.2 of the Interface Between Land Uses module states:

"Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts."

Performance Outcome 4.1 of the Interface Between Land Uses module states:

"Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers)."

The corresponding Designated Performance Feature suggests that's compliance with the relevant *Environment Protection (Noise) Policy* criteria is one way of satisfying this Performance Outcome

The subject land is adjacent to several sensitive receivers, as shown in Figure 1 below. For this reason, the Applicant was asked to provide an acoustic report that seeks to demonstrate the proposals compliance with the abovementioned Performance Outcomes.



Figure 1: Sensitive Receiver Map

The Applicant provided an acoustic report prepared by Bestec (**Attachment 1**). Due to the existing unlawful use, Bestec were able to undertake noise measurements during the operation of the facility, rather than relying on acoustic modelling to predict noise emissions.

The acoustic report identified the following machinery or tools being operated within the facility as potential noise sources: air compressors, hydraulic hoists, and hand-held tools such as drills. A noise source that does not seem to be considered by Bestec is vehicle noise. The description of the use that has been provided by the Applicant identifies engine assembly and restoration being a component of the use. This will invariably involve some testing of said engines, which will inevitably produce some level of noise. That being said, unless these engines are being tested on a dynamometer or similar machine – where they are being pushed to their limits and tested for torque and power – then the noise produced from such testing should not be unreasonable. There is no intent to install a dynamometer in the premises, but Condition No. 3 has been recommended to ensure this continues to be the case, to ensure the continued protection of the amenity of nearby sensitive receivers.

The acoustic assessment undertaken by Bestec included an attended noise survey, conducted for only one hour, between 3pm and 4pm on a weekday. This survey suggested that the noise generated from the general operations of the workshop will not exceed the relevant day time criteria in the *Environment Protection (Commercial and Industrial Noise) Policy 2023* ("Noise Policy") – appropriately calculated to be a threshold of 50dB(A) – when measured from adjacent sensitive receivers.

The acoustic report was not clear as to how the noise levels provided for the adjacent sensitive receivers were measured. Later discussions with the Applicant's acoustic engineer revealed that on-site noise measurements were not undertaken during the attended noise survey, but instead the noise levels expected to be experienced at these sites were estimated using known acoustic formulae based on the on-site noise levels and the construction material of the subject building (see **Attachment 7**). The use of known formulae to estimate the noise levels for an existing land use is inherently not that different from using acoustic modelling to predict noise levels for a future land use. Accordingly, this method is considered sufficient in the circumstances. Nevertheless, Condition No. 5 is recommended to ensure that the land use continues to operate within the parameters set by the Noise Policy.

Performance Outcome 2.1 of the Interface Between Land Uses module states:

“Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:

- (e) The nature of the development*
- (f) Measures to mitigate off-site impacts*
- (g) The extent to which the development is desired in the zone*
- (h) Measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.”*

The Applicant suggests that their ‘nominal business hours’ are between 8am and 9pm, up to 7 days per week, but that they operate on an appointment-only basis. Verbal discussions between Council staff and the Applicant revealed that the premises rarely operates beyond 6pm on a weekday, or at all on weekends and only when business demands require. As highlighted above, the Applicant’s acoustic consultant suggests that the operations of the premises will comply with the relevant “daytime” noise criteria in the Noise Policy, which defined as being the hours between 7am and 10pm.

Notwithstanding this, the Suburban Business Zone seeks ‘low-impact’ non-residential uses that maintain high ‘environmental amenity’ (Performance Outcome 2.2). The subject land directly abuts an Established Neighbourhood Zone that is rife with sensitive receivers that enjoy a high level of amenity and is adjacent other sensitive receivers to the north that are within the Suburban Business Zone. Accordingly, it is considered appropriate that the hours of the premises be restricted to the following hours of operation, to maintain an appropriate balance between the operational requirements of the premises and the surrounding residential amenity:

- Monday to Friday, 8am to 7pm
- Saturday, 9am to 5pm
- Sunday, 10am to 5pm

The appropriateness of these hours in the context of the premises’ operational requirements have been confirmed with the Applicant and are reflected in Condition No. 2.

Waste Management

Performance Outcome 1.5 of the Design in Urban Areas module states:

“The negative visual impact of ... waste management ... is minimised by integrating them into the building design and screening them from public view (such as fencing, landscaping and built form), taking into account the form of development contemplated in the relevant zone.”

Performance Outcome 43.1 of the Design in Urban Areas module states:

“Areas for activities including loading and unloading, storage of waste refuse bins in commercial and industrial development or wash-down areas used for the cleaning of vehicles, plant or equipment are:

- (a) Designed to contain all wastewater likely to pollute stormwater within a bunded and roofed area to exclude the entry of external surface stormwater run-off*
- (b) Paved with an impervious material to facilitate wastewater collection*
- (c) Of sufficient size to prevent ‘splash-out’ or ‘over-spray’ of wastewater from the wash-down area*
- (d) Are designed to drain wastewater to either:*
 - (i) A treatment device such as a sediment trap and coalescing plate oil separator with subsequent disposal to a sewer, private or Community Wastewater Management Scheme*
 - or*

- (ii) *A holding bank and its subsequent removal off-site on a regular basis.*”

All waste generated from the development will be stored within the building, out of public view, consistent with Performance Outcome 1.5 above. Condition No 4 reinforces the need to keep waste and other stored materials screened from public view. In their Response to Representations, and through verbal discussions, the Applicant has advised that all waste oil from engines is appropriately drained, collected, stored and disposed of off-site in accordance with industry standards and consistent with Performance Outcome 43.1 above.

Traffic Impact, Access and Parking

Access to the site remains unchanged by this proposal. Although no line marking exists on the site currently, the application shows an intent to line mark five (5) car parking spaces in the area between the building and the front boundary, adjacent the east boundary of the site.

Performance Outcome 5.1 of the Transport, Access and Parking module states:

“Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to [various] factors that may support a reduced on-site rate...”

The corresponding Designated Performance Feature suggests that satisfaction of the applicable car parking rates in the Table 1 or 2 of this module is one way by which this Performance Outcome may be met. The rates contained within Table 1 and 2 reflect the generally well-established approach for determining if a development provides sufficient car parking provision. In this case, the land use proposed is not so unique as to warrant a different assessment, and so the rates prescribed in the applicable Table is considered appropriate for satisfaction of the Performance Outcome. To this end, the subject land is not in a high frequency public transit area (as defined by the Planning & Design Code) and therefore the rates in Table 1 of the module are applicable.

Table 1 prescribes a car parking rate of 3 spaces per service bay for a motor repair station. The floor plan demonstrates two (2) vehicle hoists (service bays) inside the premises, although it is reasonable to expect that detailing and restoration works may occur without needing a hoist. Notwithstanding, the Code therefore expects this development to provide six (6) parking spaces, whereas the development provides for five (5) spaces. This shortfall of one (1) space can be supported because there is ample additional floor area within the building for the storage of vehicles; something that the Applicant has stated they already do.

Further, using the rates in Table 1, the existing land use generates a theoretical demand of 14 spaces (3 for the warehouse and 11 for the offices), Thus, there is an existing shortfall of nine (9) parking spaces – disregarding the absence of any formal line marking – which, per established case law, can rightfully carry over to any subsequent land use. In this context, the shortfall of one (1) on-site car parking space can be justified.

Performance Outcome 3.8 of the Transport, Access and Parking module states:

“Driveways, access points, access tracks and parking areas are designed and constructed to allow adequate movement and manoeuvrability having regard to the types of vehicles that are reasonable anticipated.”

The site plan provided with this application has not been drawn to scale and so it is not possible to determine the functionality of the car parking area to determine satisfaction of the abovementioned Performance Outcome. Although five (5) vehicles are able to be parked on the premises in this arrangement – as observed by Council staff during a site inspection – it is not clear whether five (5) car parking spaces can be line marked in accordance with the relevant Australian Standard and whether those spaces allow for adequate manoeuvrability per Performance Outcome 3.8 above.

Accordingly, a Reserved Matter has been recommended, requiring a car parking plan drawn in accordance with the relevant Australian Standard, so that this assessment can be properly undertaken. It is the administration’s view that this is not fundamental to the application given the car parking assessment above – it will either be the case that a compliant five (5) or four (4) space car park is possible on this site, and in

either case a shortfall is able to be supported based on the existing on-site shortfall and the room available for parking within the building if required.

The Reserved Matter has been drafted to allow the Assessment Manager to assess the car parking plan, upon receipt of the relevant information; however, the Panel may choose to change this should they wish to undertake that assessment themselves. Upon satisfaction of the Reserved Matter, it is intended that further conditions will be imposed on the planning consent requiring the car parking spaces to be line marked and wheel stopping devices installed.

Consideration of ‘Seriously at Variance’

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2023.14, 12/10/2023), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- The proposed land use is envisaged within the Suburban Business Zone per PO/DPF 1.1;
- The potential off-site impacts from the proposed land use are not unreasonable, consistent with POs 1.2 and 4.1 of the Interface Between Land Uses module;
- The hours of operation of the land use are not unreasonable per PO 2.1 of the Interface Between Land Uses module; and
- Sufficient on-site car parking provision is able to be provided to cater for the needs of the development, without a reliance on on-street parking spaces.

CONCLUSION

The proposed use of the land is envisaged within the Suburban Business Zone. In this particular case, although the subject land directly abuts an Established Neighbourhood and is adjacent to numerous sensitive receivers, the off-site impacts generated by the land use are considered to be reasonable such that this use is compatible with its environs and is therefore appropriate. The hours of operation of the premises are reasonable in this context. Waste generated from the land use is able to be appropriately collected, stored and disposed without environmental impacts. Sufficient on-site parking is provided to accommodate the needs of the development, and it is appropriate that the proposed Reserved Matter be imposed to ensure a functional car parking area is provided on-site. Consequently, the proposed development warrants planning 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 23015730, by David Hille is granted Planning Consent subject to the following conditions and reserved matter:

RESERVED MATTER

Planning Consent

A site plan, drawn to scale, shall be provided, to the reasonable satisfaction of the Assessment Manager, that shows car parking spaces located and dimensioned in accordance with AS 2890.1:2004.

NOTE: Further conditions may be imposed on the Planning Consent in respect of the above matters.

Pursuant to Section 127(1) of the Planning, Development and Infrastructure Act 2016, the power to impose further conditions of consent in respect of the reserved matter(s) above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

Condition 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 (if any).

Condition 2

The hours of operation for the premises shall be restricted to the following times:

- Monday to Friday, 8am to 7pm
- Saturday, 9am to 5pm
- Sunday, 10am to 5pm

Condition 3

No vehicle dynamometer shall be installed or operated on the subject land.

Condition 4

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.

Condition 5

Noise from the premises shall not exceed the relevant Environment Protection Noise Policy criteria.

ADVISORY NOTES

Planning Consent

Advisory Note 1

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.

Advisory Note 2

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 3

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

Advisory Note 4

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 pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 5

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Advisory Note 6

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 7

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 8

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 9

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Moved Mr Mickan

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 23015730, by David Hille is granted Planning Consent subject to the following conditions and reserved matter:

RESERVED MATTER
Planning Consent

A site plan, drawn to scale, shall be provided, to the reasonable satisfaction of the Assessment Manager, that shows car parking spaces located and dimensioned in accordance with AS 2890.1:2004.

NOTE: Further conditions may be imposed on the Planning Consent in respect of the above matters.

Pursuant to Section 127(1) of the Planning, Development and Infrastructure Act 2016, the power to impose further conditions of consent in respect of the reserved matter(s) above is delegated to the Assessment Manager.

CONDITIONS

Planning Consent

Condition 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 (if any).

Condition 2

The hours of operation for the premises shall be restricted to the following times:

- *Monday to Friday, 8am to 7pm*
- *Saturday, 9am to 5pm*
- *Sunday, 10am to 5pm*
- *No activities permitted on Public Holidays*

Condition 3

No vehicle dynamometer shall be installed or operated on the subject land.

Condition 4

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.

Condition 5

Noise from the premises shall not exceed the relevant Environment Protection Noise Policy criteria.

ADVISORY NOTES

Planning Consent

Advisory Note 1

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.

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The Applicant's attention is particularly drawn to the requirements of the Fences Act 1975 regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 3

The Applicant is advised that construction noise is not allowed:

1. *on any Sunday or public holiday; or*
2. *after 7pm or before 7am on any other day*

Advisory Note 4

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 pursuant to the Local Government Act 1999 prior to any works being undertaken.

Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

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Advisory Note 6

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Advisory Note 7

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

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3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 9

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

**Seconded by Mr Bateup
CARRIED**

5.6 DEVELOPMENT NUMBER 24017550 – MAGDALENA TROFIN – 9 GRENFELL STREET, KENT TOWN

DEVELOPMENT NO.:	24017550
APPLICANT:	Magdalena Trofin
ADDRESS:	9 GRENFELL ST KENT TOWN SA 5067 - CT 5078/927
NATURE OF DEVELOPMENT:	Partial change of use to include indoor recreation facility (pilates studio)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Urban Corridor (Main Street) <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Design • Hazards (Flooding - General) • Noise and Air Emissions • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Metres) (Maximum building height is 18.5m) • Minimum Building Height (Levels) (Minimum building height is 3 levels) • Maximum Building Height (Levels) (Maximum building height is 5 levels) • Minimum Primary Street Setback (Minimum primary street setback is 2m) • Interface Height (Development should be constructed within a building envelope provided by a 30 degree plane, measured 3m above natural ground at the boundary of an allotment)
LODGEMENT DATE:	17 June 2024
RELEVANT AUTHORITY:	Assessment Panel at City of Norwood Payneham & St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.10 06/06/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes – public notification period 27 June 2024 to 17 July 2024
RECOMMENDING OFFICER:	Marie Molinaro - Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

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

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is to use a vacant office tenancy within a mixed-use, non-residential site for a pilates studio. Pilates studio is considered to be a form of indoor recreation facility, defined in the Planning & Design Code as the following:

A building or part of a building designed or adapted primarily for recreation or fitness pursuits.

The proposed indoor recreation facility includes the following:

- Internal alterations to the building to create an open space in the front portion of the tenancy for installation of pilates equipment and a fitness assessment area.
- Retention of two existing toilets, kitchenette and storage space at the rear of the tenancy for shared use with separate tenancies in the building.
- The floor area of the tenancy is approximately 88 square metres.
- Attachment of flat sheet metal sign to the front wall of the building displaying the business name 'The Simple Everyday' with additional sign-writing on a front window.

The proposed use is to entail the offering of:

- One-on-one pilates training and associated health assessment sessions.
- Group pilates training for a maximum of six (6) clients at any one time, supervised by one (1) instructor.
- One-on-one and group pilates training sessions are to be offered at separate times.
- Group pilates sessions are to be Monday to Friday morning 6:00am to 9:00am and evening 4:30pm to 6:30pm and Saturday morning 7:00am to 10:00am.
- One-on-one pilates training sessions are to be Monday to Friday 11:00am to 4:00pm.

The business 'The Simple Everyday' currently operates at a site in North Adelaide and is seeking to relocate to 9 Grenfell Street, Kent Town.

The proposed signage is not development in its own right, so is not included in the nature of development. The application plans are included in **Attachment 1 – Application Documents**.

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
4 December 2017 (Development Plan Consent only)	155/734/17	Alterations to an office building and internal alterations to create an opening between buildings and a staircase

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 9 GRENFELL ST KENT TOWN SA 5067

Title ref.: CT 5078/927 **Plan Parcel:** F100092 AL6 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

The subject land is a rectangular shape allotment with a primary frontage to Grenfell Street and secondary street frontage to Little Grenfell Street at the rear. The land is on the northern side of Grenfell Street.

The land is approximately 25m from the intersection with College Road to the east and 75m from the intersection with The Parade to the west.

The front portion of the land facing Grenfell Street contains a two-storey brick building built boundary to boundary. Plans on Council records are limited, however floor plans available on-line show the lower level of the building is set-up to be used by two separate office tenancies.

Six (6) stacked car-parking spaces are provided on the land, with access from Grenfell Street. Grenfell Street is a Council road.

The rear portion of the land contains an abutting building, rated by Council as warehouse. Access to this portion of the land is via Little Grenfell Street.

The land is near the eastern fringe of the Urban Corridor (Main Street) Zone, with a pocket of land on the eastern side of College Road within the residential Housing Diversity Neighbourhood Zone and Established Neighbourhood Zone.

Land uses within the locality are mixed.

The subject land is identified in **Attachment 2 – Subject Land Map**. The zoning is shown in **Attachment 3 – Zoning Map**.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Change of use: Code Assessed - Performance Assessed
Indoor recreation facility: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
The proposal is not listed as Accepted, Deemed-to-Satisfy or Restricted Development in the Planning & Design Code, so it defaults to being a Performance Assessed type of development.

PUBLIC NOTIFICATION

- **REASON**
Per Table 5 procedural matters of the Urban Corridor (Main Street) Zone, indoor recreation facility is not specifically excluded from public notification. The site is within 60m of residential development in a neighbourhood type zone (Housing Diversity Neighbourhood Zone), therefore public notification was required.
- **LIST OF REPRESENTATIONS**
One (1) opposing representation was received during the public notification period. The representor does not wish to be heard in support of their written representation.

The representor's details are below:

Representor Name	Representor's Address	Wishes to be Heard	Nominated Speaker (if relevant)
Mark Glazbrook	20C College Road, Kent Town	No	N/A

- **SUMMARY**
The issue contained in the representation can be briefly summarised as follows:
 - Complaint that Council has not designated residential only parking spaces on College Road.

The representor's location is shown in **Attachment 4 – Representation Map** and their written representation is included in **Attachment 5 – Representations**. The applicant's response is provided in **Attachment 6 – Response to Representations**.

No changes to the proposal were made following public notification.

AGENCY REFERRALS

Nil

INTERNAL REFERRALS

Nil

PLANNING ASSESSMENT

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

Land Use and Land Use Compatibility

Land use matters are addressed in the Urban Corridor (Main Street) Zone.

Urban Corridor (Main Street) Zone

Desired Outcome (DO) 1

A safe, walkable and vibrant shopping, entertainment and commercial main street precinct with an active day and evening economy supported by medium density residential development.

Performance Outcome (PO) 1.1

A vibrant mix of land uses adding to the vitality of the area and extending activities outside shop hours including restaurants, educational, community and cultural facilities and visitor and residential accommodation.

Performance Outcome (PO) 1.2

Retail, office, entertainment and recreation related uses that provide a range of goods and services to the local community and the surrounding district.

Performance Outcome (PO) 1.3

Ground floor uses contribute to a safe, active and vibrant main street.

Performance Outcome (PO) 1.6

Land uses promote movement and activity during daylight and evening hours, including restaurants, educational, health, community and cultural facilities, and visitor and residential accommodation.

Performance Outcome (PO) 1.7

Changes in the use of land encourage the efficient reuse of commercial premises to maintain and enhance vibrancy within activity centres.

The proposal is for a form of adaptive re-use within part of the ground floor of an existing non-residential building. The portion of the site to be used as indoor recreation facility is currently vacant, formerly used as office space. Indoor recreation facility is a form of recreation use, specifically desired in the Zone.

The proposal through its nature involving scheduled client turnover, combined with the proposed hours of operation partly outside of regular 9am-5pm business hours is considered likely to achieve greater vibrancy than the former office use. Vibrancy through active uses is expressly desired within the Urban Corridor (Main Street) Zone, referenced directly within four (4) Performance Outcomes.

Amenity Impact on Adjacent Residential Uses

Amenity matters are addressed in the Interface between Land Uses module.

Desired Outcome (DO) 1

Development is located and designed to mitigate adverse effects on or from neighbouring and proximate land uses.

Performance Outcome (PO) 1.2

Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts.

Performance Outcome (PO) 2.1

Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to: a the nature of the development b measures to mitigate off-site impacts c the extent to which the development is desired in the zone d measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.

Regarding Performance Outcome 1.2, the Planning & Design Code defines adjacent as within 60m of land. There are adjacent residential uses on the opposite corner of Grenfell Street, to the north on Little Rundle Street and to the east on College Road.

The proposed use is considered to sit comfortably with these adjacent residential uses. The proposed form of indoor recreation facility offering pilates classes is not considered to generate adverse noise, as pilates is a quiet activity undertaken for relaxation.

The proposed hours of operation, incorporating some group classes outside of regular business hours is desired in the Zone. In respect to impact of the proposed hours of operation on residential amenity, the main concern is through associated vehicle and customer noise when entering and exiting the site. However, the closest dwellings on the opposite Grenfell Street corner are located within the Urban Corridor (Main Street) Zone, so a lower level of residential amenity should be anticipated for these residences.

In acknowledgement of all of the above, it is not considered necessary to specifically condition/restrict hours of operation.

Traffic Impact, Access and Parking

Traffic Impact, Access and Parking matters are addressed in the Design in Urban Areas and Traffic, Access and Parking modules.

Design in Urban Areas module

Performance Outcome 23.1

Enclosed car parking spaces are of dimensions to be functional, accessible and convenient.

Performance Outcome 23.4

Vehicle access is safe, convenient, minimises interruption to the operation of public roads and does not interfere with street infrastructure or street trees.

Traffic, Access and Parking module

Desired Outcome (DO) 1

A comprehensive, integrated and connected transport system that is safe, sustainable, efficient, convenient and accessible to all users.

Performance Outcome (PO) 5.1

Sufficient on-site vehicle parking and specifically marked accessible car parking places are provided to meet the needs of the development or land use having regard to factors that may support a reduced on-site rate such as:

- (a) availability of on-street car parking*
- (b) shared use of other parking spaces*
- (c) in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared*
- (d) the adaptive reuse of a State or Local Heritage Place.*

Performance Outcome (PO) 9.1

The provision of adequately sized on-site bicycle parking facilities encourages cycling as an active transport mode.

There is an existing access point to Grenfell Street and six (6) stacked on-site car-parking spaces are provided. The applicant has a lease agreement which affords the proposed use two (2) of these spaces. It is anticipated that the rear space will be used by the staff member, leaving the front space available for client parking.

In respect to Performance Outcome 5.1, what is sufficient on-site vehicle parking is assessed against corresponding Designated Performance Feature (DPF) 5.1 which seeks off-street car-parking in this instance to be provided at a rate set-out in Transport, Access and Parking Table 2 – Off-Street Vehicle Parking Requirements in Designated Areas of the Planning & Design Code.

Table 2 for non-residential development in the Designated Area of the Urban Corridor (Main Street) Zone seeks a minimum number of three (3) on-site parking spaces per 100 square metres of gross leasable floor area and a maximum number of six (6) parking spaces per 100 square metres of gross leasable floor area.

Based on the above, the provision of on-site parking for the proposed use meets the rate set-out in Table 2. Therefore, further analysis against Performance Outcome 5.1 is not warranted as there is not a shortfall in on-site parking. However, for completeness there is street parking available on Grenfell Street and part of the proposed hours of operation are outside regular 9am-5pm Monday-Friday business hours when it is considered likely more street parking will be available.

That Table 2 places a cap on maximum on-site car-parking provision signals that within Designated Areas transportation via car is not the intended/desired mode of transport. This is re-enforced via the Urban Corridor (Main Street) Zone intent for walkable and vibrant main street precincts, and Performance Outcome 9.1 of the Traffic, Access and Parking module.

Therefore, potential on-site car-parking shortfall across / between site tenancies as a whole would not be a fatal matter. Especially considering the Urban Corridor (Main Street) Zone seeks the efficient reuse of commercial premises and Table 2 does not distinguish between different non-residential uses.

In respect to Performance Outcome 9.1 what is adequate on-site bicycle parking is assessed against corresponding Designated Performance Feature (DPF) 9.1 which seeks off-street bicycle parking to be provided at rate set-out in Transport, Access and Parking Table 3 – Off-Street Bicycle Parking Requirements.

The proposal does not include on-site bicycle parking, however in the case of indoor recreation facility uses Table 3 desires one (1) space per four (4) employees and an additional one (1) space per 200 square metres of gross leasable floor area.

As there are less than four (4) employees and the floor area is less than 200 square metres the exclusion of on-site bicycle parking is not fatal.

In response to the representation, designating parking on College Street for residential use only is considered counter-productive to the aim of the adjoining main street and business neighbourhood zones. In addition, this area forms part of a Precinct as covered by the *Council's On-Street Parking Policy* and parking restrictions in this Precinct will be re-evaluated in due course.

CONSIDERATION OF 'SERIOUSLY AT VARIANCE'

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2024.10 06/06/2024) the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reason:

- The proposed indoor recreation facility is specifically desired in the Urban Corridor (Main Street) Zone as a form of recreational use.

SUMMARY & CONCLUSION

The proposal is for a partial change of use to indoor recreation facility (pilates studio) in the Urban Corridor (Main Street) Zone. Indoor recreation facilities are a form of recreational use, specifically desired in the Zone.

The proposal through the nature of its use and hours of operation is considered to contribute to urban vibrancy as desired in the Zone and not result in unreasonable residential amenity impacts.

Traffic, access and parking matters are considered to be adequate.

RECOMMENDATION

GRANT PLANNING CONSENT

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 24017550, by Magdalena Trofin for partial change of use to include indoor recreation facility (pilates studio) at 9 Grenfell Street, Kent Town is GRANTED Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 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 (if any).

ADVISORY NOTES

Planning Consent

Advisory Note 1

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 2

Consents issued for this Development Application will remain valid for the following periods of time:

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;
2. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;
3. Works must be substantially completed within 3 years of the date on which Development Approval is issued.

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at townhall@npsp.sa.gov.au. Whether or not an extension of time will be granted will be at the discretion of the relevant authority.

Advisory Note 3

No work can commence on this development unless a Development Approval has been obtained. If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

Advisory Note 4

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.

Advisory Note 5

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

Advisory Note 6

The Applicant is advised that construction noise is not allowed:

1. on any Sunday or public holiday; or
2. after 7pm or before 7am on any other day

Advisory Note 7

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, verge landscaping, stormwater connections) will require the approval of the Council pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

Advisory Note 8

The Applicant is advised that the condition of the footpath, kerbing, vehicular crossing point, street tree(s) and any other Council infrastructure located adjacent to the subject land will be inspected by the Council prior to the commencement of building work and at the completion of building work. Any damage to Council infrastructure that occurs during construction must be rectified as soon as practicable and in any event, no later than four (4) weeks after substantial completion of the building work. The Council reserves its right to recover all costs associated with remedying any damage that has not been repaired in a timely manner from the appropriate person.

Advisory Note 9

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

Moved by Mr Rutt

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 24017550, by Magdalena Trofin for partial change of use to include indoor recreation facility (pilates studio) at 9 Grenfell Street, Kent Town is GRANTED Planning Consent subject to the following conditions:

CONDITIONS
Planning Consent

Condition 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 (if any).

ADVISORY NOTES
Planning Consent

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Advisory Note 5

The granting of this consent does not remove the need for the beneficiary to obtain all other consents which may be required by any other legislation.

The Applicant's attention is particularly drawn to the requirements of the Fences Act 1975 regarding

notification of any neighbours affected by new boundary development or boundary fencing. Further information is available in the 'Fences and the Law' booklet available through the Legal Services Commission.

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Advisory Note 7

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Advisory Note 9

The Council has not surveyed the subject land and has, for the purpose of its assessment, assumed that all dimensions and other details provided by the Applicant are correct and accurate.

**Seconded by Mr Bateup
CARRIED**

5.7 DEVELOPMENT NUMBER 23029978 – KIORA SA PTY LTD – 59 KING WILLIAM STREET, KENT TOWN

DEVELOPMENT NO.:	23029978
APPLICANT:	Kiora SA Pty Ltd
ADDRESS:	59 KING WILLIAM ST KENT TOWN SA 5067
NATURE OF DEVELOPMENT:	Variation to Development Authorisation (DA 155-624-2018) to vary Condition of Consent No. 1 (to increase the number of dogs permitted on the premises to 160)
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Urban Corridor (Business) <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Affordable Housing • Design • Hazards (Flooding - General) • Noise and Air Emissions • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development
LODGEMENT DATE:	13 Oct 2023
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) - Version 2023.14 - 12/10/2023
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Kieran Fairbrother, Senior Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Rebecca Van Der Pennen, Traffic Engineer

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Internal Referral Advice
ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Applicant's Responses
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Existing Authorisation DNF
ATTACHMENT 3:	Zoning Map	ATTACHMENT 7:	Original Variation Proposal

DETAILED DESCRIPTION OF PROPOSAL:

By way of development application 155-624-2018, the applicant obtained development approval for a change in use of the subject land to a daycare centre for dogs (**Attachment 7**). As part of that approval, four (4) conditions of consent were imposed, of which Condition No. 1 reads:

“That the number of dogs on the premises at any given time should not exceed thirty (30).”

This current development application seeks to amend that condition to permit up to 160 dogs on the premises at any given time.

BACKGROUND:

The original development application (155-624-2018) was presented to the Council Assessment Panel on 20 November 2018. In the staff report provided to the Panel, it was noted that “the current facility at 24 King William Street caters for between 20-30 dogs at any given time” and that the applicant was not proposing to change the number of dogs with that application. There is no further rationale within the report for why a limit of 30 dogs was imposed on this authorisation, except that at the time it reflected the current operations of the applicant’s business.

As a result of a complaint made to the Council, the Council became aware that the applicant was breaching this condition by keeping more than 100 dogs on the premises at times. Council’s Compliance Officer, Planning Services subsequently attended the premises to undertake an inspection and noted that the applicant was committing a breach of Condition No. 1 (above). An enforcement letter was issued to the applicant, asking them to remedy the breach. The applicant is now seeking to regularise the breach by way of the subject variation application.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 59 KING WILLIAM ST KENT TOWN SA 5067

Title ref.: CT 5072/219	Plan Parcel: F100025 AL21	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
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Shape:	regular
Frontage width:	approx. 15.3 metres
Area:	approx. 725m ²
Topography:	relatively flat (because of built form)
Existing Structures:	a two-storey building and hardstand car parking areas at the front and rear
Existing Vegetation:	Nil

Locality

The locality is comprised of a mix of building forms, heights and land uses, both residential and non-residential. The northern side of this section of King William Street is characterised predominantly by single and two storey buildings, with a three-storey building on the intersection of King William Street and College Road. The southern side of the street, however, has a changing character, with newer four- and five-storey mixed use buildings now dominating the landscape. Despite the mix of land uses, King William Street enjoys a decent level of amenity as a result of continual public realm upgrades and consistent street tree plantings. Time restricted on-street parking along King William Street contributes to the ever-growing vibrancy of this locality.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Other - Commercial/Industrial - Variation to Development Authorisation (DA155/624/2018) to vary a Condition of Consent: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

- Not Required

AGENCY REFERRALS

- Nil

INTERNAL REFERRALS

- Traffic Engineer

PLANNING ASSESSMENT

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

Land Use

There have been court cases in the past where consideration has been given to whether an increase in the intensity of a use of land constitutes a change of use of the land (*Remove All Rubbish Co Pty Ltd v City of Munno Para* (1991) 56 SASR 254; *Caltex Australia Petroleum Pty Ltd v City of Holdfast Bay* [2013] SAERC 48). Accordingly, it is important to first consider whether the proposal to increase the number of dogs from 30 dogs to 160 dogs is a material increase in the intensity of the use of the land so as to constitute a change in the use of the land.

Both cases above considered an increase in the hours of operation of the respective land uses, but the principles laid out by those judgments are equally applicable to this proposal. The Court in *Remove All Rubbish Co* said that a change in the hours of operation may affect the character of the use and (at p 255):

...where the hours of operation are considered to be so much of the essence of the land use as to warrant the imposition of conditions restricting operations to certain hours, any variation of those hours can fairly be regarded as a change of use and therefore development.

Further, King CJ stated (at p 262) *'That is not to say that, as a general proposition, a change in hours will be a change in use. What makes all the difference is the existence of a consent condition as to operating hours that stamps a distinct character on the use of the land'* (my emphasis).

In *Caltex*, the Court held (at [56-58]) that an increase in the hours of operation of a use of land in that case represented a change in the use of the land because:

The hours covered by the [condition imposed on the existing use of the land in that case] ... represent the sleeping or more sensitive hours of the day for the neighbouring residents ... [and] was imposed to protect the amenity of the neighbouring residents... [and therefore] to stamp a distinct character on the use of the land.

With respect to the subject proposal, the applicant seeks to increase the maximum number of dogs permitted on the premises from 30 to 160 dogs. Consistent with the judgments of *Remove All Rubbish* and *Caltex*, the existence of a condition that limits the number of dogs permitted on the subject land requires consideration of whether the condition was imposed to 'stamp a distinct character on the use of the land'

such that a variation to that number may constitute a change in the use of the land.

The planning report that was prepared by the Council's planning officer and presented to the Council Assessment Panel for development application 155-624-2018 contained no discussion whether the number of dogs to be kept on the premises was an integral component of the proposal. The report includes no justification for the condition limiting the maximum number of dogs to 30 dogs, except that it reflected the business's existing practice at their previous premises, which was not proposed to be changed at that time. There is no evidence that any consideration was given to whether there was/is an essential need to limit the number of the dogs that may be kept on the premises.

Accordingly, the number of dogs able to be kept on the premises is not considered to be an integral component of the land use such that the imposition of Condition No. 1 should be regarded as stamping a distinct character on the use of the land. Thus, the proposal to increase the number of dogs on the premises does not constitute a change in the use of the land by way of a material increase in the intensity of the use of the land.

Environmental Factors

Noise Emissions

Performance Outcome 1.1 of the Animal Keeping and Horse Keeping module of the general development policies states:

"Animal keeping, horse keeping and associated activities do not create adverse impacts on the environment or the amenity of the locality."

Performance Outcome 1.2 of the Interface Between Land Uses module of the general development policies states:

"Development adjacent to a site containing a sensitive receiver... is designed to minimise adverse impacts."

Performance Outcome 4.1 of the Interface Between Land Uses module of the general development policies states:

"Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers)."

Attachment 7 provides information on the operations of this facility, including acoustic mitigation measures already employed. Specifically, Condition No. 2 on the existing approval requires the rear roller door to remain closed at all times to contain noise, which, as far as the Council is aware, is being complied with. Staff of the facility are trained to use positive reinforcement techniques to respond to any issues with dogs and to promote positive socialisation of dogs, and staff ratio numbers are maintained at an appropriate level to ensure sufficient control of the dogs. The business also ceases to care for dogs who bark excessively or are otherwise incompatible with other dogs and or the service.

These measures, combined with the Besser block construction of the building, are considered to ensure satisfaction of the abovementioned Performance Outcomes. Notably, the business has been operating for a number of years in breach of Condition No. 1, regularly hosting up to 150 dogs. To date, the Council has not received any complaints regarding noise.

Waste Management

Performance Outcome 4.1 of the Animal Keeping and Horse Keeping module of the general development policies states:

"Storage of manure, used litter and other wastes (other than wastewater lagoons) is designed, constructed and managed to minimise attracting and harbouring vermin."

Current operations involve animal waste being stored “in lined and sealed bins within the premises and collected via a private contractor a minimum of two times per week” (as stated in **Attachment 7**). The Council has not received any complaints to date regarding waste or vermin issues at this site, therefore indicating the success of current practice in satisfying the abovementioned Performance Outcome.

Traffic Impact, Access and Parking

Performance Outcome 1.4 of the Transport, Access and Parking module of the general development policies states:

“Development is sited and designed so that loading, unloading and turning of all traffic avoids interrupting the operation of and queuing on public roads and pedestrian paths.”

Performance Outcome 2.1 of the Transport, Access and Parking module of the general development policies states:

“Sightlines at intersections, pedestrian and cycle crossings, and crossovers to allotments for motorists, cyclists and pedestrians are maintained or enhanced to ensure safety for all road users and pedestrians.”

Performance Outcome 3.1 of the Transport, Access and Parking module of the general development policies states:

“Safe and convenient access minimises impact or interruption on the operation of public roads.”

The existing car park is non-compliant when compared against current standards, and exit manoeuvres from car parking spaces numbered 1 and 4 on the site plan (**Attachment 1**) may result in vehicles reversing over the footpath onto King William Road. This application does not seek to alter any existing access arrangements or car parking layout or provision; and nor can the Applicant be made to make such alterations. Notwithstanding, the application does seek to increase the intensity of the approved use of the premises through the increase in dog capacity limits, which in turn increases the number and frequency of anticipated vehicle movements in and out of the site. In light of the non-compliant car park and egress arrangements, there is an increased potential for vehicle-pedestrian conflict. Therefore, these changes require an assessment of the impacts of the traffic generation on the adjacent road network and pedestrian safety, hence the relevance of the abovementioned Performance Outcomes.

Although this application is to be assessed as if the current use of the premises is limited to 30 dogs (i.e. as if the breach is not occurring), the anecdotal evidence provided by the Applicant’s traffic consultant show that vehicle movements in and out of the site have not caused any accidents. The absence of any fencing or other sightline obstructions allows vehicles, pedestrians and cyclists to all see each other to avoid any conflict from such movements. Accordingly, the proposal is not considered to be at odds with the above Performance Outcomes.

Performance Outcome 5.1 of the Transport, Access and Parking module of the general development policies states:

“Sufficient on-site vehicle parking and specifically marked accessibly car parking places are provided to meet the needs of the development of land use having regard to factors that may support a reduced on-site rate such as:

- (a) Availability of on-street car parking
- ... ”

The corresponding Designated Performance Feature states:

“Development provides a number of car parking spaces on-site at a rate no less than the amount calculated using one of the following, whichever is relevant:

- (a) Transport, Access and Parking Table 2 – Off-Street Vehicle Parking Requirements in Designated Areas if the development is a class of development listed in Table 2 and the site is in a Designated Area
- ... ”

The subject land is located within the Urban Corridor (Business) Zone which, in respect of non-residential development, is a Designated Area for the purpose of DPF 5.1 (above). Therefore, Table 2 provides a minimum on-site car parking requirement of 3 spaces per 100m² of gross leasable floor area.

When Development Application 155-624-2018 was considered by the then-constituted Council Assessment Panel, the on-site car parking provision of the site was assessed against the relevant provisions of the Development Plan (as in force at the time), which contained the same requirements as that expressed in Table 2 of the Transport, Access and Parking module – i.e. 3 spaces per 100m² of gross leasable floor area. Since this land use was replacing an existing non-residential land use, the existing car parking shortfall was carried across to this use and the application was considered to satisfy on-site car parking requirements.

It has long been the general approach with planning assessments that complying with the rates contained within Tables 1 and 2 of the Transport, Access and Parking module (i.e. DPF 5.1) is sufficient to satisfy Performance Outcome 5.1 of this module. This is the position submitted by the Applicant. However, this is not considered to be the case with respect to this proposal because of the unique nature of this land use.

Designated area rates are typically ascribed for Zones in areas where either car parking is not a desired element of the built form of environment, or alternative transport methods exists such as high frequency public transport services or cycling. Given the nature of the land use, it is the author's view that, aside from persons who reside within walking distance of the facility, it is inevitable that every other person attending the facility will be arriving by car. Dogs are not permitted on public transport (except for assistance dogs) and it is not feasible or safe to drop off or pick up a dog on a bicycle. Hence, the intent of the designated area rates cannot be realised with this unique land use and the rates in Table 2 of the Transport, Access and Parking module are not considered appropriate to assess this application. Accordingly, the Applicant was requested to provide traffic reports in support of their proposal (which are contained in **Attachments 1 and 5**).

Despite not being the typical course of assessment in respect of car parking assessment, Commissioner Dyer did state in *Parkins v Adelaide Hills Council Assessment Manager*³ that: '[a] DPF, therefore, is advisory, it is but one way the PO is satisfied. If a DPF was the only way a PO was to be satisfied, the PO has no work to do.' It is on this basis that the author has taken the view that, in this case, satisfaction of DPF 5.1 of the Transport, Access and Parking module does not automatically satisfy the corresponding PO. If the Planning & Design Code was intended to be construed in the alternative, then Performance Outcome 5.1 should make direct reference to Tables 1 and 2 of the module.

Notwithstanding this, the Applicant has provided reports prepared by Empirical Traffic Advisory (ETA) that purport to support the proposed development by way of demonstrating that the traffic movements and demand created by the land use are able to be accommodated by the on-site parking provision and the availability of time-restricted on-street parking.

ETA undertook surveys on Wednesday 6 September 2023 (Wednesday being the business's typical peak day) to gain an understanding of traffic movements and parking demand associated with the development. The findings of these surveys are contained within **Attachment 1** but to summarise:

- A maximum of 143 dogs were present on site during the survey;
- Visitors would utilise the on-site car parking spaces in front of the building before reverting to the time-restricted parking on King William Street;
- During the AM peak hour, 116 vehicle movements were observed (59 inbound, 57 outbound);
- During the PM peak hour, 106 vehicle movements were observed (53 inbound, 53 outbound);
- Based on a maximum of 143 dogs on site during this time, these movements equate to:
 - 0.81 vehicle trips per dog during the AM peak period; and
 - 0.74 vehicle trips per dog during the PM peak period;
- A parking occupancy survey, which included the six (6) spaces at the rear of the site, showed that:
 - During the AM peak period there was an 85th percentile parking demand for 9 spaces (a rate of 0.063 spaces per dog); and
 - During the PM peak period there was an 85th percentile parking demand for 11 spaces (a rate of 0.077 spaces per dog);

³ [2022] SAERDC 12, at [74].

- Finally, if the parking demand rates were extrapolated for 160 dogs, this would result in an 85th percentile parking demand of 11 spaces in the AM peak period and 13 spaces in the PM peak period.

On-street parking along King William Street is generally in high demand, but the time restrictions placed on many of these parking spaces (15 minutes) are conducive to this kind of land use where visitors do not need to be parked for long periods of time. The parking surveys undertaken by ETA showed that the average 'set down' time for vehicles attending this business were 2 minutes 45 seconds in the AM peak period and 4 minutes 45 seconds in the PM peak period.

The surveys undertaken by ETA show that the eleven (11) on-site car parking spaces, combined with the time-restricted on-street parking that is conducive to this type of land use, can support up to 160 dogs without severely impacting the adjacent road network or resulting in unreasonable or unsafe conflict between vehicles and pedestrians or cyclists – therefore satisfying Performance Outcome 5.1 of the Transport, Access and Parking module.

Consideration of “seriously at variance”

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2023.14, dated 12/10/2023), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- The proposal does not involve a change in the use of the land; and
- The anticipated increase in traffic movements and car parking requirements associated with the proposed increase in the number of dogs is not at odds with PO 5.1 of the Transport, Access and Parking module.

CONCLUSION

This application seeks to vary a condition on an existing development approval that limits the number of dogs permitted on the site to 30 dogs, increasing that to 160 dogs. This change is not considered to comprise an increase in the intensity of the use of the land such that the variation also constitutes a change in the use of the land. No unreasonable noise emissions are anticipated to arise from this change and the business has appropriate practices in place to deal with the collection and storage of waste generated by its operations and the animals.

The site has eleven (11) on-site car parking spaces – six (6) at the rear of the site that are typically occupied by staff and five (5) at the front of the site. Despite the subject land being in a Designated Area for the purposes of Table 2 and DPF 5.1 of the Transport, Access and Parking module, the unique nature of the use of the land warranted a traffic and parking assessment to be undertaken. The Applicant's traffic consultant has suitably demonstrated, through appropriate empirical surveys, that the development is able to accommodate the traffic movements and parking demand generated by up to 160 dogs. Consequently, the variation application warrants planning 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 23029978, by Kiora SA Pty Ltd is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 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 (if any), noting that all previous stamped plans and documentation, including conditions previously granted Development Approval for Development Application 155-624-2018 are still applicable except where varied by this authorisation.

Condition 2

Condition of Consent No. 1 imposed on Development Application 155-624-2018 is hereby deleted and replaced with the following:

The maximum number of dogs permitted on the premises at any given time is 160 dogs.

ADVISORY NOTES

Planning Consent

Advisory Note 1

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Mr Rhodes addressed the Council Assessment Panel from 9:41 pm until 9:42pm

Ms Spooner addressed the Council Assessment Panel from 9:45pm

Moved by Mr Bateup

- 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 23029978, by Kiora SA Pty Ltd is granted Planning Consent subject to the following conditions:*

CONDITIONS

Planning Consent

Condition 1

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Condition 2

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The maximum number of dogs permitted on the premises at any given time is 160 dogs.

ADVISORY NOTES

Planning Consent

Advisory Note 1

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

**Seconded by Mr Mickan
CARRIED**

**5.8 DEVELOPMENT NUMBER 24019158 – TWENTY FOUR OUTDOOR AUSTRALIA PTY LTD
C/- FUTURE URBAN – 149 PAYNEHAM ROAD, ST PETERS**

DEVELOPMENT NO.:	24019158
APPLICANT:	Twenty Four Outdoor Australia Pty Ltd C/- Future Urban
ADDRESS:	149 PAYNEHAM RD ST PETERS SA 5069
NATURE OF DEVELOPMENT:	Variation to Development Authorisation 23004466 to reposition the advertisement structure and to amend Condition No. 3
ZONING INFORMATION:	<p>Zones:</p> <ul style="list-style-type: none"> • Suburban Activity Centre <p>Overlays:</p> <ul style="list-style-type: none"> • Airport Building Heights (Regulated) • Advertising Near Signalised Intersections • Future Road Widening • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development • Urban Transport Routes <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Maximum Building Height (Levels) (Maximum building height is 2 levels) • Interface Height (Development should be constructed within a building envelope provided by a 30 or 45 degree plane, depending on orientation, measured 3m above natural ground at the boundary of an allotment)
LODGEMENT DATE:	28 Jun 2024
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.11 20/06/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	No
RECOMMENDING OFFICER:	Kieran Fairbrother Senior Urban Planner
REFERRALS STATUTORY:	Commissioner of Highways
REFERRALS NON-STATUTORY:	Nil

CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Prescribed Body Responses
ATTACHMENT 1:	Application Documents	ATTACHMENT 5:	Stamped Plans (Original Application, ID: 23004466)
ATTACHMENT 2:	Subject Land Map	ATTACHMENT 6:	Assessment Report (Original Application, ID: 23004466)
ATTACHMENT 3:	Zoning Map		

DETAILED DESCRIPTION OF PROPOSAL:

This application involves a variation to Development Application 23004466 to reposition the advertising structure therein granted planning consent to better align with the existing structural columns and roof trusses of the building upon which it is to be constructed. This change involves rotating the advertising structure approximately 14 degrees counterclockwise and increasing the structure's setbacks from Stephen Terrace and Payneham Road. Two (2) support struts are also required to affix the advertising structure to the existing building roof and masonry wall. The size and dimensions of the advertisement, the overall height of the advertisement, and the location and dimensions of the associated 'architectural columns' are all to remain the same.

Development Application 23004466 required public notification because that proposal involved a partial change in the use of the land to include third-party advertising, which is not exempt from public notification pursuant to Table 5 of the Suburban Activity Centre Zone. This variation proposal is only to be assessed to the extent of the variation, which does not include any changes to the use of the land. Accordingly, this variation application does not trigger public notification. The Panel is being presented with this application because they were the Relevant Authority for Development Application 23004466 and consequently remain the Relevant Authority for any subsequent variation.

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: 149 PAYNEHAM RD ST PETERS SA 5069

Title ref.: CT 5483/504	Plan Parcel: F16829 AL500	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
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Shape:	irregular
Frontage width:	approx. 47 metres to Stephen Terrace and 21 metres to Payneham Road
Area:	approx. 1024m ²
Topography:	relatively flat
Existing Structures:	a single-storey commercial building comprising two tenancies, containing a motor repair station and a consulting room (physiotherapy)
Existing Vegetation:	low-level plantings between the buildings and the two street frontages

Locality

The locality is considered to be the area extending 100m in all directions from the intersection of Payneham Road and Stephen Terrace/Nelson Street ("**Intersection**"). Payneham Road is characterised predominantly by non-residential development in the form of single- and two-storey buildings, comprising a variety of land uses including a motor repair station, consulting rooms, offices and shops. The Avenues Shopping Centre is located directly east of the subject site, presenting to the Intersection by way of a large sign board, a car parking area and, further back into the site, a large single-storey building containing a group of shops. This intersection generally enjoys a low level of physical amenity and streetscape character.

Located approximately 50m northeast of the subject land is a three-storey residential flat building located within the site of a local heritage place, the old 'Jam Factory'. Although not yet constructed, the State Planning Commission recently granted planning consent to a four-storey mixed-use building at 151-157 Payneham Road – between the subject land and the 'Jam Factory' site.

Immediately west of the subject site are the 'Avenues' of St Peters, which is comprised predominantly of historic dwelling stock in the form of single-storey detached dwellings that enjoy a high level of amenity with the exception of those fronting Stephen Terrace.

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
Other - Commercial/Industrial - Variation to re-site the advertising structure and amend conditions:
Code Assessed - Performance Assessed
Advertisement: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
Code Assessed - Performance Assessed
- **REASON**
P&D Code

PUBLIC NOTIFICATION

Not required

AGENCY REFERRALS

- Commissioner of Highways

The Commissioner of Highways is supportive of the variation proposal, noting that the changes to the structure will not create traffic concerns or road safety issues, nor will the advertisement conflict with the signalised intersection.

INTERNAL REFERRALS

Nil

PLANNING ASSESSMENT

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

To avoid the unnecessary repetition of policies and assessment, the Panel is referred to **Attachment 6** which contains the original planning assessment report for Development Application 23004466. The assessment below is intended to only discuss the extent of the variations being proposed.

Advertisement Hoarding & Appearance

Performance Outcome 4.1 of the Suburban Activity Centre Zone states:

“Advertisements are sited and designed to achieve an overall consistency of appearance along street frontages.”

Performance Outcome 1.1 of the Advertisements module of the general development policies states:

“Advertisements are compatible and integrated with the design of the building and/or land they are located on.”

Performance Outcome 1.2 of the Advertisements module of the general development policies states:

“Advertising hoardings do not disfigure the appearance of the land upon which they are situated or the character of the locality.”

Performance Outcome 1.5 of the Advertisements module of the general development policies states:

“Advertisements and advertising hoardings are of a scale and size appropriate to the character of the locality.”

The appearance of the structure is not changing except that it has been re-positioned, re-oriented slightly more (~14°) towards Payneham Road and two (2) supporting struts have been added. The supporting struts are minimal in design and will not detriment the appearance of the advertising structure as a whole. Similarly, the re-positioning of the structure does not change the previous assessment undertaken of this structure except that the structure will be very slightly less obtrusive by virtue of the increased setbacks from both Stephen Terrace and Payneham Road. Consequently, the proposal still sufficiently satisfies the abovementioned Performance Outcomes.

Traffic Impact / Safety

Performance Outcome 1.1 of the Advertising Near Signalised Intersections Overlay states:

“Advertising near signalised intersections does not cause unreasonable distraction to road users through illumination, flashing lights, or moving or changing displays or messages.”

Performance Outcome 5.4 of the Advertisements module of the general development policies states:

“Advertisements and/or advertising hoardings do not create a hazard by distracting drivers from the primary driving task at a location where the demands on driver concentration are high.”

As with the original development application, this application was also referred to the Commissioner of Highways by virtue of the advertising display being located within 100 metres of a signalised intersection. The Commissioner of Highways is supportive of the proposal (see **Attachment 4**) and has imposed conditions similar to those imposed on the original development application.

For the same reasons expressed in the assessment of the original proposal (see **Attachment 6**), the re-positioning of the advertising structure does not offend any of the abovementioned Performance Outcomes and is therefore acceptable.

Environmental Factors

Light Spill

Performance Outcome 4.1 of the Advertisements module of the general development policies states:

“Light spill from advertisement illumination does not unreasonably compromise the amenity of sensitive receivers.”

Performance Outcome 1.2 of the Interface Between Land Uses module in the general development policies states:

“Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts.”

Performance Outcome 6.1 of the Interface Between Land Uses module in the general development policies states:

“External lighting is positioned and designed to not cause unreasonable light spill impact on adjacent sensitive receivers (or lawfully approved sensitive receivers).”

The re-positioning of the advertising structure does not change the light spill assessment undertaken for the original development proposal (**Attachment 6**) and these Performance Outcomes are still considered to be achieved.

Consideration of 'Seriously at Variance'

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2024.11, 20/06/2024), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- The advertising structure and the change of land use already have a valid development authorisation; and
- The re-siting of the advertisement structure creates no road traffic safety concerns; and
- The re-siting of the advertisement structure is not considered to seriously affect the character of the locality in a negative way.

CONCLUSION

The partial change of use of the land to include third-party advertising, the advertisement structure, its associated hoarding and 'architectural columns' were all determined to be worthy of planning consent by the Council Assessment Panel in December 2023. The extent of changes now proposed in this variation application are not considered to change that assessment. The advertising structure has not changed in appearance, aside from the addition of two (2) supporting struts, and the rotation of the structure and the slightly increased setback from both roads will not affect its appearance or the character of the locality in any negative way. Similarly, the re-positioning of the structure is not considered to cause any traffic or safety concerns, a view shared by the Commissioner of Highways.

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 24019158, by Twenty Four Outdoor Australia Pty Ltd C/- Future Urban is granted Planning Consent subject to the following conditions:

CONDITIONS

Planning Consent

Condition 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 (if any), noting that all previous stamped plans and documentation, including conditions previously granted Planning Consent for Development Application ID No. 23004466 are still applicable except where varied by this authorisation.

Conditions imposed by Commissioner of Highways under Section 122 of the Act

Condition 2

The billboard shall be installed as shown on 24 Outdoor, Plan & Elevation, Job No. SA-PET-0922, Drawing No. 230922-2/5 and 3/5, Revision Mar24.

Condition 3

The billboard shall be permitted to display one self-contained message every 45 seconds. The time taken for consecutive displays to change shall be no more than 0.1 seconds. The sign shall not flash, scroll or move. Furthermore, the sign shall not be permitted to display or imitate a traffic control device in any way. Animated effects such as 'fade', 'zoom' or 'fly in/out' or signs that show images across multiple displays shall not be used.

Condition 4

The operational system for the billboard shall incorporate an automatic error detection system which will turn the display off or to a blank, black screen should the screen or system malfunction. The screen shall only be reactivated in the next available off peak period.

Condition 5

The billboard shall not be permitted to operate in such a manner that could result in impairing the ability of a road user by means of high levels of illumination or glare. Subsequently, the LED component of the sign shall be limited to the following stepped luminance levels:

Ambient Conditions	Sign Illuminance Vertical Component (Lux)	Sign Luminance (Cd/m2) Max*
Sunny Day	40,000	6,300
Cloudy Day	4,000	1,100
Twilight	400	300
Dusk	40	200
Night	<4	60

Condition 6

The non-illuminated portion of the billboard shall be finished in a material of low reflectivity to minimise the likelihood of sun/headlamp glare.

ADVISORY NOTES

Planning Consent

Advisory Note 1

Appeal Rights - General rights of review and appeal exist in relation to any assessment, request, direction or act of a relevant authority in relation to the determination of this application, including conditions.

Advisory Note 2

This approval varies the original consent / approval to which it applies, but it does not extend nor vary the operative date of the original consent / approval. The consent / approval must be acted upon within the operative date applicable, unless extended by the relevant authority via separate submission.

Advisory Note 3

The Building Consent to be submitted for this development must be submitted against the original Development Application granted Planning Consent, and not against the variation. However the Building Consent must be consistent with the latest version of the approved plans, which would incorporate any approved variations. The variation application may subsequently be verified as not requiring Building Consent, to allow Development Approval to be granted against the variation.

For further clarification, please contact Council's Planning Department on 8366 4530.

Advisory Notes imposed by Commissioner of Highways under Section 122 of the Act

Advisory Note 4

The Metropolitan Adelaide Road Widening Plan shows a possible requirement for a strip of land up to 4.5 metres in width from both the Payneham Road and Stephen Terrace frontages of this property as well as additional land from the corner of the site for future upgrading of the Payneham Road/Stephen Terrace/Nelson Street intersection. The consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act 1972 is required to all building works on or within 6.0 metres of the possible requirements.

Accordingly, the attached consent form should be completed by the applicant and forwarded to DIT with a copy of the DNF and approved plans for processing (via dit.landusecoordination@sa.gov.au).

Advisory Note 5

This Department is undertaking a planning study to identify possible future upgrade options for Payneham Road. The exact nature and timing of any improvements at this intersection have yet to be determined.

Advisory Note 6

Should traffic flows on Payneham Road and or Stephen Terrace be impacted by the installation of the sign, the applicant shall notify DIT's Traffic Management Centre (TMC) – Roadworks on 1800 434 058 or email dit.roadworks@sa.gov.au to gain approval for any road works, or the implementation of a traffic management plan during the installation of the billboard.

Moved by Mr Mickan

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
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Advisory Note 3

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**Seconded by Mr Bateup
CARRIED**

6. DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT
7. REVIEW OF ASSESSMENT MANAGER DECISIONS
8. ERD COURT APPEALS
9. OTHER BUSINESS
Nil
10. CONFIDENTIAL REPORTS
11. CLOSURE

The Presiding Member declared the meeting closed at 9:56pm

Stephen Smith
PRESIDING MEMBER

Kieran Fairbrother
SENIOR URBAN PLANNER