

Council Assessment Panel Minutes

16 September 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.*

City of Norwood Payneham & St Peters
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City of
Norwood
Payneham
& St Peters

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VENUE Council Chambers, Norwood Town Hall

HOUR 7:00pm

PRESENT

Panel Members Mr Stephen Smith
Mr Mark Adcock
Mr Ross Bateup
Mr Julian Rutt
Cr Kester Moorhouse

Staff Geoff Parsons, Manager Development Assessment & Regulatory Services
Kieran Fairbrother, Senior Urban Planner
Ned Feary, Senior Urban Planner
Tala Aslat, Planning Assistant

APOLOGIES Cr Christel Mex

ABSENT

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT
PANEL HELD ON 19 AUGUST 2024**

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

4. **DECLARATION OF INTERESTS**

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER 24009714 - SHANG WU - UNIT 4 74 FULLARTON ROAD NORWOOD

DEVELOPMENT NO.:	24009714
APPLICANT:	Shang Wu
ADDRESS:	UNIT 4 74 FULLARTON RD NORWOOD SA 5067 CT 5022/783
NATURE OF DEVELOPMENT:	Change of use to indoor recreation facility (pilates studio)
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) • 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 3 levels)
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 8 July 2024 to 26 July 2024
RECOMMENDING OFFICER:	Marie Molinaro - Urban Planner
REFERRALS STATUTORY:	Nil
REFERRALS NON-STATUTORY:	Nil

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

DETAILED DESCRIPTION OF PROPOSAL:

The proposal is to use / lease a vacant office tenancy within a mixed use, non-residential building for a pilates studio. A 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 building is two-storey in height and contains six (6) business tenancies. The proposed pilates studio is contained to tenancy four (4) on the upper level of the building.

The proposed indoor recreation facility includes the following:

- Retention of tenancy four (4) in its current form (no building alterations), with the installation of nine (9) pilates machines.
- The floor area of the tenancy is approximately 131 square metres.
- Attachment of a flat sheet metal sign to the side wall of the building (facing Montrose Street).

The proposed use is to entail the offering of:

- One-on-one and group session pilates classes for a maximum of four (4) attendees, supervised by one (1) instructor. Nine (9) machines are to be installed as they train different parts of the body.
- Hours of operation are 6:00am to 9:00pm Monday to Sunday.
- Signage is not part of this application.

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

BACKGROUND:

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
28 November 2022	22024795	Change of use from an office to a martial arts studio (tenancy two)

SUBJECT LAND & LOCALITY:

Site Description:

Location reference: UNIT 4 74 FULLARTON RD NORWOOD SA 5067

Title ref.: CT 5022/783

Plan Parcel: S4501 UN4

Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

The subject land is on the corner of Fullarton Road and Montrose Street. It is on the eastern side of Fullarton Road, approximately 80m south of The Parade. The two-storey building on the land is located on the Fullarton Road boundary, with an on-site car-park located behind the building. The building contains six (6)

mixed-use tenancies, three (3) on each floor with identical layout and floor area. Access to the upper-level is via a central staircase.

Development Approval was granted in 2022 for a martial arts studio, also a form of indoor recreation facility in tenancy two (2) of the building.

The application documents show twenty-four (24) on-site car-parking spaces, shared with an adjoining site, 6 Montrose Street, Norwood. 6 Montrose Street, Norwood is developed with a two-storey, multi-tenancy non-residential building, mostly comprising offices. Access to the car-park is from Montrose Street.

The Suburban Business Zone is limited to a strip of allotments along a portion of The Parade and along the eastern side of Fullarton Road and a portion of the western side of Fullarton Road to the intersection of Kensington Road (The Britannia intersection).

The Suburban Business Zone along Fullarton Road is flanked either side by the residential Established Neighbourhood Zone.

The subject land is approximately 20m from both the nearest dwellings on the opposite side of Fullarton Road and northern side of Montrose Street.

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
Advertisement: 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 Business Zone, indoor recreation facility is not specifically excluded from public notification. The site is within 60m of residential development in a neighbourhood-type zone (Established Neighbourhood), 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)
Neil Spence	PO Box 695, Fullarton	No	N/A

- **SUMMARY**

The issue contained in the representation can be briefly summarised as follows:

- Concern that on-site parking for the development is inadequate.

The representor's written representation is included in **Attachment 4 – Representation**. The applicant's response is provided in **Attachment 5 – Response to Representation**.

As the representor has not provided a street address, their location is not marked on a representation map.

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 Suburban Business Zone provisions.

Suburban Business Zone

Desired Outcome (DO) 1

A business and innovation precinct that includes a range of emerging businesses which have low level off-site impacts. Residential development within the area is subordinate to employment uses and generally includes medium-density housing designed to complement and not prejudice the operation of existing businesses.

Performance Outcome (PO) 1.1

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

Performance Outcome (PO) 1.2

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.

Performance Outcome (PO) 1.4

Changes in the use of land between similar businesses encourages the efficient reuse of commercial premises and supports continued local access to a range of services compatible to the locality.

The proposal is for a small-scale non-residential use that supports the efficient reuse of a vacant office tenancy in the Zone.

Performance Outcome 1.1 identifies shops, office and consulting room as the desired non-

industry type commercial uses in the Zone. Indoor recreation facility is not specifically listed, however Performance Outcomes 1.2 and 1.4 are more generous, speaking to commercial development in general and the provision of a range of services compatible to the locality.

With respect to Performance Outcome 1.4 the proposed indoor recreation facility use is considered to be compatible to the locality, comprising low-impact commercial development (mostly offices) and residential uses. The proposed form of indoor recreation facility offering pilates classes is not considered to generate adverse impact, as pilates is a quiet activity undertaken for relaxation.

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 Montrose Street and the opposite side of Fullarton Road.

The proposed use is considered to sit comfortably with these adjacent residential uses, through its nature as a small-scale operation not anticipated to generate adverse noise through activity inside the building.

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 building and on-site car-park. However, given the small number of maximum participants, such noise is not considered to be unreasonable. Further, such noise is considered to be expected for a site on a State Maintained Road (arterial road).

Recommended condition two (2) restricts hours of operation.

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

Desired Outcome (DO) 2

Provision of a safe and efficient access to and from Urban Transport Routes.

Design in Urban Areas module

Performance Outcome (PO) 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.

Access to the rear car-park is via an existing cross-over to Montrose Street, which is approximately 22m from the intersection with Fullarton Road. Per Urban Transport Routes Overlay procedural matters, development that changes the nature of vehicle movements or increases the number or frequency of movements through an existing access within 25m of a State Maintained Road requires a referral to the Commissioner of Highways, unless deemed minor in the opinion of the relevant authority (Council).

A referral to the Commissioner of Highways was not undertaken as the nature (type) of vehicle movements will not change as a result of the proposal; and it is difficult to determine if the number or frequency of vehicle movements through the access point will change as a result of the proposal. The former use was office, but with no restriction on the maximum number of occupants.

Development authorisation 22024795, change of use from an office to martial arts studio (also a form of indoor recreation facility) was referred to the Commissioner of Highways. However, this use allowed for a greater number of maximum of participants, being eight (8) at any one time. The Commissioner of Highways referral response provided no comment.

The application documents show twenty-four (24) on-site car-parking spaces, shared with an adjoining site, 6 Montrose Street, Norwood. 6 Montrose Street, Norwood is developed with a two-storey, multi-tenancy mixed use non-residential building.

A search of Council records revealed Development Authorisation – ref. 155/372/2014 for change of use from an office to an integrated shop / office and store for tenancies 1 and 2 at 6 Montrose Street, Norwood. The approved site plan for this authorisation showed twenty-four (24) on-site parking spaces, shared with the subject land in the same layout as the application documents for this proposal.

On this basis, this is the accepted and long-standing on-site car-carking situation.

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 Suburban Business Zone that is within 200 metres of any section of road reserve along which a bus service operates as a high frequency public transit service sets a minimum on-site car-parking rate of 3 spaces per 100 square metres of gross leasable floor area and maximum on-site car-parking rate of 6 spaces per 100 square metres of gross leasable floor area. A high frequency bus service operates along The Parade, which is 80m north of the subject land.

The gross leasable floor area of tenancy our (4) is 130 square metres, so a minimum of four (4) on-site car-parking spaces are required.

Based on Table 2, the gross leasable floor area alone for the subject land would require twenty-four (24) on-site car-parking spaces. So, combined with tenancies at 6 Montrose Street there is a shortfall in on-site car-parking. However, as per the development history this has been an accepted feature for a significant length of time.

Further, the applicant is not proposing to make any built form changes as part of the proposal, it is considered reasonable to allow a change of use to occur without requiring an increase in off-street car parking provision. In any case, no additional space exists on the site to increase the off-street car parking provision. To expect otherwise would severely limit the potential for any change in land use to occur on this site without requiring the full redevelopment of the site.

As part of their tenancy agreement the applicant has secured exclusive rights to four (4) of the twenty-four (24) car-parking spaces.

With respect to the representation, it will be a matter for the applicant to resolve through the leasing agency if their allocated on-site car-parking spaces are occupied by users of a different tenancy. Noting also however, the proposed hours of operation are partly outside of regular 9am to 5pm business hours which will assist in reducing potential competition / demand for on-site car-parking spaces.

The approved hours of operation of the martial arts studio on the site are Monday-Tuesday 4:00pm-6:00pm, Wednesday-Friday 8:00am-6:00pm and Saturday-Sunday 11:00am-6:00pm. So, there will be some overlap in hours of operation, but not a complete alignment and desire for car-parking at all the same times.

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.

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 a form of commercial development. Commercial development is desired in the Zone.

SUMMARY & CONCLUSION

The proposal is for a change of use to indoor recreation facility (pilates studio) in the Suburban Business Zone. Indoor recreation facilities are not specifically listed as a desired type of commercial development in the Zone, however it is a type of non-residential use with considered low level off-site impacts that supports the efficient re-use of a vacant former office tenancy.

Traffic, access and parking matters are considered to be adequately addressed.

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 24009714 for change of use to indoor recreation facility (pilates studio) at Unit 4 74 Fullarton Road, Norwood by Shang Wu 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 hours of operation of the herein approved indoor recreation facility (pilates studio) shall be restricted to following times:

Monday to Sunday - 6:00am until 9:00pm

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 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 5

The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees, 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 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.

Mr Wu addressed the Council Assessment Panel from 7:06pm until 7:07pm

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 24009714 for change of use to indoor recreation facility (pilates studio) at Unit 4 74 Fullarton Road, Norwood by Shang Wu 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 hours of operation of the herein approved indoor recreation facility (pilates studio) shall be restricted to following times:

Monday to Sunday - 6:00am until 9:00pm

**ADVISORY NOTES
Planning Consent**

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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.

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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.

**Seconded by Mr Bateup
CARRIED**

**5.2 DEVELOPMENT NUMBER 24019620 - BOOTH REAL ESTATE
- 81 OSMOND TERRACE,16 AND 18 GLOUCESTER TCE NORWOOD**

DEVELOPMENT NO.:	24019620
APPLICANT:	Booth Real Estate
ADDRESS:	81 OSMOND TCE NORWOOD SA 5067 81 OSMOND TCE NORWOOD SA 5067 18 GLOUCESTER TCE NORWOOD SA 5067 16 GLOUCESTER TCE NORWOOD SA 5067
NATURE OF DEVELOPMENT:	Change of use from offices to three (3) detached dwellings, with associated partial demolition of a Local Heritage Place, building alterations and additions, internal building works, carports and garaging, fencing, and the removal of one (1) Significant Tree
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) • Local Heritage Place • Prescribed Wells Area • Regulated and Significant Tree • Stormwater Management • Urban Tree Canopy • Heritage Adjacency <p>Technical Numeric Variations (TNVs):</p> <ul style="list-style-type: none"> • Minimum Frontage (Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 8m; row dwelling is 6m; group dwelling is 18m; residential flat building is 18m) • Minimum Site Area (Minimum site area for a detached dwelling is 250 sqm; semi-detached dwelling is 250 sqm; row dwelling is 250 sqm; group dwelling is 250 sqm) • Maximum Building Height (Levels) (Maximum building height is 2 levels)
LODGEMENT DATE:	8 Jul 2024
RELEVANT AUTHORITY:	Assessment panel/Assessment manager at City of Norwood, Payneham & St Peters
PLANNING & DESIGN CODE VERSION:	P&D Code (in effect) Version 2024.12 04/07/2024
CATEGORY OF DEVELOPMENT:	Code Assessed - Performance Assessed
NOTIFICATION:	Yes
RECOMMENDING OFFICER:	Edmund Feary Senior Urban Planner
REFERRALS STATUTORY:	None
REFERRALS NON-STATUTORY:	David Brown- Heritage Advisor

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APPENDIX 1: Relevant P&D Code Policies	ATTACHMENT 5:	Representations
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ATTACHMENT 4: Representation Map		

DETAILED DESCRIPTION OF PROPOSAL:

The application seeks the change of use from office to residential, with three detached dwellings created, and a fourth allotment to be a vacant residential parcel. In order to achieve this, the application includes the following:

- Internal building work (including internal demolition);
- Construction of two single storey “dwelling additions” (noting that they are not currently dwellings);
- Construction of three carports;
- Fencing work;
- General restoration works.

BACKGROUND:

The site was developed as a mansion for Thomas Gepp MP (who was Mayor of Norwood immediately prior to his building the mansion). This complex included detached buildings for stables and a library, both of which also remain alongside the mansion.

At some point, the site was converted to offices (this was likely before a Development Application would have been required for such a change of use, as no such application is recorded).

The owner later sought to divide the site into four separate allotments to facilitate a future residential development. This included two different applications:

- 155/596/2008
 - Nature of Development: The construction of three (3), two-storey detached dwellings and associated fencing and retaining walls and the removal of three (3) significant trees.
 - This seems to have received Planning Consent, but not Development Approval.
- 008/009/2011
 - This was a Torrens Titled Land Division (1-into-4).
 - This saw the mansion, stables, library and car park all on separate allotments, and was implemented.

As part of this latter application, Council staff raised concerns regarding losing the heritage value of the library and stables buildings, which were not separately heritage listed, as well as that the office might be separated from its car park. In order to manage these issues, a Land Management Agreement was entered into (**Attachment 8**).

The intent of the LMA is considered to primarily involve:

- The retention and adaptive reuse of the buildings which contribute to the heritage value of the site;
- To ensure a sufficient level of car parking is provided to accommodate the existing commercial uses of the
- land; and

- To ensure that individual allotments are not converted to residential purposes unless and until that occurs for the entire land comprising all four allotments.

The applicant has approached Council to advise that they intend on selling the land (in this case, to sell each of the allotments individually to separate purchasers). As a result of the Land Division approval above, 81 Osmond Terrace, Norwood, consists for four (4) individual allotments identified as follows:

- Allotment 101, Osmond Terrace, Norwood (CT 6158/814) – Contains the “mansion”;
- Allotment 102, Osmond Terrace, Norwood (CT 6158/815) – Contains the “library”;
- Allotment 103, Gloucester Terrace, Norwood (CT 6158/816) – Contains a majority of the car park area; and
- Allotment 104, Gloucester Terrace, Norwood (CT 6158/817) – Contains the “stables”.

Clauses 7.1 and 7.2 in the LMA state the following:

- 7.1 *Subject to clause 14 of this Deed, the Owner covenants to not change the use of any portion of the Land to a residential land use pursuant to an application submitted under the Act unless the Owner concurrently seeks to change the use of the whole of each of the four (4) allotments proposed in the Land Division Plan to a residential land use; and*
- 7.2 *Enter into a contract of sale for any of the four (4) allotments proposed in the Land Division Plan, until such time as the use of the whole of the Land has been lawfully changed to a residential land use by way of an application that has been approved and implemented under the Act unless that contract of sale is for the transfer of the whole of the four allotments proposed in the Land Division Plan to a single purchaser.*

This application is intended to comply with clause 7.1 as above. The applicant does not necessarily intend to construct what is approved, but to sell the land with the approval such that it can be implemented (or amended) by a future purchaser.

Clause 7.2 cannot be complied with because it requires the whole of the land to be converted to residential purposes (which would not only require an approval, but also implementation of that approval) prior to a contract of sale being entered into. The Owner wishes to sell the allotments as is, allowing purchasers to either implement the approval they obtain, or to implement an amended design for their own dwellings / conversions of existing buildings to dwellings. As a result, Council has agreed to a waiver of clause 7.2 with the following motion at the July 2024 meeting:

Cr Robinson moved:

1. *That pursuant to Clause 20 of the Land Management Agreement applicable to 81 Osmond Terrace, Norwood, the Council hereby waives compliance with Clause 7.2 of the Land Management Agreement, for the purposes of allowing for contracts of sale to be entered into for each of the properties.*
2. *That the Council notes that this waiver is conditional upon the following:*
 - a. *the subject land (inclusive of each individual allotment) being converted to residential use (which is to be confirmed in the contracts of sale for each of the properties);*
 - b. *prior to settlement of each contract of sale, a new Land Management Agreement is entered into and registered on the applicable titles for each land parcel comprising 81 Osmond Terrace, Norwood, requiring each land parcel to only be used for residential purposes until all allotments are used for residential purposes.*
3. *That the Council authorises the Mayor and Chief Executive Officer to sign and seal the revised Land Management Agreement which replaces the “Background” section together with Clauses*

7.1 and 7.2 and any consequential amendments, with confirmation that each allotment may only be used for residential purposes until all allotments are used for residential purposes.

Seconded by Cr Whittington and carried unanimously

Discussions regarding the exact wording of the replacement LMA, as stated in Part 3 of the above resolution, are ongoing and have not yet been assented to.

The site was also the subject of application 23019832, which sought, “Partial removal of existing brush fencing, and construction of a new picket fence, with driveway and associated landscaping”. This was also the subject of an LMA waiver from Council (due to a driveway not necessarily being consistent with “similar to landscaping typical of the era of the construction of the Mansion” as per clause 6.5 of the LMA. This Development Application received Development Approval but has yet to be implemented.

SUBJECT LAND & LOCALITY:

Site Description:

- The site is a group of four allotments which were divided as part of DA 008/009/2011. The site has been used as an office prior to now, though there is no current tenant. All four allotments formed part of the office complex.

Location reference: 81 OSMOND TCE NORWOOD SA 5067		
Title ref.: CT 6158/814	Plan Parcel: D95918 AL101	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
Location reference: 81 OSMOND TCE NORWOOD SA 5067		
Title ref.: CT 6158/815	Plan Parcel: D95918 AL102	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
Location reference: 18 GLOUCESTER TCE NORWOOD SA 5067		
Title ref.: CT 6158/816	Plan Parcel: D95918 AL103	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS
Location reference: 16 GLOUCESTER TCE NORWOOD SA 5067		
Title ref.: CT 6158/817	Plan Parcel: D95918 AL104	Council: THE CITY OF NORWOOD PAYNEHAM AND ST PETERS

Shape: Mostly rectangular, with a corner cutout in the northeastern corner, and a rectangular cutout in the southwestern corner.

Frontage Width: 29.3m to Osmond Terrace, 57.9m to Gloucester Terrace

Area: 1942sqm

Topography: mostly flat

Existing Structures: the major building on the site is the local heritage listed “mansion” on the northeastern allotment. This includes a later addition at the rear of the building constructed from red bricks (compared to the mansion being of sandstone). To the south of this building, an annex (which is not original) connects the mansion to the original library. In the northwestern corner is the original stable block, also constructed primarily from sandstone. On the southern side of the stable are further ancillary structures such as an outhouse. The southwestern allotment has no structures at present, being paved for car parking associated with the existing office.

Existing Vegetation: The most notable vegetation feature on the site is the significant palm tree (understood to be a species of *washingtonia*, likely *Washingtonia filifera* or California Palm). This

is at the rear (western) side of the library building, and while no specific measurement of distance from the wall is provided, it would be substantially less than 3m from the rear wall of the library. There are also hedges at the rear of the mansion and the rear of the stables. In front of the mansion and library (i.e. on the eastern or Osmond Terrace side) there are a series of small trees and medium/large shrubs. There are also large, mature street trees on both Osmond Terrace and Gloucester Terrace immediately adjoining the property.

Locality

The locality of the site is considered to extend some 120m along Osmond Terrace to the north, and 180m south. It extends the full length of Gloucester Terrace, around 120m west of the site. To the east, the locality only includes those allotments with a frontage to Osmond Terrace, given the width of the road, noting its wide median strip. This locality is shown in the locality map in **Attachment 3**.

Osmond Terrace is a residential boulevard, characterised by its wide (~11m), grassed median strip. It has historically been lined with large mansions, those in recent years these have increasingly been divided into smaller allotments. One such example is "Warinilla" at 92 Osmond Terrace, which was an historic mansion which became a drug and alcohol rehabilitation clinic, before more recently being converted to residential use, and divided into a series of smaller allotments. With this being redeveloped, the locality is entirely residential.

Gloucester Terrace is a short, relatively narrow and relatively quiet residential street. Allotments on Gloucester Terrace are typically around 200-400sqm in area, with both historically small dwellings, and some more recent subdivision activity.

Both streets have large, mature street trees, with London Plane Trees being typical on Osmond Terrace, and Gloucester Terrace being more varied (with Queensland Box and Ironbark trees being slightly more prominent).

CONSENT TYPE REQUIRED:

Planning Consent

CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**
 - Carport or garage
 - New housing
 - Tree-damaging activity: Code Assessed - Performance Assessed
 - Detached dwelling: Code Assessed - Performance Assessed
 - Fences and walls
 - Carport: Code Assessed - Performance Assessed
 - Outbuilding (Carport or garage): Code Assessed - Performance Assessed
 - Fence: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**
 - Code Assessed - Performance Assessed
- **REASON**
 - P&D Code; No other pathway- Local Heritage Place

PUBLIC NOTIFICATION

- **REASON**
 - Involves partial demolition of a Local Heritage Place

• **LIST OF REPRESENTATIONS**

Given Name	Family Name	Address	Position	Wishes to be heard?
Lilly	Fitzgerald	PO Box 605, MAGILL SA 5072	Opposed	No
James	Bennett	75 William Street, Norwood SA 5067	Supportive	No
Eva	Spitzer	17 Gloucester Terrace, Norwood SA 5067	Supportive with concerns	No

• **SUMMARY**

Ms Fitzgerald objected to the removal of the significant tree, the partial demolition and the density proposed. As the density was already established when the land division was approved, this is not addressed in the assessment below, though the other points will be addressed.

Mr Bennett was of the view that the tree removal would have a limited impact, that the change of use was more consistent with the locality than the existing use, and that the works to be done to convert the properties for residential use were fairly insignificant.

Ms Spitzer was concerned about the impact of additional demand for on-street parking during construction. As noted in the applicant's Response to Representations, there is no policy in the Planning and Design Code relating to this, and as such this not addressed further in the assessment section of this report.

AGENCY REFERRALS

None

INTERNAL REFERRALS

The application was referred to Council's Heritage Advisor. This advice is included in **Attachment 7**. He was concerned by the fencing and the internal layout of the library.

The application was not referred to Council's City Arborist as the tree is not considered worthy of retention, which is a planning, rather than arboricultural consideration (though the City Arborist did provide confirmation of the species of the tree).

PLANNING ASSESSMENT

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

Question of Seriously at Variance

The proposed development is fundamentally for a change of use to a residential use within the Established Neighbourhood Zone, which is a predominately residential Zone. Dwellings are envisaged under DPF 1.1 of the Zone.

The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.

Land Use

The site is proposed to be used for four detached dwellings, with designs shown for three such dwellings. As noted previously, the locality is entirely residential, and the site is in the Established

Neighbourhood Zone, which envisaged predominately residential development. As such, the use of the site for residential purposes is considered suitable.

Heritage

A report has been prepared by Council's Heritage Advisor, David Brown, and is provided in **Attachment 7**.

Internal Works (including demolition)

The partial demolition works which triggered the public notification are all either internal, or are the later addition in the form of the annex. The LMA recognises that the annex has no heritage value and requires its removal. The internal works to the LHP are in the later addition at the rear, and are not considered to diminish the heritage value of the property.

Mr Brown did object to the extent of internal work in the library building, as this compromises the heritage value of its high vaulted ceiling. While it is agreed that this could be more sensitive to the building and space, this building is not a Local Heritage Place, and unlike the mansion itself, internal building work in this building would not require approval either under a Development Application, or the LMA.

Carports

Mr Brown suggests that there is a general lack of detail in relation to the proposed carports. The plans do show the proposed height, position (including post locations), and paint colour for the carports, which is considered sufficient for the purposes of Planning Consent.

Restoration Work

Mr Brown notes that no restoration works to the exterior of the Local Heritage Place are included in the application. While any such works would likely ultimately be in the best interests of any future owner, there is not considered to be sufficient justification to require the applicant to include external restoration works in the application.

It was also noted that there was at the time an inconsistency between an annotation relating to the upper floor street facing window in the stables, and the materials schedule. This has since been resolved and clarified that the window frame would be timber to match the existing window.

Fencing

Mr Brown suggests that, "The LMA states that suitable historically acceptable front and dividing fence designs needed to be provided as a part of the change of use for sale." While clauses 6.1-6.4 of the LMA relate to fencing, Administration respectfully disagrees with Mr Brown's interpretation of when these provisions are "triggered". It is also noted that the Panel is assessing a Development Application rather than an LMA waiver, but these details are provided for the sake of context.

Clause 6.1 outlines that there shall be no side fencing erected between the mansion and the library forward of the buildings. While such a fence is shown on the plans, they are accompanied by a note which clarifies that this would be subject to a further approval, and is not approved in this application.

Regarding Clauses 6.2 and 6.3, it is Administration's view that these are only effective upon such time as the owner seeks to change fencing on either the Osmond Terrace or Gloucester Terrace boundaries of the site. The proposed development does not include any alteration to street facing fencing, and it is administration's view that therefore these clauses are not relevant to this application.

Clause 6.4 is relevant to the proposed internal fencing, but notes on the site plan show "FE:03" as being, "traditional profile corrugated metal sheeting post & rail in woodland grey". This is consistent with the profile and colour sought by this clause of the LMA, and is therefore suitable. "FE:04" is proposed on some parts of the library and stables

allotments. This is a timber batten “screen” but it is functionally a fence. Despite the provisions of the LMA, Council’s Heritage Advisor has no objection to this type of fencing, and as such, Administration would be willing to entertain a waiver or amendment should the applicant formally seek this. For the purposes of this application, FE:04 is only applied on the stables and library allotments, neither of which are listed as Local Heritage Places. As such, this fencing does not constitute development in its own right.

Setbacks, Design & Appearance

The overall site coverage is calculated at 663.7sqm of 1675sqm for a percentage of 39.6%- this excludes the balance “car park” allotment since no building is proposed on this site, but does include the common driveway despite the fact that this is technically on the car park allotment. This is felt to

give a more accurate picture of the actual relative footprint of the buildings. This compares favourably to the 50% site coverage envisaged by Established Neighbourhood Zone (ENZ) DPF 3.1.

The addition for the library is set some 3.5m from the southern boundary, well in excess of the 900mm envisaged for ground floor side boundary setbacks under ENZ DPF 8.1. It is noted that the areas shown as “patio” are not shown as covered by any roof based on the elevations.

Works to the mansion are within the footprint of the existing building, and therefore its design and appearance are unchanged.

The works to the stables are mostly within the existing footprint of the building (and even retain the outhouse, though this is not required by the LMA). The key exception to this is the proposed bedroom/laundry wing, which would include a boundary wall on the western boundary. This wall would be 7.8m long and 3m high. This is consistent with the dimensions of boundary walls envisaged by ENZ DPF 7.1, but the wall does not meet this DPF as it is more than 45% of the length of the boundary of the stables allotment (which is only 15.2m, meaning this is 51.3%). The neighbouring allotment is much deeper, and the wall would only be 24% of that boundary. It is also noted that this abuts a boundary garage wall on the neighbouring property for part of this length. As such, its overall impact is considered reasonable. It is noted that there were no objections to this during public notification.

None of the dwelling additions would be notably visible from the street given the distances and obstructions involved. The additions are generally fairly simple structures which do not compete with the historic buildings for visual attention, which is generally appropriate.

Overall, the setbacks, footprint, design and appearance of the works is considered reasonable.

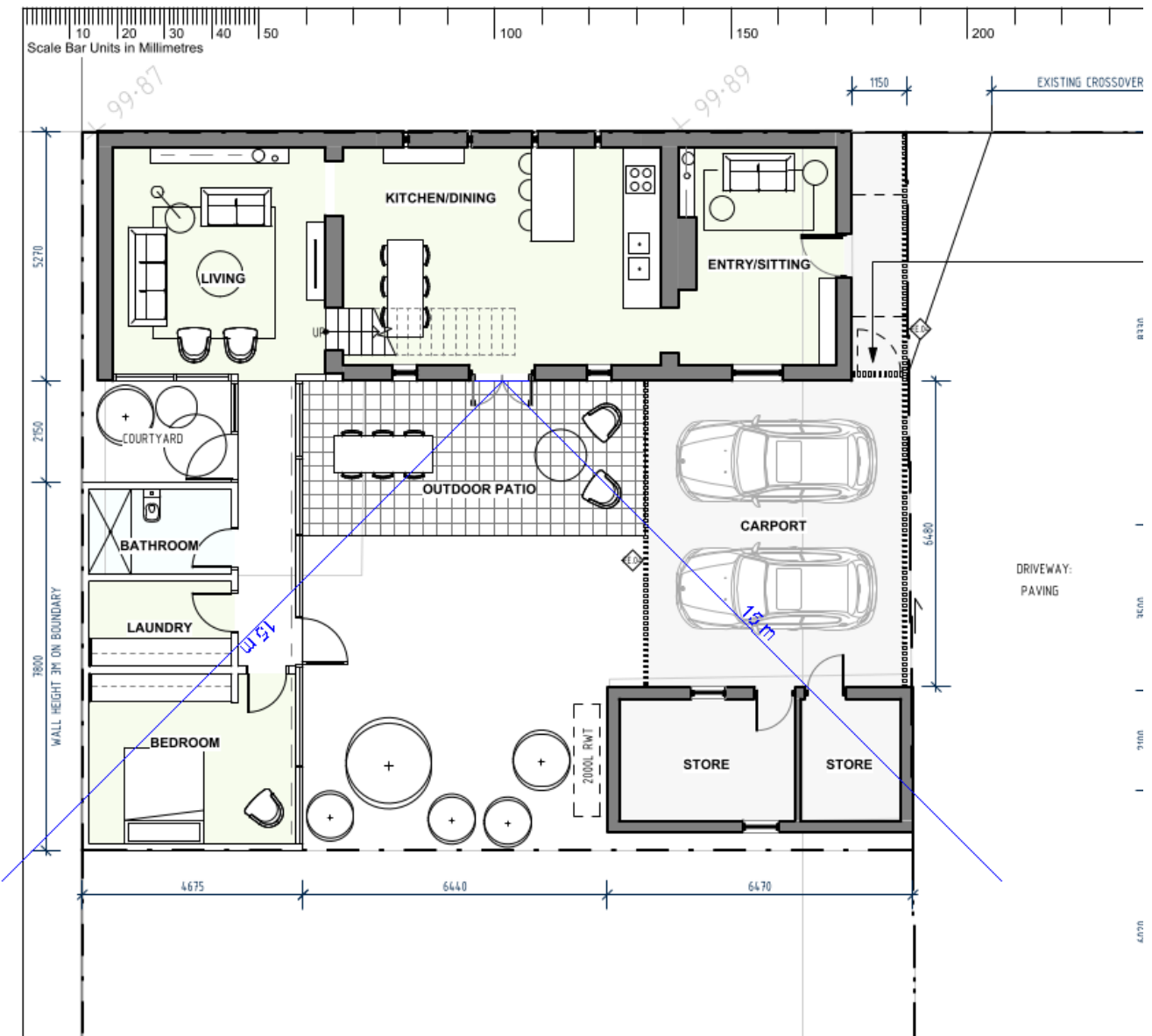
Privacy

Performance Outcome 10.1 of the Design in Urban Areas Module seeks for the following:
Development mitigates direct overlooking from upper level windows to habitable rooms and private open spaces of adjoining residential uses in neighbourhood-type zones.

“Direct overlooking” is defined 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 diagram below shows the direct overlooking cone from the upper floor window of the stables. Due to the format of the plans, this is shown on the ground floor floor plan of the stables, but reflects the position of the upper floor window.



As this shows, there would be only a minor amount of direct overlooking into the neighbouring property. There would be some internal direct overlooking into the vacant allotment, but this can be managed as part of the design of the dwelling on that allotment in future.

The rear windows of the mansion are more than 15m from the private open space or any windows of the stables. As such, it is not considered that there is any “direct overlooking” as defined by the Code, and no screening is required for these rear windows. The southern side windows of the mansion would have direct overlooking into the library allotment, and are 14.4m from the property boundary on the southern side of the library (i.e. the boundary that is external to the site). Given that these windows are both to bathrooms, it is likely that they would be frosted glass anyway, but a condition is recommended to require this regardless. The condition requires treatment rather than sill height, as the existing window frame should be maintained for heritage reasons.

The balcony on the Osmond Terrace frontage of the mansion does not need privacy screening as the longest side of it faces a public road that is more than 15m wide, in accordance with Design in Urban Areas DPF 10.2.

Traffic Impact, Access and Parking

All four allotments have the appropriate legal rights to use the access point from Gloucester Terrace, and the driveway area which would be shared between each dwelling. All three proposed dwellings

would have a carport from this shared driveway. The shared driveway is 6.2m wide; slightly narrower than the 6.2m generally used for laneways and the like, but it is considered that a vehicle can still reasonably conveniently turn around in a driveway of this width, allowing for forward-in-forward-out

movements from the site onto Gloucester Terrace, as well as for vehicles to pass each other.

The existing crossover shown on the plans is narrower than the driveway at approximately 4.1m. This is to accommodate the mature Queensland Box street tree. This tree was originally approved for removal as part of the land division application, but some 14 years later, it is considered that the tree's removal is not necessary to facilitate safe and convenient access to the site, and the tree does not need to be removed to facilitate the development.

In addition, the "library" dwelling shows the existing approved crossover and driveway which was approved under DA 23019832. The Stamped Plan from that application is included in the application documents for this application, to avoid doubt that this does not supersede or conflict with that existing approval.

Each dwelling is provided with two covered parking spaces, which exceeds the minimum requirements in Transport, Access and Parking Table 1.

Removal of a Significant Tree

Council's City Arborist has advised that the tree is "One of the *washingtonia* species, likely to be *filifera*". This tree is not native to the area, being native to California.

Regulated and Significant Tree Overlay PO 1.2 states:

Significant trees are retained where they:

- a) make an important contribution to the character or amenity of the local area*
- b) are indigenous to the local area and are listed under the National Parks and Wildlife Act 1972 as a rare or endangered native species*
- c) represent an important habitat for native fauna*
- d) are part of a wildlife corridor of a remnant area of native vegetation*
- e) are important to the maintenance of biodiversity in the local environment and / or*
- f) form a notable visual element to the landscape of the local area.*

It is not considered to provide biodiversity value, and so the only reasons for retention would be related to its amenity or landscape contribution (parts a or f). While the tree is quite tall, its canopy is very limited (as is the case with almost all palm trees). Given located centrally to the site, views of the tree are often obscured by buildings or other mature trees. As such, it is not considered to make an important contribution to the character or amenity of the area, nor does form a notable visual element to the landscape of the local area.

From a more practical perspective, it would broadly be reasonable that the library building would become a dwelling, as contemplated by the LMA and consistent with the Zone as above. If the library were to become a dwelling, this would then mean that the tree was within 3m of the dwelling, and the tree would cease to be regulated anyway, meaning that it could be removed without requiring approval.

Landscaping

The site plan provided generally lacks detail relating to proposed landscaping, but based on the areas not shown as paved or covered, and using the same basis for site area as for site coverage, the proposal would result in an overall soft landscaping percentage of 32% (543/1675sqm). Compared to the 25% sought by Design in Urban Areas DPF 22.1, this is considered ample.

While the Urban Tree Canopy Overlay does apply to site, the proposal would retain existing mature trees on the mansion allotment. The Urban Tree Canopy Overlay condition contemplates

both retention and planting, and each site would have a suitable area to plant compliant trees should it be required. The condition is considered sufficient to ensure compliance with the relevant provisions of the Overlay.

Site Contamination

The applicant has provided a Preliminary Site Investigation Report which is provided in **Attachment 1**. This report does not identify any Class 1 or 2 activities on the site, and therefore no referral to the EPA is required under Practice Direction 14, and under Part 9 of the Code. As a result, the site is considered suitable for residential use.

CONCLUSION

The application seeks a change of use for three historic buildings which have previously been used as offices, including the internal alteration of these buildings and the construction of new additions. This would also result in fencing and landscaping work including the removal of a significant tree, and the construction of several carports.

The fundamental notion of a change of use to residential in a primarily residential zone, in a wholly residential locality, is supported. This is contemplated and supported by the Land Management Agreement which was entered into when the land was initially divided into four allotments.

While more could be done, the proposal does not diminish the heritage value of the mansion as a Local Heritage Place. The alterations and additions are sufficiently sensitive to the heritage value of all three buildings that it is supported. Those additions are modest in scale, and would not unreasonably impact the amenity of neighbouring properties, or the streetscape.

The removal of the significant tree is also supported, as it is not considered to meet the retention criteria.

Overall, the application is considered to sufficiently accord with the provisions of the Planning and Design Code to warrant Planning Consent.

RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant Desired Outcomes and Performance Outcomes of the Planning and Design Code pursuant to section 107(2)(c) of the *Planning, Development and Infrastructure Act 2016*.
2. Development Application Number 24019620, by Booth Real Estate is granted Planning Consent subject to the following reasons/conditions/reserved matters:

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

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.

Condition 3

Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).

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

Either:

- a) Replacement trees must be planted within 12 months of completion of the development at the following rates:
- i) if the development relates to a regulated tree—2 trees to replace a regulated tree; or
 - ii) if the development relates to a significant tree—3 trees to replace a significant tree.

Replacement trees cannot be within a species specified under regulation 3F(4)(b) of the Planning, Development and Infrastructure (General) Regulations 2017, and cannot be planted within 3 metres of an existing dwelling or in-ground swimming pool; or

- b) Payment of an amount calculated in accordance with the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019 be made into the relevant urban trees fund (or if an urban trees fund has not been established for the area where the relevant tree is situated, or the relevant authority is the Commission or an assessment panel appointment by the Minister or a joint planning board, the Planning and Development Fund) in lieu of planting 1 or more replacement trees. Payment must be made prior to the undertaking of development on the land.

Condition 6

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 7

The upper floor windows to the southern elevation of the mansion 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 within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.

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), or works that require the closure of the footpath and / or road to undertake works on the development site, 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 removal of the significant palm tree has been granted planning consent on the basis that that its removal accommodates the reasonable development of the land, being the remainder of the development herein granted planning consent. The removal of the significant palm tree may only be undertaken once full development approval is obtained and only if the whole development is undertaken. If the development herein granted planning consent is not intended to be undertaken in full, then the significant palm tree cannot be removed.

Moved by Mr Rutt

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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.*

Condition 3

Rainwater tank(s) must be installed in accordance with DTS/DPF 1.1 of the Stormwater Management Overlay in the Planning and Design Code (as at the date of lodgement of the application) within 12 months of occupation of the dwelling(s).

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.

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- b) Payment of an amount calculated in accordance with the Planning, Development and Infrastructure (Fees, Charges and Contributions) Regulations 2019 be made into the relevant urban trees fund (or if an urban trees fund has not been established for the area where the relevant tree is situated, or the relevant authority is the Commission or an assessment panel appointment by the Minister or a joint planning board, the Planning and Development Fund) in lieu of planting 1 or more replacement trees. Payment must be made prior to the undertaking of development on the land.*

Condition 6

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 7

The upper floor windows to the southern elevation of the mansion 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 within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.

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), or works that require the closure of the footpath and / or road to undertake works on the development site, 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 removal of the significant palm tree has been granted planning consent on the basis that that its removal accommodates the reasonable development of the land, being the remainder of the development herein granted planning consent. The removal of the significant palm tree may only be undertaken once full development approval is obtained and only if the whole development is undertaken. If the development herein granted planning consent is not intended to be undertaken in full, then the significant palm tree cannot be removed.

**Seconded by Mr Moorhouse
CARRIED**

6. **DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT**
7. **REVIEW OF ASSESSMENT MANAGER DECISIONS**
8. **ERD COURT APPEALS**
9. **OTHER BUSINESS**
Discussion for training which will likely be in October but to be advised
10. **CONFIDENTIAL REPORTS**
11. **CLOSURE**

The Presiding Member declared the meeting closed at 7:27pm

Stephen Smith
PRESIDING MEMBER

Geoff Parsons
MANAGER DEVELOPMENT ASSESSMENT & REGULATORY SERVICES