

# Council Assessment Panel Minutes

**20 April 2026**

## **Our Vision**

*A City which values its heritage, cultural diversity,  
sense of place and natural environment.*

*A progressive City which is prosperous, sustainable  
and socially cohesive, with a strong community spirit.*

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City of Norwood Payneham & St Peters  
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  /cityofnpsp  @cityofnpsp



City of  
Norwood  
Payneham  
& St Peters

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**VENUE** Council Chambers, Norwood Town Hall

**HOUR** 6.30pm

**PRESENT**

**Panel Members** Mr Stephen Smith  
Mr Mark Adcock  
Mr Ross Bateup  
Cr Sandy Wilkinson

**Staff** Geoff Parsons – Assessment Manager  
Kieran Fairbrother - Senior Urban Planner  
Ned Feary – Senior Urban Planner  
Callum Hastie - Urban Planner  
David Brown – Heritage Advisor  
Daniella Hadgis – Administration Officer

**APOLOGIES** Mr Julian Rutt

**ABSENT**

1. **COMMENCEMENT AND WELCOME**

2. **APOLOGIES**

3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT PANEL HELD ON THE 16 MARCH 2026**

*Moved By Mr Adcock, Seconded By Mr Bateup  
CARRIED*

4. **DECLARATION OF INTERESTS**

*Cr Wilkinson declared an interest in items:*

- *5.3 – 7 Stephen Terrace ST PETERS – Sandy Wilkinson was a previous representor for this address; and*
- *Item 5.4 – 14 Hanson Avenue HEATHPOOL – The owner and Architect are both family members of Sandy Wilkinson*

**5. DEVELOPMENT APPLICATIONS – PDI ACT**

**5.1 DEVELOPMENT NUMBER – 25030684 - PENFOLD BUILDING GROUP PTY LTD C/O  
FUTURE URBAN - 93 PORTRUSH ROAD EVANDALE SA 5069**

<b>DEVELOPMENT NO.:</b>	25030684
<b>APPLICANT:</b>	Penfold Building Group Pty Ltd c/o Future Urban
<b>ADDRESS:</b>	93 PORTRUSH RD EVANDALE SA 5069
<b>NATURE OF DEVELOPMENT:</b>	Construction of a single building comprising two warehouse tenancies
<b>ZONING INFORMATION:</b>	<p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• General Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Affordable Housing</li> <li>• Hazards (Flooding - General)</li> <li>• Major Urban Transport Routes</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Traffic Generating Development</li> <li>• Urban Tree Canopy</li> </ul>
<b>LODGEMENT DATE:</b>	15 Oct 2025
<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 2025.19 9/10/2025
<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
<b>REFERRALS NON-STATUTORY:</b>	Senior Traffic Engineer: Rebecca Van Der Pennen City Arborist: Matthew Cole

**CONTENTS:**

<b>APPENDIX 1:</b>	<b>Relevant P&amp;D Code Policies</b>	<b>ATTACHMENT 3:</b>	<b>Representations</b>
<b>ATTACHMENT 1:</b>	<b>Application Documents</b>	<b>ATTACHMENT 4:</b>	<b>Prescribed Body Responses</b>
<b>ATTACHMENT 2:</b>	<b>Subject Land, Locality &amp; Zoning Map</b>	<b>ATTACHMENT 5:</b>	<b>Internal Referral Advice</b>

## DETAILED DESCRIPTION OF PROPOSAL:

The application seeks for construction of a two-storey warehouse building (containing two tenancies) on the site of an existing detached dwelling. Each warehouse would have a gross leasable floor area (GLFA) of 258m<sup>2</sup>, for a total of 516m<sup>2</sup> across the site as a whole.

Each warehouse includes a kitchenette, an accessible toilet and an office area of 14m<sup>2</sup>. The two warehouses would share four parking space in-front of the site, but would each have internal loading areas.

A deck with a verandah above it, and landscaping is provided at the rear of the site. There is a significant tree (*Corymbia citriodora* / Lemon Scented Gum) on neighbouring land to the rear, at 49 Llandower Avenue, Evandale.

The proposed warehouses include significant boundary walls along both side boundaries. These walls are 27.4m long and up to 9m high from natural ground level (8m from the finished floor level). To the street, the buildings have substantial glazing across both levels, and a large roller door (some 4m high).

## BACKGROUND:

The application was submitted on the 1<sup>st</sup> of October 2025, and verified on the 8<sup>th</sup> of October. Lodgement occurred on the 16<sup>th</sup> of October and referral to the Commissioner of Highways was commenced. The Commissioner of Highways issued a Request for Information on the 21<sup>st</sup> of October, relating primarily to the widening of the access point, and conflicts with the side entry pit. This issue was resolved, though administration objected to the proposed land use.

Following some further discussions, the application underwent public notification between the 5<sup>th</sup> and 25<sup>th</sup> of February 2026, with four (4) representations received. All of these representations were supportive, and two nominated that they wished to be heard.

## SUBJECT LAND & LOCALITY:

### Site Description:

<b>Location Reference:</b> 93 Portrush Road, Evandale, SA 5069		
<b>Title ref:</b> CT5820/437	<b>Plan Parcel:</b> F135281AL30	<b>Council:</b> City of Norwood Payneham & St Peters

Shape:	rectilinear
Frontage Width:	18.29m
Area:	908.6m <sup>2</sup>
Topography:	fall towards the rear of the site of approximately 700mm
Existing Structures:	detached dwelling (bungalow) and outbuilding
Existing Vegetation:	grass only on-site, though there is a significant tree on neighbouring land and a significant street tree in the verge.

### Locality

A locality for the site is shown on the map in **Attachment 2**. This extends:

- Approximately 70m south to Bakewell Road;
- Approximately 100m to the north to #83 Portrush Road (an existing motor repair premises);
- Properties on the opposite (eastern) side of Portrush Road between Tarcoma Avenue and Luhrs Road; and
- Properties to the west of the site from 62 Bakewell Road to 41 Llandower Avenue.

This locality has a mix of land uses, including:

- A childcare centre immediately to the south of the subject site;
- A retail fuel outlet immediately to the north of the subject site;
- A motor repair station at 83 Portrush Road; and,
- Three (3) offices or consulting room buildings in former dwellings.

It is also noted that the northern boundary of the subject site is a zone boundary, with sites to the north of this site being in the Employment Zone, while the subject site, and those to the south, are in the General Neighbourhood Zone. Allotments that do not have a frontage to Portrush Road are in the Established Neighbourhood Zone.

Just outside this locality, to the south, is a small shopping centre. This is located within the Suburban Main Street Zone. The opposite (eastern) side of Portrush Road is entirely within the General Neighbourhood Zone in this section.

Nonetheless, of the twenty five (25) properties in the locality as defined here, eighteen (18) are residential in their use (72%), albeit that the immediate section of the locality, fronting Portrush Road on the western side, is more heavily non-residential in its use than other parts of the locality.

The character of the locality is heavily influenced by Portrush Road, being a major arterial road and freight corridor, with an estimated traffic volume of 35,800 vehicles per day (7.5% of which are commercial vehicles). The high speeds and traffic volumes on Portrush Road limit its residential character despite the number of residential properties noted above. Nonetheless, a clearly residential character with a relatively high degree of amenity is present on Llandower Avenue to the rear of the site.

The verges on Portrush Road are relatively narrow, with limited tree canopy coverage, though this is being addressed by recent infill planting.

Overall, the locality's amenity varies throughout, though is generally low along Portrush Road.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Warehouse: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
P&D Code; No other pathway

## PUBLIC NOTIFICATION

- **REASON**

Warehouse is not an exempt form of development in General Neighbourhood Zone Table 5.

- **LIST OF REPRESENTATIONS**

Surname	First Name	Address	Position	Wishes to be heard?
Lewis	Timothy		Support	No
Simpson	Bella		Support	Yes

Shaw	Will		Support	Yes
Hatch	Simon		Support	No

Please note that as no representors are within the locality of the development site, no representation map has been provided.

- **SUMMARY**

Representors were uniformly supportive of the proposal, expressing the following key points:

- The development was compatible with Portrush Road's status as an arterial road;
- It will provide business and employment opportunities;
- The arterial road constrains what other land uses may be appropriate; and,
- The development would resolve an existing safety issue as the existing site access arrangement requires a reversing movement onto Portrush Road.

The full representations are provided in **Attachment 3**.

## AGENCY REFERRALS

- Commissioner of Highways

The Commissioner of Highways advised in their referral response that they have no objection to the proposal, subject to six conditions. This includes the following:

- All vehicles shall enter and exit the site in a forward direction;
- The largest vehicle permitted on-site shall be restricted to a 6.4m Small Rigid Vehicle (SRV); and,
- The side entry pit adjacent to the access shall be modified and relocated to accommodate the access point.

## INTERNAL REFERRALS

- Senior Traffic Engineer, Rebecca Van Der Pennen

Council's Senior Traffic Engineer has reviewed the proposal and advised that they have no major concerns with the proposal. Nonetheless, they noted the need for relocation of verge infrastructure, and that no separate pedestrian connection has been provided from the footpath on Portrush Road, to the warehouses.

- City Arborist, Matthew Cole

Council's City Arborist has reviewed the proposal to consider the extent of possible damage to the regulated trees near the subject site, specifically the significant *Corymbia* to the rear of the site, and the significant *Angophora costata* street tree. His advice is provided in **Attachment 5** and considered in the *Planning Assessment* below.

## PLANNING ASSESSMENT

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

### Land Use & the Question of Seriously at Variance

#### Consideration of Zone Policy

The site is in the General Neighbourhood Zone, which includes the following Desired Outcome (DO1):

*Low-rise, low and medium-density housing that supports a range of needs and lifestyles located within easy reach of services and facilities. Employment and community service uses contribute to making the neighbourhood a convenient place to live without compromising residential amenity.*

Desired Outcomes are not policies *per se*, rather, they provide a lense through which to understand the associated Performance Outcomes (PO's) which is what the development is ultimately assessed against. Each of these policies (relating to land use) will be considered in turn.

PO 1.1 states:

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

This policy presents as a “two-legged test” for non-residential development: a development should be both “complementary” *and* “support an active, convenient, and walkable neighbourhood”. It is clear from both this policy, and the lens of the DO, that non-residential development is envisaged in some circumstances, but only where this is appropriate in light of other factors.

The notion of “complementary” is somewhat challenging in this instance, since it is not entirely clear whether this is intended to mean complementary in terms of impacts (or lack thereof), or in terms of supporting the neighbourhood (though the second test clearly addresses the latter in any event).

Regarding those impacts, the development would do little to undermine a character of the neighbourhood, as this character is dominated by Portrush Road. Noise impacts would likely be relatively limited, and vehicle movements would be well separated from any neighbouring residents. This is also true of built form impacts, though this will be discussed in further detail below.

Therefore, if the primary consideration relates to impacts, the development may “pass” this first part of the test. However, if the test is whether it is “complementary” to the neighbourhood in supporting its day-to-day life, this would not be the case. Warehousing encourages larger, commercial vehicle movements that detract from residential amenity and walkability, and warehousing does not provide services that the community would generally access. Thus, whether or not complementary is supposed to reflect impacts, a warehouse, by its nature, is not conducive to an “active, convenient and walkable neighbourhood”.

To further this, the question of what is meant by “active, convenient and walkable neighbourhood”, or at least the “active” component, was considered by Commissioner Nolan in *Jahk Enterprises Pty Ltd ATF Jahk Trust V Assessment Panel Of The Corporation Of The City Of Campbelltown [2023] SAERDC 6* at [68]-[71]. The following at [70]-[71] is relevant:

*By my assessment “active” likely refers to the planning concept (and evident in some of the previous Development Plans) of an activated streetscape. In planning terms this was generally understood to mean a development which provides or allows interaction with the public (i.e. illuminated or colourful windows instead of blank walls to the public realm), a use whereby people come and go regularly to encourage pedestrian activity on the street including the opportunity for activity to occur out of hours and introduce passive surveillance.*

*The manner in which PO 1.1 is expressed requires all three elements to be met if that portion of the PO is to be satisfied.*

*However, given failure to meet any individual PO is not, of itself, fatal to any application, the intended meaning of the word “active” is not determinative in this matter.*

The proposed development is generally not consistent with such an “active” neighbourhood, as its nature is not consistent with public interactions in the manner outlined above.

Nonetheless, that “active, convenient and walkable neighbourhood” is somewhat undermined by the nature of Portrush Road. This will be considered further below, but in essence, it is considered that proposal does not satisfy PO 1.1.

PO 1.2 states:

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

- a. small scale commercial uses such as offices, shops and consulting rooms*
- b. community services such as educational facilities, community centres, places of worship, childcare facilities and other health and welfare services*

- c. *services and facilities ancillary to the function or operation of supported accommodation or retirement facilities*
- d. *open space and recreation facilities.*”

Part a. appears to be the relevant part of this policy. Notably, this does not limit uses to shops, offices and consulting rooms, but it appears to again be a two-legged test:

- 1) That the development be located and designed to improve community accessibility to services; and,
- 2) That the development be small scale.

The Zone does envisage (such as in DPF 1.1) a series of non-residential uses which may be appropriate in the Zone. This list involves services which are used by people in the ordinary course of their day-to-day life such as shops and consulting rooms (as discussed above). It does not include warehouses, and warehousing is a very different kind of use from the uses which are envisaged. Warehousing is not a service generally accessed by the community, and therefore, the development does not “improve community accessibility to services”.

Regarding scale, it is noted that warehouses are often relatively low-intensity uses (though this is changing in some larger businesses with the rise of same-day-shipping and other changes in the logistics sector). In the context of warehousing, a ~250m<sup>2</sup> floor area is small scale, though it is beyond the floor area envisaged for shops, offices and consulting rooms in General Neighbourhood Zone DPF 1.2. Nonetheless, floor area is not a direct measure of scale (though that DPF seeks to use it as an analogue of this), and the general intensity of the use is relevant. A warehouse is a lower intensity use than shops, offices and consulting rooms, and therefore its scale is not in itself unreasonable.

PO 1.3 states:

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

As outlined in the locality section, the locality does not have an especially strong residential character, at least along Portrush Road. The use would do little to detract from this further given its already degraded state.

The question of what the “neighbourhood” should be construed as, may be relevant in considering this. In *Minicozzi (Osmond Terrace) Pty Ltd V The City of Norwood Payneham & St Peters Assessment Panel [2024] SAERDC 18*, this question was considered to some degree at [9]-[19], although Commissioner Nolan did not provide particular guidance on how one might determine a “neighbourhood” as distinct from a locality. The following, at [18] reflects the conclusion of this consideration as it pertained to that case:

*“I am persuaded that, in this instance, the locality and neighbourhood are sufficiently coincident such that the characteristics evident in the locality form a suitable basis for this assessment. Such approach quite properly captures all the relevant policy considerations applicable in this matter. Whether the locality constitutes the whole of the neighbourhood (as per Mr Osborn’s oral evidence) or only part of it (as per Mr Thomson’s written evidence), areas beyond it are too removed from the Subject Land to assist me given the specific issues and circumstances relevant to this matter.”*

A similar consideration is made here; in that determining a separate “neighbourhood” would not readily assist the assessment and instead attributes evident in the locality can be extrapolated as applying to the “neighbourhood”.

PO 1.4 states:

*“Commercial activities improve community access to services are of a scale and type to maintain residential amenity.”*

This is also somewhat challenging, though mainly due to the fact that it does not make grammatical sense. An identical policy exists in the Established Neighbourhood Zone (PO 1.2 of that Zone, while PO 1.2 of the General Neighbourhood Zone is identical to PO 1.4 of the Established Neighbourhood Zone), and was considered by the ERC Court in *Minicozzi* at [145]-[151]:

*The Council submitted that there was a word missing in Zone PO 1.2 such that it should be read as "... access to services and are of a scale ...". The PO, therefore, has two tests requiring consideration.*

*The Appellant disagreed. The PO did not, it said, seek an assessment of whether community access was improved by the establishment of offices, shops or consulting rooms, that test appears at Zone PO 1.4. Notwithstanding the dual scale and locational criteria expressed in DPF 1.2 its corresponding PO, it submitted, sought to deal only with aspects of scale and type (of office, shop and consulting room development). Under this approach Zone DPF 1.2 has no role in the assessment of the Proposed Development against Zone PO 1.2 other than those considerations involving scale, type and amenity.*

*I agree the wording of Zone PO 1.2 is uncomfortable and is more akin to a strategic intent rather than a policy (in the form of a PO) against which a development can be meaningfully assessed. It is most unhelpful terminology and was the subject of significant debate and analysis particularly in the context of DPF 1.2.*

*I agree with the Appellant that Zone PO 1.2 is merely stating that commercial activities improve access to services, albeit in a clumsy fashion. The locational guidance provided by Zone DPF 1.2 therefore does nothing more than identify circumstances (including locations) where amenity may likely be maintained in accord with Zone PO 1.2.*

*This does not mean, however, that the locational goals of main road frontage or proximity to centres are not relevant considerations in the assessment of Zone PO 1.4 in respect of whether the Proposed Development is located to improve community accessibility to those services. I have concluded the Subject Land is not so located. I do not, nor do I need to, rely on Zone DPF 1.2 to reach those conclusions, they are fundamental to a proper planning assessment of the Proposed Development against the Code as a whole.*

*Whilst it is unnecessary for me to take this matter further it would assist in the assessment of other applications for planning consent that the terms, and intent, of Zone PO 1.2 be clarified. I agree with the Appellant that Zone PO 1.2 does not seek an assessment of whether commercial activities improve community access.*

This is to say that PO 1.4 of the General Neighbourhood Zone is not intending to assess community access services- because PO 1.2 has already done this. Therefore, it is a question of whether it is "of a scale and type to maintain residential amenity". Given the lack of residential amenity along Portrush Road, the development does not further undermine this.

#### Impact of Adjoining Zone

As noted above, the site abuts the Employment Zone to the immediate north of the subject site. The applicant's planning opinion (**Attachment 1**) submits the following:

*the land abutting the site to the north is, as previously mentioned, within the Employment Zone, which envisages warehouse uses, as well as other high intensity uses.*

*The Environment, Resources and Development Court has provided guidance with respect to land use appropriateness at the boundary of two zones, with the decision of Newarc Pty Ltd v City of Marion [2008] being the most instructive and recognising that*

*"where development is proposed near the boundary between two zones, regard should also be had to the provisions of the adjoining area."To this end, the proposed land use can be considered appropriate within the context of this locality and zone interface;*

Para 13 of applicant's legal opinion:

*Further, the case law has made it abundantly clear that the amenity of land located on the boundary of a zone is very different to that which is located in the heart of the same zone.*

It is noteworthy that these cases refer primarily to amenity or character impacts, not the fundamental question of land use. On land use, the applicant cites *Jury v Campbelltown & Ors [2005] SAERDC 113*. This case concerned the construction of a service trade premises in the Residential Zone on Glynburn Road, with similar issues as to neighbouring zones and the impact of an arterial road. Paragraph 33 of that judgement is as follows:

*“Were the subject land to be assessed for its suitability for the proposed use, without any knowledge of the position of zone boundaries, its location on a major arterial road, and the context created by commercial development to the north, south and west, would suggest the site was highly suitable for that use, and not well-suited to residential use. Conversely, the amenity of occupants of any residential development on the subject land is likely to be substantially compromised by the latter’s physical and land use context. These considerations suggest to me that the zoning of the subject land is anomalous, and that, notwithstanding Mr Manos’ submissions regarding the proposal’s inconsistency with the overall intent, purpose and desired character of the zone, the site’s land use setting, and its location on the periphery of a large Residential Zone, render the subject proposal a more suitable use of that land than residential development. As Besanko J observed in City of Unley v Hall and Others 2002 EDLR 491 at para 54:*

*‘The decision in City of Mitcham v Freckmann and Ors does not suggest that a conclusion that the proposed development is not consistent with the overall intent, purpose and desired character of the zone is necessarily decisive of the matter. There may be a number of other relevant factors. For example, the existing characteristics of the land may mean the objectives and principles of development control have very little relevance. Further, the proposed development must be judged in its historical and factual context.’”*

However, any decision to simply disregard the provisions of the Zone should be tempered. In this respect, the opinion of Bleby J in *Alexandrina Council v Strath Hub Pty Ltd* [2003] SASC 382 at paragraphs [35] and [39] is relevant:

35. *Considering a Development Plan as a flexible, advisory planning policy document and as a practical guide for practical application, and not as a mandatory legal statute, is an acceptable and sensible way of approaching a Development Plan. However it does not enable the Objective and the essential Principles of Development Control to be ignored simply because the view is taken that the Objective of the plan is unlikely to be achieved for various reasons. To consent to a sub-division of more than one-third of the area of the Zone without any certainty as to whether, where or when a golf course might be created is to compromise the whole objective of the Zone and to render that objective less likely to be achievable.*
39. *Nor is it any answer to ignoring the Objective and the Principles of Development Control to say that the Objective of the plan cannot be or is unlikely to be achieved. On the evidence before him it was not open to the Commissioner to make such a finding. But even if it were, it is not open to a planning authority to ignore the essential thrust and objective of the Plan. If the view is taken that for some reason the objective is not achievable, it is for the relevant planning authority to decide upon an amendment to the Plan after due preparation and consideration of a Plan Amendment Report in accordance with the requirements of Part 3 of the Development Act, and after the sort of consultation that the legislation requires. The perceived inability of the Development Plan to be carried out is no reason to ignore it in respect of a particular application for development.*

These two judgements are challenging to reconcile, but it is the case that regard must be had to the provisions of the General Neighbourhood Zone,

and the development cannot simply be assessed against the Employment Zone simply because it abuts the site. Ultimately, the presence of the Employment Zone and the proximity of the subject land to it are considered relevant, but not defining factors.

#### Reasons to depart from Policies

Given the fact that the Zone’s principles are perhaps not perfectly aligned with the nature of the locality, it would be worth considering reasons to depart from policies, as outlined in *Town of Gawler v Impact Investment Corporation Pty Ltd* [2007] SASC 356. These are considered in turn below:

1. *The language of the principle or principles concerned – whether it is direct or contemplates some flexibility in approach;*
  - As in almost all policies in the Code, flexibility is intended. The question is to what degree it intends such flexibility;

2. *Whether the relevant principle is in conflict with some other applicable planning principle. That is likely to happen only rarely, in which case the more specific principle may displace the more generally expressed principle;*
  - No particular principle is considered relevant in this case;
3. *The evident purpose and objective of the policy expressed in the principle or principles concerned;*
  - DO1 (above) may provide some further guidance on this. It generally suggests that the evident purpose is to create a connected and liveable neighbourhood that allows residents to access services which improve their convenience. While employment is part of this, employment uses should “contribute to making the neighbourhood a convenient place to live”, which the proposal does not achieve;
4. *The significance of the policy to this particular Development. The clearer the policy in its application to a particular development, the more compelling the reasons for departing from the policy will need to be;*
  - The PO’s outlined above are highly applicable for the nature of development;
5. *Where the policy contemplates possible degrees of compliance, the extent of the Development’s compliance with the policy;*
  - This is perhaps less true for these policies than most in the Code;
6. *Consistency of the Development with other objectives and purposes of the Zone;*
  - No such rationale would be relevant in this instance;
7. *Whether there is something unusual about the Development or the land on which it is to take place which makes the policy inapplicable or inappropriate;*
  - The site’s location on a major arterial road and being on a direct interface between a mainly residential and mainly industrial (though this is a far from perfect characterisation of the Employment Zone) is unusual, and makes the policies less applicable, by virtue of the fact that the aims of the policy would be very difficult to achieve in such a location. Nonetheless, to suggest this is to essentially say that this Zone was incorrectly applied, something which I feel is not the intent of this assessment;
8. *Whether other events have happened since the Development Plan was adopted which make the policy redundant, either generally or in respect of this particular development;*
  - No such event would be relevant;
9. *The probable effect of non-compliance with the policy on the planning objectives of the Zone; and*
  - Given that the Zone here is only two sites on this side of Portrush Road, and the disconnection that the road creates from the remainder of the Zone opposite, it is expected that the impacts of non-compliance will be relatively limited;
10. *Whether non-compliance with the policy in this case is likely to encourage other non-complying developments in the Zone.*
  - The reasons for departure above are quite specifically applicable to this specific site and would not apply to other sites in the Zone, mitigating the likelihood of further non-compliance.

While factors 7, 9 and 10 might support some departure, on balance, the principles do not support a significant departure from the principles of the Zone.

Conclusions regarding land use, and consideration of “seriously at variance”

In *Jahk Enterprises*, Commissioner Nolan at [58] states:

*“Therefore, I conclude that any land use (employing any person, in any capacity, at any time) may meet the intent of the DO for the GNZ subject to satisfactory compliance with the relevant provisions of the Code when assessed as a whole.”*

There is therefore some extent to which *any* land use may be envisaged in the Zone. Nonetheless, it is evident that not all uses will be envisaged everywhere, as outlined in *Minicozzi*. Thus, it is a matter of fact and degree. There are substantial differences between the scenarios presented in those two cases, and the proposed development here, as there are with any other known case.

In *Jahk* it was determined that the land use was suitable, in part because a car wash was considered a kind of shop, and it was providing a service to the community- which is not the case in this application.

In *Minicozzi*, it was determined that the proposal was not acceptable as the development would undermine the character of the area primarily by having a car park in front of the building. In the application before us here, there is no such concern about undermining neighbourhood character given the nature of Portrush Road's traffic environment.

It is, of course, important to consider whether the proposed development may be "seriously at variance" with the Planning and Design Code. Section 107 (2)(c) of the *Planning, Development and Infrastructure Act 2016* states that:

*"to the extent that paragraph (b) applies—the development must not be granted planning consent if it is, in the opinion of the relevant authority, seriously at variance with the Planning and Design Code (disregarding minor variations)."*

The most relevant recent guidance on the question of "seriously at variance" is provided in [Geber Super Pty Ltd V The Barossa Assessment Panel \[2023\] SASC 154](#) where a helpful summary of the history of the question is provided from [61], should it be of use to the Panel. In essence, if the application is "seriously at variance", then the Panel no longer has the jurisdiction to approve the application, as the Act has taken away the ability to approve an application which is seriously at variance. However, it is up to the Panel (as the Relevant Authority), to determine whether it is seriously at variance.

The Code expects development, to a reasonable extent, to be assessed on its merits, and in its context. If the proposed development was one site further north (thus, in the Employment Zone), it would likely be perfectly appropriate, and as noted above, it does not generally erode a residential character. Therefore, the development's context does provide some support for its merits. However, to suggest that application should be approved on this basis alone is to essentially suggest that the Zone is applied incorrectly and should be disregarded. Context should not override all guidance of the Zone, per *Strath Hub* above.

In this case, the proposed development is considered to be at variance to a degree substantial enough to warrant refusal, but not to a degree which reaches the threshold of "serious" As a result, 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*.

### **Building Height**

The proposed building height of 9m from natural ground level (8m from FFL) is consistent with the building heights expected for a two-storey building, which is the height envisaged by General Neighbourhood Zone DPF 4.1. However, as this height is with a flat roof, it does exceed the envisaged wall height of 7m.

PO 4.1 of the General Neighbourhood Zone states:

*"Buildings contribute to a low-rise suburban character."*

Given it is fundamentally consistent with a two-storey building, it is considered that this is satisfied in respect of building height.

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

Regarding the development's overall appearance, it is noted that PO 1.3 (cited above) expects non-residential development to be "sited and designed to complement the residential character and amenity of the neighbourhood." The proposed development is not designed from the street to fit in with any residential character, given it is boundary-to-boundary, two-storey in nature.

Nonetheless, as noted above, the streetscape does not have a discernibly residential character, so if there is no residential character to complement, then arguably the design does not detract from such a character. The exception to this would be at the rear where there is a residential character for the dwellings along Llandower Avenue, though this is addressed below.

The development does provide a large number of windows facing the street, which contributes to passive surveillance in line with Design in Urban Areas PO 2.5, and improves the overall connectivity between the building and the streetscape. It includes a variety of materials on the front façade which add to visual interest while retaining a cohesive appearance.

The following Performance Outcomes of the General Neighbourhood Zone relate to boundary walls and side boundary setbacks:

<p>PO 7.1 Walls on boundaries are limited in height and length to manage visual and overshadowing impacts on adjoining properties.</p>	<p>DPF 7.1 Except where the building is a dwelling and is located on a central site within a row dwelling or terrace arrangement, side boundary walls occur only on one side boundary and satisfy (a) or (b) below:          (a) side boundary walls adjoin or abut a boundary wall of a building on adjoining land for the same or lesser length and height          (b) side boundary walls do not:              i. exceed 3m in wall height              ii. exceed 11.5m in length              iii. when combined with other walls on the boundary of the subject development site, exceed a maximum 45% of the length of the boundary              iv. encroach within 3m of any other existing or proposed boundary walls on the subject land.</p>
<p>PO 7.2 Dwellings in a semi-detached, row or terrace arrangement maintain space between buildings consistent with a suburban streetscape character.</p>	<p>DPF 7.2 Dwelling walls in a semi-detached, row or terrace arrangement are setback at least 900mm from side boundaries shared with allotments outside the development site.</p>
<p>PO 8.1 Building walls are set back from side boundaries to provide:          (a) separation between buildings in a way that contributes to a suburban character and          (b) access to natural light and ventilation for neighbours.</p>	<p>DPF 8.1 Other than walls located on a side boundary, building walls are set back from side boundaries in accordance with the following:          (a) where the wall height does not exceed 3m - at least 900mm          (b) for a wall that is not south facing and the wall height exceeds 3m - at least 900mm from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings          (c) for a wall that is south facing and the wall height exceeds 3m - at least 1.9m from the boundary of the site plus a distance of 1/3 of the extent to which the height of the wall exceeds 3m from the top of the footings.</p>

The development does not comply with any of these DPFs, given it has boundary walls on both sides of 27.4m and 8m high from FFL. Nonetheless, the relevant PO's generally aim to ensure "consistency with a suburban character" and manage impact on neighbouring properties.

As above, there is no clear suburban residential character in the streetscape, nor from the properties to the north or south.

The impact on the property to the north would be minimal given its nature as a retail fuel outlet. To the south, this would shadow one of the play areas for the childcare centre. Aerial imagery shows that the childcare

centre has shade sails set up in this area already, so this shadowing may not be a negative implication, and may in fact be positive.

Therefore, while not consistent with the visual outcomes that would generally be expected in a General Neighbourhood Zone, the context of the development is such that the design, and its lack of side setbacks, is reasonable.

General Neighbourhood Zone DPF 9.1 states that a site of this size should have rear setbacks of 4m to the ground floor and 6m to a second storey. The corresponding PO 9.1 states:

*Building walls (excluding ancillary buildings and structures) are set back from rear boundaries to provide:*

- a) *separation between buildings in a way that contributes to a suburban character*
- b) *access to natural light and ventilation for neighbours*
- c) *private open space*
- d) *space for landscaping and vegetation.*

The building's rear setback is some 7.88m, which is mostly landscaping (other than a timber deck and associated verandah, which extends some 3m further to the rear boundary). This is generally consistent with a suburban character, and suitably complies with this policy.

Regarding the primary street setback, General Neighbourhood Zone DPF 5.1 expects the setback of new buildings to be the average of the two sites either side, minus 1m. The associated PO 5.1 states:

*"Buildings are setback from primary street boundaries to contribute to the existing/emerging pattern of street setbacks in the streetscape."*

The building is set back 17.4m from Portrush Road, generally consistent with the childcare centre to the south, and well behind the retail fuel outlet to the north. This is considered suitable to satisfy this Performance Outcome.

General Neighbourhood Zone DPF 3.1 envisages a site coverage of 60%, with the associated PO 3.1 stating:

*"Building footprints allow sufficient space around buildings to limit visual impact, provide an attractive outlook and access to light and ventilation."*

The proposed building has a site coverage of approximately 48%, which is well below the 60% guideline. It is considered that this is appropriate to meet this Performance Outcome.

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

The applicant has provided a traffic assessment from Phil Weaver and Associates, which is provided in **Attachment 1**. This includes swept-path turning diagrams which demonstrate the suitability of vehicle turning movements at the site.

The application was referred to the Commissioner of Highways, who advised that they had no objection to the application subject to conditions. The most notable of these is that access to the site must be from vehicles no larger than a small rigid vehicle (that is a small truck, with a length of 6.4m). This condition is understood to be based on the turning paths, as larger vehicles would be unable to conveniently enter and exit the site in a forward direction. A small rigid vehicle has a turning radius of 10m, which is the manoeuvring width provided. This therefore allows for such a vehicle to enter the site, turn around using a three-point-turn, and exit in a forward direction.

Council's Senior Traffic Engineer also expressed no concerns over the proposal. It is noted that the access is directly from a State Maintained Road and therefore the proposal would have a limited impact on the local road network.

In addition to the space inside the buildings, there are four on-site parking spaces. Table 1 of the Transport, Access and Parking module outlines a rate for warehouses of 0.5 spaces per 100m<sup>2</sup> of gross leasable floor area. With 516m<sup>2</sup> of gross leasable floor area, the development would have a theoretical demand for 2.6 spaces. The development is therefore considered to provide suitable parking to meet the needs of the development, in accordance with Transport, Access and Parking PO 5.1

## Environmental Factors

### Landscaping

The proposal includes some limited landscaping forward of the building, with further landscaping at the rear. Forward of the building there is 39.6 m<sup>2</sup> of landscaping provided which equates to 12.4% of the area in front of the building, while the overall site provides 149.2 m<sup>2</sup> or 16.4% of the total site area as landscaping.

This compares favourably with other non-residential development along Portrush Road, where very little landscaping is provided, albeit it is notably short of the residential benchmark of 30% forward of the building, and 25% overall (for a site of this size).

### Tree-Damaging Activity

There are two significant trees in proximity to the site; one on private land and another on public land. Council's City Arborist reviewed both trees, and his advice is provided in **Attachment 5**.

The street tree is an *Angophora costata* Smooth Barked Apple tree. It is a large, healthy specimen despite a challenging growing environment, and has a high amenity value.

The property boundary adjacent to the tree has a low stone wall which is to be retained through the development. The City Arborist is of the view that the tree's roots are likely going under this wall, and it is using this area to support its vitality given the otherwise limited feeding area.

Part of this existing permeable area would be paved over to create the parking spaces as part of the development, though a 2m wide landscaping strip would remain behind the wall. The City Arborist advised that the encroachment in the tree's Notional Root Zone is sufficiently limited that it is not likely to have undue

or long-term impacts on the tree's health, provided that a series of conditions are applied. These conditions are available in the referral response.

The tree on private land to the rear is a *Corymbia Citridora* Lemon Scented Gum, in good condition and with a high amenity value.

The proposed development would be approximately 9.5m from the tree's trunk, with the tree having an NRZ of radius of 13.92m. The warehouse would encroach on this NRZ by 61m<sup>2</sup>, or 10%. This is consistent with the advice of the applicant's arborist report for avoiding damage to the tree. It should be noted that this encroachment excludes the deck and verandah, though the impact of this is likely to be limited.

The City Arborist agrees that the extent of encroachment into the tree's NRZ is not unreasonable and will allow the tree sufficient remaining space. Nonetheless, he recommended a series of further conditions relating to the establishment of a Tree Protection Zone and construction of footings / post holes for the deck.

### Stormwater & Verge Infrastructure

The applicant has provided a Stormwater Management Plan which is included in **Attachment 1**. This SMP has been designed based on releasing the post-development 20% AEP event at the rate of the pre-development 20% AEP event. This is not consistent with Council's standard requirement of detaining the post-development 1% at the rate of the post-development 5% event. This could be addressed via a Reserved Matter if needed.

The SMP shows a stormwater connection directly into a side entry pit in the verge on Portrush Road. This side entry pit, however, conflicts with the proposed widened crossover. The pit is owned by the Department of Infrastructure and Transport.

The Commissioner of Highways, in their referral response, included a condition relating to the final design of the SEP. No such design is available at present.

There is the potential for works to the SEP to damage the significant street tree if not managed appropriately. Unfortunately, without detail on what is to be done with the pit, it is not possible to provide conditions or the like vis-à-vis the street tree. If the application were to be approved, it would be recommended that a Reserved Matter be applied to manage this issue.

There is also a bus stop immediately in front of the property. This is not expected to be affected by the development, though this could also depend on how the situation regarding the side entry pit is resolved.

### Noise Emissions

From a warehouse, the key noise emission is likely to be from vehicle movements. Those movements are to take place on the Portrush Road side of the site, well separated from sensitive receivers.

There is some possibility that a reversing alarm from a forklift could create some issue, but this would be inside the building (or in front of it), and with the building being well separated from sensitive receivers, it is not expected to have an unreasonable impact.

### Waste Management

While the applicant has not provided any detail regarding waste management, it is considered unlikely to generate significant volumes of waste, and a standard Council collection may be sufficient. Ample space is available within the building for the storage of bins.

## **CONCLUSION**

The subject site's context means that the development is unlikely to detrimentally impact any neighbouring properties, or any neighbourhood character. Practical matters such as tree damaging activity and stormwater can all be managed via appropriate reserved matters and conditions, and other matters such as vehicle access are generally suitable.

However, the proposed use as a warehouse is fundamentally inconsistent with the principles sought by the General Neighbourhood Zone. While the site abuts an Employment Zone, where its use would be appropriate, the Zone cannot simply be disregarded in an assessment. Principally, the Planning and Design Code does not intend for such a use to be located in this Zone, and so although its impact may be limited, it does not sufficiently comply with the Code to warrant consent.

Nonetheless, the Code does expect development to be considered in its context, and given its limited impact, it is considered that the development does not cross the threshold of "seriously at variance".

## **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 25030684, by Penfold Building Group Pty Ltd c/o Future Urban is refused Planning Consent subject to the following reasons:
  - 1) *The proposal fails to satisfy Performance Outcome 1.1 of the General Neighbourhood Zone as it is not complementary to residential uses, and does not support an active, convenient and walkable neighbourhood.*
  - 2) *The proposal fails to satisfy Performance Outcome 1.2 of the General Neighbourhood Zone as it does not improve community accessibility to services.*

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**Mr James Levinson addressed the Council Assessment Panel from 6.35pm until 6.40pm**

**Moved By Mr Adcock**

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 25036080, by HBC Homes is granted Planning Consent subject to the following conditions/reserved matters:*
3. *Pursuant to Section 102(3) of the Planning, Development & Infrastructure Act 2016, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval. Resolution of the reserved matter(s) and the imposition of any additional conditions is delegated to the Assessment Manager.*

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

*Reserved Matter 1*

*Details of construction methods relating to any works associated with the side entry pit on Portrush Road, including measures to avoid damage to the Council Street Tree adjacent to this pit shall be provided prior to Development Approval. Any works associated with this pit shall avoid tree damaging activity, to the reasonable satisfaction of the Assessment Manager.*

*NOTE: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.*

*Reserved Matter 2*

*A Stormwater Management Plan shall be provided for the development. Calculations are required to demonstrate detention storage meets the minimum requirements of Council. The detention requirements for the site are to detain the post development 1-in-100 year ARI storm event, with discharge being at the pre-development 1-in-5 year ARI rate.*

*NOTE: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.*

**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 areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers within the next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, shall be nurtured and maintained in good health and condition at all times, with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.*

*Condition 3*

*All of the car parking spaces, driveway and vehicle manoeuvring areas shall be constructed of concrete, paving bricks or bitumen and drained in accordance with recognised engineering practices prior to the occupation of the premises.*

*Condition 4*

*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 5*

*Driveways, car parking spaces, manoeuvring areas and landscaping areas shall not be used for the storage or display of any goods, materials or waste at any time.*

*Condition 6*

*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 Council.*

*Condition 7*

*The Authority notes the significant *Corymbia citriodora* / Lemon Scented Gum located on neighbouring land to the west of the subject site. The tree has a Notional Root Zone (NRZ) of radius 13.92m measured as a radius from the centre of the tree. In order to avoid damage to this tree, the following conditions shall be adhered to:*

- *1. All construction activities must avoid the area between the proposed timber decking and the rear boundary, in accordance with AS 4970 – Protection of Trees on Development Sites.*
- *2. During the construction of the proposed timber decking, all post holes within the NRZ must be hand-dug. Any roots encountered during excavation should be carefully exposed and, if necessary, cleanly pruned using sharp, tree-specific pruning tools to avoid tearing or frayed edges.*
- *3. To further safeguard the tree, a Tree Protection Zone should be established extending 5 metres from the tree within the subject property (93 Portrush Road), running the full width of the property in an east–west orientation. This area should be fenced and clearly signposted for the duration of construction to prevent disturbance.*

*Condition 8*

*The Authority notes the significant *Angophora costata* / Smooth Barked Apple tree located in the verge adjacent the subject site. The tree has a Structural Root Zone (SRZ) of 2.85m, and an NRZ of 7.44m, both measured as a radius from the centre of the tree. In order to avoid damage to this tree, the following measures shall be implemented:*

- a. *There is to be no further encroachment into the NRZ beyond the area shown for car parking on the approved plans. Any additional activity within this zone that may be considered a construction action AS 4970:2025 Section 4.2 – Activities Generally Excluded from the TPZ is not permitted.*
- b. *All underground and above-ground services must be routed to avoid the NRZ.*
- c. *The proposed garden bed to be established along the inside of the retained stone to be irrigated to support the significant trees ongoing root health and soil moisture.*
- d. *Where grade lowering is required to establish the new car park, any exposed tree roots must be carefully uncovered using non-invasive techniques and pruned only where necessary with clean, sharp, tree-pruning-specific equipment.*

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

*Condition 9*

*All access to/from the development shall be gained in accordance with the plan titled, Preliminary Figure and dated 26.11.25. Access shall be restricted to left in and left out only.*

*Condition 10*

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

*Condition 11*

*The largest vehicle permitted on-site shall be restricted to a 6.4m Small Rigid Vehicle (SRV).*

*Condition 12*

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

*Condition 13*

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

*Condition 14*

*The side entry pit adjacent to the access shall be modified and relocated to accommodate the access point and this will likely require the existing pit to be converted to a blind junction box with concrete benching inside the pit to reduce the likelihood of blockage. The applicant shall contact DIT (Dean Nobbs [Dean.Nobbs@sa.gov.au](mailto:Dean.Nobbs@sa.gov.au) 0422 150 775) for detailed design advice prior to any modifications, with all costs associated with these works being borne by the applicant.*

**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:*

- a. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;*
- b. Development Approval is valid for 24 months following the date of issue, within which time works must have substantially commenced on site;*
- c. Work 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), or works that require the closure of the footpath and / or road to undertake works on the development site, will require the approval of the Council pursuant to the Local Government Act 1999 prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.*

**Advisory Note 8**

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

**Advisory Note 9**

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

**Advisory Note 10**

*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.*

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

**Advisory Note 11**

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

*Seconded By Mr Bateup*  
**CARRIED**

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**5.2 DEVELOPMENT NUMBER – ID 25036810 - BYLD PTY LTD - 263 - 277 PAYNEHAM ROAD ROYSTON PARK SA 5070**

<b>DEVELOPMENT NO.:</b>	25036810
<b>APPLICANT:</b>	Byld Pty Ltd
<b>ADDRESS:</b>	263 -277 PAYNEHAM RD ROYSTON PARK SA 5070
<b>NATURE OF DEVELOPMENT:</b>	Variation to DA 23020223 comprising: - a reduction in the ground floor area - a reduction in the ground floor tenancies to one (1) restaurant and two (2) offices - an increase in the number of dwellings from 18 to 21 - removal of the basement car park - alterations to the at-grade car parking area and Payneham Road access point, including the construction of a three-tier car stacker system (outbuilding)
<b>ZONING INFORMATION:</b>	<b>Zones:</b> • Suburban Main Street <b>Overlays:</b> • Airport Building Heights (Regulated) • Advertising Near Signalised Intersections • Hazards (Flooding - General) • Prescribed Wells Area • Regulated and Significant Tree • Traffic Generating Development • Urban Transport Routes <b>Technical Numeric Variations (TNVs):</b> • Maximum Building Height (Levels) (Maximum building height is 2 levels)
<b>LODGEMENT DATE:</b>	2 Dec 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 2025.20 23/10/2025
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Kieran Fairbrother, Senior Urban Planner
<b>REFERRALS STATUTORY:</b>	Commissioner of Highways
<b>REFERRALS NON-STATUTORY:</b>	Rebecca Van Der Pennen

**CONTENTS:**

<b>APPENDIX 1:</b>	<b>Relevant P&amp;D Code Policies</b>	<b>ATTACHMENT 5:</b>	<b>Representation Map</b>
<b>ATTACHMENT 1:</b>	<b>Application Documents</b>	<b>ATTACHMENT 6:</b>	<b>Representations</b>
<b>ATTACHMENT 2:</b>	<b>Existing Approval Documents</b>	<b>ATTACHMENT 7:</b>	<b>Response to Representations</b>
<b>ATTACHMENT 3:</b>	<b>Subject Land Map</b>	<b>ATTACHMENT 8:</b>	<b>Prescribed Body Responses</b>
<b>ATTACHMENT 4:</b>	<b>Zoning Map</b>	<b>ATTACHMENT 9:</b>	<b>Internal Referral Advice</b>
		<b>ATTACHMENT 10:</b>	<b>Applicant's Responses</b>

## BACKGROUND:

At its meeting of 19 August 2024, the Council Assessment Panel refused to grant planning consent to Development Application 23020223 for the "Construction of a four-storey mixed use development comprising a restaurant, shops and offices at ground level, eighteen (18) dwellings across levels 2, 3 and 4, basement and ground level car parking, together with associated landscaping and rooftop plant".

The Applicant subsequently lodged an appeal against that decision through the ERD Court, and at its meeting on 18 December 2024, the Council Assessment Panel considered a compromise proposal put forward by the Applicant as part of the appeal proceedings. The Panel resolved to accept the compromise proposal and the ERD Court subsequently issued Orders granting planning consent to Development Application 23020223 on 23 December 2024. That Order is contained in **Attachment 2**.

The Applicant now seeks to amend that proposal as described in the Nature of Development above.

## SUBJECT LAND & LOCALITY:

### Site Description:

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

**Title ref.:** CT **Plan Parcel:** F135935 AL84 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS  
5863/464

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

**Title ref.:** CT **Plan Parcel:** F135934 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS  
5676/117 AL83

Shape:	regular
Frontage width:	approx. 47.24m to Payneham Road and approx. 42.67m to Lambert Road
Area:	approx. 2004m <sup>2</sup>
Topography:	relatively flat from south to north, with a slight fall from east to west of approx. 800-1000mm across the site
Existing Structures:	a single storey building containing several shop tenancies and associated advertising, and temporary fencing around the boundaries of the site
Existing Vegetation:	nil, except for weeds in hardstand areas

### Locality

The locality chosen for this assessment is demonstrated in **Attachment 3**. It includes the sites fronting Payneham Road for a length of approximately 100m either side of the subject land, as well as the southeastern side of First Avenue extending for a similar distance and the section of Lambert Road between Payneham Road and First Avenue.

This locality includes a mix of land uses and building types. Directly southwest of the subject land is a three-storey aged care facility that dominates the built form landscape of this section of Payneham Road, being approximately 130m in width. Opposite the aged care facility are some two-storey residential flat buildings and a large single storey commercial building currently containing a bulky goods outlet and offices. Northeast of the subject land, along Payneham Road, are a mix of offices, shops, consulting rooms and dwellings up to two levels. Conversely, the sections of Lambert Road and First Avenue that are contained within this locality are comprised of single storey dwellings within an Historic Area Overlay, the majority of which are Representative Buildings (as shown in **Attachment 4**).

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

‘The Avenues’ but maintains frequent and mature street tree plantings that provide shade and promote pedestrian activity, as does First Avenue.

**CONSENT TYPE REQUIRED:**

Planning Consent

**CATEGORY OF DEVELOPMENT:**

- **PER ELEMENT:**  
 Outbuilding: Code Assessed - Performance Assessed  
 Shop: Code Assessed - Performance Assessed  
 Dwelling: Code Assessed - Performance Assessed  
 Office: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
 Code Assessed - Performance Assessed
- **REASON**  
 P&D Code

**PUBLIC NOTIFICATION**

- **REASON**  
 The development involves a building that exceeds the maximum building height TNV of two storeys expressed in DPF 3.1 of the Zone
- **LIST OF REPRESENTATIONS**

First Name	Family Name	Address	Position	Wishes to be heard?
Fran	E		Opposed	No
Yimin	Hu		Opposed	No
Martin	Godfrey		Support, with concerns	No
Adriana	Moretta		Opposed	Yes
Simon	Moretta		Support, with concerns	Yes
David	Brown		Opposed	No

- **SUMMARY**

Concerns raised by the six representors include:

- A lack of tree plantings on the site
- Overshadowing caused by the development
- An increase in traffic volumes and parking demand
- Sightlines for vehicles exiting onto Lambert Road are inadequate
- Vehicles turning right into the site from Payneham Road may cause a traffic hazard
- Overlooking into neighbouring properties
- Noise from the car stacker system; and
- That the car stacker system will not be fully utilised because of a lack of convenience and functionality.

**AGENCY REFERRALS**

- Commissioner of Highways

The Commissioner of Highways is supportive of the variation application, including the proposed right-hand turns from Payneham Road into the site.

## INTERNAL REFERRALS

- Rebecca Van Der Pennen, Senior Traffic Engineer

Following the supply of additional information that was requested, Council's Senior Traffic Engineer is supportive of the proposal also, including all traffic movements and the use of the three-tier car stacker system in lieu of the basement.

- East Waste (Waste Management)

East Waste are not opposed to providing waste collection for this development, subject to a Non-Standard Waste Agreement being agreed to and executed between the relevant parties. What is important is that on-site waste collection remains feasible, whether this is done by East Waste or a private contractor engaged by the Body Corporate.

- Tonkin (Stormwater Management Plan)

Tonkin is satisfied the stormwater management plan is suitable for the development, with post-development flows appropriately being restricted to suitable pre-development discharge rates.

## PLANNING ASSESSMENT

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

### Land Use

This application seeks to reduce the number of ground level commercial tenancies from one restaurant, three shops and three offices to one restaurant and two offices. Consequently, the gross leasable floor area attributed to the three tenancies now totals 555m<sup>2</sup> – a reduction of 30% from 792m<sup>2</sup> per the original approval.

Desired Outcome 1 of the Suburban Main Street Zone seeks:

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

Performance Outcome 1.1 of the Suburban Main Street Zone states:

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

Performance Outcome 1.2 of the Suburban Main Street Zone states:

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

Performance Outcome 1.3 of the Suburban Main Street Zone states:

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

The proposed development will continue to satisfy these Performance Outcomes despite the reduction in tenancies and floor area. Each tenancy maintains pedestrian access from Payneham Road and will suitably address the main street as desired by these provisions. Notably, the second and third tenancies

will retain multiple entrance doors to Payneham Road, which will facilitate an efficient addition of tenancies in the future should the need arise, consistent with Performance Outcome 1.7 of the Zone, which states:

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

### **Building Height & Setbacks**

The overall height of the building remains as a four-storey building, but it has reduced in height by 1 metre. The building footprint and its siting relative the boundaries of the site have changed, as discussed below.

Performance Outcome 2.1 of the Suburban Main Street Zone states:

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

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

The building maintains a zero setback to the Payneham Road frontage, thereby continuing to frame main street in a positive manner conducive to an active main street. The second, third and fourth levels, however, have been brought closer to the Payneham Road boundary. Specifically, the front setback for these levels has reduced from 7.3m to 5.8m – a reduction of 1.5m.

The setback to the Lambert Road boundary is also sought to be amended. The existing approval involves a 2m setback to the upper-level balconies and a further 2.5m setback to the building line (i.e. 4.5m setback to the building line). This application seeks to remove all balconies along this elevation and slightly reduce the setback to the building wall to 4.16m. In the context of Performance Outcome 2.1 above, the reduction in setbacks is not considered to be at odds with this provision. (The removal of the balconies is considered in the “Design & Appearance” section of this report, below).

The setback provided to the eastern side boundary has increased from 4.2m to 7.55m which will provide a better sense of separation between this building and the single storey building next door.

Performance Outcome 3.6 of the Suburban Main Street Zone states:

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

The rear setback has increased from 10.5m to 13.75m as a result of the variation, which reduces the visual impact for occupants of the dwelling to the north (representors 4 and 5) which is a positive outcome notwithstanding the acceptability of the existing approved setback.

### **Design & Appearance**

Performance Outcome 3.4 of the Suburban Main Street Zone states:

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

Performance Outcome 2.5 of the Suburban Main Street Zone states:

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

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

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

The design of the building as it presents to Payneham Road is largely unchanged from that already approved and is still considered to present to the main street in a manner consistent with these Performance Outcomes. Notably:

- the ground level ceiling height has reduced from 3.3m to 3.0m;
- consequently, the canopy height has reduced from 3.3m to 3.0m (above footpath level);
- the balustrade for the first-floor apartments (podium level) has changed from precast concrete to face bricks of a light colour, which will provide a positive change in material across the building façade.

Performance Outcome 12.3 of the Design in Urban Areas module states:

*“Buildings are designed to reduce visual mass by breaking up building elevations into distinct elements.”*

Performance outcome 12.6 of the Design in Urban Areas module states:

*“Street-facing building elevations are designed to provide attractive, high quality and pedestrian-friendly street frontages.”*

One key design change with the variation application is the removal of all balconies from the upper three levels facing Lambert Road. The existing approval includes 2.5m deep balconies for all six apartments along the Lambert Road elevation, which were designed to present as a mix of open balustrades, floor-to-ceiling aluminium battens and planter boxes, with shadowing provided by the deep balconies and overhead canopies.

Now, the variation seeks to remove all of these balconies and instead construct a three-storey pre-cast concrete wall with several window openings, each of which will have a 300mm wide shroud on the left side (presumably for some shading but which will add some visual interest). This change is considered to be detrimental to the appropriateness of this development because the result is a large, three-level monochromatic elevation. The windows do break up the large expanse of concrete created by this design, but this is not considered sufficient to reduce the visual mass of the development or provide an attractive, high quality street frontage. Accordingly, the proposal is considered to be at odds with Performance Outcomes 12.3 and 12.6 of the Design in Urban Areas module in respect of the Lambert Road elevation.

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.”*

The varied proposal also involves a slight reduction in ground level soft landscaping, predominantly within the car parking area. Along both road frontages, and specifically on either side of the access points, landscaping strips will continue to be provided that support a good level of planting akin to that of the existing approval. Thus, from a streetscape perspective (criterion (d)) the proposal remains relatively unchanged. Accordingly, the above Performance Outcome is not considered to be offended by the removal of soft landscaping within the carpark.

Through negotiation with the Applicant, planter boxes have been reinstated to the balconies of the apartments (which were not included when this application was on public notification).

Performance Outcome 19.1 of the Design in Urban Areas module states:

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

The variation application involves the construction of a three-tier car stacker system sited along the northern side of the site, which is essentially in the form of a freestanding building. The building is 4.5m tall – one tier is contained below ground level, one at ground level, and one above. The side and rear elevations of the building will be comprised of the same face brick used on the podium level of the four-

storey associated building. This is a durable, appropriate material that will complement both the associated building and the Lambert Road streetscape, consistent with this Performance Outcome.

### Density, Dwelling Typology and Private Open Space

The existing approval includes 18 dwellings across the three upper levels of the building, comprised of 12 three-bedroom apartments and 6 two-bedroom apartments. One of the original reasons for refusal for this development was that the development failed to include a mix of bedroom numbers across the 18 dwellings; which was resolved on appeal through the introduction of the 6 two-bedroom apartments.

The variation now seeks to introduce three more apartment dwellings – taking the total number of dwellings to 21 – while also changing the dwelling mix to include 12 two-bedroom apartments and 9 three-bedroom apartments. This is still considered to satisfy Performance Outcome 29.1 of the Design in Urban Areas module, which states:

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

With respect to density, the development was already producing a theoretically high residential density outcome. The addition of 3 more dwellings will hence increase this further. However, this increase in density does not alter the built form outcome of the development (i.e. the height, bulk or massing) and so the additional density will only be realised through additional traffic movements and an increase in parking demand. As discussed in the “Transport, Access and Parking” section of this report below, however, these increases are offset by the reduction of the commercial floor area and tenancy numbers, and the slight increase in density is therefore considered to be an acceptable outcome.

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

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

Table 1 of the Design in Urban Areas module suggests that, within a multi-level building:

- a three-bedroom dwelling should be provided with at least 15m<sup>2</sup> of private open space, with a minimum dimension of 2.6m; and
- a two-bedroom dwelling should be provided with at least 11m<sup>2</sup> of private open space, with a minimum dimension of 2.4m.

With respect to the existing approval, every apartment provided more than the minimum size private open space, with a few balconies being 200mm short of the 2.6m envisioned.

With respect to the variation application, the table below shows each dwelling’s performance against these criteria. The numbers in red demonstrate a shortfall against the DPF criteria.

Building Level	Dwelling #	No. of Bedrooms	Form of Private Open Space	Total Private Open Space	Minimum Dimension
<b>2</b>	1	3	Partially covered roof terrace garden	134m <sup>2</sup>	3.6m
	2	3	Partially covered roof terrace garden	99.5m <sup>2</sup>	6.5m
	3	3	Partially covered roof terrace garden	73.5m <sup>2</sup>	6.5m
	4	2	Balcony	9.8m <sup>2</sup>	2.7m
	5	2	Balcony	13m <sup>2</sup>	2.2m
	6	2	Balcony	13m <sup>2</sup>	2.2m
	7	2	Balcony	9.8m <sup>2</sup>	2.7m
<b>3 &amp; 4</b>	1	3	Balcony	15m <sup>2</sup>	0.9m
	2	3	Balcony	19m <sup>2</sup>	0.9m
	3	3	Balcony	14.5m <sup>2</sup>	0.9m

4	2	Balcony	9.8m <sup>2</sup>	2.7m
5	2	Balcony	13m <sup>2</sup>	2.2m
6	2	Balcony	13m <sup>2</sup>	2.2m
7	2	Balcony	9.8m <sup>2</sup>	2.7m

With regards to the two-bedroom apartments, each apartment is either 1.2m<sup>2</sup> short on the area provided or has a 200mm shortfall in the minimum dimension. In qualitative terms though, each of these apartments provides a suitable sized area of private open space consistent with Performance Outcome 27.1 (above).

With regards to the three-bedroom apartments on levels 3 and 4, apartment 3 is short in area by 0.5m<sup>2</sup>, which is considered to be a minor shortfall. The minimum dimension expressed is taken from the long, thin, Juliette-style balcony provided between the street-facing bedrooms and the balustrade. Each dwelling will, however, have a wider balcony area with a minimum dimension of 2.3m and an area of at least 9m<sup>2</sup> that is capable of accommodating a dining table, for example, and be a more functional area of private open space as is envisaged by Performance Outcome 27.1.

Accordingly, despite some variances to the quantitative criteria expressed in Table 1 of the Design in Urban Areas module (i.e. DPF 27.1), on a more qualitative assessment each dwelling is considered to have sufficient, functional private open space to meet the needs of the future occupants.

### 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 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 existing approval includes access from Payneham Road into the site, from both directions of travel. This is not proposed to be changed by this variation application and so despite the concerns of Representor 3, vehicles entering the site from the westbound lane of Payneham Road is an already-approved occurrence. Nevertheless, the nature of movements through this access point is likely to be slightly different because the variation now seeks to widen this access point and including 90° parking spaces 6.2m from the Payneham Road boundary. Accordingly, the applicant was again referred to the Commissioner of Highways. The Commissioner of Highways expressed no concerns with these amendments and were equally supportive of the proposal in respect of access.

The existing approval also allowed waste trucks to enter the site from Lambert Road (an exit point for all other vehicles) because the building footprint prevented safe and convenient access from Payneham Road. This arrangement required a truck to undertake a three-point turn in the northeast corner of the site before exiting again via Lambert Road. Although supported, it is recognised that these movements are not the most convenient. The variation application now removes this need. Instead, *all* vehicles can (and will) enter from Payneham Road, travel through the site in one direction and exit to Lambert Road. This means that no vehicles will enter from Lambert Road and waste trucks will not need to complete a three-point turn within the site anymore, thereby better satisfying Performance Outcomes 3.1 and 3.8 above.

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.”*

The egress point to Lambert Road is not proposed to be altered by this variation application. However, a few of the development’s features around this egress point have been varied, as highlighted by Representor 3. Specifically, a masonry wall is located along the southern side of the driveway, and a bike storage area and plantings are located on the northern side; both of which may impact vehicles sightlines during exit movements.

With respect to sightlines to the north, the bike storage area is 2.8m wide which will provide sufficient separation between a vehicle and the plantings in the garden bed adjacent such that sightlines are not considered to be unreasonably impacted in this direction. The Panel is also reminded that the street tree adjacent this egress point requires removal to facilitate access, and this was approved as part of the original development application (and the condition related to such remains valid and applicable).

As for the southern wall, the representor has made an observation as to the difference in levels along the site and therefore raises a valid question as to the true height of this wall. The elevation drawings show the wall being 1m in height, which is acceptable with respect to vehicle sightlines. Most notably, the civil plan provided in **Attachment 1** shows that this wall will have a top height of 49.00m AHD. The driveway paving at the interface with the Lambert Road footpath has a finished level of 48.20m AHD. Accordingly, the wall will be 800mm tall from the finished level of the driveway. This is low enough to provide adequate sightlines to the south for vehicles exiting the site.

This variation application seeks to remove the basement car park from the application altogether, instead providing a three-tier car stacker system (in the form of a large outbuilding) above ground along the northern boundary of the site.

Performance Outcome 6.7 of the Transport, Access and Parking module states:

*“On-site visitor parking spaces are sited and designed to be accessible to all visitors at all times.”*

The Applicant was asked to provide operational details for the car stacker system so that Council administration could be satisfied that the system could function as effectively as a typical car parking arrangement and without causing the unnecessary queuing of vehicles. Council’s Senior Traffic Engineer is satisfied, based on the information provided by the Applicant in **Attachment 10**, that the car stacker system can function effectively and without compromising the functionality of the balance of the ground level car parking area. Of particular note:

- When parking a vehicle within the stacker system, it is not anticipated that there will be any meaningful wait time because the system is designed to have a vacant space ready for the next entry;
- When waiting to collect a vehicle, the typical wait time will be 30 to 60 seconds, during which time a pedestrian will be stood waiting rather than sat in a vehicle in the car park aisle;
- During the AM and PM peak periods, the stacker is expected to generate 8 and 9 vehicle trips respectively, which are sufficiently low such that vehicle queuing within the car park is rarely expected to occur – the maximum queue of which is expected to be one vehicle.

Accordingly, the construction of a three-tier car stacker system in lieu of a basement car park is considered to be a reasonable outcome in principle. The Panel should note that the building containing the stacker is of sufficient height to accommodate three levels of parking suitable for a B99 vehicle, consistent with the relevant Australian Standard (AS/NZS2890.1:2004).

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 factors that may support a reduced on-site rate such as:*

- (a) *Availability of on-street parking*

- (b) Shared use of other parking areas
- (c) In relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site, the provision of vehicle parking may be shared
- (d) The adaptive reuse of a State or Local Heritage Place.”

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 – an approach recently upheld by the ERD Court.<sup>1</sup>

The table below demonstrates the quantitative assessment of the car parking provision for the existing approval, based on the rates prescribed in the Planning & Design Code.

<sup>1</sup> *Palma Investments Pty Ltd v Assessment Panel – City of Mitcham* [2026] SAERDC 5.

Land Use	Applicable Table of TAP Module	Theoretical Rate Prescribed		Theoretical Demand Generated			No. of Car Parks Provided
Non-residential	Table 2	Per 100m <sup>2</sup> GLFA	3	825m <sup>2</sup> x 0.03 (rounded up)	<b>25 spaces</b>	<b>61 spaces</b>	<b>61 spaces</b>
Residential	Table 1	Per two-bedroom dwelling	1	6 spaces	<b>36 spaces</b>		
		Per three-bedroom dwelling	2	24 spaces			
		Visitor Spaces (per dwelling)	0.33	6 spaces			

The table below demonstrates the quantitative assessment of the car parking provision for the proposed variation.

Land Use	Applicable Table of TAP Module	Theoretical Rate Prescribed		Theoretical Demand Generated			No. of Car Parks Provided
Non-residential	Table 2	Per 100m <sup>2</sup> GLFA	3	555m <sup>2</sup> x 0.03 (rounded up)	<b>17 spaces</b>	<b>57 spaces</b>	<b>55 spaces</b>
Residential	Table 1	Per two-bedroom dwelling	1	9 spaces	<b>40 spaces</b>		
		Per three-bedroom dwelling	2	24 spaces			
		Visitor Spaces (per dwelling)	0.33	7 spaces			

Thus, the development will now provide a shortfall of 2 parking spaces when assessed against the relevant DPF criteria.

Performance Outcome 5.1 of the Transport, Access and Parking module allows for consideration of factors that might support a reduced rate compared to what the DPF expects. This includes “in relation to a mixed-use development, where the hours of operation of commercial activities complement the residential use of the site [such that] the provision of vehicle parking may be shared”.

Development Application 23020223 did not impose any condition to restrict the hours of operation of the office tenancies associated with the original development, and that would remain the case for tenancies 2 and 3 in this varied proposal. It would nevertheless be reasonable to expect that the operating hours of the offices will be akin to typical business hours (hence the absence of any condition, unlike the restaurant and shops), which will allow for the sharing of parking spaces between the office uses and visitors to the residential apartments. Accordingly, the development is considered to provide sufficient on-site parking provision to meet the needs of the development and hence satisfy Performance Outcome 5.1 of the Transport, Access and Parking module.

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 6.6 of the Transport, Access and Parking module states:

*“Loading areas and designated parking spaces for service vehicles are provided within the boundary of the site.”*

The Panel may recall that two of the reasons for refusal for Development Application 23020223 referenced these Performance Outcomes, noting that “commercial and service vehicle movements are not separated from passenger vehicles” and “loading areas and designated parking areas are not provided within the boundaries of the site”. On appeal, the Applicant put forward the compromise proposal (see **Attachment 2**), which was accepted by the Panel noting that:

- Performance Outcome 6.6 does not require every development to provide a dedicated loading area; and
- While waste collection would result in some parking spaces being obstructed for 3-6 minutes, several times a week, this was not considered to be unreasonable.

The variation application has amended the car parking layout but the method by which waste will be collected is inherently unchanged. A waste truck will still obstruct 3 to 4 of the spaces in the stacker system while collecting waste, but the duration and frequency of such collections is not expected to be any different to that already approved. Importantly, the aisle width provided throughout the car park permits a waste truck to stow while still allowing passenger vehicles to travel past it. The fact that movements through the development are one-directional supports this arrangement by preventing conflict between vehicles travelling in opposite directions. Accordingly, the varied development is still considered to satisfy Performance Outcomes 1.3 and 6.6 (above).

### **Question of Seriously at Variance**

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2025.20, 23/10/2025), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- The land use is unchanged from the original approval;
- The addition of 3 apartments does not materially increase the density in a way that could be considered inappropriate for this location; and
- Sufficient parking is being maintained to support the land uses.

### **CONCLUSION**

The land use remains unchanged from the existing approval, albeit with fewer commercial tenancies and three additional dwellings. The scale and form of the four-storey building is not being substantially altered as a result of the additional dwellings, sufficient car parking is being provided to support the mixed-use nature of the site,

and sufficient private open space is being maintained for each dwelling such that the increased residential density is able to be supported.

With respect to car parking, the construction of a 4.5m tall building to accommodate a three-tier car stacker system has been deemed by Council's traffic engineer to be a suitable substitute in lieu of the basement currently approved. Vehicle access and manoeuvrability through the site is improved as a result of the change; no longer requiring waste trucks to enter via the Lambert Road egress point and undertake a three-point turn within the site. Waste collection arrangements remain similar to those already approved.

The ceiling and canopy heights of the ground level tenancies have been slightly reduced, and consequently the overall building height has reduced, which is a positive outcome. The Payneham Road elevation has been improved through the use of face brick in lieu of precast concrete. Conversely, the Lambert Road elevation has been visually worsened through the removal of balconies; resulting in a monochromatic, three-level concrete wall broken up only by window openings and small shrouds. Notwithstanding, the administration considers that on balance the variation proposal warrants planning consent subject to conditions as described below.

## 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 25036810, by Byld Pty Ltd is granted Planning Consent subject to the following conditions:

## CONDITIONS

### Planning Consent

#### Condition 1

The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any), noting that all previous stamped plans and documentation, including conditions previously granted Planning Consent for Development Application ID No. 23020223 are still applicable except where varied by this authorisation.

#### Condition 2

Conditions No's 3, 7, 17, 18, 19, 20, 21, 22, 23, 24 and 25 imposed on Development Application 23020223 are hereby deleted.

#### Condition 3

Condition No. 4 imposed on Development Application 23020223 is hereby deleted and replaced with the following:

All landscaping on levels 1-3 shall be planted within planter boxes in the locations shown on the "Proposed Level 01 Floor Plan" and "Proposed Level 02,03 Floor Plan" and in accordance with the "Typ Planter Detail" as shown on Drawing No. PA10B. The planter boxes shall be constructed, and all plantings shall be established within the planter boxes by the applicant or the person(s) having the benefit of this consent, prior to the occupation of the Development.

#### Condition 4

Condition No. 6 imposed on Development Application 23020223 is hereby deleted and replaced with the following:

The rear doors of each of the ground level tenancies shall remain available for public access into the building at all times during the respective opening hours of each tenancy.

#### Condition 5

Condition No. 8 imposed on Development Application 23020223 is hereby amended to delete the words "and Tenancies 4, 5 and 7 (shops)".

#### Condition 6

Condition No. 15 imposed on Development Application 23020223 is hereby deleted and replaced with the following:

All stormwater from buildings and paved areas shall be collected and disposed of in accordance with the approved "Civil Plan – Ground Level" (prepared by TMK Engineers, Drawing No. 2510191\_C1/PB, dated 03.11.25).

Condition 7

Condition No. 16 imposed on Development Application 23020223 is hereby deleted and replaced with the following:

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

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

Condition 8

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

Condition 9

All access to/from the development shall be gained in accordance with the Proposed Site/ Ground Floor Plan produced by Piteo Architects, Project No. 2109, Drawing No. PA-04, dated 11/11/2025. The access on Payneham Road shall be limited to left turn movements only.

Condition 10

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

Condition 11

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

Condition 12

All off-street car parking shall be designed in accordance with *AS/NZS 2890.1:2004* and *AS/NZS 2890.6:2022*.

Condition 13

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

Condition 14

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

Condition 15

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

**ADVISORY NOTES**

**Planning Consent**

Advisory Note 1

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

Advisory Note 2

The Building Consent to be submitted for this development must be submitted against the original Development Application granted Planning Consent, and not against the variation. However the Building Consent must be consistent with the latest version of the approved plans, which would incorporate any

approved variations. The variation application may subsequently be verified as not requiring Building Consent, to allow Development Approval to be granted against the variation.

For further clarification, please contact Council's Planning Department on 8366 4530.

#### Advisory Note 3

This approval varies the original consent to which it applies, but it does not extend nor vary the operative date of the original consent. Accordingly, the applicant shall note that the operative date of Planning Consent for Development Application ID 23020223 lapses on 23 December 2026, unless separate authorisation is given to extend that operative date (which would require a separate application for extension to be made against the original consent).

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

#### Advisory Note 4

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

#### Advisory Note 5

In the event that traffic flows on the abutting roads are impacted during construction of the development, 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.

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**Mr Jason Cattonar & Melissa Mellen addressed the Council Assessment Panel from 7.05pm until 7.10pm**

#### **Moved Mr Adcock**

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 25036810, by Byld Pty Ltd is granted Planning Consent subject to the following conditions:*

#### **CONDITIONS**

##### **Planning Consent**

###### *Condition 1*

*The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any), noting that all previous stamped plans and documentation, including conditions previously granted Planning Consent for Development Application ID No. 23020223 are still applicable except where varied by this authorisation.*

###### *Condition 2*

*Conditions No's 3, 7, 17, 18, 19, 20, 21, 22, 23, 24 and 25 imposed on Development Application 23020223 are hereby deleted.*

###### *Condition 3*

*Condition No. 4 imposed on Development Application 23020223 is hereby deleted and replaced with the following:*

All landscaping on levels 1-3 shall be planted within planter boxes in the locations shown on the "Proposed Level 01 Floor Plan" and "Proposed Level 02,03 Floor Plan" and in accordance with the "Typ Planter Detail" as shown on Drawing No. PA10B. The planter boxes shall be constructed, and all plantings shall be established within the planter boxes by the applicant or the person(s) having the benefit of this consent, prior to the occupation of the Development.

**Condition 4**

Condition No. 6 imposed on Development Application 23020223 is hereby deleted and replaced with the following:

The rear doors of each of the ground level tenancies shall remain available for public access into the building at all times during the respective opening hours of each tenancy.

**Condition 5**

Condition No. 8 imposed on Development Application 23020223 is hereby amended to delete the words "and Tenancies 4, 5 and 7 (shops)".

**Condition 6**

Condition No. 15 imposed on Development Application 23020223 is hereby deleted and replaced with the following:

All stormwater from buildings and paved areas shall be collected and disposed of in accordance with the approved "Civil Plan – Ground Level" (prepared by TMK Engineers, Drawing No. 2510191\_C1/PB, dated 03.11.25).

**Condition 7**

Condition No. 16 imposed on Development Application 23020223 is hereby deleted and replaced with the following:

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

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

**Condition 8**

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

**Condition 9**

All access to/from the development shall be gained in accordance with the Proposed Site/ Ground Floor Plan produced by Piteo Architects, Project No. 2109, Drawing No. PA-04, dated 11/11/2025. The access on Payneham Road shall be limited to left turn in movements only.

**Condition 10**

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

**Condition 11**

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

**Condition 12**

All off-street car parking shall be designed in accordance with AS/NZS 2890.1:2004 and AS/NZS 2890.6:2022.

**Condition 13**

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

**Condition 14**

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

**Condition 15**

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

**ADVISORY NOTES**

**Planning Consent**

*Advisory Note 1*

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

*Advisory Note 2*

*The Building Consent to be submitted for this development must be submitted against the original Development Application granted Planning Consent, and not against the variation. However the Building Consent must be consistent with the latest version of the approved plans, which would incorporate any approved variations. The variation application may subsequently be verified as not requiring Building Consent, to allow Development Approval to be granted against the variation.*

*For further clarification, please contact Council's Planning Department on 8366 4530.*

*Advisory Note 3*

*This approval varies the original consent to which it applies, but it does not extend nor vary the operative date of the original consent. Accordingly, the applicant shall note that the operative date of Planning Consent for Development Application ID 23020223 lapses on 23 December 2026, unless separate authorisation is given to extend that operative date (which would require a separate application for extension to made against the original consent).*

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

*Advisory Note 4*

*The Metropolitan Adelaide Road Widening Plan shows a possible requirement for a 4.5 x 4.5 metre corner cut-off at the Payneham Road/Lambert Road corner for future upgrading of the Payneham Road/Lambert Road intersection.*

*The consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act is required to all building works on or within 6.0 metres of the possible requirement. As building works will encroach within the above areas, the attached consent form and a copy of the approved plan/s and decision notification form should be provided to DIT (via [dit.landusecoordination@sa.gov.au](mailto:dit.landusecoordination@sa.gov.au)) for consent purposes.*

*Advisory Note 5*

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

**Seconded By Mr Bateup**

**CARRIED**

**5.3 DEVELOPMENT NUMBER – ID 25036080 - HBC HOMES - 7 STEPHEN TERRACE ST  
PETERS SA 5069**

<b>DEVELOPMENT NO.:</b>	25036080
<b>APPLICANT:</b>	HBC Homes
<b>ADDRESS:</b>	7 STEPHEN TCE ST PETERS SA 5069
<b>NATURE OF DEVELOPMENT:</b>	Construction of a two-storey detached dwelling, with associated swimming pool and fencing (including masonry pillar front fence)
<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>• Future Road Widening</li> <li>• Historic Area</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Traffic Generating Development</li> <li>• Urban Transport Routes</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 18m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 600 sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 1 level)</li> <li>• Site Coverage (Maximum site coverage is 50 per cent)</li> </ul>
<b>LODGEMENT DATE:</b>	20 Nov 2025
<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 2025.20 23/10/2025
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Callum Hastie Urban Planner
<b>REFERRALS STATUTORY:</b>	Commissioner of Highways
<b>REFERRALS NON-STATUTORY:</b>	David Brown

**CONTENTS:**

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

## DETAILED DESCRIPTION OF PROPOSAL:

The proposal seeks to construct a two-storey dwelling with associated swimming pool and masonry fencing. The proposed dwelling would present to the primary street as single storey with a hipped roof; the second storey section is at the rear of the site. An alfresco area will divide the lower level of the dwelling from the proposed double garage.

## BACKGROUND:

The site previously contained a single storey dwelling (representative building). Demolition of the building was approved by the Council Assessment Panel on 20 October 2025 via DA 25015527.

This application for a replacement dwelling was submitted on 13 November 2025. The initial proposal included ancillary accommodation above the garage, detached from the main dwelling. The administration raised concerns regarding the ancillary accommodation in December 2025, the applicant subsequently amended the proposal to integrate the ancillary accommodation with the main dwelling. Following review of the amended plans, public notification was undertaken between 26 February and 18 March 2026.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 7 STEPHEN TCE ST PETERS SA 5069

**Title ref.:** CT 5218/327

**Plan Parcel:** F125083 AL1

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

Shape:	mostly rectangular, but with a wider primary street front, and an angular change in boundary alignment slightly beyond the building line
Frontage Width:	17.75m
Area:	670m <sup>2</sup>
Topography:	relatively flat, with a slight rise towards the rear
Existing Structures:	single-storey detached dwelling (Representative Building) - demolition has been approved via a separate development application
Existing Vegetation:	grass in the front and rear yards, with a variety of small/medium trees and shrubs mostly along the fence lines, including one regulated tree on the land, approved to be removed via separate application.

### Locality

The locality for the development is shown in **Attachment 2**. It extends approximately 100m northwest along Stephen Tce, 120m southeast along the same, includes sites on the opposite side of Stephen Tce (but not further along the relevant avenues), and approximately 50m northeast along Second Lane.

The locality consists mostly of historic villas and cottages constructed around 1890-1910. The Historic Area Overlay identifies many of these as Representative Buildings, which can be seen in **Attachment 3**. Many of these dwellings are oriented to face Stephen Terrace, though access is predominantly from laneways. These laneways were traditionally "night-cart lanes" and have since evolved for use by private motor vehicles, despite their narrow width (approximately 4.5m).

Land use in the locality is entirely residential, though there is an aged care facility on the northern end of the locality.

Many of these dwellings with frontages to Stephen Tce incorporate high fencing along this boundary as an acoustic barrier, but this is not universal, and several sites do have low / open fencing.

In general, the relatively high traffic volumes and high speeds along Stephen Tce diminish the otherwise high level of residential amenity in the locality.

### CONSENT TYPE REQUIRED:

Planning Consent

### CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
New housing  
Fences and walls  
Swimming pool or spa pool and associated swimming pool safety features: Code Assessed - Performance Assessed  
Detached dwelling: Code Assessed - Performance Assessed  
Fence: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
P&D Code; No other pathway- Historic Area

### PUBLIC NOTIFICATION

- **REASON**

Two storey dwelling exceeds single storey TNV

- **LIST OF REPRESENTATIONS**

First Name	Surname	Address	Position	Wishes to be Heard?
Louise	Byer		Supportive with concerns	No
St Peters Residents Association		N/A	Opposed	Yes

- **SUMMARY**

Representor 1 was concerned about potential overlooking into their property and impacts on vehicle movements during construction.

Representor 2 believes that the design is not consistent with some provisions of the Established Neighbourhood Zone and Historic Area Overlay. Representations are provided in **Attachment 4**.

### AGENCY REFERRALS

- Commissioner of Highways

The application was referred to the Commissioner of Highways as the proposal includes work within the C-Type Requirement and 6m Consent Area. Only the front fencing will be within the C-Type Requirement, and the Commissioner of Highways has not objected to the proposal. They have directed several conditions if Planning Consent is granted.

### INTERNAL REFERRALS

- Heritage Advisor, David Brown

The application was referred to Council's Heritage Advisor to provide advice on the impact of the proposed building on the Historic Area. His advice is provided in **Attachment 6**.

## PLANNING ASSESSMENT

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

### Land Use

The proposed development is residential in nature, consistent with the existing land use and with Established Neighbourhood Zone (ENZ) PO 1.1 which envisages “predominantly residential development”.

### Building Height and Impact on Streetscape

The proposed dwelling is two storeys, exceeding the single storey TNV set by ENZ DPF 4.1. The proposed second level would be contained within the roofline of the dwelling, with a maximum height of 7.6m above the natural ground level. Performance Outcome 4.1 states:

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

To elaborate on this, Historic Area Overlay PO 2.2 states:

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

The Historic Area Statement, in the “Building Heights” section, states that the Historic Area is, “Predominantly single-storey, up to two storeys in some locations.”

Both the ENZ and Historic Area Overlay require a contextual assessment to determine an appropriate building height. The locality is predominantly single storey; where second storey dwellings do exist, these are typically hidden within or behind the roofline of the first level. Based on the single storey TNV and the overwhelmingly single storey locality, a prominent second level would be inappropriate. The question therefore is if the second storey is adequately hidden from the street and adjoining land to minimise its impact.

While second building levels are rare in the area, tall gabled and hipped roofs are common. On the Stephen Street frontage, the proposed dwelling has a 3.5m tall roof. The roofline contains the entire second level, with no upper-level windows facing the primary street. While the roofline will result in a slightly taller building, its height will not be exceptional. The height would be roughly consistent with the single storey representative building at 11 Stephen Terrace.

The second level is more obvious from the side laneway and adjoining land. The second level is still contained within the roofline, but upper-level windows reveal its existence. The roofline is squared off in the northwest corner of the site. While this increases the prominence of the second level, it increases the setback from neighbouring properties and improves access to natural light and ventilation within Private Open Space. On the laneway, the building height should have minimal impact. The secondary frontage is dominated by garages and rear boundary fences with minimal contribution to the character of the area. While the second level is visible, it is adequately blended into the roofline to manage character impacts when looking down the laneway from the primary street.

The front boundary setback will be between 8.3m and 10.6m, varying due to the angled front boundary. The upper level will have a minimum setback of 11.7m. The front setback is less than the abutting dwelling to the northwest, but greater than the dwelling that previously occupied the site. While ENZ DPF 5.1 determines the front setback based on the abutting dwelling, in this case, the dwelling to the northwest is not representative of the prevailing character of the area. Original dwellings fronting Stephen Terrace typically have smaller setbacks relative to others within the Historic Area. The representative building at 11 Stephen Terrace is more typical of the locality and has a front setback of approximately 5m. The proposed 8-10m setback is therefore consistent with the Stephen Terrace streetscape.

The design successfully mitigates the impact of the second level on the streetscape and adjoining land to satisfy the relevant provisions of the Zone and Historic Area Overlay.

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

#### *Site Coverage*

The overall building footprint on the site is 336m<sup>2</sup> or 50% of the total site area. This is consistent with the 50% envisaged by ENZ DPF 3.1.

#### *Setbacks and Impact on Neighbouring Properties*

ENZ PO 8.1 states:

*“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.”*

The ground level would be setback 1.03m from the side boundary. This is consistent with the locality where dwellings typically have small side boundary setbacks and larger front and rear setbacks. The setback of the upper level varies but can be accepted given that it is integrated into the roofline.

The roofline is squared off in the northwest corner of the site to maximise the side boundary setback and minimise impacts on the private open space of the abutting property.

ENZ PO 9.1 states:

*“Buildings are set back from rear boundaries to provide:*

- A. separation between buildings in a way that complements the established character of the locality*
- B. access to natural light and ventilation for neighbours*
- C. private open space*
- D. space for landscaping and vegetation.”*

The dwelling would be setback 0.96m from the rear boundary. This is a significant departure from the 4m for the first building level sought by DPF 9.1. However, the rear boundary abuts a carport and driveway handle to the northeast, with no impact to amenity from the reduced rear setback.

The character of the laneway is of limited value, dominated by carports and garages. The garage of the proposed dwelling will be abutting the laneway, with a gap between the garage and the rest of the ground level that helps it to appear as a separate structure. This reduces visual mass along the laneway and provides access to natural light and ventilation. Overall, PO 9.1 is met despite the small rear setback.

#### *Materials*

The front elevation of the dwelling will consist of quartz stone cladding with rendered dressings. The materials are consistent with those sought by the Historic Area Statement and are supported by Council's heritage advisor.

A representor raised concerns regarding window frame materials, roof sheeting, and stone cladding on the front elevation. As noted above, while the development does not directly replicate the bluestone or sandstone that is typical in the area, the quartz cladding adequately maintains the existing streetscape character. The roof will be constructed from Colorbond sheeting, finished in woodland grey. While galvanised iron roofs are common in the locality, it is more characteristic of First and Second Avenue. Roof styles on Stephen Tce are more diverse and Colorbond sheeting adequately maintains the streetscape character.

The selected materials and colours are compatible with the locality and accepted by Council's Heritage Advisor. The front fencing style is also supported; a condition is recommended that side boundary fencing be corrugated.

### *Privacy*

Upper-level windows facing the side and rear boundaries will have obscure glazing to 1.5m above the finished floor level consistent with Design in Urban Areas DPF 10.1.

### **Heritage**

The proposal has been amended in line with advice from Council's Heritage Advisor, reducing the size of the upper floor to limit both its streetscape impact and to make the design more consistent with the Historic Values of the area. Council's heritage advisor is supportive of the proposed dwelling footprint, setbacks and orientation; however, he raised concerns regarding the built form.

Given the predominantly single storey character of the area, the visibility of the upper level is a concern. The section facing the primary street presents as single storey with a gable end. As discussed above, it is taller than surrounding dwellings, but not unreasonably so. Along the secondary street, the proposal has been amended to have a consistent roofline, removing a proposed dormer window. A single dormer window is proposed facing the northwestern boundary. This is reasonably hidden at the rear of the site and will have minimal impact on the streetscape.

A verandah is proposed over the dwelling entrance. This was initially an extension of the dwelling's roof but has been amended to be a separate structure. This has reduced the total height of the verandah and made it more compatible with the Historic Area Statement.

Council's heritage advisor has noted that while the window form is not typical of the locality, the front windows are adequately screened from the street by the verandah and fencing and will not detract from the historic characteristics of the area.

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

#### *State-Maintained Road*

Stephen Terrace is a state-maintained road with a speed limit of 50km/h. To ensure safe and efficient vehicle movements along Stephen Terrace, access will be from Second Lane. The access point will be more than 25m from the intersection with Stephen Terrace and therefore, the Urban Transport Routes Overlay is satisfied.

The Future Road Widening Overlay applies to the southern corner of the site. Fencing is proposed within the C Type Requirement and 6m Consent Area, therefore, the proposal was referred to the Commissioner of Highways. They have not objected to the proposal given that only fencing will be within the C Type Requirement.

The Commissioner of Highways has also directed a condition that a corner cut-off be provided at the intersection of Stephen Terrace and Second Lane to ensure adequate sightlines along the State-Maintained Road. The current proposal includes 1.2m high fencing within the corner cut-off area, therefore, a reserved matter is recommended that the applicant provides an updated fencing plan that complies with the Commissioner's condition.

#### *Vehicle Access*

The applicant has proposed to use the existing access point with some modifications. The access point is sufficiently setback from street trees and infrastructure to satisfy DPF 23.4. Second Lane is wide enough to support access to the site and allows for safe and convenient vehicle movements.

### *Parking*

Two parking spaces will be provided on the site, the spaces satisfy the minimum dimension sought by DPF 23.1. There will be no impact to on-street parking resulting from the development.

### **Landscaping and Private Open Space**

The proposal includes 175sqm of soft landscaping at the front and sides of the property. The proposed landscaping includes two small trees in front of the dwelling to satisfy the Urban Tree Canopy Overlay. The landscaping is reasonably distributed across the site to minimise heat absorption and provide stormwater infiltration. Tree planting is proposed in the more open parts of the site to provide shade and shelter. Landscaping in front of the dwelling contributes to the streetscape and improves the appearance of the land. PO 22.1 is therefore met.

Private open space is provided at the rear of the site and between the dwelling and garage. The private open space provides a high-level of amenity, with a pool, covered dining area and landscaping and will meet the likely needs of residents.

### **Fencing**

As discussed above the front boundary fencing is compatible with the Historic Area and does not interfere with the adjacent State-Maintained Road. Side boundary fencing will have a maximum height of 2.1m above the natural ground level and will not unreasonably impact the amenity of adjacent residents.

### **Swimming Pool**

The swimming pool pump system will be enclosed in a dedicated area behind the garage. A condition is recommended to control potential noise impacts on adjacent land.

### **Question of Seriously at Variance**

The proposed development comprises construction of a 2 storey detached dwelling with an associated swimming pool and fencing. It is located in the Established Neighbourhood Zone and the Historic Area Overlay. Development of this nature may be appropriate within the site, locality or in the subject Zone and Overlay for the following reasons.

- Residential development is envisioned by DO 1 of the Zone,
- The proposal maintains the predominantly single storey streetscape character,
- The design is generally compatible with the historic characteristics of the area.

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*.

### **CONCLUSION**

While the proposed 2 storey dwelling is at variance with the single storey TNV that applies to the area, the second level is adequately hidden within the roofline

to minimise impacts on the streetscape and adjacent land. The proposal is compatible with the locality and will not unreasonably impact the amenity of adjacent residents. The design is also compatible with the Historic Area Statement.

On balance, the proposed development is considered acceptable.

### **RECOMMENDATION**

It is recommended that the Council Assessment Panel/SCAP 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 25036080, by HBC Homes is granted Planning Consent subject to the following conditions/reserved matters:

#### RESERVED MATTERS

##### **Planning Consent**

###### Reserved Matter 1

Prior to Development Approval being issued, a final plan for fencing along the Stephen Terrace and Second Lane frontages shall be provided that complies with condition 2 directed by the Commissioner of Highways to the reasonable satisfaction of 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

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 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.

Please note that disposal of the stormwater to the adjacent laneway is not permitted and compliance with this condition will only be achieved with all stormwater being directed to the primary street kerb and water table or associated underground pipe drainage system.

###### Condition 5

The upper floor windows facing side and rear boundaries 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, within one (1) week of 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 to the reasonable satisfaction of the Council.

Condition 6

All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers within the next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, shall be nurtured and maintained in good health and condition at all times, with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.

Condition 7

That the associated filter pump be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.

Condition 8

Side boundary fencing will have a corrugated profile

Condition 9

Any gradient required to accommodate vehicle access that exceeds the Council specifications shall be accommodated entirely within the boundaries of the subject land.

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

Condition 10

All access to/from the development shall be gained via Second Lane in accordance with the site plan produced by Nic Studio Design, Project No. N-25004, Drawing No. SD002, Revision PA\_A, Dated 09-11-2025.

Condition 11

A 3.5 meters x 3.5 meters corner cut-of shall be provided at the corner of Stephen Terrace and Second Lane to maximise driver sightlines. This area shall be free of all fencing and any vegetation shall be no taller than 1.0 metres tall.

Condition 12

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

ADVISORY NOTES

**Planning Consent**

Advisory Note 1

The Applicant is reminded of its responsibilities under the *Environment Protection Act 1993*, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited,

entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA.

Advisory Note 2

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

The Applicant's attention is particularly drawn to the requirements of the *Fences Act 1975* regarding notification of any neighbours affected by new boundary development or boundary fencing. Further

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

Advisory Note 3

The Applicant is advised that construction noise is not allowed:

3. on any Sunday or public holiday; or
4. after 7pm or before 7am on any other day

#### Advisory Note 4

The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections), 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 5

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

#### Advisory Note 6

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

#### Advisory Note 7

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

#### Advisory Note 8

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

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

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at [townhall@npsp.sa.gov.au](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 9

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

#### 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.

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

#### Advisory Note 11

The Metropolitan Adelaide Road Widening Plan shows a possible requirement for a strip of land up to 4.5 metres in width from portion of the Stephen Terrace frontage of this site for future upgrading of the of Payneham Road/ Stephen Terrace and Nelson Street intersection. The consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act 1972 is required to all new building works located on or within 6 metres of the possible requirements. The consent of the Commissioner of Highways under the Metropolitan Adelaide Road Widening Plan Act is therefore required to all new building works located on or within 6.0 metres of the possible requirements. The attached consent form and a copy of the approved plan/s and decision notification form should be provided to DIT (via [dit.landusecoordination@sa.gov.au](mailto:dit.landusecoordination@sa.gov.au)) for consent purposes.

**Cr Wilkinson left the meeting at 7.17pm**

**Mr Cree addressed the Council Assessment Panel from 7.18pm until 7.25pm**

**Mark Troncone addressed the council Assessment Panel from 7.26pm until 7.28pm**

**Moved by Mr Bateup**

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 25036080, by HBC Homes is granted Planning Consent subject to the following conditions/reserved matters:*
3. *Pursuant to Section 102(3) of the Planning, Development & Infrastructure Act 2016, the following matter(s) shall be reserved for further assessment prior to the granting of Development Approval. Resolution of the reserved matter(s) and the imposition of any additional conditions is delegated to the Assessment Manager.*

## **RESERVED MATTERS**

### **Planning Consent**

#### *Reserved Matter 1*

*Prior to Development Approval being issued, a final plan for fencing along the Stephen Terrace and Second Lane frontages shall be provided that complies with condition 2 directed by the Commissioner of Highways to the reasonable satisfaction of the Assessment Manager.*

*NOTE: Further conditions may be imposed on the Planning Consent following satisfaction of the above matter.*

## **CONDITIONS**

### **Planning Consent**

#### *Condition 1*

*The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).*

#### *Condition 2*

*Either:*

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

#### *Condition 3*

*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 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.*

*Please note that disposal of the stormwater to the adjacent laneway is not permitted and compliance with this condition will only be achieved with all stormwater being directed to the primary street kerb and water table or associated underground pipe drainage system.*

**Condition 5**

*The upper floor windows facing side and rear boundaries 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, within one (1) week of 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 to the reasonable satisfaction of the Council.*

**Condition 6**

*All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers within the next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, shall be nurtured and maintained in good health and condition at all times, with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council.*

**Condition 7**

*That the associated filter pump be enclosed in such a way that noise levels do not exceed 45db(a) measured at adjoining property boundaries.*

**Condition 8**

*Side boundary fencing will have a corrugated profile*

**Condition 9**

*Any gradient required to accommodate vehicle access that exceeds the Council specifications shall be accommodated entirely within the boundaries of the subject land.*

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

**Condition 10**

*All access to/from the development shall be gained via Second Lane in accordance with the site plan produced by Nic Studio Design, Project No. N-25004, Drawing No. SD002, Revision PA\_A, Dated 09-11-2025.*

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*A 3.5 metres x 3.5 metres corner cut-of shall be provided at the corner of Stephen Terrace and Second Lane to maximise driver sightlines. This area shall be free of all fencing and any vegetation shall be no taller than 1.0 metres tall.*

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**ADVISORY NOTES**

**Planning Consent**

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*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,*

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**Seconded by Mr Adcock  
CARRIED**

**5.4 DEVELOPMENT NUMBER – ID 25040620 - SOPHIE WILKINSON - 14 HANSON AVENUE  
HEATHPOOL SA 5068**

<b>DEVELOPMENT NO.:</b>	25040620
<b>APPLICANT:</b>	Sophie Wilkinson
<b>ADDRESS:</b>	14 HANSON AV HEATHPOOL SA 5068
<b>NATURE OF DEVELOPMENT:</b>	Dwelling alterations & additions (including partial demolition), alterations & additions to outbuilding and above ground swimming pool with attached decking and associated safety features
<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>• Local Heritage Place</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 10m; semi-detached dwelling is 9m; group dwelling is 18m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 400 sqm; semi-detached dwelling is 400 sqm; group dwelling is 400 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>	14 Jan 2026
<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 2025.22 18/12/2025
<b>CATEGORY OF DEVELOPMENT:</b>	Code Assessed - Performance Assessed
<b>NOTIFICATION:</b>	Yes
<b>RECOMMENDING OFFICER:</b>	Kieran Fairbrother, Senior Urban Planner
<b>REFERRALS STATUTORY:</b>	Nil
<b>REFERRALS NON-STATUTORY:</b>	David Brown

**CONTENTS:**

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

## DETAILED DESCRIPTION OF PROPOSAL:

This application seeks to undertake some minor demolition works at the rear of the dwelling (LHP) to create openings to link a new single-storey rear addition to the existing building, which will be constructed on the rear boundary. A small laundry addition is proposed on the southern side of the dwelling, constructed on the side boundary and adjoining an existing boundary wall.

Towards the front of the site, an existing sandstone storage shed (behind and adjacent to the carport) is proposed to be demolished (due to structural concerns) and reconstructed with an extended footprint, with the existing sandstone being reutilised along the front elevation. A new deck and swimming pool is proposed in the northeast corner of the site, and a new privacy screen is proposed to be 1.5m above the finished level of the deck to mitigate overlooking into the neighbouring property.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 14 HANSON AV HEATHPOOL SA 5068

**Title ref.:** CT **Plan** **Parcel:** F138488 **Council:** THE CITY OF NORWOOD PAYNEHAM AND ST PETERS  
5680/816 AL8

Shape:	semi-regular
Frontage width:	21.34 metres
Area:	approx. 900m <sup>2</sup>
Topography:	relatively flat
Existing Structures:	a single storey dwelling, described as a "Modern Movement Stone Dwelling" per the Local Heritage Place listing, and a double-width carport at the front of the property
Existing Vegetation:	two (2) significant trees border the dwelling to the west and the north, and a regulated palm tree lines the rear boundary to the east

### Locality

The locality is characterised primarily by single-storey detached dwellings on generous allotments; predominantly being buildings constructed prior to 1940 (hence the Character Area Overlay). To the east and north of the subject land exists a corridor of native vegetation along First Creek, and a large public reserve owned by the City of Burnside. The locality exhibits a high level of amenity.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**

Swimming pool or spa pool and associated swimming pool safety features: Code Assessed - Performance Assessed  
Fence: Code Assessed - Performance Assessed  
Deck: Code Assessed - Performance Assessed  
Outbuilding: Code Assessed - Performance Assessed  
Dwelling addition: Code Assessed - Performance Assessed  
Partial demolition of a building or structure: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
  
- **REASON**  
P&D Code

## **PUBLIC NOTIFICATION**

- **REASON**

Per Table 5 Procedural Matters of the Established Neighbourhood Zone the proposal includes partial demolition of a Local Heritage Place, and the dwelling addition includes a wall or structure that will be more than 8m on a boundary.

- **LIST OF REPRESENTATIONS**

One representation was received during public notification from the rear neighbour at 16 Hanson Avenue, who is opposed to the development and wishes to be heard.

- **SUMMARY**

The representor's objection relates to the rear addition being located on the boundary and the visual impact that the addition will have on the amenity of their property.

## **INTERNAL REFERRALS**

- David Brown, Heritage Advisor

Council's Heritage Advisor is supportive of the proposal, noting that "there will be minimal physical impact on the Local Heritage Place structure, and no impact on its heritage value".

## **PLANNING ASSESSMENT**

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

### **Demolition**

Performance Outcome 6.1 of the Local Heritage Place Overlay states:

*Local Heritage Places are not demolished, destroyed or removed in total or in part unless:*

- (a) *The portion of the Local Heritage Place to be demolished, destroyed or removed is excluded from the extent of listing that is of heritage value.*

Performance Outcome 6.2 of the Local Heritage Place Overlay states:

*The demolition, destruction or removal of a building, portion of a building or other feature or attribute is appropriate where it does not contribute to the heritage values of the Local Heritage Place.*

The Local Heritage Place listing is described as “Modern Movement Stone Dwelling”. This application seeks to undertake some minor demolition work to the Local Heritage Place as follows:

- Demolition of internal walls to create a new layout; and
- Demolition of the southern wall of “bed 1” to create an opening to link to the new addition;

Although part of the Local Heritage Place, the walls to be demolished are not considered to significantly contribute to the heritage values of the Heritage Place – confirmed by Council’s Heritage Advisor – and accordingly their demolition is considered to be consistent with Performance Outcome 6.2 above.

Elsewhere, the application also seeks to demolish the existing “wood shed” located adjacent the northern side boundary and carport. This building does not form part of the Local Heritage Place listing, and its demolition is also supported by Performance Outcome 6.2.

### **Heritage, Design & Appearance**

Performance Outcome 4.2 of the Established Neighbourhood Zone and Performance Outcome 3.1 of the Character Area Overlay both state:

*Additions and alterations do not adversely impact on the streetscape character.*

The proposed dwelling additions are located behind the building line of the dwelling (to the side and rear) and are not anticipated to be readily visible from the street, thereby satisfying this Performance Outcome. The addition to the carport is discussed in a later section of this report. Because the dwelling additions are not readily visible from the street, the balance of the provisions of the Character Area Overlay insofar as they relate to architectural detail and streetscape are not considered to be relevant to this proposal.

Instead, an assessment on the impacts of the additions on the Local Heritage Place are considered to be more relevant to the assessment of the dwelling additions.

Performance Outcome 2.1 of the Local Heritage Place Overlay states:

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

Performance Outcome 1.1 of the Local Heritage Place Overlay states:

*The form of new buildings and structures maintains the heritage values of the Local Heritage Place.*

Performance Outcome 1.2 of the Local Heritage Place Overlay states:

*Massing, scale and siting of development maintains the heritage values of the Local Heritage Place.*

The southern side addition is part of the original design concept for this Local Heritage Place, but was not built at the time. As such, one may argue that its construction could enhance the heritage values of the place. Irrespective, the addition is set back 1.7m behind the main face of the dwelling such that it won’t be readily visible from the street and hence won’t impact the presentation of the Local Heritage Place to the street, thereby not affecting the heritage values of the Place. Accordingly, this addition is considered to satisfy the abovementioned Performance Outcomes.

With respect to the rear addition, these are single storey in height and will not at all be visible from the street. Positively, the addition is not trying to mimic the Local Heritage Place in its appearance, instead employing a low skillion roof oriented east-west rather than north-south like the existing dwelling. The link between the addition and the Local Heritage Place is recessed to provide visual separation between the old and new, which is a positive outcome that maintains the heritage values of the Local Heritage Place. Accordingly, the rear addition is also considered to satisfy these Performance Outcomes.

### **Building Height, Setbacks & Visual Impact**

Performance Outcome 4.1 of the Established Neighbourhood Zone states:

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

The corresponding Designated Performance Feature (DPF) suggests buildings should be limited to two storeys, whereas the relevant Character Area Statement suggests that development should present as single storey to the street, with second storeys being acceptable towards the rear. In this case, the additions are all single-storey and so this Performance Outcome is considered to be satisfied.

Performance Outcome 3.1 of the Established Neighbourhood Zone states:

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

The corresponding DPF suggests that site coverage should not exceed 50%. The site coverage proposed by this development is equal to approximately 44% and therefore acceptable. The impacts of the extent of boundary development are discussed below.

Performance Outcome 7.1 of the Established Neighbourhood Zone states:

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

Performance Outcome 8.1 of the Established Neighbourhood Zone states:

*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.*

The side laundry addition is proposed to be of the same height as the existing southern boundary wall (playroom), which is approximately 2m from the neighbour's side. As shown by the Applicant in **Attachment 1**, the neighbour will have no direct outlook onto this wall due their own lattice screens on the boundary and the absence of windows in the north-facing wall of the dwelling adjacent to this addition. As such, the laundry addition is considered to satisfy Performance Outcome 7.1 above.

The rear addition is setback 600mm from the boundary shared with 14A Hanson Avenue (south) which is acceptable given the low height of the additions. The rear addition is, however, proposed to be constructed along the rear boundary with a boundary wall measuring 10.5m length and 1.9m in height. The addition is taller than this, though, with the main walls of the building set further back and the roofline extending to

approximately 650mm from the rear boundary, at a height of approximately 2.75m from ground level. Accordingly, Performance Outcome 7.1 above is again relevant.

The boundary wall itself is of a height akin to that of a boundary fence, and while constructed of CFC sheeting, is relatively similar in terms of visual impact to neighbours. The fact that the roof line above can be seen at a height of 2.75m does not result in a visual impact that could be considered unreasonable; particularly when one considers the separation between the proposed addition and the neighbouring dwelling's main areas of POS and habitable room windows. As such, Performance Outcome 7.1 is not considered to be offended by this proposal despite the representor's valid concerns.

### **Outbuilding (Shed extension adjacent carport)**

Performance Outcome 11.1 of the Established Neighbourhood Zone states:

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

Performance Outcome 4.1 of the Character Area Overlay states:

*Ancillary development, including carports, outbuildings and garages, complements the character of the area and associated building(s).*

Performance Outcome 3.2 of the Local Heritage Place Overlay states:

*Ancillary development, including carports, outbuildings and garages, is located behind the building and does not dominate the Local Heritage Place or its setting.*

This application seeks to construct a small shed adjacent to the existing carport which is sited close to the front boundary. The shed will be constructed with a 1.8m tall sandstone front, which is intended to be the same sandstone that will be removed as part of the existing woodshed demolition, thereby maintaining a similar streetscape appearance (albeit much closer) and complementing the stone wall that runs along the southern side of the carport. The boundary side of the shed will be constructed with a low sandstone wall and sheet metal cladding akin to a boundary fence (in Woodland Grey) which is an acceptable streetscape outcome.

Although close to the street, the structure is relatively small, has a setback the same as the carport posts and behind the southern side wall, and is considered to therefore satisfy the abovementioned Performance Outcomes.

### **Swimming Pool, Deck & Fencing (Privacy Structure)**

The swimming pool only requires planning consent because it is on the site of a Local Heritage Place. The pool is sufficiently set away from side and rear boundaries and will not impact on the heritage values of the Local Heritage Place such that consent is warranted.

Performance Outcome 45.1 of the Design in Urban Areas module states:

*Decks are sited and designed to:*

- (a) Complement the associated building form*
- (b) Minimise impacts on the streetscape through siting behind the building line of the principal building*
- (c) Minimise cut and fill and overall massing when viewed from adjacent land*

Performance Outcome 45.2 of the Design in Urban Areas module states:

*Decks are designed and site to minimise direct overlooking of habitable rooms and private open space of adjoining residential uses in neighbourhood-type zones through suitable floor level, screening and siting taking into account the slope of the subject land, existing vegetation on the subject land, and fencing.*

The corresponding DPF states:

*Decks with a finished floor level 500mm or more above natural ground level facing side or rear boundaries shared with a residential use in a neighbourhood-type zone incorporate screening with a maximum of 25% transparency/openings, permanently fixed to the outer edge of the deck not less than 1.5m above the finished floor level.*

Performance Outcome 9.1 of the Design in Urban Areas module states:

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

The deck associated with the swimming pool is proposed to be setback at least 1.5m from the rear boundary and 1.7m from the northern side boundary. The deck has an FFL 1.2m above existing ground levels, which places it approximately 850mm above the neighbouring levels at 16 Hanson Avenue to the rear. The application proposes a privacy screen to be constructed on the rear boundary that will be 1.5m above the finished level of the deck; meaning it will extend to 2.35m above ground levels on the side of 16 Hanson Avenue. The screen is a lightweight mesh structure with maximum transparency of 25%, which conforms with DPF 45.2 above and hence is considered to satisfy the associated Performance Outcome.

At 2.35m tall, and with a good level of separation between this and the dwelling and private open space of 16 Hanson Avenue, the privacy screen is not considered to unreasonably impact visual amenity and hence conforms to Performance Outcome 9.1 above.

The plans do not show this privacy screen extending along the northern side boundary, which is considered necessary at least for a length of 5.5m where the neighbour's shed ends, to prevent overlooking into private open space associated with the dwelling at 12 Hanson Avenue. Accordingly, a condition is recommended that requires this to occur, and such detail to be shown on the plans provided for building consent.

The neighbour to the rear has a building constructed along their rear boundary which will mitigate any opportunities for overlooking from the deck into their areas of private open space.

### **Tree Protection Measures**

Performance Outcome 2.1 of the Regulated and Significant Tree Overlay states:

*Regulated and significant trees, including their root systems, are not unduly compromised by excavation and/or filling of land, or the sealing of surfaces within the vicinity of the tree to support their retention and health.*

This application does not propose to undertake a tree-damaging activity but does propose to undertake development within the Notional Root Zones of the two (2) significant and one (1) regulated tree on the site. Accordingly, the Applicant provided an arborist report in support of their development.

The arborist report provided suggests that the three trees will not be impacted by the development because:

1. With respect to the significant river red gum tree at the front of the site, the laundry addition is to be constructed on an existing slab and therefore no additional encroachment into the tree's NRZ will arise;
2. With respect to the significant river red gum tree north of the dwelling, the rear addition comprises new encroachment of less than 10% of the NRZ, which is acceptable per the relevant Australian Standard. Notwithstanding, it is not anticipated that any structural roots would be located in this area due the existing dwelling's footprint; and
3. With respect to the regulated palm tree at the rear of the site, the rear addition comprises new encroachment of approximately 11% into the NRZ, which is acceptable per the relevant Australian Standard also. Some lower fronds of the tree will need to be pruned to accommodate the development, but this would be considered maintenance pruning (in the form of a crown lift) and hence is acceptable.

The Panel should note that the Arborist Report refers to the potential relocation of the regulated palm tree. This was recommended in respect of a different design option that is not being pursued by the Applicant and for the design herein proposed, the transplantation of this tree was not deemed to be necessary.

Notwithstanding the lack of long-term impacts to these three trees, the Applicant's arborist has recommended certain tree protection measures are to be employed on-site to mitigate any unnecessary damage occurring to these trees. These have been replicated in Condition No. 3 in the recommendation below.

### **Private Open Space and Soft Landscaping**

Performance Outcome 21.1 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 the occupants.*

Just over 30% of the site will remain as private open space suitable for use by the occupants of the dwelling, thereby satisfying this provision.

Performance Outcome 22.1 of the Design in Urban Areas module states:

*Soft landscaping is incorporated into development to:*

- (a) Minimise heat absorption and reflection*
- (b) Contribute shade and shelter*
- (c) Provide for stormwater infiltration and biodiversity*
- (d) Enhance the appearance of land and streetscapes.*

The corresponding DPF suggests that the subject site should be 25% comprised of soft landscaping. Across the whole site there will remain just under 400m<sup>2</sup> (approximately) of permeable area capable of supporting plant growth, which equates to approximately 46% of the site and hence satisfies this Performance Outcome.

### **Question of Seriously at Variance**

Having considered the proposal against the relevant provisions of the Planning & Design Code (version 2025.22, 18/12/2025), the proposal is not considered to be seriously at variance with the provisions of the Planning & Design Code for the following reasons:

- Dwelling additions, outbuildings, decks and swimming pools are contemplated forms of development within the Established Neighbourhood Zone; and

- the additions are all single-storey, consistent with the existing Local Heritage Place and height of buildings in the locality.
- The proposed development will not have any material impact on the heritage values of the Local Heritage Place; and
- Any consequential visual impact arising from the additions is considered to be reasonable.

## CONCLUSION

This application seeks to undertake some minor, appropriate demolition works to a Local Heritage Place to make way for a rear addition to be constructed to the dwelling. Although sited on the rear boundary for a length of 10.5m, the rear addition is not considered to pose any unreasonable visual outlook or shadowing impacts on the rear neighbour. The side laundry addition is the eventual realisation of original plans for this dwelling, which didn't occur due to restrictions at the time. Similar to the rear addition, despite being sited on the side boundary, the addition poses no unreasonable impact to the affected neighbour.

A small addition to the side of the existing carport will provide the owner much-needed additional storage room without compromising the streetscape appearance of the site or the heritage values of the associated LHP despite being closer to the street.

The swimming pool and deck are acceptable forms of development, except that the privacy screen for the deck should be constructed on the northern side of the pool also and a condition has been recommended to ensure that occurs. Finally, the three regulated/significant trees are not expected to be impacted by the proposed development and appropriate conditions have been imposed to ensure that the trees are not damaged during construction.

Importantly, the heritage values of the Local Heritage Place are not diminished by the proposed development.

## 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 25040620, by Sophie Wilkinson is granted Planning Consent subject to the following conditions:

### CONDITIONS

#### Planning Consent

##### Condition 1

The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below (if any).

##### Condition 2

All stormwater from new 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 3

A Tree Protection Zone is to be applied to both significant river red gum trees on the site, in accordance with the Tree Protection Plan herein approved (prepared by Arborman Tree Solutions, ref: ATS7828-014HanAvDIR, dated 25/11/2024). Specifically:

- Tree protection fencing shall be erected around the areas marked as “exclusion zones” prior to the commencement of all other works on the site, and shall remain in place until the development is completed.
- Ground protection is to be installed in area marked “ingress/egress” to prevent any vehicles and/or machinery damaging existing surface roofs.

#### Condition 4

The privacy screen associated with the deck herein approved shall also be constructed on the northern side boundary, for a length of 5.5 metres extending west from the rear boundary of the site, to mitigate opportunities for overlooking into the private open space associated with the adjoining dwelling. Such details shall be shown on the documentation provided for building consent, and prior to development approval being granted, to the reasonable satisfaction of the Assessment Manager.

#### Condition 5

The privacy screen associated with the deck, to be constructed on the side and rear boundaries, shall be maintained in good condition at all times.

### ADVISORY NOTES

#### **Planning Consent**

##### Advisory Note 1

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

##### Advisory Note 2

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

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

If an extension is required to any of the above-mentioned timeframes a request can be made for an extension of time by emailing the Planning Department at [townhall@npsp.sa.gov.au](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

No work can commence on this development unless a Development Approval has been obtained.

If one or more Consents have been granted on this Decision Notification Form, you must not start any site works or building work or change of use of the land until you have received notification that Development Approval has been granted.

##### Advisory Note 4

The Applicant is reminded of its responsibilities under the *Environment Protection Act 1993*, to not harm the environment. Specifically, paint, plaster, concrete, brick wastes and wash waters should not be discharged into the stormwater system, litter should be appropriately stored on site pending removal, excavation and site disturbance should be limited, entry/exit points to the site should be managed to prevent soil being carried off site by vehicles, sediment barriers should be used (particularly on sloping sites), and material stockpiles should all be placed on site and not on the footpath or public roads or reserves. Further information is available by contacting the EPA.

**Advisory Note 5**

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

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

**Advisory Note 6**

The Applicant is advised that construction noise is not allowed:

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

**Advisory Note 7**

The Applicant is advised that any works undertaken on Council owned land (including but not limited to works relating to crossovers, driveways, footpaths, street trees and stormwater connections), or works that require the closure of the footpath and / or road to undertake works on the development site, will require the approval of the Council pursuant to the *Local Government Act 1999* prior to any works being undertaken. Further information may be obtained by contacting Council's Public Realm Compliance Officer on 8366 4513.

**Advisory Note 8**

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

**Advisory Note 9**

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

**Advisory Note 10**

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.

**Advisory Note 11**

The Applicant is advised that the property is a Local Heritage Place and that approval must be obtained for any works involving the construction, demolition, removal, conversion, alteration or addition to most building and/or structure (including fencing).

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***Mr Jackson addressed the Council Assessment Panel from 7.38pm until 7.42pm***

***Mrs Wilkinson addressed the Council Assessment Panel from 7.45pm until 7.48pm***

***Moved by Mr Adcock***

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 25040620, by Sophie Wilkinson is granted Planning Consent subject to the following conditions:*

**CONDITIONS**

**Planning Consent**

*Condition 1*

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*Advisory Note 11*

*The Applicant is advised that the property is a Local Heritage Place and that approval must be obtained for any works involving the construction, demolition, removal, conversion, alteration or addition to most building and/or structure (including fencing).*

**Seconded by Mr Bateup**

**CARRIED**

**Meeting adjourned from 7.55pm until 8.00pm**

**Cr Wilkinson returned to the meeting at 8.00pm**

6. **DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT**
  
7. **REVIEW OF ASSESSMENT MANAGER DECISIONS**

**8. ERD COURT APPEALS**

**Tom Game, Melissa Mellen, Ben Van Loggem and Oskar Straatveit addressed the Council Assessment Panel in respect of Item 8.1 from 8.01pm until 8.13pm**

***Moved By Mr Bateup***

That pursuant to Regulation 13(2)(a)(ix) and Regulation 13(2)(b) of the Planning Development & Infrastructure (General) Regulations 2017, together with Clause 8.9 of the Council Assessment Panel Meeting Procedures, the Council Assessment Panel orders that the public, with the exception of Council staff, be excluded from the meeting.

***Seconded by Mr Adcock***  
**CARRIED**

**8.1 CONFIDENTIAL MATTER – ENVIRONMENT RESOURCES AND DEVELOPMENT  
COURT APPEAL – DEVELOPMENT NUMBER ID 24040449**

**Moved by Mr Bateup**

*That the public be allowed to return to the meeting and that pursuant to Regulation 14(4) of the Planning, Development & Infrastructure (General) Regulations 2017 and Clause 8.9 of the Council Assessment Panel Meeting Procedures, the discussion shall remain confidential, but the Assessment Manager and delegates are authorised to communicate the decision of the Panel and any associated advice to relevant parties in the course of managing the Appeal in the Environment Resources and Development Court.*

**Seconded By Mr Wilkinson**

**CARRIED**

9. OTHER BUSINESS

*The Presiding Member farewelled Mr Bateup and welcomed Callum Hastie.*

10. CONFIDENTIAL REPORTS

11. CLOSURE

*The Presiding Member declared the meeting closed at 9.39pm*

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Stephen Smith  
**PRESIDING MEMBER**

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Geoff Parsons  
**ASSESSMENT MANAGER**