

# Council Assessment Panel Minutes

**21 July 2025**

## **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  
175 The Parade, Norwood SA 5067

Telephone 8366 4555  
Email [townhall@npsp.sa.gov.au](mailto:townhall@npsp.sa.gov.au)  
Website [www.npsp.sa.gov.au](http://www.npsp.sa.gov.au)  
Socials [f /cityofnpsp](https://www.facebook.com/cityofnpsp) [@cityofnpsp](https://www.instagram.com/cityofnpsp)



City of  
Norwood  
Payneham  
& St Peters

1.	COMMENCEMENT AND WELCOME .....	1
2.	APOLOGIES .....	1
3.	CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON 23 JUNE 2025 .....	1
4.	DECLARATION OF INTERESTS .....	1
5.	DEVELOPMENT APPLICATIONS – PDI ACT .....	2
5.1	DEVELOPMENT NUMBER ID 23025642 - ANDREW KIRKBRIDE 80 - 82 FULLARTON ROAD NORWOOD .....	2
5.2	DEVELOPMENT NUMBER ID 25007549 - MARY BROOK 3 GOSS COURT ST PETERS .....	37
6.	DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT .....	44
7.	REVIEW OF ASSESSMENT MANAGER DECISIONS .....	45
7.1	DEVELOPMENT NUMBER – ID 25011891 - PROGETTO DESIGN 10 AMHERST AVENUE TRINITY GARDENS .....	45
8.	ERD COURT APPEALS.....	55
9.	OTHER BUSINESS.....	56
9.1	COUNCIL ASSESSMENT PANEL DELEGATONS UPDATE .....	56
10.	CONFIDENTIAL REPORTS .....	60
11.	CLOSURE .....	60

**VENUE** Council Chambers, Norwood Town Hall

**HOUR** 6.30pm

**PRESENT**

**Panel Members** Mr Stephen Smith  
Cr Kester Moorhouse  
Mr Paul Mickan  
Mr Ross Bateup  
Mr Julian Rutt

**Staff** Geoff Parsons - Manager, Development & Regulatory Services  
Ned Feary, Senior Urban Planner  
Marie Molinaro, Urban Planner  
Tala Aslat, Administration Officer  
Daniella Hadgis, Administration Officer

**APOLOGIES** Cr Christel Mex  
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 23 JUNE 2025**

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

4. **DECLARATION OF INTERESTS**

**5. DEVELOPMENT APPLICATIONS – PDI ACT**

**5.1 DEVELOPMENT NUMBER ID 23025642 - ANDREW KIRKBRIDE –  
80 - 82 FULLARTON ROAD NORWOOD**

<b>DEVELOPMENT NO.:</b>	23025642
<b>APPLICANT:</b>	Andrew Kirkbride
<b>ADDRESS:</b>	80 FULLARTON RD NORWOOD SA 5067 82 FULLARTON RD NORWOOD SA 5067
<b>NATURE OF DEVELOPMENT:</b>	Four storey mixed-use building comprising a medical centre (including café, shops, gym and consulting rooms), and 12 dwellings
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Suburban Business</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Future Road Widening</li> <li>• Hazards (Flooding)</li> <li>• Hazards (Flooding - General)</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Traffic Generating Development</li> <li>• Urban Transport Routes</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Maximum Building Height (Levels) (Maximum building height is 3 levels)</li> </ul>
<b>LODGEMENT DATE:</b>	7 Sept 2023
<b>RELEVANT AUTHORITY:</b>	Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) - Version 2023.13 - 31/08/2023
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Edmund Feary Senior Urban Planner
<b>REFERRALS STATUTORY:</b>	Commissioner of Highways Environment Protection Authority
<b>REFERRALS NON-STATUTORY:</b>	City Arborist Senior Traffic Engineer Consultant Hydrological Engineer

## 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:	Prescribed Body Responses
ATTACHMENT 3:	Zoning and Locality Map		
ATTACHMENT 4:	Representation Map		

---

## DETAILED DESCRIPTION OF PROPOSAL:

The proposal involves the construction of a four-storey mixed-use building, with a basement carpark.

The lower two (above ground) floors are for commercial use, including a café, pharmacy and florist at ground level, and a gym with a series of consulting room tenancies at Level 1. Levels 2 and 3 are set back from the floors below (which act as a podium), and these floors are residential, with 12 proposed dwellings:

- Four one-bedroom apartments;
- Four two-bedroom apartments; and
- Four three-bedroom apartments.

There are two separate car parking areas within the building, with most (14 out of 16) of the residential parking spaces provided in an above ground parking area, while the remaining two residential parking spaces, and 42 spaces for non-residential uses are provided across two levels at Lower Ground and Basement. For simplicity, the above ground parking area will be referred to as the “residential carpark” and the below ground parking area as the “non-residential carpark”.

The vehicle ramp for the non-residential carpark first goes up, rather than down towards the basement. This was deemed necessary in order to provide flood protection to the basement below, which will be elaborated upon in the Planning Assessment section.

## BACKGROUND:

Council’s Planning staff provided preliminary advice on an initial proposal in early of 2023, and an application was submitted on 31 August 2023, being lodged on 7 September 2023. A request for information (RFI) was issued by the Relevant Authority on the 8<sup>th</sup> of September, and an RFI was issued by the Commissioner of Highways on the 20<sup>th</sup> of September. These RFIs expired, but in order to allow the applicant time to respond, the application was placed “on hold”. A response was provided on the 26<sup>th</sup> of March 2024 and the application was taken off hold.

The RFI response revealed that referral to the Environment Protection Authority was required, with an additional fee sent accordingly on 29 March. This was paid on 16 May 2024, with the EPA providing their response on 3 July 2024.

After evaluating the RFI response, the applicant was advised of concerns with the application on 18 June 2024, with the application placed on hold again. Substantial changes were made to the proposal with a response provided on 22 August 2024 and a meeting held on 18 September to outline deficiencies in this.

A further meeting was held on 24 January 2025, where further issues were resolved. Amended plans were provided on 21 March, and the public notification period ran from 17 April-12 May 2025.

Unfortunately, after the initial RFI was not responded to within the timeframe, the further information was not received by the Commissioner of Highways due to an issue with the Development Application Processing system (DAP), with the Commissioner of Highways only receiving the updated application documents on 3 June 2025.

In the course of the assessment, it was noted that the Fullarton Road boundaries of both allotments did not “line-up”, despite the on-ground footpath alignment remaining the same. A survey provided by the applicant has confirmed that the line of the footpath is indeed on Council land, and the garden beds of 80 Fullarton Road are also on Council land. Noting the corner cut-off in the property boundary (which is, again, not reflected in the on-ground situation), it appears that the existing freestanding sign is also on Council land,

and the mature peppercorn tree (*Schinus areira*) straddles the property boundary, but is owned by the Council (though it is understood that the Council does not maintain this tree).

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 82 FULLARTON RD NORWOOD SA 5067

**Title ref.:** CT 6017/573

**Plan Parcel:** F100101 AL34

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

**Location reference:** 82 FULLARTON RD NORWOOD SA 5067

**Title ref.:** CT  
5078/808

**Plan Parcel:** F100101  
AL33

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

Shape:	Relatively square, with irregularities to allow for a corner cut-off
Frontage width:	48m to Fullarton Road, 41m to Boskenna Avenue
Area:	1984m <sup>2</sup>
Topography:	Rise of approximately 2m from north-south
Existing structures:	Existing office buildings, with circa 1980's single storey, flat roofed office building at 80 Fullarton Road, and an older (circa 1918) stone and brick cottage at 82 Fullarton Road.
Existing vegetation:	Site is mostly sealed: There is a hedge on Boskenna Avenue, a peppercorn tree which appears to go across both private and public land, and garden beds facing Fullarton Road and smaller beds with agapanthus further inset in the carpark.

### Locality

The locality is considered to extend some 90m east along Boskenna Avenue (to the intersection of North Street), 110m south along both sides of Fullarton Road (to the intersection with William and Angas Streets), and 80m north along both sides of Fullarton Road (to the intersection with Montrose Avenue). This is illustrated in **Attachment 3**.

The locality has a mix of land uses, with both residential and non-residential uses along both Fullarton Road and Boskenna Avenue. The distribution of these uses does not generally reflect the Zone boundaries, given the strip of Suburban Business Zone along Fullarton Road includes above ground apartments in a three-storey building at 94-96 Fullarton Road, and a series of non-residential uses in the Established Neighbourhood Zone along Boskenna Avenue. Including medium-scale offices and warehouses.

Fullarton Road has only one travel lane in each direction, but it is a relatively wide lane, and on-street parking is permitted outside of peak hours, when there is a very thin painted bike lane. It is a State-Maintained Road with a strong avenue of oak trees providing a highly notable tree canopy particularly on this northern end and on the eastern side, with trees in other parts of the street being younger. Buildings range in height from 1-3 storeys. The street has a relatively high degree of amenity for a State Maintained Road.

Boskenna Avenue is a narrow street (carriageway width of ~7.5m) with no lane markings. When there are parked cars are on both sides of the street, there is only room for one vehicle to pass. Parking is restricted with a series of permit and loading zones, timed no-standing zones and timed parking (either ½ or ¼ hour parking during business hours). The street has a relatively low-scale, mixed-use feel, with some two storey buildings on the northern side, but exclusively single storey buildings on the southern side. While there are many street trees, these are generally relatively small and do not provide the same degree of canopy coverage as the oak trees on Fullarton Road. It is generally considered to have a high degree of amenity nonetheless.

While not forming part of the streetscape, there is a group of units to the south-east of the site which are also part of the locality. These single-storey units, four of which are accessed via the laneway to south of the subject site, are understood to have been developed in the early 1980's, with vehicle parking areas on the north-western side of the site, closest to the Fullarton Road access lane, and the subject site. A number of privately-owned trees in this unit complex give it a strong level of tree canopy coverage.

In terms of sensitive receivers, the dwelling at 8 Boskenna Avenue is the closest at approximately 23m from the subject site, presuming that the actual dwelling is the relevant place to consider; i.e. discounting the vehicle parking and manoeuvring areas of the aforementioned units, though these are also 23-30m from the site.

### CONSENT TYPE REQUIRED:

Planning Consent

### CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Other - Commercial/Industrial - Indoor Recreation Facility (gym): Code Assessed - Performance Assessed  
New housing  
Consulting room: Code Assessed - Performance Assessed  
Shop: Code Assessed - Performance Assessed  
Residential flat building: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
P&D Code; Building exceeds the three-storey height TNV

### PUBLIC NOTIFICATION

- **REASON**  
Application exceeds the three-storey building height TNV
- **LIST OF REPRESENTATIONS**

First Name	Surname	Address	Position	Wishes to be heard?
Mark	Daniel		Supportive, with concerns	No
Jolanda	Visser		Supportive, with concerns	No
Leonore	Scott		Supportive, with concerns	Yes
Grant	Smith		Supportive, with concerns	No
Rosemary	Abbott		Supportive, with concerns	No
Louise	Heesom-Smith		Supportive, with concerns	Yes
Jehad	Rasheed		Opposed	Yes
Sandy	Nash		Opposed	No

- **SUMMARY**

Key issues raised by representors included construction disturbance, traffic/parking and some, more limited, concerns around building height and associated impacts.

While the latter points will be addressed further below, it is noted that there are no policies in the Planning and Design Code relating to construction disturbance. Nonetheless, in order to seek to manage impacts during the construction phase, and to deal with potential nuisances in an orderly manner, a Reserved Matter is recommended for a Construction Environment Management Plan (CEMP) to be provided prior to Development Approval, ensuring that Council and the developer can appropriately coordinate to minimise such disturbance.

## AGENCY REFERRALS

- Commissioner of Highways

Referrals to the Commissioner of Highways were required both due to the Future Road Widening Overlay and the alterations to access within 25m of a State Maintained Road. As mentioned above, an issue with the DAP meant that the Commissioner of Highways received the amended plans very late, but a response was nonetheless sought with urgency.

They advised that they had no objection to the development subject to a series of conditions. This is outlined in their referral response in **Attachment 7**.

- Environment Protection Authority

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 (PSI) 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. The EPA were satisfied that the PSI provided suitably demonstrated that the site can be made suitable for its intended purposes, but further work will be necessary to achieve this. The EPA has directed a series of Conditions and Advisory Notes accordingly.

## INTERNAL REFERRALS

As internal advice was provided at various stages through the assessment, relevant advice is quoted or referred to as necessary, rather than being provided in an attachment, as the timeline and formats would cause further confusion.

- Matthew Cole, City Arborist

Council's City Arborist has provided comments regarding the impacts on a series of street trees around the site. These are addressed in the Planning Assessment section of this report.

- Rebecca Van Der Pennen, Senior Traffic Engineer

Council's Senior Traffic Engineer provided commentary throughout various iterations of the project. Their concerns will be addressed in the Planning Assessment section of this report.

- External Hydrological Engineer, Tonkin (Flooding)

Advice was received from Council's external hydrological engineer in April of 2024. They advised that an amendment to the proposed stormwater management system was required and provided advice on flood levels and associated freeboard required. This will be discussed in more detail in the relevant sections of the Planning Assessment section of the report below.

## 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 comprises a four-storey mixed use building including a café, medical centre and 12 dwellings. It is located in the Suburban Business Zone. Development of this nature is appropriate within the site, locality or in the subject Suburban Business Zone for the following reasons.

- The Zone envisages that, “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.” (PO 1.1)
- The proposal includes such non-residential uses;
- The proposal's residential component achieves a medium density, and is sited above the non-residential component, but is not so substantial as that the non-residential component is subordinate; and,
- The proposal exceeds the height TNV by only one level.

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 and Density

The Suburban Business Zone is, as the name suggests, predominantly oriented towards business uses, with complimentary medium-density residential development.

PO 1.1 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.”*

Clearly the shops and consulting rooms are consistent with these PO's given that they are specifically mentioned in PO 1.1. The gym (indoor recreation facility) is less directly envisaged, but the PO clearly envisages a range of other non-residential uses. The note regarding industry that it should be “low-impact” is a generally reasonable principle upon which to determine what other uses may be acceptable i.e. is their impact acceptable? This is a question that will be explored further in other sections below, but it is considered that the gym's impact is not unreasonable, and therefore it is acceptable.

PO 1.2 elaborates on this in terms of the non-residential development:

*“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.”*

With regard to the intensity/scale of these uses, DPF 1.2 suggests a gross leasable floor area of 500sqm. Noting that the proposed development consolidates two existing sites, which could theoretically have 500sqm GLFA each, it is considered that this would mean a GLFA of 1000sqm for this site. The proposal seeks approximately 1127sqm of GLFA, which, while not a “minor” exceedance, is not so substantial as to render it outside the realm of what is envisaged by the Zone.

With regard to the residential component of the development, PO 1.3 provides further guidance:

*“Compact, medium density residential development does not prejudice the operation of non-residential activity within the zone.”*

It should be noted that the Code does not define “medium density”; while “medium net residential density” is defined, the State Planning Commission and case law has made clear that these terms should not be conflated. Nonetheless, the proposal results in a residential density of 60 dwellings per hectare which is within the 30-70 net dwellings per hectare that this definition provides for. This definition is consistent with the administration's understanding of the term ‘medium density’.

The question then falls to the second part of this PO, as to whether it prejudices the operation of non-residential activity in the zone. Given it is positioned above the non-residential uses, it is clearly intended for the uses to co-exist, and the land use is not of such intensity that it displaces the non-residential uses from the Zone. Moreover, the “strip” nature of the Zone means that this does not represent any additional residential “encroachment” in that it will not bring residential uses closer to any non-residential uses than is already the case.

### **Building Height**

The Technical and Numeric Variation (TNV) for the locality identifies a maximum of three building levels; however, the proposed development comprises four storeys above ground. **Zone PO 3.1** anticipates that:

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

Although “low-rise” is defined as up to two levels, the use of the term “generally” provides flexibility for greater building heights in appropriate locations. This is clearly anticipated, given that the TNV of three levels reflects a “medium rise” height. While that PO anticipates higher buildings in the centre of the Zone, this Zone is applied as a “strip” along a series of arterial road corridors, so there is no “centre” as such.

It is noted that the three-level TNV reflects earlier policy under the Development Plan in the Norwood West Policy Area of the Business Zone, where:

*“Building heights should not exceed two (2) storeys, except mixed-use buildings incorporating residential development, located on sites fronting arterial roads, which should not exceed three (3) storeys”*

The Zone also includes DPFs with building envelopes to mitigate impacts on residential development (DPF 3.2 and 3.3). The applicability of these is limited since the Zone boundary is the rear (eastern) boundary, but the site to the southeast is the only adjoining residential use in a neighbourhood-type zone. While the development does not wholly comply with these given the two-storey podium extends to the eastern boundary, it should be noted what adjoins that boundary.

The units mentioned in the locality section would be the most impacted visually by the development. The private open space of these units is oriented to the south-east, so it is only the carparking/manoeuvring area of these units where outlook and shadowing impacts would be relevant.

Therefore, the additional level has a limited impact, and it is consistent with the spirit of the PO in minimising impacts on residents.

While a four-storey form is not otherwise found in the locality, there is one three-storey building. That building does not have the same podium and setback arrangement as this proposal, instead using a cantilevered balcony for the first floor. The podium design on the proposed building further minimises the impact of the upper floors so that the building fits into the surrounding context more appropriately.

Overall, despite the non-compliance with the TNV, it is considered that the development does meet PO 3.1 of the Suburban Business Zone.

### **Setbacks, Design & Appearance**

Performance Outcome 2.1 of the Suburban Business Zone states:

*“Building scale and design complement surrounding built form, streetscapes and local character.”*

Performance Outcome 2.2 of the Suburban Business Zone states:

*“Development with high visual and environmental amenity, particularly along arterial roads and the boundaries of adjoining zones is primarily intended to accommodate sensitive receivers.”*

The development is designed with a two-storey podium, and the upper two floors set back further behind this podium. The podium has a darker colour scheme, with a much lighter scheme for the upper floors. The podium is therefore designed to be the element that draws the eye, while the upper floors are more recessive. This design, which emphasises the two lower floors in order to deemphasise the upper floors, allows the building to complement the surrounding built form despite its height.

The podium includes articulated elements and a terrace, which provides shape and interest to the street frontage. The landscaping in front of this also promotes greater environmental amenity.

As mentioned above, Designated Performance Features 3.2 and 3.3 of the Zone relate to building envelopes, with the associated Performance Outcomes stating:

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

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

As discussed in previous sections, the dwelling to the east on Boskenna Avenue is separated from the site by a warehouse, so the impacts of the development will be more limited. The units to the south will also have a limited impact given the orientation of these units away from the subject site.

Performance Outcome 3.4 of the Zone discusses front setbacks:

*“Buildings are set back from primary street boundaries to contribute to a consistent streetscape.”*

The front setbacks in the Fullarton Road streetscape are relatively inconsistent but are generally less than 6m. The proposed development is set back 5m from the footpath (again noting the inconsistent front boundary lines), which is broadly consistent with the front setbacks in the street.

Performance Outcome 3.5 relates to secondary street setbacks:

*“Buildings are set back from secondary street boundaries (other than rear laneways) to contribute to a consistent streetscape.”*

The proposed Boskenna Avenue setback is also around 5m, placing it between the verandah and the building line of the adjoining warehouse. This presents a relatively consistent appearance.

Performance Outcome 3.6 relates to other side boundaries, while PO 3.7 relates to rear setbacks:

*“Buildings are set back from side boundaries to maintain adequate separation and ventilation”*

*“Buildings are set back from rear boundaries to minimise adverse impacts on adjoining land uses.”*

Given the relatively square shape of the subject site, it does not have a traditional “side” or “rear”, but both policies seek to control impacts on adjoining land uses. To the south of the site, a laneway separates it from the existing shop, so the impacts here are relatively minimal. Impacts to the southeast have already been discussed.

The site immediately to the east is a single storey warehouse with a boundary wall along the vast majority of its frontage. There is already a lack of separation and ventilation as a result of this, so the fact that the proposal includes a two-storey boundary wall here is not considered to adversely affect the warehouse.

Design in Urban Areas Performance Outcome 1.1 states:

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

The subject site is in an interesting position whereby due to the private lane on the southern side, it has corners that should be “reinforced” on both sides of the front (Fullarton Road) elevation. The shaping of the terrace does reinforce the corners on both sides, though this is imperfect.

Given the curve on the southwestern corner, there is an argument that the podium elements should be “swapped” to provide greater reinforcement to the Boskenna Avenue corner as this is the “higher order” corner, but this is not considered fatal to the application.

Performance Outcome 1.3 of the Design in Urban Areas module states:

*“Building elevations facing the primary street (other than ancillary buildings) are designed and detailed to convey purpose, identify main access points and complement the streetscape.”*

The pedestrian entry points on both the Fullarton Road and Boskenna Avenue frontages are clearly visible given the stairs leading to them and the design of canopies and projections emphasising areas of the building’s form.

The residential carpark entry is minimised in prominence given its narrower width, directing visitors to the larger entry point, which is also made clearer through signage.

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

*“The negative visual impact of outdoor storage, waste management, loading and service areas 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 proposed services/bin area is screened behind a fence and gate, ensuring that these are not publicly visible.

While loading and unloading using the public realm would clearly mean some level of visibility for the public, this would only be for limited times, which is not considered unreasonable.

There is a further series of Performance Outcomes from Design in Urban Areas PO 12.1-12.8. Without reciting each one, the development is generally consistent with these policies, given:

1. The two-level podium is consistent with surrounding built forms;
2. The glazing on the podium levels provides connectivity with the pedestrian environment
3. The landscaping between the building and the street frontages softens the impact of the building, creating a more pleasant pedestrian environment;
4. The projecting parts of the building either side of the western entrance break the façade up into different elements, minimising its overall scale;
5. The pre-cast concrete walls are expected to be relatively durable given Adelaide’s dry climate and the impact this has on the aging of concrete;
6. Similarly, the colorbond roof will also be relatively durable; and,
7. Plant and equipment areas are sited away from public view.

## **Overlooking, Overshadowing, Occupant Amenity and Private Open Space**

### Overlooking

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."*

With roads to the north and west, there would be no overlooking in these directions. To the east, the nearest residence is more than 15m away, so there would be no overlooking in this direction either. Directly to the south is another commercial property, so again, this is not relevant. For the dwellings to the southeast, there may be some direct overlooking of the carparking area, but given the dwellings are more than 15m from the site, again, there would not be any direct overlooking.

Therefore, the development does not result in any direct overlooking, as it is defined in the Code.

#### 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."*

With the site to the south being a commercial land use, there are no such north-facing windows of residential land uses which could be affected by the development.

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. 35m<sup>2</sup> 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."*

Similarly, there is no such private open space to be affected because the siting of the development in comparison to the nearby residences.

#### 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.*

The balconies benefit from the additional setbacks for the upper levels, allowing use of the podium level for the 3<sup>rd</sup>-floor balconies. Similarly, the top floor balconies mostly use areas above the living areas of the floor below, creating an overall cohesive external appearance.

All Fullarton Road-facing dwellings are setback 10 metres from the footpath, providing sufficient acoustic protection from the traffic of Fullarton Road for bedrooms and internal living areas. Noise shielding is also provided by the street trees and the landscaping to be planted in the planter boxes.

The elevations of the balconies that face Fullarton Road have 1m high balustrades to maintain occupant amenity while still providing opportunities for passive surveillance of the public realm. On the Boskenna Avenue side, these are increased to 1.6m for greater privacy.

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 twelve dwellings is provided with either a built-in or walk-in robe, for storage purposes. 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 outlines the expected areas and minimum dimensions for private open space areas. The table below describes each dwelling’s performance against these criteria.

Dwelling #	# of bedrooms	Code Area Guideline	Total Private Open Space	Code Min. Dimension Guideline	Minimum Dimension Provided
1	2	11 m <sup>2</sup>	84 m <sup>2</sup>	2.4m	2.4m
2	2	11 m <sup>2</sup>	65.5 m <sup>2</sup>	2.4m	3.4m
3	1	8 m <sup>2</sup>	41.9 m <sup>2</sup>	1.8m	3.7m
4	3	15 m <sup>2</sup>	73.2 m <sup>2</sup>	2.6m	2.3m
5	3	15 m <sup>2</sup>	63.7 m <sup>2</sup>	2.6m	2.4m
6	1	8 m <sup>2</sup>	30.5 m <sup>2</sup>	1.8m	3.2m
7	2	11 m <sup>2</sup>	25.8 m <sup>2</sup>	2.4m	2.25m
8	2	11 m <sup>2</sup>	18.65 m <sup>2</sup>	2.4m	1.4m
9	1	8 m <sup>2</sup>	11 m <sup>2</sup>	1.8m	3.2m
10	3	15 m <sup>2</sup>	23.3 m <sup>2</sup>	2.6m	2.25m
11	3	15 m <sup>2</sup>	37.2 m <sup>2</sup>	2.6m	2.25m
12	1	8 m <sup>2</sup>	35.9 m <sup>2</sup>	1.8m	2.25m

As can be seen, the provided areas are all in excess of what the Code expects, sometimes substantially, but some minimum dimensions are below the guidelines of Table 1. Nonetheless, with the additional area, there is sufficient space to accommodate outdoor seating on the respective balconies. While apartment 8 is the most challenged in this regard, it has a larger section in the corner which would provide sufficient space.

Of greater concern is that the balconies of apartments 7 and 8 cannot be accessed from the living room and instead can only be accessed from the bedrooms. While the Code does specify for most dwellings that there is a guideline for how much private open space must be directly accessible from a living room, this guideline is not applied to dwellings which are above ground level. Whether this was intentionally envisaging that this requirement would not apply is unclear, but it is considered that this does result in an overall preferable layout and is a worthy sacrifice.

As such, each dwelling is provided with suitable sized areas of usable private open space to meet the needs of occupants per Performance Outcomes 27.1 and 28.3.

### **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 includes two access points on Boskenna Avenue (one double width for the non-residential carpark, and one single width for the residential carpark), while reinstating two access points on Fullarton Road to upright kerb and gutter.

Regarding queuing, the two-way nature of the non-residential carpark access allows for vehicles to pass each other, preventing queuing issues. The residential car park has only a single-width access, commensurate with the lower traffic volumes through this section. In order to manage this, a stopping line is proposed in a wider section of the carpark, with a traffic light system to prevent vehicle conflicts using the single-width access. A Reserved Matter is proposed to confirm the exact details of this, the resolution of which is proposed to be delegated to the Assessment Manager, who will accordingly consult with Council's Traffic Engineers.

The applicant's traffic report provides swept-path turning diagrams demonstrating suitable manoeuvrability from each access point. The Commissioner of Highways raised concerns in their referral response that when vehicles are parked in the loading zone and on the opposite side of the road, manoeuvring into Boskenna Avenue would be difficult. Swept path diagrams have confirmed that, allowing for a B85 vehicle and 2.1m from each kerb to represent parked vehicles, if a yellow line extends 1.7m to the west of the proposed crossover, this manoeuvre would no longer conflict with the parked vehicles. Reducing the length of the loading zone in this manner would not make it any less functional, as Council's Senior Traffic Engineer advised that 12.5m is the standard length of a loading zone, and the additional line length would allow for

14m of space in the loading zone (note also that the excess length either with or without the additional yellow line would not allow for an additional on-street parking space).

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. Boskenna Avenue is a street with a mix of land uses, but is notably in the Established Neighbourhood Zone, and the siting of the access points results in all vehicles exiting the site onto Boskenna Avenue. Furthermore, large refuse vehicles and any large delivery vehicles (if required) will need to service the site from the existing loading zone on Boskenna Avenue, contrary to this Performance Outcome.

Despite this, the crossover on Boskenna Avenue is located closer to Fullarton Road than any of the dwellings with a frontage to Boskenna Avenue, meaning most vehicles using the site will not travel down the residential part of Boskenna Avenue.

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.”*

There is an existing side entry pit and a Telstra pit on Boskenna Avenue, but the proposed access points provide more than the standard 500mm of separation from these pits.

There are also street signs (one parking sign and one speed limit sign) which would need to be relocated given the position of the new crossover. Council's Regulatory Services team have advised that this is possible, and Council's Works Coordinator, Civil Maintenance has provided a quote for the work, the fee for which is applied by condition.

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.”*

Performance Outcome 1.4 of the Transport, Access and Parking module 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 11.4 of the Design in Urban Areas module states:

*“Communal waste storage and collection areas are designed to allow waste and recycling collection vehicles to enter and leave the site without reversing.”*

These policies imply an expectation from the Code that an on-site loading area is provided separately from car parking areas, which is not the case in this proposal. The applicant explored this and the only manner by which such a loading area could be provided was by reworking the waste area such that a truck could reverse into this area. However, the Code explicitly expects that such reversing movements are unsafe and should be avoided. As a result, the applicant has proceeded with the proposal without such a loading area.

Boskenna Avenue currently has an on-street loading zone directly adjoining the site. Council's Traffic Engineer made the following comments in this regard:

*“It is also noted that all waste bins will need to be moved across both site crossovers to the on-street loading zone.”*

*The addition of all deliveries to site relying on this on-street loading zone also creates conflict with pedestrians and the access to all the commercial sites from the loading zone requires the use of the adjacent stairs...*

*It is also noted that the loading zone will not be labelled for use for the site only and it may be utilised by others. This may cause ongoing issues for the operation of the site."*

While these issues are noted, and it seems that the development does not accord with these policies, it is considered that there is no reasonable alternative, and the on-street loading as proposed is not so concerning that it would warrant refusal of the application.

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 proposed building is set substantially back from the corner of Boskenna Avenue and Fullarton Road, and the property boundaries provide a corner cut-off regardless. There is not considered any sight distance issue at this intersection.

Sight distance internally from the relevant access points has also been considered, and diagrams from the applicant's traffic engineer demonstrate that appropriate sight distances can be achieved.

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 proposal includes three accessible parking spaces immediately adjoining the lift areas in the centre of the building, avoiding any need to walk/wheel through areas with vehicles. Accessible pedestrian entry is provided from Fullarton Road through the west entry, in the same manner as most pedestrians would enter 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 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.

It is noted that the site is within a "high frequency transit area" as per Table 2, due to being within 200m of The Parade. 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 Business 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 <sup>2</sup> GLFA	$3 \times 11.27 =$ <u>33.81 spaces</u>	37.77 spaces	38 spaces*
Dwelling Visitor Parking	Table 1	0.33 visitor spaces per dwelling	$0.33 \times 12 =$ <u>3.96 spaces</u>		
Dwelling	Table 1	1 space per one- or two- bedroom dwelling  2 spaces per three- bedroom dwelling	$(4 \times 2) + 8 =$ <u>16 spaces</u>		16 spaces*

\*despite the two different car parking areas generally being referred to as “residential” and “non-residential”, three residential parking spaces are provided within the non-residential car park at the “Basement L1” level, and two at the “Basement L2” level. Similarly, residential visitor spaces are provided within the “non-residential” car park.

Therefore, the development provides off-street car parking at a rate consistent with the Code’s expectations.

Regarding the functionality of these spaces, there are some notes to be made. The original proposal included more spaces in the residential carpark, but it was noted by Council’s Senior Traffic Engineer that these would be inconvenient to manoeuvre in and out of. Consistent with advice from the applicant’s traffic engineer, a series of spaces in the residential carpark have been amalgamated in order to ensure that the manoeuvring here is functional. In order to fit these spaces in around the structural elements of the building, some parking spaces are very wide compared to what may be considered normal, but as noted, additional spaces would not be functional.

Further, Council’s Senior Traffic Engineer raised concerns that a vehicle which entered the non-residential carpark and found it full would struggle to turn around to be able to exit the car park. To this end, the applicant has amalgamated what were originally intended to be two parking spaces, and these are instead to be a turnaround bay (designated “no parking” in the Basement L2 plan). This is considered to suitably address this concern.

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. café)	1 space per 300m <sup>2</sup> GLFA, plus 1 space per 600m <sup>2</sup> GLFA	$342\text{m}^2/300=1.14$	9
Indoor Recreation Facility	1 space per 4 employees, plus 1 space per 200m <sup>2</sup> of GLFA	1+	

Consulting Room	1 space per 20 employees plus 1 space per 20 consulting rooms for customers	Unknown	
Dwelling	1 space per 4 dwellings, plus 1 space per 10 dwellings for visitors	3+1=4	11

While the number of employees is not yet known, the proposal provides sufficiently substantial bike storage that it is likely to be sufficient for the purposes of this PO.

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 residential bike storage is in the car park, which is suitably secured and is a communal space with passive surveillance and lighting. The public bike park on the southern side of the building is relatively visible through the southern entrance and from the public realm looking down the laneway. This is considered suitable.

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.”*

Bathrooms (including an accessible bathroom which may be used for changing) are provided immediately next to the public bicycle storage area. A dedicated changing area is also provided in the gym. While limited, this is generally sufficient given the size of the development.

## 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.”*

Much of the soft landscaping on the existing site is in fact on Council land as outlined in the background section. There is no determination from Council as to how this land would be managed post-development.

The development includes notable soft landscaping areas on the western and southern sides, with some additional landscaping on the northern side (though this is to a lesser extent). The site has a total ground level soft landscaping area of 221.7m<sup>2</sup> or 11.2%.

Performance Outcomes 13.1-13.3 of the Design in Urban Areas module states:

*“Development facing a street provides a well landscaped area that contains a deep soil space to accommodate a tree of a species and size adequate to provide shade, contribute to tree canopy targets and soften the appearance of buildings.”*

*“Deep soil zones are provided to retain existing vegetation or provide areas that can accommodate new deep root vegetation, including tall trees with large canopies to provide shade and soften the appearance of multi-storey buildings.”*

*"Deep soil zones with access to natural light are provided to assist in maintaining vegetation health."*

There are two associated Designated Performance Features:

*"Buildings provide a 4m by 4m deep soil space in front of the building that accommodates a medium to large tree, except where no building setback from front property boundaries is desired."*

*"Multi-storey development provides deep soil zones and incorporates trees at not less than the following rates, except in a location or zone where full site coverage is desired."*

- Site area > 1500m<sup>2</sup>, 7% site area, minimum dimension 6m, 1 large or medium tree in a deep soil zone of at least 60m<sup>2</sup>"

With the basement carpark, deep soil zones are more limited, particularly in terms of their minimum dimensions. At the southwestern corner a zone of approximately 60m<sup>2</sup> is provided, but this has a minimum dimension of only 2.7m. Other areas also fail to comply with the minimum dimensions such that they would not be overly useful.

The planting schedule provided outlines a series of sun tolerant (given the northern and western orientations of much of the landscaping) native plants which contribute to biodiversity.

Additional built-in planter boxes are proposed for the residential balconies, separating each apartment. A condition is proposed to ensure that these are installed prior to occupation of the apartments.

Performance Outcome 13.4 of the Design in Urban Areas module states:

*"Unless separated by a public road or reserve, development sites adjacent to any zone that has a primary purpose of accommodating low-rise residential development incorporate a deep soil zone along the common boundary to enable medium to large trees to be retained or established to assist in screening new buildings of 3 or more building levels in height."*

No such Zone has been provided in this case due to the adjoining land use to the east being non-residential, and the carparking areas to the southeast meaning that such screening is not wholly necessary to reduce the impact of the development. Orienting these landscaping areas to face the public realm instead provides an overall better outcome for amenity.

On balance, the proposed development is somewhat short of the Code's expectations on soft landscaping due to the lack of deep soil zones. However, the DPFs in this case would be almost impossible to achieve on this site, particularly noting the basement carpark. This being the case, the landscaping that is proposed is considered to reasonably achieve the intent behind the Code's policies while still providing an appropriate development outcome.

#### Tree Damaging Activity

The proposal involves the removal of two trees:

- Red Mallee (*Eucalyptus socialis*) on Boskenna Ave;
  - Applicant had initially intended to not to remove this street tree, but further investigation revealed this to be impractical.
  - The tree is relatively small with a fair structure and form, and good health.
  - Its overall amenity contribution is somewhat limited by its size.
- Peppercorn Tree (*Schinus areira*) in the corner cut off
  - This large, mature tree was initially understood to be on private land, and being an exempt species it was considered that this essentially did not form part of the DA.
  - Further investigation suggests that this is, in fact, on public land (though it does somewhat straddle the boundary).
  - By contrast to the Red Mallee, this tree's amenity value is substantially increased due its size.

The applicant intends to retain two large, significant, English Oak trees (*Quercus robur*) on the Fullarton

Road frontage. The applicant's arborist report (in **Attachment 1**) from Tom Richardson of *Arborman* outlines measures to mitigate impacts on these trees, which he believes will be sufficient to protect them during construction. This involves a tree protection zone, and utilising a construction technique called sheet piling. Mr Richardson described this technique:

*From my understanding the sheets are driven into the ground first and then the subject area is excavated out, this would mean that any roots present would be cut by the sheet as its driven in the ground but they would remain in their natural environment and would regrow from the point of severance more importantly absorbing roots would regrow they are small, non-woody roots with root hairs or a mycorrhizal association and no bark, responsible for the uptake of most of the water and solutes used by the tree.*

*Absorbing roots are less than two millimetres in diameter and frequently only absorb for a few weeks before they are replaced by new absorbing roots. (AS4970-2025)*

Council's City Arborist, Matthew Cole, disagrees that this would be sufficient:

*When considering the comments and information provided, I remain of the opinion that the suggested Tree Damaging Activity required to facilitate this development will result in the irreversible decline and eventual complete dieback / mortality of both oak trees at this stage.*

*Regarding sheet piling, the level of pruning required to position machinery and materials required, prior to 'sheets' being driven into the ground will require substantial pruning (wounding) to the trees crown. The process of driving the sheets through the tree's root plate at that distance to the centre of the tree(s) has the potential to temporarily destabilise the trees, prior to their expected dieback.*

*I do not agree with the information provided by Arborman to this point that the development is unlikely to damage the trees to the point of mortality. I do not think the value of the avenue has been appropriately considered and I am of the opinion the approx. 100 year old stand of trees is too valuable to the community and people using the area to risk the eventual removal of the trees that I believe at this point is likely outcome.*

*If it would be of assistance I can calculate the value of the trees, and the value of the stand combined to assist with a risk v reward decision. This could be done by an independent or two for a low cost. Further, we could engage an independent opinion from any of the four independent arb. consultants to provide you with a second opinion.*

*Alternatively, it would be an idea to hydro excavate the outer edge of the construction zone (within the two oak trees TPZ) to determine the level and size of tree roots that will be severed as a result of this construction technique.*

*My opinion this is the only way a proper assessment can be made as to what impact the development will have to the trees, this must be done before any above ground pruning and from there, if the project is deemed appropriate and Arborman (or the like) are of the opinion the trees can be retained, a Tree Protection Management Plan must advise on how each of the construction stages within the TPZ can be carried out without having an unnecessary adverse impact to the two oak trees.*

*For discussion, I remain concerned on the potential for this project to continue chipping away at the canopy cover of the SW quadrant of Norwood. As you know a very large gum tree was recently removed in the Britannia Hotel car park nearby, a second very large gum was recently removed from a rear property 52 Charles Street and last year just prior legislation change many large (what would now be significant) trees were removed from the large property 27 William Street.*

*I note this development requires the removal of a large peppercorn tree and a small street tree also. These trees cannot ever be replaced with large trees.*

*Lastly, the stand of oak trees on Fullarton Road is a unique stand, potentially an avenue of honour, that*

*requires a different lens to a standard assessment of Tree Damaging Activity to Significant tree. The species is a very slow growing one, removal and replacement option should be avoided, approx. 25 years before an English oak tree would provide substantial amenity and worthwhile contribution to the avenue.*

While Mr Cole's opinion is noted and appreciated, in this case, the opinion of Mr Richardson is preferred.

As noted in Mr Richardson's report, the area of excavation for the basement carpark is entirely within the already sealed area; either under the existing building or the existing carpark. Mr Cole noted the presence of some roots in this existing carparking area, suggesting some degree of permeability of this area. However, on balance, it is unlikely that these roots are taking up so much of the tree's nutrients that they are essential. The TPZ encroachments are only 7% and 12% based on the Australian Standard; though Mr Cole is of the view that some level of "offset" is required given that 50% of the TPZ is under the roadway and would therefore also be contributing little to the tree's health. It is noted that the Australian Standard considers a TPZ encroachment of up to 10% to be "minor", and Mr Cole's position regarding TPZ offsets is not reflected in the Australian Standard.

Additionally, while Mr Cole's concerns regarding the extent of crown pruning and the manner by which roots are severed is noted, Mr Richardson's explanation of the nature of these roots and their regrowth is preferred. Regarding crown pruning, Mr Richardson supplied two photos indicating the extent of pruning required, approximately 8m from the centre of the trunk, shown below:



While this pruning is notable, I prefer Mr Richardson's view that this would not result in the mortality of the tree, provided that other measures are taken to prevent further soil compaction in the remaining TPZ.

As a result, two conditions are recommended, which:

1. Require payment to Council for the removal of the Red Mallee tree and the Peppercorn tree; and,
2. Establish tree protection measures for the two English Oak trees.

#### 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 ground level tenancies include a high degree of fenestration to encourage passive surveillance of the public realm. Similarly, the outdoor dining area associated with the café is raised to provide a greater vantage point over the public realm, without dominating it. The 1m tall balustrade defines space and protects diners from falling over the raised edge, without compromising that interface with the public realm.

The foyer area for the residential units is integrated into the non-residential foyer areas in order to provide a complimentary degree of passive surveillance. The north and west entries are both clear from the public realm, and the south entry is also relatively open given the lane to the south.

The proposal therefore achieves the outcomes sought by these Performance Outcomes.

#### Noise Emissions

The applicant has included notes that outline a series of noise management measures for the gym including:

- Soundproof ceiling insulation;
- Soundproof wall insulation;
- Double or otherwise soundproofed glazing; and,
- Limited hours of operation to between 9am-7pm.

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 dwellings. However, the other land uses on Level 1 are not anticipated to generate substantial noise (especially outside of business hours) and the measures outlined for the gym go some way to minimising impacts. The 10m setback from the Fullarton Road frontage of the site, for all dwelling walls, provides good separation from the road for these dwellings, with the street trees and landscaping also reducing noise.

With respect to noise from the land uses, the café, pharmacy, florist and consulting rooms 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 the café, but the additional setback for the dwellings will again minimise this potential, and the nearest sensitive receivers outside of the site are well separated.

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 outlined in the locality section, the site is relatively well separated from any sensitive receivers. The noise from vehicles on Fullarton Road is likely to be noisier than the land uses on the site given their siting and nature, with the café facing both road frontages at the corner most separated from sensitive receivers.

The gym is the only use likely to generate notable noise, but with the siting of this and the additional measures taken to mitigate noise, this is considered to be sufficient.

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 development proposes two separate car parking areas located within the building, meaning that noise associated with these will only have impacts internal to the building. With the separation between the car parks and the residential uses in the proposal, these will have little noise impacts.

As outlined above, the applicant explored the possibility of incorporating the loading area within the site, but it was determined not to be feasible.

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.

Plant and equipment are sited in both the “Basement L1” level, with none proposed on the roof. This will not be visible from the public realm and has been sited to minimise the potential impact in respect of noise and vibration.

With respect to any amplified music associated with the outdoor dining area of the café, 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. The administration’s view would be that a change of use to a restaurant or bar would generally be required for a liquor licence to be granted, and additional measures could be considered at that point. 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 Business Zone (albeit less directly the case for the gym). Consulting rooms 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, though such conditions are proposed for the café and the gym.

With respect to the café, 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 species of shop such as café. However, a café is generally aimed at daytime trade, with earlier morning being part of this, so the proposed hours by condition are 7am-3pm every day.

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 Fullarton Road.

#### 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.”*

The applicant's Waste Management Plan is provided in **Attachment 1**. This shows on-street collection of waste from within the existing on-street loading zone. Bins would be stored in an enclosure on the eastern side of the building, with direct access to the street, but screened from view.

The report from Colby Phillips shows that sufficient space for bin storage has been provided. It does use a substantially discounted rate for the café, describing it as a “light café” rather than a full service restaurant, and for the consulting rooms. In response to these concerns, Colby Phillips advised:

*“Any office type use will be a similarly low level of waste generation and in fact the volumes quoted for the office are at the top end of what is possible. The SA Guideline values for offices are extremely high.*

- *For the café tenancy, this is a valid concern. However, the SA Guidelines are again very high even for a full service restaurant.*
- *I'm confident that for a balance of probabilities, the bins allowed would be easily enough for the overall development regardless of what type of food outlet was there.*
- *Worst case scenario, they could slot another bin in the gap between the green and yellow bins.*
  - *But this is very unlikely to be needed.”*

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. 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.

Unfortunately, the WMP was prepared prior to the internal changes required to facilitate the flood mitigation measures (see below). This means that the internal pathway shown on the WMP has had to be extended, as the car park ramp has had to be extended. Coming out of the stairs there is now an additional corridor of 4.6m in length, and an additional door. This is not so much more inconvenient than the previous arrangement for it to no longer be acceptable.

#### Flooding

Council's consultant hydrological engineer provided the following advice when reviewing the post-RFI version of the proposal:

*The 1% AEP flood level on Boskenna Street is 47.65 mAHD. Allowing 300 mm freeboard, a minimum FFL of 47.95 mAHD will be required. The proposed ground floor level shown on the plans is 48.5 mAHD and is satisfactory.*

*The building has a significant basement carpark, which has an entrance off Boskenna Avenue with a threshold level of 47.07 mAHD (approximately 0.6 m below the flood level).*

*It is normal practice to protect underground basement carparks from a 1% AEP event, due to the damage that can occur to parked vehicles and the safety risk associated with rapidly rising floodwaters. The flow arriving at the low point in Boskenna Avenue is of the order of 2 m<sup>3</sup>/s in a 1% AEP event. This flow would rapidly overwhelm the proposed storage provided in the basement and would fill the basement to a level at which damage to cars would occur (0.5 m) in less than 10 minutes.*

*The proposal needs to be modified to prevent entry of the 1% AEP flow into the basement carparking area with 300 mm freeboard.*

Given the severity of this flooding, the applicant has amended the levels of the carpark ramp to provide the 300mm freeboard before then descending into the basement. There are plant and storage areas below the flood level, but again, these are accessed from the basement carpark beyond the crest, so this is considered to be suitably protected.

#### Stormwater

Similarly, the Stormwater Management Plan provided by the applicant in the RFI response was reviewed by Council's consultant hydrological engineer who advised that it was suitable, with one note:

*The proposed detention tanks (5 off) should be interconnected with pipework capable of transferring the 1% AEP peak flow from the development (84 L/s) between tanks to ensure that they are fully utilised. The proposed 70 mm orifice to be fitted between tanks should be removed.*

This change has been made accordingly.

A series of pumps are proposed to manage any water in the basement carpark and to allow for use of the water in the below ground storage tanks.

#### Site Contamination

As outlined in the EPA's referral response in **Attachment 7**, the work done to date on the Preliminary Site Investigation shows that the site can be made suitable for residential development, but the exact nature of how this is to be achieved would require further investigation. The EPA has directed a series of conditions which ensure that this is achieved.

#### Energy Efficiency and Environmental Performance

Performance Outcome 4.2 of the Design in Urban Areas module states:

*"Buildings are sited and designed to maximise passive environmental performance and minimise energy consumption and reliance on mechanical systems, such as heating and cooling."*

Performance Outcome 4.3 of the Design in Urban Areas module states:

*"Buildings incorporate climate responsive techniques and features such as building and window orientation, use of eaves, verandahs and shading structures, water harvesting, at ground landscaping, green walls, green roofs and photovoltaic cells"*

Performance Outcome 14.2 of the Design in Urban Areas module states:

*“Development incorporates sustainable design techniques and features such as window orientation, eaves and shading structures, water harvesting and use, green walls and roof designs that enable the provision of rain water tanks (where they are not provided elsewhere on site), green roofs and photovoltaic cells.”*

The applicant has included several such techniques, including:

- Louvres for shading on north and west facing windows;
- Canopy over the northern pedestrian entrance;
- Roof over the top floor balconies;
- Eave overhang to reduce some sun on the L2 windows; and
- 40,000L of rainwater retention tanks for reuse on site.

The inclusion of trees and of native species for the soft landscaping is also noted and is positive.

While the dark colour of the podium levels was noted with concern, the applicant has advised that this is preferred for its aesthetic, which is considered reasonable.

## CONCLUSION

Overall, the proposal is considered to warrant consent. While it is one storey taller than the three-storey TNV, the design suitably minimises the impact of this additional floor, and the siting of the site in relation to sensitive receivers is such that any additional impact is limited.

The development would require on-street loading, contrary to the general expectations of the Code, but the compromises required to create an on-site loading area would be such that it would be impractical. The presence of an existing on-street loading zone directly in front of the development site is fortuitous in this regard.

There are also concerns regarding the extent of tree damaging activity required to facilitate the proposal, with conflicting advice between the two arborists. On the balance of probabilities, it is considered that the extent of this tree damaging activity is acceptable.

While there had been serious flooding issues for this site, amendments during the application have now overcome these issues.

Therefore, despite some non-compliances with the Code, these variances are not “serious”, and it is considered that, on balance, the development does sufficiently accord with the provisions of the Planning and Design Code.

## 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 23025642, by Andrew Kirkbride is granted Planning Consent subject to the following conditions/reserved matters:

## RESERVED MATTERS

### Planning Consent

#### Reserved Matter 1

A Construction Environmental Management Plan (CEMP) shall be prepared in collaboration with, and to the satisfaction of, the Assessment Manager prior to the issue of Development Approval. The approved CEMP

shall be implemented throughout the development and should incorporate, without being limited to, the following matters:

- Car parking and access arrangements for tradespersons
- Siting of materials storage
- Site offices
- Work in the Public Realm
- Hoarding
- Site amenities
- Traffic requirements including construction access/egress and heavy vehicle routes
- Reinstatement of infrastructure
- Site contamination management, if required (prepared by a suitably qualified and experienced site contamination consultant in accordance with EPA guidelines)

The authority to resolve the Reserved Matter is hereby delegated to the Assessment Manager.

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

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 above is delegated to the Assessment Manager.

#### **Reserved Matter 2**

Details regarding the system of traffic management in the "residential" carparking area are to be provided prior to Development Approval, to the reasonable satisfaction of the Assessment Manager.

The authority to resolve the Reserved Matter is hereby delegated to the Assessment Manager.

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

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 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 car parking spaces, driveways and manoeuvring areas shall be designed, constructed, line-marked and fitted with wheel stopping devices in accordance with the herein approved site plans (SK11, SK12 and SK13) dated 21 March 2025. Line marking and wheel stops shall be maintained in good condition at all times. Goods shall not be stored in parking areas, and they shall be maintained in a manner allowing for their continued use.

###### **Condition 3**

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

###### **Condition 4**

Prior to construction works associated with the approved development commencing, payment must be made to the Council in the amount of \$460 for the cost of relocating the traffic / parking sign(s) by Council. Upon the granting of Development Approval and payment of the said amount, please contact the Council's Planning Department on (08) 8360 4530 to arrange relocation of the signs.

###### **Condition 5**

Details of the planter boxes to be installed on the two (2) 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.

Condition 6

Noise mitigation measures as outlined in the Level 2 Floor Plan of the herein approved plans (drawing SK14, dated 21 March 2025), shall be implemented prior to the occupation of the gym, and shall be maintained, to the reasonable satisfaction of the Assessment Manager.

Condition 7

The hours of operation of the cafe herein approved shall be restricted to the following times:

- Monday-Sunday 7am-3pm

The hours of operation of the gym herein approved shall be restricted to the following times:

- Monday-Sunday 9am-7pm

Condition 8

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 9

Council's specifications require the driveway crossover between the back of kerb and the property boundary to 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. Any gradient required to accommodate vehicle access that exceeds the Council specifications shall be accommodated entirely within the boundaries of the subject land.

Condition 10

All stormwater from buildings and hard-surfaced areas shall be disposed of in accordance with the Stormwater Management Plan herein approved developed TMK Engineer dated 19 March 2025, and 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 11

Prior to construction works associated with the approved development commencing, payment must be made to the Council in the amount as below, totalling \$6740, for the cost of removing the two trees on public land to enable the proposed development:

- \$990 for the removal of the *Eucalyptus socialis*
- \$4750 for the removal of the *Schinus areira*
- \$1000 for the planting of two replacement 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 12

The Authority notes the two significant street trees on the Fullarton Road verge adjoining the subject site. These *Quercus robur* (English Oak) trees have a Tree Protection Zone (TPZ) as follows, measured as a radius from the centre of the relevant tree:

- Northern tree- 10.92m
- Southern tree- 12.6m

Measures to protect these trees, as outlined in the report prepared by Arborman dated 6 December 2023, shall be taken in order to ensure their continued health. This includes:

1. Ensure all work requirements/activities in the vicinity of these trees are discussed and designed in consultation with the Project Arborist, i.e. no machinery operation in the vicinity of the trees without a Tree Protection Plan.
2. A Tree Protection Zone fence is to be erected to ensure access to the main trunk and branches is reasonably restricted to avoid accidental damage. The fence is to be installed prior to the commencement of all other site works including demolition.

3. If machinery access is required within any newly exposed area of the TPZ where roots to be retained have been identified, ground protection is to be installed in consultation with the Project Arborist to ensure tree roots are not damaged.

Further detail can be found in the aforementioned report.

Condition 13

The existing vehicular crossovers on Fullarton Road which will be made redundant by the development shall be reinstated to kerb and gutter so as to match the existing adjacent kerb and gutter profile, within one (1) week of occupation of the development to the reasonable satisfaction of the Assessment Manager. All associated costs shall be borne by the owner / applicant.

Conditions imposed by Environment Protection Authority under Section 122 of the Act

Condition 14

A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability is issued certifying that any required remediation has been undertaken and the land is suitable for the proposed use.

Condition 15

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*.

Conditions imposed by Commissioner of Highways under Section 122 of the Act

Condition 16

All access and built form setbacks shall be gained via Boskenna Avenue as shown on Kirkbride Architects, Upper Ground (Café, Pharmacy) Plan, Job No. 23-003, Drawing No. SK13, Issue 1 dated 22/8/24 with all vehicle access consistent with Phil Weaver & Associates, Traffic and Parking Assessment (File 23-154, dated 14 March 2024) and RFI correspondence dated 21/8/24 and 18 June 2025.

Condition 17

The residential car park access (roller door) shall be suitably controlled to prioritise vehicles entering from Boskenna Avenue thereby reducing conflict in proximity to Fullarton Road.

Condition 18

All existing on-street parking on Boskenna Avenue shall be suitably modified to cater for a loading zone as per Phil Weaver & Associates, Traffic and Parking Assessment, Figure A dated 18/6/25. All costs shall be borne by the applicant.

Condition 19

All vehicles shall enter and exit the site in a forward direction and all vehicle manoeuvring areas shall be kept clear of impediments to manoeuvring.

Condition 20

All off-street parking shall be designed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2022. Additionally, clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.

Condition 21

Prior to the commencement of construction, a final Stormwater Management Plan shall be developed in conjunction with the Department for Transport (DIT) and be designed in accordance with the DIT Master Specification.

Condition 22

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

## 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](mailto: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.

**Advisory Note 10**

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 Environment Protection Authority under Section 122 of the Act

**Advisory Note 11**

The applicant/owner/operator are reminded of its 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.

Advisory Notes imposed by Commissioner of Highways under Section 122 of the Act

**Advisory Note 12**

The Metropolitan Adelaide Road Widening Plan shows a possible requirement for a strip of land up to 4.5 metres in width from the Fullarton Road frontage of this site, for future upgrading of the Fullarton Road/The Parade/Flinders Street/The Parade West intersection, together with a possible 4.5 x 4.5 metre cut-off from the Fullarton Road/Boskenna Avenue corner. 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.

The attached consent form should be completed by the applicant and returned to DIT ([dit.landusecoordination@sa.gov.au](mailto:dit.landusecoordination@sa.gov.au)), together with a copy of the Decision Notification Form and the approved site plan/s.

**Advisory Note 13**

In the event that traffic flows on the abutting roads are impacted during construction the applicant shall notify DIT's Traffic Management Centre (TMC) – Roadworks on 1800 434 058 or email [dit.roadworks@sa.gov.au](mailto:dit.roadworks@sa.gov.au) to gain approval for any road works, or the implementation of a traffic management plan.

---

*Mr Rasheed addressed the Council Assessment Panel from 6.36pm until 6.38pm*  
*Mr Grant Smith addressed the Council Assessment Panel from 6.39pm until 6.42pm*  
*Mr Piggott addressed the Council Assessment Panel from 6.43pm until 6.44pm*  
*Ms Heeson-Smith addressed the Council Assessment Panel from 6.46pm until 6.50pm*  
*Mr Kirkbride addressed the Council Assessment Panel from 6.51pm until 6.55pm*

**Moved by Mr Rutt**

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 23025642, by Andrew Kirkbride is granted Planning Consent subject to the following conditions/reserved matters:

**RESERVED MATTERS**  
**Planning Consent**

**Reserved Matter 1**

A Construction Environmental Management Plan (CEMP) shall be prepared in collaboration with, and to the satisfaction of, the Assessment Manager prior to the issue of Development Approval. The approved CEMP shall be implemented throughout the development and should incorporate, without being limited to, the following matters:

- Car parking and access arrangements for tradespersons
- Siting of materials storage
- Site offices
- Work in the Public Realm
- Hoarding
- Site amenities
- Traffic requirements including construction access/egress and heavy vehicle routes
- Reinstatement of infrastructure
- Site contamination management, if required (prepared by a suitably qualified and experienced site contamination consultant in accordance with EPA guidelines)

The authority to resolve the Reserved Matter is hereby delegated to the Assessment Manager.

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

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 above is delegated to the Assessment Manager.

**Reserved Matter 2**

Details regarding the system of traffic management in the "residential" carparking area are to be provided prior to Development Approval, to the reasonable satisfaction of the Assessment Manager.

The authority to resolve the Reserved Matter is hereby delegated to the Assessment Manager.

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

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 above is delegated to the Assessment Manager.

**Reserved Matter 3**

A final detailed schedule of colours and materials shall be provided to the Assessment Manager prior to the development approval.

The authority to resolve the reserved matter is hereby delegated by the Assessment Manager

NOTE: Further conditions may be imposed on the planning consent in respect of the above matter.

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 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 car parking spaces, driveways and manoeuvring areas shall be designed, constructed, line-marked and fitted with wheel stopping devices in accordance with the herein approved site plans (SK11, SK12 and SK13) dated 21 March 2025. Line marking and wheel stops shall be maintained in good condition at all times. Goods shall not be stored in parking areas, and they shall be maintained in a manner allowing for their continued use.*

#### *Condition 3*

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

#### *Condition 4*

*Prior to construction works associated with the approved development commencing, payment must be made to the Council in the amount of \$460 for the cost of relocating the traffic / parking sign(s) by Council. Upon the granting of Development Approval and payment of the said amount, please contact the Council's Planning Department on (08) 8360 4530 to arrange relocation of the signs.*

#### *Condition 5*

*Details of the planter boxes to be installed on the two (2) 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.*

#### *Condition 6*

*Noise mitigation measures as outlined in the Level 2 Floor Plan of the herein approved plans (drawing SK14, dated 21 March 2025), shall be implemented prior to the occupation of the gym, and shall be maintained, to the reasonable satisfaction of the Assessment Manager.*

#### *Condition 7*

*The hours of operation of the cafe herein approved shall be restricted to the following times:*

- Monday-Sunday 7am-3pm*

*The hours of operation of the gym herein approved shall be restricted to the following times:*

- Monday-Sunday 9am-7pm*

#### *Condition 8*

*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 9*

*Council's specifications require the driveway crossover between the back of kerb and the property boundary to 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. Any gradient required to accommodate vehicle access that exceeds the Council specifications shall be accommodated entirely within the boundaries of the subject land.*

#### *Condition 10*

*All stormwater from buildings and hard-surfaced areas shall be disposed of in accordance with the Stormwater Management Plan herein approved developed TMK Engineer dated 19 March 2025, and 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 11

*Prior to construction works associated with the approved development commencing, payment must be made to the Council in the amount as below, totalling \$6740, for the cost of removing the two trees on public land to enable the proposed development:*

- \$990 for the removal of the *Eucalyptus socialis*
- \$4750 for the removal of the *Schinus areira*
- \$1000 for the planting of two replacement 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 12

*The Authority notes the two significant street trees on the Fullarton Road verge adjoining the subject site. These *Quercus robur* (English Oak) trees have a Tree Protection Zone (TPZ) as follows, measured as a radius from the centre of the relevant tree:*

- Northern tree- 10.92m
- Southern tree- 12.6m

*Measures to protect these trees, as outlined in the report prepared by Arborman dated 6 December 2023, shall be taken in order to ensure their continued health. This includes:*

1. *Ensure all work requirements/activities in the vicinity of these trees are discussed and designed in consultation with the Project Arborist, i.e. no machinery operation in the vicinity of the trees without a Tree Protection Plan.*
2. *A Tree Protection Zone fence is to be erected to ensure access to the main trunk and branches is reasonably restricted to avoid accidental damage. The fence is to be installed prior to the commencement of all other site works including demolition.*
3. *If machinery access is required within any newly exposed area of the TPZ where roots to be retained have been identified, ground protection is to be installed in consultation with the Project Arborist to ensure tree roots are not damaged.*

*Further detail can be found in the aforementioned report.*

#### Condition 13

*The existing vehicular crossovers on Fullarton Road which will be made redundant by the development shall be reinstated to kerb and gutter so as to match the existing adjacent kerb and gutter profile, within one (1) week of occupation of the development to the reasonable satisfaction of the Assessment Manager. All associated costs shall be borne by the owner / applicant.*

*Conditions imposed by Environment Protection Authority under Section 122 of the Act*

#### Condition 14

*A certificate of occupancy must not be granted in relation to a building on the relevant site until a statement of site suitability is issued certifying that any required remediation has been undertaken and the land is suitable for the proposed use.*

#### Condition 15

*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.*

*Conditions imposed by Commissioner of Highways under Section 122 of the Act*

#### Condition 16

*All access and built form setbacks shall be gained via Boskenna Avenue as shown on Kirkbride Architects, Upper Ground (Café, Pharmacy) Plan, Job No. 23-003, Drawing No. SK13, Issue 1 dated 22/8/24 with all vehicle access consistent with Phil Weaver & Associates, Traffic and Parking Assessment (File 23-154, dated 14 March 2024) and RFI correspondence dated 21/8/24 and 18 June 2025.*

**Condition 17**

*The residential car park access (roller door) shall be suitably controlled to prioritise vehicles entering from Boskenna Avenue thereby reducing conflict in proximity to Fullarton Road.*

**Condition 18**

*All existing on-street parking on Boskenna Avenue shall be suitably modified to cater for a loading zone as per Phil Weaver & Associates, Traffic and Parking Assessment, Figure A dated 18/6/25. All costs shall be borne by the applicant.*

**Condition 19**

*All vehicles shall enter and exit the site in a forward direction and all vehicle manoeuvring areas shall be kept clear of impediments to manoeuvring.*

**Condition 20**

*All off-street parking shall be designed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2022. Additionally, clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in AS/NZS 2890.1:2004, shall be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.*

**Condition 21**

*Prior to the commencement of construction, a final Stormwater Management Plan shall be developed in conjunction with the Department for Transport (DIT) and be designed in accordance with the DIT Master Specification.*

**Condition 22**

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

**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](mailto: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.*

**Advisory Note 10**

*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 Environment Protection Authority under Section 122 of the Act*

**Advisory Note 11**

*The applicant/owner/operator are reminded of its 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.*

*Advisory Notes imposed by Commissioner of Highways under Section 122 of the Act*

**Advisory Note 12**

*The Metropolitan Adelaide Road Widening Plan shows a possible requirement for a strip of land up to 4.5 metres in width from the Fullarton Road frontage of this site, for future upgrading of the Fullarton Road/The Parade/Flinders Street/The Parade West intersection, together with a possible 4.5 x 4.5 metre cut-off from the Fullarton Road/Boskenna Avenue corner. 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.*

*The attached consent form should be completed by the applicant and returned to DIT (dit.landusecoordination@sa.gov.au), together with a copy of the Decision Notification Form and the approved site plan/s.*

**Advisory Note 13**

*In the event that traffic flows on the abutting roads are impacted during construction 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.*

**Seconded by Mr Bateup  
CARRIED**

**5.2 DEVELOPMENT NUMBER ID 25007549 - MARY BROOK  
3 GOSS COURT ST PETERS**

<b>DEVELOPMENT NO.:</b>	25007549
<b>APPLICANT:</b>	Mary Brook
<b>ADDRESS:</b>	3 GOSS COURT ST PETERS SA 5069 CT 5506/94
<b>NATURE OF DEVELOPMENT:</b>	Privacy screen structure (retrospective)
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Established Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Character Area</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Urban Tree Canopy</li> <li>• Water Resources</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Minimum Frontage (Minimum frontage for a detached dwelling is 15m; semi-detached dwelling is 10m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 500 sqm; semi-detached dwelling is 500 sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 2 levels)</li> <li>• Minimum Side Boundary Setback (Minimum side boundary setback is 1.5m for the first building level; 3m for any second building level or higher)</li> <li>• Site Coverage (Maximum site coverage is 50 per cent)</li> </ul>
<b>LODGEMENT DATE:</b>	25 March 2025
<b>RELEVANT AUTHORITY:</b>	Assessment Panel at City of Norwood Payneham & St. Peters
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	P&D Code (in effect) Version 2025.5 13/3/2025
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes – public notification period 13 May 2025 to 2 June 2025
<b>RECOMMENDING OFFICER:</b>	Marie Molinaro Urban Planner
<b>REFERRALS STATUTORY:</b>	Nil
<b>REFERRALS NON-STATUTORY:</b>	Nil

**CONTENTS:**

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

**DETAILED DESCRIPTION OF PROPOSAL & BACKGROUND INFORMATION:**

The proposal is a retrospective application for a privacy screen structure.

The screen is 12m long and 3.2m high. It is located 1m from the southern side boundary of the subject land. It is constructed of steel supports with timber panels, finished in dark brown stain. The timber panels are 1.8m high and the underside between the bottom of the panels and ground level is open. The steel supports face towards the adjoining site, 1 Goss Court, with the posts spaced 3m apart.

Council first became aware of the construction of the structure without Development Approval in early January this year. That same month, the owner was invited by the Council Compliance Officer to either remove the structure or lodge a development application to attempt to seek Development Approval for the structure.

The structure forms an extension of an existing privacy screen of the same appearance, which is understood to have been in place for a number of years, the exact amount of time is unknown. A search of Council records did not reveal an approval for the existing (many years old) privacy screen.

This application seeks retrospective consent only for the 12m long section indicated on the site plan. The combined length of the existing (many years old) privacy screen and that being considered in this application is 21.5m. Landscaping comprising 'Crepe Myrtle' trees is included between the structure and the southern side boundary. This landscaping was planted prior to the construction of the privacy screen structure.

The structure has been considered as a privacy screen, as it is not a fence or an outbuilding. Fence is not defined in the Planning & Design Code, however is defined in the dictionary as an *"enclosure or barrier along the boundary of a park, field etc or any place to protect it from intruders or to define limits."*

The structure is not along the side boundary, being off-set 1m and there is existing fencing forming the barrier along the boundary.

**DEVELOPMENT APPROVAL HISTORY:**

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
4 October 2016	155/615/2016	Removal of a regulated tree (Willow Myrtle)
31 August 2010	155/314/2010	51,000 litre underground concrete water tank
23 June 1999	155/343/1999	Application to amend previous application re conditions of screening
14 January 1998	160/198/97	Two new detached dwellings (3 and 5 Goss Court)

**SUBJECT LAND & LOCALITY:**

**Site Description:**

The subject land has an area of 733 square metres, it is irregular in shape, in a battle-axe configuration. The two-storey dwelling on the land is located behind the access handle. The access handle is on the southern

side of the dwelling, with private open space mostly wrapping around the northern side of the dwelling. The northern side of the dwelling bounds a Council reserve, with a walking track/trail adjacent the River Torrens.

Fencing along the boundary with the reserve is open style. Fencing along the southern side boundary is open style from the front boundary, to the alignment with the front wall of the dwelling at 1 Goss Court, St Peters. Past this point, fencing is solid. Fencing consists of a corrugated Colorbond material fence facing the subject land, and a separate rendered finish fence abutting the Colorbond fence facing toward 1 Goss Court, St Peters. Both abutting fences are approximately 1.8m high. The total length of the southern side boundary is 60m.

The locality is predominantly residential in use, containing mostly detached dwellings on large allotments, set amongst well landscaped surrounds. Residential amenity is considered to be high.

**Location reference:** 3 GOSS CT ST PETERS SA 5069

**Title ref.:** CT **Plan Parcel:** D48944 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS  
5506/94 AL42

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:**  
Other - Residential - Privacy screen structure: 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**  
In accordance with Table 5 procedural matters of the Established Neighbourhood Zone, a privacy screen structure is not specifically listed as being excluded from public notification. The structure is not considered to be minor in nature.
- **LIST OF REPRESENTATIONS**  
Four (4) representations were received during the public notification period.

Two (2) of the representations were opposed to the proposal and two (2) of the representations were supportive of the proposal. Both opposed representors wish 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)
Catherine Reid		Yes	TBA
David Reid		Yes	David Reid
Esther Breed		No	
William Breed		No	

- **SUMMARY**  
The issues contained in the opposed representations can be briefly summarised as follows:

- Concern regarding the visual impact of the structure.
- Concern regarding overshadowing impact.
- Concern that the structure has created conditions for nuisance wildlife activity.
- Comment that the existing boundary fence is adequate for privacy.
- Comment that the structure was erected without prior Development Approval.

The opposed 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**.

## AGENCY REFERRALS

Nil

## INTERNAL REFERRALS

Nil

## PLANNING ASSESSMENT

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

The Code does not speak directly to privacy screen structures, however this form of development is considered to be most similar in nature to a fence.

Performance Outcome 9.1 of the Design in Urban Areas module speaks directly to fence development:

*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.*

Performance Outcome 11.1 of the Established Neighbourhood Zone speaks to residential ancillary structures in a more general sense, and seeks that they are:

*Sited and designed to not detract from the streetscape or appearance of buildings on the site or neighbouring properties.*

Performance Outcome 9.1 is considered as a two-part test, being that fencing is adequate for its intended purpose as a privacy tool without unreasonably impacting adjoining land, both visually and from overshadowing. The first test is not considered to be met, as the existing side boundary fencing is considered to be of sufficient height to maintain both privacy and security. It is of solid construction, and approximately 1.8m high.

The applicant in their response to representations, indicated that the structure was installed because of the “adverse impact on visual amenity and perception of privacy” associated with the two-storey dwelling at 1 Goss Court and north facing upper-level windows. Further, the “no 1 owner's removal of bamboo hedging which had provided effective screening, and their excessive trimming (over-reaching the fence-line) of screening trees planted at no. 3 gave cause for the owner of no. 3 to extend the screen.”

In respect to privacy, a review of the Development Authorisation for the dwelling at 1 Goss Court, St Peters (ref. 155/276/2017) shows that all north facing windows have sill heights that are 1.7m above floor level. This is re-enforced by condition 2 of the Development Plan Consent. This design measure was consistent with the Council Development Plan at time, specifically Principle of Development Control 235. For context, such windows now need only be 1.5m above floor level (or obscure glazed below this point) to satisfy the Code Performance Outcome relating to mitigating direct overlooking from upper-level windows.

There is no condition on Development Authorisation 155/276/2017 requiring the retention of bamboo hedging (or landscaping in general).

In respect to the structure being erected to mitigate an “adverse impact on visual amenity”, the approved floor plan for the dwelling at 3 Goss Court includes no south facing habitable room windows. As such, there is considered to be limited adverse impact on visual amenity resulting from the dwelling at 1 Goss Court.

Regarding impact on visual amenity, or that at least such structures do not detract from neighbouring properties, this is gauged or considered against what the Code allows by right. In this case, there is a Deemed-to-Satisfy (DTS) pathway for residential ancillary structures and Deemed-to-Satisfy development must be granted Planning Consent. The DTS criteria allow ancillary development to have a length of up to 8m, a wall (or post height) up to 3m above natural ground level and to be sited on a side (or rear boundary).

So, in summary, an 8m long ancillary structure in the form of an outbuilding (shed), verandah or carport with a wall or post height up to 3m could be constructed as a right on the side boundary.

It is considered unlikely however that an ancillary building in the form of a shed type structure at least would be sited where the privacy screen has been installed. This is because it is opposite the garage of the dwelling so would likely hinder vehicle manoeuvrability. The end of the garage is approximately 6.4m from the southern side boundary.

In any event, whilst the proposed screen is off-set from the southern side boundary it is 12m long, 3.2m high and an extension to an existing screen, the combined total length being 21m.

The 1m setback from the side boundary is considered to mitigate to some extent the visual impact of the structure in relation to its height. The space between the structure and the side boundary contains a garden bed planted with 'Crepe Myrtle' trees. However, the siting of the structure is considered to make it difficult for occupants of the subject land to access this planting for ongoing maintenance, such as pruning. The landscaping Performance Outcomes of the Code encourage soft landscaping for a number of reasons, one of which is to enhance the appearance of land and streetscapes. Potentially unmaintained landscaping is considered to have limited value in enhancing the appearance of land. Further, landscaping cannot be relied upon to mitigate the visual impact of development.

This is also off-set against the positioning of the proposed screen adjacent the ground level open-plan kitchen, dining and living room of the dwelling at 1 Goss Court. Further, the main private open space of this dwelling in the form of a covered outdoor courtyard area and swimming pool is located between the dwelling and the shared side boundary. The dwelling itself is approximately 8m from the shared boundary at this point. The edge of the swimming pool is approximately 750mm from the shared boundary, which is considered to limit landscaping options to soften the appearance of the privacy screen. A hedge has been planted in front of the existing (many years old screen) as it is adjacent a lawn area, where there is more space for such planting.

The materiality/finish of the privacy screen structure is also considered in respect to visual impact. The rendered finish of the existing boundary fence on the side of 1 Goss Court is considered to enhance the appearance of this dividing feature. The timber panel finish with exposed steel posts facing the adjoining land is considered to detract from its appearance as viewed from 1 Goss Court.

From the public roadway, being Goss Court, the proposed privacy screen is not visible. The rear yard of the subject land abuts a public reserve adjacent to the River Torrens. Fencing along the boundary with the reserve is open and there are clear views of the dwelling, rear garden/POS area and existing privacy screen, that being the one installed many years ago. The proposed privacy screen is not readily visible from this public place.

Regarding unreasonable overshadowing impact, the Code is considered to contain some conflicting policy in this regard. Whilst the DTS criteria allow outbuildings with up to a 3m wall height to be located on side (and rear) boundaries, in a number of instances, the Code anticipates dwelling walls be setback a minimum of 900mm from side boundaries when not exceeding a 3m wall height. For dwelling walls that are south facing, and the wall height exceeds 3m, a minimum setback of 1.9m is anticipated (plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings). This is to manage overshadowing.

The Interface between Land Uses module of the Code provides further guidance in respect to overshadowing. Performance Outcome 3.2 of this module seeks for overshadowing of the primary area of private open space of adjacent residential land uses be minimised to maintain access to direct Winter sunlight. The corresponding Designated Feature seeks on 21 June that at least 2 hours of direct sunlight between 9:00am and 3:00pm be provided for 35 square metres of ground level open space. Metromaps photography dated 19 May 2025, shows there is overshadowing. However, more than 35 square metres of open space is not overshadowed.

Whilst not taken on 21 June, this photo from late May considered together with the 3.2m height and 1m setback of the proposed privacy screen likely mean that overshadowing is not unreasonable when considered in this context. It is acknowledged however, that the portion of private open space most overshadowed is a swimming pool. The Code however does not have Performance Outcomes that specifically seek maximisation of sunlight

to such features, with consideration only given in particular to rooftop solar energy facilities. That being that the generating capacity of such facilities is not unduly reduced.

#### Other

The representor's comments around wildlife activity are noted, however the Code does not speak to this matter.

Regarding the representor's comment that the structure was erected without prior Development Approval, this is also noted. Council compliance action is a separate matter to the assessment of the proposal.

### **CONSIDERATION OF 'SERIOUSLY AT VARIANCE'**

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2025.5 13/3/2025) the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reason:

- The Code does not speak directly to privacy screen structures, however it is considered to be similar in nature to a fence, which is a form of development anticipated in the Code.

### **SUMMARY & CONCLUSION**

The proposal seeks retrospective consent for a privacy screen structure. The Planning & Design Code does not speak directly to this form of development; however it is considered similar in nature to a fence.

There are two (2) Performance Outcomes that have been considered as being most applicable to the proposal, that which speaks directly to fence development and that which speaks in a more generalised sense to residential ancillary development.

The proposal is considered to be partly at variance with both Performance Outcomes, in that the existing boundary fencing is sufficient for privacy and security and that the structure is considered to detract from the appearance of the neighbouring property (1 Goss Court, St Peters). This is considering its siting in combination with the existing privacy screen, its position directly adjacent the main private open space area and north-facing living room windows of the dwelling on the neighbouring property and its design both in terms of height and materiality/finish.

### **RECOMMENDATION**

#### **REFUSE PLANNING CONSENT**

It is recommended that the Council Assessment Panel resolve that:

1. The proposed development is not considered seriously at variance with the relevant 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 25007549 for a retrospective privacy screen structure, by Mary Brook is **REFUSED** Planning Consent due to the following reasons:
  - The proposal fails to at least in part satisfy Performance Outcome 9.1 of the Design in Urban Areas Module in that the existing boundary fencing is sufficient for privacy and security.
  - The proposal fails to at least in part satisfy Performance Outcome 11.1 of the Established Neighbourhood Zone as the privacy screen structure is considered to detract from the appearance of the neighbouring property (1 Goss Court, St Peters)

*Mr Reid addressed the Council Assessment Panel from 7.47pm until 7.49pm*

*Mrs Reid addressed the Council Assessment Panel from 7.54pm until 7.55pm*

*Mr James Brook addressed the Council Assessment Panel from 7.56pm until 8.01pm*

**Moved by Mr Rutt**

**REFUSE PLANNING CONSENT**

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

- 1. The proposed development is not considered seriously at variance with the relevant 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 25007549 for a retrospective privacy screen structure, by Mary Brook is **REFUSED** Planning Consent due to the following reasons:*
  - The proposal fails to at least in part satisfy Performance Outcome 9.1 of the Design in Urban Areas Module in that the existing boundary fencing is sufficient for privacy and security.*
  - The proposal fails to at least in part satisfy Performance Outcome 11.1 of the Established Neighbourhood Zone as the privacy screen structure is considered to detract from the appearance of the neighbouring property (1 Goss Court, St Peters)*

**Seconded by Mr Mickan**

**CARRIED**

**6. DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT**

**7. REVIEW OF ASSESSMENT MANAGER DECISIONS**

**7.1 DEVELOPMENT NUMBER – ID 25011891 - PROGETTO DESIGN –  
10 AMHERST AVENUE TRINITY GARDENS**

<b>DEVELOPMENT NO.:</b>	25011891
<b>APPLICANT:</b>	Progetto Design
<b>ADDRESS:</b>	10 Amherst Avenue, Trinity Gardens CT 5789 / 425
<b>NATURE OF DEVELOPMENT:</b>	Construction of a pair of two-storey semi-detached dwellings
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Established Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated) (All structures over 45 metres)</li> <li>• Character Area (NPSPC5)</li> <li>• Traffic Generating Development</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Urban Tree Canopy</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Minimum Frontage (Minimum frontage for a detached dwelling is 11m; semi-detached dwelling is 10m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 500sqm; semi-detached dwelling is 500sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 2 levels)</li> <li>• Minimum Side Boundary Setback (Minimum side boundary setback is 1m for the first building level; 3m for any second building level or higher)</li> <li>• Site Coverage (Maximum site coverage is 50 per cent)</li> </ul>
<b>LODGEMENT DATE:</b>	6 May 2025
<b>RELEVANT AUTHORITY:</b>	Original Decision – Assessment Manager at City of Norwood Payneham & St Peters Review of AM Decision – Council Assessment Panel at City of Norwood Payneham & St Peters
<b>PLANNING &amp; DESIGN CODE VERSION:</b>	Version applicable at lodgement – (6 May 2025)
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	No
<b>RECOMMENDING OFFICER:</b>	Geoff Parsons - Assessment Manager
<b>REFERRALS STATUTORY:</b>	None required
<b>REFERRALS NON-STATUTORY:</b>	None required

## CONTENTS:

APPENDIX 1:	Relevant P&D Code Policies	ATTACHMENT 4:	Delegated Planning Assessment Report
ATTACHMENT 1:	Council Assessment Panel Review of Decisions of the Assessment Manager Policy	ATTACHMENT 5:	Application Documents
ATTACHMENT 2:	Application to Assessment Panel and accompanying correspondence		
ATTACHMENT 3:	Decision Notification Form		

## INTRODUCTION

Section 202(1)(b)(I)(A) of the *Planning, Development & Infrastructure Act 2016* provides an applicant with a right to apply to the Council Assessment Panel for a review of the Assessment Manager's decision relating to a prescribed matter.

A prescribed matter is defined as follows:

**Prescribed matter**, in relation to an application for a development authorisation, means -

- (a) any assessment, request, decision, direction or act of a relevant authority under this Act that is relevant to any aspect of the determination of the application; or
- (b) A decision to refuse to grant the authorisation; or
- (c) The imposition of conditions in relation to the authorisation; or
- (d) Subject to any exclusion prescribed by the regulations, any other assessment, request, decision, direction or act of a relevant authority under this Act in relation to the authorisation.

To assist with undertaking a review under Sections 201-203 of the *Planning, Development & Infrastructure Act 2016*, the Council Assessment Panel adopted a procedure to guide the consideration of an application for such at its meeting held on 21 October 2024. A copy of that Policy is provided in **Attachment 1**.

The Panel should be aware that the South Australian Government made changes to the *Planning, Development & Infrastructure (General) Regulations 2017* on 25 May 2023. An amended regulation was introduced which states:

- (2) An applicant to an assessment panel for a review of a prescribed matter must be given an opportunity to provide the assessment panel with the applicant's submissions in relation to the review (and, if the assessment panel determines to hold a hearing, must be given written notice of the date of the hearing and an opportunity to appear and make submissions at the hearing in person)

Council (together with the rest of the local government sector) has received advice in relation to the new regulation and such advice confirms that an Applicant should be provided with the right to make submissions (both written and verbal). Accordingly, the Applicant's written submission has been provided in **Attachment 2** (together with the request for the review) and the Presiding Member and Assessment Manager have agreed it is reasonable for both the Applicant and Assessment Manager to address the Panel verbally for five (5) minutes each, as per the Panel's normal processes for a hearing of representations. This is now allowed for as per clause 6.3 of the adopted *Policy*.

## DETAILED DESCRIPTION OF PROPOSAL:

The Application to which the review relates is Development Application 25011891. The Application sought

Planning Consent for:

*Construction of a pair of two-storey semi-detached dwellings*

Specifically, the development comprises:

- A site for each dwelling with a frontage of approximately 10 metres;
- Each dwelling is setback approximately 8 metres from the front property boundary with a further staggering of the setback to the garages;
- A dwelling on each site, in a semi-detached format, built boundary to boundary across the frontage, before shifting to more significant side boundary setbacks behind the garage area;
- Living areas and a main bedroom at ground level;
- A two storey component for each dwelling, setback behind the frontage, comprising bedrooms and retreat area;
- External cladding comprising a mixture of materials including brickwork, rendered brick, glazing, polycarbonate and colour coated steel, in a variety of modern, subdued colours;
- Soft landscaping in the front and rear yards;
- Retention and utilisation of the existing crossovers;
- Stormwater discharge to the street watertable.

Development Application 25011891 was refused Planning Consent under delegation from the Assessment Manager. It is that determination that is the subject of this review.

Clause 7 in the *Council Assessment Panel Review of Decisions of the Assessment Manager Policy* stipulates that the Panel may:

- Affirm the Assessment Manager's decision on the Prescribed Matter;
- Vary the Assessment Manager's decision on the Prescribed Matter; or
- Set aside the Assessment Manager's decision on the Prescribed Matter and substitute its own decision.

In addition, the Council Assessment Panel may defer its decision in accordance with clause 6.8 of the *Council Assessment Panel Review of the Assessment Manager Policy*.

Draft resolutions for each option have been included at the appropriate point within this report.

## BACKGROUND

Development Application 25011891 was preceded by Development Application 24037388 which sought Planning Consent for the same development, but with higher boundary wall heights. Due to those higher boundary wall heights, DA 24037388 triggered the requirement for public notification, meaning the Council Assessment Panel was the relevant authority.

No representations were received during the public notification process and given the current delegations from the Council Assessment Panel, the decision on the Application could therefore be made by the Assessment Manager under delegation. However knowing the Assessment Manager had concerns with the proposal and intended to issue refusal, the Applicant wished to obtain the right to a review of that decision by the Council Assessment Panel. That can only occur where the Panel is not the relevant authority.

Accordingly, DA 24037388 was withdrawn and DA 25011891 was submitted. DA 25011891 proposed boundary wall heights that did not trigger public notification, and therefore the Assessment Manager was the relevant authority. DA 25011891 did not address the other concerns previously raised by the Assessment Manager and hence the Application was refused. The applicant is now seeking to exercise their right to a review of that decision by the Council Assessment Panel.

**Attachment 5** contains the relevant documentation associated with DA 25011891, which is limited to the plans submitted with the Application and the stamped refusal plans. Correspondence between the Applicant and Council's administration identifying the matters of concern was submitted as part of DA 24037388 and accordingly does not form part of **Attachment 5**.

## **SUBJECT LAND & LOCALITY:**

### **Development Location(s)**

10 Amherst Avenue, Trinity Gardens, SA 5068

### **Title and Parcel**

**Title Ref:** CT 5789/425 **Plan Parcel:** D1143 A47 **Additional Location Information:** Council: The City Of Norwood Payneham And St Peters

The subject land is a rectangular land parcel of approximately 879 square metres in area. It currently contains a dwelling and a number of secondary structures such as outbuildings, carports and verandahs. It has a frontage of approximately 20 metres and a depth of approximately 43 metres.

The land is generally level and is elevated above street level, but not to a significant degree. The subject land enjoys two (2) existing crossovers which are proposed to be retained and used as part of the development.

The front yard contains mature landscaping, and an existing brick and metal infill fence existing along the front property boundary.

### **Locality**

As is outlined in the Delegated Planning Assessment Report (Attachment 4) the locality is mixed in terms of the built form and land uses found in proximity to the site.

The western side of Amherst Avenue falls within the Employment Zone. This portion of the locality contains both single and two-storey built form of a commercial nature, with most of those buildings "facing" Portrush Road.

The eastern side of Amherst Avenue primarily falls within the Established Neighbourhood Zone, with built form comprising detached and semi-detached dwellings. Dwelling stock is mixed with some older buildings of character value interspersed with more recently constructed, modern designed buildings. Dwellings are generally single storey in the locality, but two-storey built form is readily visible, particularly given the commercial developments to the west and some more recent residential developments.

Amherst Avenue is a relatively wide street, with parking providing on both sides of the carriageway. Street trees are common, but the species and pattern are mixed. Solid front fencing is common in the locality, and overhead powerlines are visible throughout the streetscape.

Overall, the area enjoys a reasonable level of amenity.

## **PROCEDURAL MATTERS**

The Application was performance assessed and did not require public notification.

## **AGENCY REFERRALS**

No agency referrals were required.

## **INTERNAL REFERRALS**

No internal referrals were required.

## **DOCUMENTS FOR REVIEW**

In accordance with clause 5 of the *Council Assessment Panel Review of Decisions of the Assessment Manager* a number of different materials have been included as attachments to this agenda, as follows:

- Appendix 1 – Applicable Planning & Design Code Policies
- Attachment 1 – Council Assessment Panel Review of Decisions of the Assessment Manager Policy
- Attachment 2 – Application to Assessment Panel and accompanying correspondence
- Attachment 3 – Decision Notification Form
- Attachment 4 – Delegated Assessment Report
- Attachment 5 – Application Documentation

## REVIEW OF ASSESSMENT MANAGER DECISION

The reasons for refusal of the Application are set out in the Decision Notification Form (**Attachment 3**), as follows:

*Planning Consent is refused as the proposed development is not considered to accord sufficiently with the provisions of the Planning & Design Code for the following reasons:*

1. *The garages for both dwellings have not been designed and sited to be discreet, and instead will dominate the appearance of the associated dwellings when viewed from the street, contrary to Performance Outcome 10.1 of the Established Neighbourhood Zone and Performance Outcome 1.1 of the Character Area Overlay.*
2. *The dwellings are constructed boundary-to-boundary in a manner that is inconsistent with the general setback pattern of other residential dwellings within the locality, contrary to Performance Outcome 2.4 of the Character Area Overlay, and which fails to maintain space between buildings consistent with a low-density suburban streetscape character, contrary to Performance Outcomes 7.2 and 8.1 of the Established Neighbourhood Zone.*

For Members ease of the reference, the Performance Outcomes referenced in the above-mentioned reasons for refusal are reproduced below:

### Established Neighbourhood Zone

*PO 7.2 – Dwellings in a semi-detached, row or terrace arrangement maintain space between buildings consistent with a low density suburban streetscape character.*

*PO 8.1 – Buildings are set back from side 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.*

*PO 10.1 – Garages and carports are designed and sited to be discreet and not dominate the appearance of the associated dwelling when viewed from the street.*

### Character Area Overlay

*PO 1.1 – All development is undertaken having consideration to the valued attributes expressed in the Character Area Statement.*

*PO 2.4 – Development is consistent with the prevailing front and side boundary setback pattern in the character area.*

The applicant, via the correspondence provided for in **Attachment 2**, has provided a valid and clear argument as to why the decision of the Assessment Manager (i.e. the refusal of DA 25011891) should be set aside, namely (my wording):

- The locality is not reflective of the valued attributes as outlined in the Character Area Statement;
- The existing streetscape character, mix of existing garage designs, and the design of the development itself mean the proposed garaging will not dominate the appearance of the dwellings and will be reasonably discreet;
- The existing dwelling on site (including associated structures) is built boundary-to-boundary and that is a relevant consideration in determining the merits of the proposed development.

To assist the Panel in their consideration of this matter, and in accordance with clause 5.1.4 of the Council Assessment Panel Review of Decisions of the Assessment Manager Policy I have set out the rationale for the Assessment Manager's decision below.

The Delegated Planning Assessment Report (provided for in **Attachment 4**) sets out the rationale for the original decision of the Assessment Manager in detail. The report is balanced and notes that the proposed development displays merit in a number of respects, despite some exceedances to the relevant policy, such as:

- Support for the resultant allotment sizes despite them falling below the site area noted in the applicable DPF;
- Support for the level of site coverage despite the proposal falling short of the measurement in the applicable DPF;
- Support for a two-storey form, despite the Character Area Statement referencing a single storey form;
- Support for the materials comprising the frontage of the dwellings, despite render not being a traditional material.

The Assessment Manager's decision was ultimately based on the following considerations with respect to garage dominance and boundary-to-boundary development:

- The Desired Outcomes set the context within which the relevant Performance Outcomes should be interpreted. The Desired Outcomes for the Established Neighbourhood Zone and Character Area Overlay both specifically speak to contextually responsive development, valued streetscape characteristics being reinforced and new buildings being sympathetic to predominant built form characteristics.
- The locality is not a "typical" residential area (as one might see in other "General Neighbourhood Zones") and a "higher bar" is established for development to ensure the valued character attributes of the area are not undermined by inappropriate development over time.
- The garages were considered too dominant as the stepped back design did not sufficiently reduce their visual appearance. The polycarbonate door did not appear as a window (and if it did, it would be at odds with the Character Area policies), and the wide driveway still highlights the extent of garaging.
- The boundary-to-boundary design is not reflected in the locality (other than the existing situation on the subject land). Having development offset from one boundary provides for space and separation between buildings, consistent with the applicable policy.
- The existing dwelling is not considered sufficient rationale to repeat a boundary-to-boundary development outcome. While existing site and locality conditions can provide rationale for departures from policy, previous approvals and developments which may not conform to the current policy framework are not necessarily rationale to justify further departures.

Further, applicable planning policy frameworks change over time. While such changes don't limit or impact existing uses or development, the evolution of such frameworks is necessary to drive the desired outcomes that might be sought in a particular locality. "Repeating" outdated development outcomes regardless of any updated planning framework that may be applicable does not represent a reasonable approach, in the view of the Assessment Manager.

- Development assessment is not a "tick box" exercise and requires a careful weighing of the relevant policies within a specific context. The failure of a development to align with the valued attributes of a character area may not be fatal if those characteristics are already undermined and no longer relevant (which in part, is the argument put forward by the Applicant). Respectfully however, while there is some built form which is inconsistent with the valued attributes of the Character Area, it is not considered that the valued attributes are so far undermined that they are no longer relevant.

In addition, the development seeks to impose a built form which is not common in the locality at present, namely boundary-to-boundary development (whereas existing built form is generally only constructed on the boundary on one side of the land).

It is evident from the Delegated Planning Assessment Report that a careful weighing of the applicable policies has been undertaken, and while some aspects of the development are supported despite variations with the applicable policy (or DPF's as the case may be), the garage dominance and boundary-to-boundary form are considered to comprise variances that would have a negative impact on the locality to such an extent that they cannot be accepted.

For these reasons the Assessment Manager concluded that Development Application 25011891 could not be supported and refused Planning Consent.

As the Council Assessment Panel now has before it the rationale for the review as provided by the Applicant, and justification for the decision as provided by the Assessment Manager, the Panel must now consider this matter afresh taking into consideration all relevant factors.

## CONCLUSION

This report outlines the rationale for the decision of the Assessment Manager, as required by clause 5.1.4 of the *Council Assessment Panel Review of Decisions of the Assessment Manager Policy*. The attachments provide all of the other relevant information and details as required by clause 5.1.

The Council Assessment Panel must determine whether to affirm the decision of the Assessment Manager, vary it, set it aside and substitute its own decision, or defer consideration of the matter for more information.

Relevant options for the consideration of the Panel are outlined below.

## RESOLUTION OPTIONS

### Resolution to affirm the decision of the Assessment Manager

The Council Assessment Panel resolves to affirm the decision of the Assessment Manager that Development Application 25011891 is not seriously at variance with the Planning and Design Code, but that it does not warrant Planning Consent for the following reasons:

1. The garages for both dwellings have not been designed and sited to be discreet, and instead will dominate the appearance of the associated dwellings when viewed from the street, contrary to Performance Outcome 10.1 of the Established Neighbourhood Zone and Performance Outcome 1.1 of the Character Area Overlay.
2. The dwellings are constructed boundary-to-boundary in a manner that is inconsistent with the general setback pattern of other residential dwellings within the locality, contrary to Performance Outcome 2.4 of the Character Area Overlay, and which fails to maintain space between buildings consistent with a low-density suburban streetscape character, contrary to Performance Outcomes 7.2 and 8.1 of the Established Neighbourhood Zone.

### Resolution to vary a decision of the Assessment Manager

The Council Assessment Panel resolves to vary the decision of the Assessment Manager in relation to Development Application 25011891 by including the following reasons for refusal:

- [insert additional / alternate reasons]

### Resolution to set aside a decision of the Assessment Manager

The Council Assessment Panel resolves to set aside the decision of the Assessment Manager to refuse Planning Consent to Development Application 25011891 and substitute the following decision:

- Development Application 25011891 is not seriously at variance with the Planning and Design Code and Planning Consent is granted to the application subject to the following conditions and notes:

## CONDITIONS

### 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

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 4000 litres;
4. if the site perviousness is less than 35%, 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 4

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 5

All stormwater from buildings and hard-surfaced 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 6

The upper floor windows to the side (north and south facing) elevations and rear (east facing) elevation shall either have sill heights of a minimum of 1500mm above floor level or be treated to a minimum 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

#### 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

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 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 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 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 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 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 8

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 9

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](mailto: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 10

If excavating, it is recommended you contact Before You Dig Australia (BYDA) ([www.byda.com.au](http://www.byda.com.au)) to keep people safe and help protect underground infrastructure.

#### Resolution to defer review hearing

The Council Assessment Panel resolves to defer its decision in relation to its review of the decision of the Assessment Manager to refuse Planning Consent to Development Application 25011891 until:

- The next ordinary meeting of the Panel;
- The next ordinary meeting of the Panel after [insert additional information which has been requested by the Panel] is provided;
- Until the next ordinary meeting of the Panel after [insert date (i.e. giving an applicant 2 months to provide information)].

*Mr Thomson addressed the Council Assessment Panel from 8.14pm until 8.24pm*  
*Mr Parsons addressed the Council Assessment Panel from 8.24pm until 8.27pm*

**Moved by Mr Mickan**

Resolution to affirm the decision of the Assessment Manager

*The Council Assessment Panel resolves to affirm the decision of the Assessment Manager that Development Application 25011891 is not seriously at variance with the Planning and Design Code, but that it does not warrant Planning Consent for the following reasons:*

- 1. The garages for both dwellings have not been designed and sited to be discreet, and instead will dominate the appearance of the associated dwellings when viewed from the street, contrary to Performance Outcome 10.1 of the Established Neighbourhood Zone and Performance Outcome 1.1 of the Character Area Overlay.*
- 2. The dwellings are constructed boundary-to-boundary in a manner that is inconsistent with the general setback pattern of other residential dwellings within the locality, contrary to Performance Outcome 2.4 of the Character Area Overlay, and which fails to maintain space between buildings consistent with a low-density suburban streetscape character, contrary to Performance Outcomes 7.2 and 8.1 of the Established Neighbourhood Zone.*

**Seconded by Mr Moorehouse**  
**CARRIED**

**8. ERD COURT APPEALS**

*The Assessment Manager provided updates in respect of the following matters:*

- *ID: 24017924 – 114 Sydenham Road NORWOOD SA 5067*
- *ID: 24032150 – 48 Sixth Avenue ST PETERS SA 5069*
- *ID: 25003913 – 69 High Street KENSINGTON SA 5068*

## 9. OTHER BUSINESS

### 9.1 COUNCIL ASSESSMENT PANEL DELEGATIONS UPDATE

---

<b>REPORT AUTHOR:</b>	Geoff Parsons – Manager, Development & Regulatory Services / Assessment Manager
<b>CONTACT NUMBER:</b>	(08) 8366 4567
<b>FILE REFERENCE:</b>	fA40888
<b>ATTACHMENTS:</b>	<b>A – Updated Instrument C and B – Superseded Instrument C</b>

---

#### PURPOSE OF REPORT

The Panel is assigned as a relevant authority in its own right under the *Planning, Development and Infrastructure Act 2016 (PDI Act)*. In the exercise of its duties, the Panel has delegated to the Assessment Manager specific duties and powers on its behalf. Delegations enhance the decision-making processes and allow nominated matters to be resolved efficiently and effectively without the need for the Panel's consideration.

The current City of Norwood Payneham & St Peters Council Assessment Panel delegations were adopted by the Panel at its meeting held on 10 February 2021. They have not been reviewed since that time.

Given the changing nature of legislation and associated instruments (such as Practice Directions), together with a change to the composition of the Panel, it is timely to review the delegations and ensure they remain fit-for-purpose.

#### BACKGROUND

Section 102(1) of the PDI Act provides the power to assess a development against, and grant or refuse a consent in respect of, the relevant provisions of the Planning Rules. The Council Assessment Panel is the relevant authority for all Development Applications requiring public notification.

A copy of the current delegations endorsed by the Panel at its meeting held on 10 February 2021 is provided for in **Attachment B**. To avoid doubt, a watermark has been added to this version which states "*To Be Superseded*".

The current delegations show that each power able to be delegated by the Panel to the Assessment Manager, has been delegated, with one exemption:

*5.1.1 This delegation is limited to applications other than those where one or more persons have made a valid representation expressing opposition to the application being granted planning consent and those persons remain opposed, despite any attempt made to resolve their concerns.*

To be put another way, the Panel has delegated all decisions associated with the assessment and decision making of Development Applications requiring public notification to the Assessment Manager, other than the decision to grant or refuse Planning Consent in respect of Applications where representors are (and remain) opposed.

The above-mentioned limitation on the delegations does not mention whether a person wishes to be heard or otherwise, it is solely based upon whether valid representations are received and whether they are opposed.

#### DISCUSSION

While the current delegations have functioned without serious issue or complaint, it is considered there is an opportunity to refine and enhance them. Accordingly, an updated Instrument C is provided for in **Attachment A**.

For the benefit of Members, the Council is currently embarking upon a process of complete review of all authorisations and delegations. This involves aligning Council's delegations to the Local Government

Association of South Australia (LGASA) templates. That process is underway and nearing completion and is a further reason why it is timely to review the current *PDI Act* Delegations.

Due to the review of the delegations, Members will notice some differences with respect to the formatting and layout between **Attachment A** (the updated delegations) and **Attachment B** (the current delegations – to be superseded).

The most significant difference to the formatting of the Instrument is that **Attachment A** contains all of the sub-delegations from the Assessment Manager to other staff. As the Panel can only delegate to the Assessment Manager, there is no need (or ability) for the Panel to endorse delegations to other staff, but **Attachment A** shows those sub-delegations that will be made from the Assessment Manager to staff so that Members can clearly see the extent of sub-delegations.

In addition, previously the conditions and limitations on any delegation was shown at a table at the rear of the delegations – **Attachment A** now shows any condition and limitation adjacent the delegation / power itself.

Apart from the formatting, the major change proposed is the extent to which the Assessment Manager is delegated the power to grant or refuse Planning Consent. The updated conditions and limitations can be seen on pages 5, 6 & 7 of **Attachment A**. To summarise, the Assessment Manager may only exercise the delegation to grant or refuse Planning Consent where one or more of the following apply:

1. No valid representations are received;
2. All valid representations are withdrawn;
3. No representor who has lodged a valid representation wishes to be heard;
4. A deemed consent notice has been served on the Panel under Section 125(2) of the Act;
5. The applicant has not agreed to extend the statutory timeframe within which the Panel must determine the development application pursuant to Regulation 53 of the *Regulations* and that timeframe will expire before the next meeting of the Panel is scheduled to occur.

In addition, the following text exists within the Instrument and provides a further limitation on the exercise of the power pursuant to Section 102(1)(a):

*For the avoidance of doubt, the delegate may not exercise the power pursuant to Section 102(1)(a) of this Act where the following apply:*

- *The application is proposed by the City of Norwood Payneham & St Peters unless it is contextually minor in nature such as street tree removals, reserve works, building alterations / additions, street and park furniture, signage, public toilets or other associated infrastructure works;*
- *The application is proposed by an Elected Member or Staff Member of the City of Norwood Payneham & St Peters and is, in the opinion of the Assessment Manager, for a significant form of development (such as dwelling additions, a new dwelling or other more major forms of development);*
- *Where the Assessment Manager determines that the nature of the application is best determined by the Panel, having regard to the type of application, the public interest, and the extent to which the proposed application meets the provisions of the Planning & Design Code.*

Finally, with respect to variations, current legal advice suggests that the relevant authority who made the original decision to grant Planning Consent, is the relevant authority for the consideration of any subsequent variation (where that variation relates to conditions and / or elements that are not development”).

Accordingly, it is conceivable that if the CAP had granted a Planning Consent for dwelling additions, that a variation to alter a window location could require consideration again by the Council Assessment Panel. This can result in unnecessary delays for the Applicant where such a variation might have negligible impacts.

Accordingly, where the delegations deal with variations (Section 128 – 16.1 and 16.2) and minor variations (Regulation 65 – 45.1) the following wording has been inserted in the conditions / limitation column:

*For the avoidance of doubt, the power to consider variations to authorisations previously granted by the Council Assessment Panel is delegated to the Assessment Manager, unless the Assessment Manager, at their discretion, considers that the CAP is best placed to determine the variation.*

It is considered that this enables variations (both minor and otherwise) to be considered under delegation, other than where the Assessment Manager considers the CAP is best placed to determine the variation. Such a circumstance may occur where the CAP has given detailed consideration to a matter (such as hours of operation) and subsequently an applicant tries to amend them – in such circumstances the CAP would be best placed to determine that variation and the matter would be presented to the CAP accordingly.

Despite the more significant list of conditions / limitations noted above, it is not expected that adoption of the updated delegations would result in a substantial additional increase to the amount of applications considered by the Panel. Primarily because it will no longer be necessary for the CAP to determine applications where there are representations in opposition who do not wish to be heard.

In addition to the above, as was the case when the Panel adopted the previous version of the delegations, the Panel is the relevant authority for the granting of Building Consent unless it establishes a standing referral to the Council for this function under Section 99(1)(c) of the *PDI Act*.

The wording to accommodate this is included on pages 3 and 4 of the Instrument in **Attachment A**, but for the avoidance of all doubt, is also included in the recommendation below.

## CONCLUSION

Regular reviews of the delegations are considered to comprise good governance, and it is timely a review has been undertaken.

While the current delegations have operated without fault or complaint, it is suggested that the changes outlined in this report and in **Attachment A** will provide for:

- An opportunity for all representors who have expressed a desire to be heard, to have such an opportunity (despite there being no legislative requirement to do so);
- Safeguards, in the event of a deemed consent notice being issued, to enable a decision under delegation; and
- Clear opportunity for the Assessment Manager to put significant Council, Elected Member or Staff Development Applications to the Panel (to provide transparency in decision making).

Adoption of the recommendation below will enable the updated delegations in **Attachment A** to be adopted. The Assessment Manager will then enable / put in place the sub-delegations to the relevant staff as outlined in **Attachment A**.

## RECOMMENDATION

1. In exercise of the power contained in Section 100 of the *Planning, Development and Infrastructure Act 2016*, the powers and functions under the *Planning, Development and Infrastructure Act 2016* and statutory instruments made thereunder contained in the proposed Instrument of Delegation (annexed as **Attachment A** to this report) are hereby delegated this 21<sup>st</sup> day of July 2025 to the person occupying the position of Assessment Manager of the City of Norwood Payneham & St Peters subject to the conditions and / or limitations specified in the Instrument of Delegation.
2. The City of Norwood Payneham & St Peters Council Assessment Panel determines to act under Section 99(1)(b) of the *Planning, Development and Infrastructure Act 2016* in relation to all Development Applications received by it that involve the performance of building work.
3. Pursuant to Section 99(1)(c) of the *Planning, Development and Infrastructure Act 2016*, where the City of Norwood Payneham & St Peters Council Assessment Panel has determined to act under Section 99(1)(b) of the *PDI Act*, it refers the assessment of the development in respect of the Building Rules to the City of Norwood Payneham & St Peters.

---

### Moved By Mr Rutt

1. In exercise of the power contained in Section 100 of the *Planning, Development and Infrastructure Act 2016*, the powers and functions under the *Planning, Development and Infrastructure Act 2016* and statutory instruments made thereunder contained in the proposed Instrument of Delegation (annexed as

**Attachment A** to this report) are hereby delegated this 21<sup>st</sup> day of July 2025 to the person occupying the position of Assessment Manager of the City of Norwood Payneham & St Peters subject to the conditions and / or limitations specified in the Instrument of Delegation, and minor amendments as agreed by the Panel.

2. *The City of Norwood Payneham & St Peters Council Assessment Panel determines to act under Section 99(1)(b) of the Planning, Development and Infrastructure Act 2016 in relation to all Development Applications received by it that involve the performance of building work.*
3. *Pursuant to Section 99(1)(c) of the Planning, Development and Infrastructure Act 2016, where the City of Norwood Payneham & St Peters Council Assessment Panel has determined to act under Section 99(1)(b) of the PDI Act, it refers the assessment of the development in respect of the Building Rules to the City of Norwood Payneham & St Peters.*

**Seconded by Mr Mickan**  
**CARRIED**

**10. CONFIDENTIAL REPORTS**

**11. CLOSURE**

*The Presiding Member declared the meeting closed at 9.12pm*