

# Council Assessment Panel Agenda & Reports

**20 March 2023**

## **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

15 March 2023

### To all Members of the Council Assessment Panel:

- Mr Terry Mosel (Presiding Member)
- Ms Jenny Newman
- Mr Mark Adcock
- Mr Ross Bateup
- Ms Christel Mex

### NOTICE OF MEETING

I wish to advise that pursuant to Clause 7.4 of the Terms of Reference, the next Ordinary Meeting of the Norwood Payneham & St Peters Council Assessment Panel, will be held in the Council Chambers, Norwood Town Hall, 175 The Parade, Norwood, on:

**Monday 20 March 2023, commencing at 7.00pm.**

Please advise Kate Talbot on 8366 4562 or email [ktalbot@npsp.sa.gov.au](mailto:ktalbot@npsp.sa.gov.au) if you are unable to attend this meeting or will be late.

Yours faithfully



Geoff Parsons  
**ASSESSMENT MANAGER**

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City of  
Norwood  
Payneham  
& St Peters

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**VENUE** Council Chambers, Norwood Town Hall

**HOUR**

**PRESENT**

**Panel Members**

**Staff**

**APOLOGIES**

**ABSENT**

1. **COMMENCEMENT AND WELCOME**
2. **APOLOGIES**
3. **CONFIRMATION OF THE MINUTES OF THE MEETING OF THE COUNCIL ASSESSMENT  
PANEL HELD ON 18 JANUARY 2023**
4. **DECLARATION OF INTERESTS**

5. DEVELOPMENT APPLICATIONS – PDI ACT

5.1 DEVELOPMENT NUMBER 22042366 – FERNANDO D’APOLLONIO – 139 SIXTH AVENUE, JOSLIN

|  |  |
|--|--|
| <b>DEVELOPMENT NO.:</b>                    | 22042366   |
| <b>APPLICANT:</b>                          | Fernando D'Apollonio   |
| <b>ADDRESS:</b>                            | 139 SIXTH AV JOSLIN SA 5070  |
| <b>NATURE OF DEVELOPMENT:</b>              | Demolition of dwelling and ancillary buildings   |
| <b>ZONING INFORMATION:</b>                 | <p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Established Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Historic Area</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• 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>                     | 22 Dec 2022  |
| <b>RELEVANT AUTHORITY:</b>                 | Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters  |
| <b>PLANNING &amp; DESIGN CODE VERSION:</b> | 22 Dec 2022  |
| <b>CATEGORY OF DEVELOPMENT:</b>            | Code Assessed - Performance Assessed   |
| <b>NOTIFICATION:</b>                       | Yes  |
| <b>REFERRALS STATUTORY:</b>                | N/A  |
| <b>REFERRALS NON-STATUTORY:</b>            | David Brown, Heritage Advisor  |
| <b>RECOMMENDING OFFICER:</b>               | Kieran Fairbrother<br>Senior Urban Planner   |

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## DETAILED DESCRIPTION OF PROPOSAL:

The proposed development comprises the demolition of the existing dwelling on the site, along with all ancillary buildings/structures.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 139 SIXTH AV JOSLIN SA 5070

**Title ref.:** CT 5803/271      **Plan Parcel:** F135979 AL28

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

Shape:                    rectangular  
Frontage width:        16.76m  
Depth:                    47.85m  
Area:                      802m<sup>2</sup>

The subject land is located on the south-eastern side of Sixth Avenue, Joslin. The subject land contains a modified circa-1920's single-storey dwelling, with the architectural style of the dwelling not readily apparent (see **Attachment 1** and **Attachment 7** for more discussion on this). The land is serviced by a double-width crossover from Sixth Avenue which leads to a carport adjacent the northern side of the dwelling. The front garden contains low-density vegetation and lawn, and is bound along the front boundary by a low masonry and metal fence.

### Locality

The locality is considered to be comprised by Sixth Avenue and Fifth Avenue, specifically the sections of both bound by Lambert Road to the northeast and Winchester Street to the southwest, as well as both sides of Lambert Road and Winchester Street that are between Sixth Avenue and Fifth Avenue. This locality comprises the northern pocket of the Historic Area Overlay in this part of Joslin and forms the boundary between that and the Character Area Overlay (see **Attachment 3**).

The locality is characterised predominantly by single-storey detached dwellings on large allotments, but also includes some two-storey dwellings (with the second storey contained at the rear) and residential flat buildings. The majority of the dwellings within this locality are Representative Buildings (see **Attachment 3**), with the subject land being one of only a few sites on the southeast side of Sixth Avenue not being identified as such.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Demolition  
Demolition: Code Assessed - Performance Assessed

- **OVERALL APPLICATION CATEGORY:**

Code Assessed - Performance Assessed

- **REASON**

P&D Code

## **PUBLIC NOTIFICATION REQUIRED**

Yes

- **REASON**

P&D Code – Established Neighbourhood Zone – Table 5 (Item 6) – the application involves the demolition of a building (other than an ancillary building) in an Historic Area Overlay.

- **LIST OF REPRESENTATIONS**

Two (2) representations were received during the public notification period.

| <b>Given Name</b> | <b>Family Name</b> | <b>Address</b>           | <b>Position</b>        | <b>Wishes to be heard?</b> |
|-------------------|--------------------|--------------------------|------------------------|----------------------------|
| Richard           | Underdown          | 141 Sixth Avenue, Joslin | Support, with concerns | No                         |
| Mark              | Fensham            | 102 Fifth Avenue, Joslin | Opposed                | Yes                        |

- **SUMMARY**

The first representor's concerns revolved around civil matters such as replacement fencing and ensuring there is no damage caused to his property as a result of the demolition.

The second representor's reasons for opposing the development can be summarised as follows:

- An application for demolition only is an insufficient application;
- The demolition application should be accompanied by a proposal for a new dwelling;
- Concerns that the allotment will be left vacant and unkempt post-demolition for an indeterminate amount of time; and
- That the demolition should only be approved subsequent to, or conditional upon, the Applicant receiving approval for a replacement dwelling.

## **AGENCY REFERRALS**

- N/A

## **INTERNAL REFERRALS**

- David Brown

## PLANNING ASSESSMENT

The application has been assessed against the relevant provisions of the Planning & Design Code, which are contained in **Appendix 1**.

### Demolition

Performance Outcome 7.1 of the Historic Area Overlay states:

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

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

Performance Outcome 7.3 of the Historic Area Overlay states:

*Buildings or elements of buildings that do not conform with the values described in the Historic Area Statement may be demolished.*

The Historic Area Statement lists dwellings constructed between “1900s-1930s” as being those that contribute to the historic character of the Area. More specifically, the Historic Area Statement identifies “bungalows, Edwardian (such as Queen Anne), Federation dwelling styles [and] some Tudor style dwellings” as being important to the character of this locality.

The information provided to the Council by the Valuer-General's Office dates the construction of the dwelling at c1925. However, there is some uncertainty as to the architectural style of the dwelling due to the extent of modifications made to it.

The applicant supplemented their application with a Heritage Impact Statement by DASH Architects (see **Attachment 1**). In its report, DASH Architects opined that the original dwelling was “likely a relatively simple flat front red brick dwelling with Old English and possibly Bungalow influences”, estimating its date of construction at c1920.

The application was referred to the Council's Heritage Advisor, David Brown, for comment (see **Attachment 7**). David Brown was of the opinion that the dwelling was “most likely constructed as [a] simple late Edwardian double fronted brick cottage”, possibly “built during or immediately after the war” and potentially influenced by “the Arts and Crafts/Old English period”.

Despite the uncertainty surrounding the architectural style of the dwelling, both Mr Brown and the applicant's heritage advisor agree that the dwelling may at some time have been of the style that would contribute to this Historic Area. In any case, the current dwelling does not conform with the values described in the Historic Area Statement (Performance Outcome 7.3). Consequently, the question turns to whether the dwelling could be reasonably restored in a manner consistent with its original style such that it does demonstrate the historic characteristics of the area and therefore contributes to the Historic Area.

As highlighted earlier, the front elevation of the dwelling has been substantially altered. At some stage in its earlier life, it is likely that the dwelling had a front verandah which has subsequently been removed and replaced with a brick colonnade. The brick façade of the building has also been painted over. It would not be an unreasonable burden on the Applicant for the brick colonnade to be removed and the paint stripped from the front façade. However, significant investigation would be required to determine the original architectural style of the dwelling, to then determine what level of reinstatement works are required thereafter. At this stage the extent of these works and any future costs associated with such are unknown. Further, Mr Brown advised that “even in a restored state the house would not be an overly elegant addition to the streetscape”.



When considering the proposed demolition against Performance Outcome 7.3, it is relevant to consider that the current dwelling does not conform with the values described in the Historic Area Statement.

When considering the proposed demolition against Performance Outcome 7.1(a), it is relevant to consider that it cannot be said with any certainty that the dwelling demonstrates the historic characteristics as expressed in the Historic Area Statement. The dwelling was most likely constructed in the 1920s, and it likely was of an architectural style identified in the Historic Area Statement albeit with some other influences. Accordingly – and not discounting the fact that the front elevation of the building has been substantially altered beyond recognition – it is considered that the demolition of this building is consistent with Performance Outcomes 7.1(a) and 7.3 of the Historic Area Overlay.

Finally, it is worth noting the following in respect of the representation submitted for this development application. Pursuant to section 3(1) of the *Planning, Development and Infrastructure Act 2016*, demolition of a building is a form of development. Further, the demolition of a building within a Historic Area Overlay is development for which approval is required by virtue of Clause 10(1) of Schedule 4 of the *Planning, Development and Infrastructure (General) Regulations 2017*. Consequently, an application solely for the demolition of a building is a valid and sufficient development application. Additionally, it is a well-established principle that a planning authority cannot seek to alter the nature of a development application by way of requesting amendments or through the imposition of conditions. Accordingly, the Council Assessment Panel cannot require the applicant to obtain approval for a replacement dwelling on the land before determining the current application for demolition that is before the Panel.

## RECOMMENDATION

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

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22042366, by Fernando D'Apollonio is granted Planning Consent subject to the following conditions:

## CONDITIONS

### Planning Consent

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

## ADVISORY NOTES

### Planning Consent

#### Advisory Note 1

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

#### Advisory Note 2

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

1. Planning Consent is valid for 24 months following the date of issue, within which time Development Approval must be obtained;

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

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

**5.2 DEVELOPMENT NUMBER 22040607 - TL RITCHIE PROPERTIES PTY LTD ATF THE RITCHIE SUPERFUND – 7 WILLIAM STREET, NORWOOD**

|                                 |   |
|---------------------------------|---|
| <b>DEVELOPMENT NO.:</b>         | 22040607  |
| <b>APPLICANT:</b>               | TL Ritchie Properties Pty Ltd ATF The Ritchie Superfund   |
| <b>ADDRESS:</b>                 | 7 WILLIAM ST NORWOOD SA 5067  |
| <b>NATURE OF DEVELOPMENT:</b>   | Change of use to consulting rooms   |
| <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>• Hazards (Flooding - General)</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Stormwater Management</li> <li>• Traffic Generating Development</li> <li>• Urban Tree Canopy</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Minimum Frontage (Minimum frontage for a detached dwelling is 9m; semi-detached dwelling is 8m; row dwelling is 6m; group dwelling is 18m; residential flat building is 18m)</li> <li>• Minimum Site Area (Minimum site area for a detached dwelling is 250 sqm; semi-detached dwelling is 250 sqm; row dwelling is 250 sqm; group dwelling is 250 sqm)</li> <li>• Maximum Building Height (Levels) (Maximum building height is 2 levels)</li> </ul> |
| <b>LODGEMENT DATE:</b>          | 16 Dec 2022   |
| <b>RELEVANT AUTHORITY:</b>      | Assessment panel at City of Norwood, Payneham and St. Peters  |
| <b>CATEGORY OF DEVELOPMENT:</b> | Code Assessed - Performance Assessed  |
| <b>NOTIFICATION:</b>            | Yes   |
| <b>REFERRALS STATUTORY:</b>     | Nil   |
| <b>REFERRALS NON-STATUTORY:</b> | Nil   |
| <b>RECOMMENDING OFFICER:</b>    | Mark Thomson<br>Consultant Planner  |

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| <b>ATTACHMENT 4:</b> | <b>Representation Map</b>             |                      |                                    |

## DETAILED DESCRIPTION OF PROPOSAL:

The proposal is to change the use of the land from an office to consulting rooms. The applicant intends to use the premises to provide kinesiology consulting services.

Three consulting rooms are proposed within the premises, with the other section of the building providing ancillary facilities such as storage, staff room, etc.

The applicant has advised that consultation sessions are generally one hour, with 15-minute breaks between clients.

The proposed hours of operation are between 8:30am to 6:00pm Monday to Friday.

No building work or signage is proposed. A separate development application would be required for any signage constituting development.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 7 WILLIAM ST NORWOOD SA 5067

**Title ref.:** CT  
5079/371

**Plan Parcel:** F100103  
AL51

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

The subject land is a relatively flat rectangular allotment, approximately 13m wide and 33.2m deep, resulting in an area of approximately 432m<sup>2</sup>. The primary street frontage of the property is William Street, while the rear of the site adjoins Threlfall Lane.

The land is occupied by a simple tiled gable roof building with a gross leasable floor area (GLFA) of 135m<sup>2</sup> which extends to both side boundaries. A front verandah extends across the entire frontage of the building.

A freestanding single car garage is located at the rear of the main building, accessed via Threlfall Lane. An uncovered car parking space is also provided at the front of the property via a driveway entering the property from William Street.

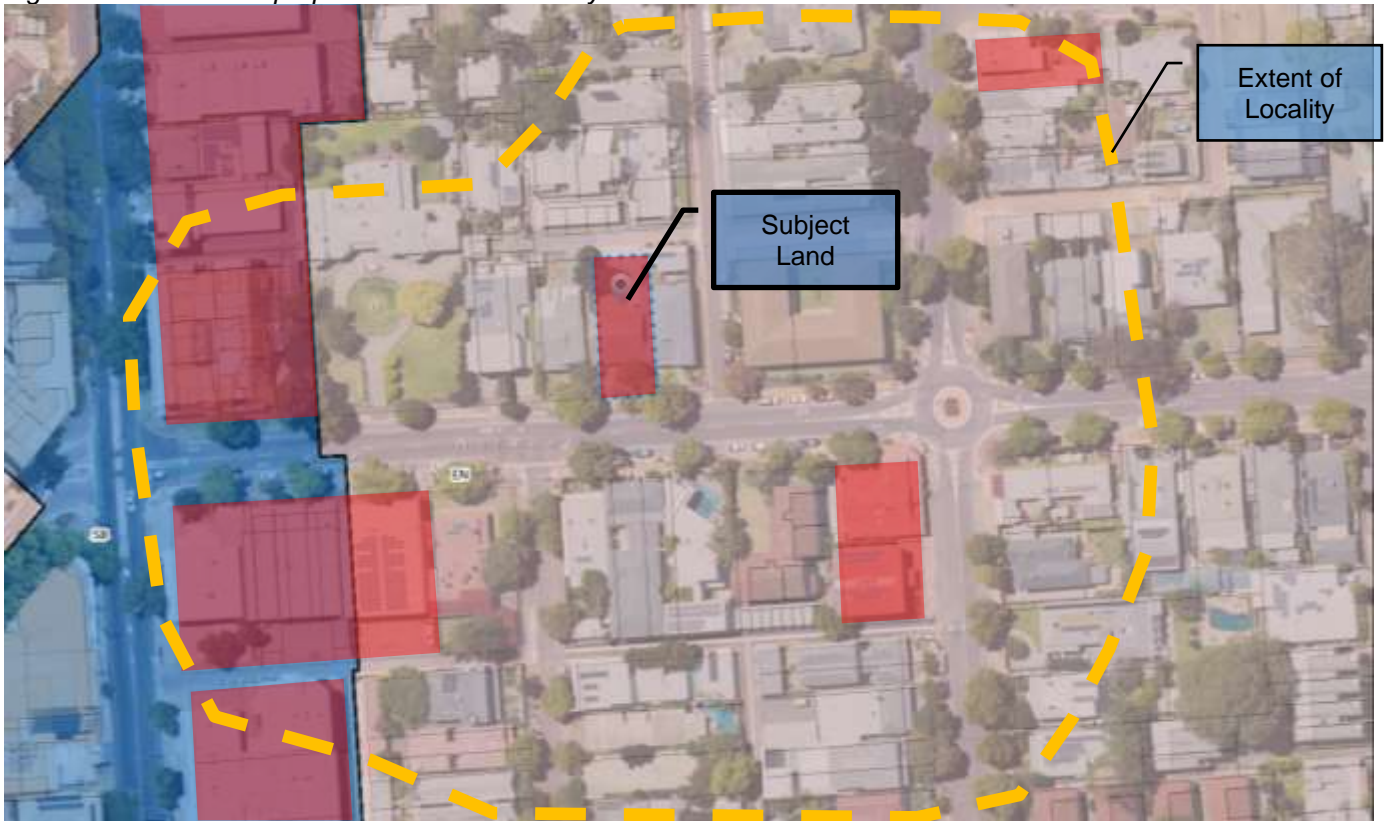
The land has been used as an office since at least 2007, which is the date of the earliest Google Streetview image available and the applicant has advised that to their knowledge it has been an office since the early 1970's. The Council holds no records of a development approval for the land to be used as an office, however it appears reasonably likely that the use precedes the introduction of a planning regime in South Australia and therefore has existing use rights.

### Locality

The locality of the subject land is considered to extend approximately 100m east and west along William Street, taking it from Fullarton Road to just beyond Charles Street. It also extends north and south along Charles Street, Clarke Street and North Street, approximately 100m in each direction.

The locality contains a mix of residential and commercial properties, with the former being the predominant land use. Commercial properties within the locality are shown highlighted in red in Figure 1. Included in the mix of commercial uses are two shops on Charles Street, a two-storey office building on Charles Street, and a mix of offices, consulting rooms and retail showrooms along Fullarton Road in the Suburban Business Zone.

Figure 1. Commercial properties within the locality



**CONSENT TYPE REQUIRED:**

Planning Consent

**CATEGORY OF DEVELOPMENT:**

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

**PUBLIC NOTIFICATION**

- **REASON**  
The development application was required to be subject to public notification because it does not satisfy Designated Performance Feature 1.2 of the Established Neighbourhood Zone, which sets out several circumstances in which consulting rooms should occur within the zone. These circumstances are explained in the Land Use section of this report. The proposal does not accord with any of the circumstances.

• **LIST OF REPRESENTATIONS**

Five representations were received, of which three expressed opposition to the development application while the remaining two expressed support with some concerns. A list of the representors is provided below.

| Given Name | Family Name | Address                          | Position                     | Wishes To Be Heard |
|------------|-------------|----------------------------------|------------------------------|--------------------|
| Mark       | Daniel      | 4/8-10 North Street, Norwood     | Support (with some concerns) | NO                 |
| Paul       | Drysdale    | 1 William Street, Norwood        | Opposed                      | NO                 |
| John       | Miller      | 12 William Street, Norwood       | Opposed                      | YES                |
| Fred       | Pedler      | 19 Charles Street, Norwood       | Opposed                      | NO                 |
| Merenia    | Vince       | 20 Patapinda Road, Old Noarlunga | Support (with some concerns) | NO                 |

• **SUMMARY**

The concerns raised by the representors are summarised below:

- the plans are inaccurate with respect to available on-street parking;
- on-street parking is already 'stretched';
- increase in the amount of traffic due to client vehicle movements;
- the gravel carpark presents a dust and stone nuisance to residents;
- the Threlfall Avenue carpark should be allocated for staff parking only; and
- on-street parking controls should be amended in the area.

In response to the representations, the Applicant has submitted an amended set of plans which have been professionally drawn (as opposed to the hand-drawn plans which were initially lodged) to address concerns over their inaccuracy and a report by MFY Traffic Consultants to address parking and traffic concerns.

**AGENCY REFERRALS**

The development application was not referred to any agencies.

**INTERNAL REFERRALS**

The development application was not referred to any internal referral persons.

**PLANNING ASSESSMENT**

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

**Land Use**

Performance Outcome 1.1 of the Established Neighbourhood Zone seeks:

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

The associated Designated Performance Feature (DPF 1.1) lists consulting rooms amongst other land uses as suitable to achieve the performance outcome.

Performance Outcome 1.2 provides more specific guidance on commercial land uses and states:

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

The associated Designated Performance Feature (DPF 1.2) provides out a range of criteria for shops, offices and consulting rooms, of which at least one should be achieved. The table below sets out each of those criteria and provides commentary on whether the proposal achieves each criteria.

*Table 1. DPF 1.2 Criteria Analysis*

| <b>Criteria</b>  | <b>Comments</b>  |
|--|--|
| a) it is located on the same allotment and in conjunction with a dwelling where all the following are satisfied: <ul style="list-style-type: none"> <li>i. does not exceed 30% of the total floor area of the associated dwelling (excluding any garage or carport) or 50m<sup>2</sup> gross leasable floor area, whichever is the lesser</li> <li>ii. does not involve the display of goods in a window or about the dwelling or its curtilage</li> </ul>   | Criteria not met.<br><br>The proposed consulting room is not located on the same allotment and in conjunction with a dwelling.   |
| b) it reinstates a former shop, consulting room or office in an existing building (or portion of a building) and satisfies one of the following: <ul style="list-style-type: none"> <li>i. the building is a State or Local Heritage Place</li> <li>ii. is in conjunction with a dwelling and there is no increase in the gross leasable floor area previously used for non-residential purposes</li> </ul>  | Criteria not met<br><br>The building was originally a dwelling, not a shop, office or consulting room. In any case, it is not a heritage place, nor in conjunction with a dwelling.  |
| c) is located more than 500m from an Activity Centre and satisfies one of the following: <ul style="list-style-type: none"> <li>iii. does not exceed 100m<sup>2</sup> gross leasable floor area (individually or combined, in a single building) where the site does not have a frontage to a State Maintained Road</li> <li>iv. does not exceed 200m<sup>2</sup> gross leasable floor area (individually or combined, in a single building) where the site has a frontage to a State Maintained Road</li> </ul>   | Criteria not met.<br><br>The subject land is located 350m from the nearest Activity Centre, that being the Suburban Main Street Zone on Kensington Road, on the corner of Charles Street. It is also 400m from the Suburban Main Street Zone on The Parade, on the corner of Eastry Street. Further, the proposed consulting rooms has a gross leasable floor area of approximately 135m <sup>2</sup> and does not face a State Maintained Road. |
| d) the development site abuts an Activity Centre and all the following are satisfied: <ul style="list-style-type: none"> <li>v. it does not exceed 200m<sup>2</sup> gross leasable floor area (individually or combined, in a single building)</li> <li>vi. the proposed development will not result in a combined gross leasable floor area (existing and proposed) of all shops, consulting rooms and offices that abut the Activity Centre in this zone exceeding the lesser of the following:                             <ul style="list-style-type: none"> <li>A. 50% of the existing gross leasable floor area within the Activity Centre</li> <li>B. 1000m<sup>2</sup>.</li> </ul> </li> </ul> | Criteria not met<br><br>The subject land does not abut an Activity Centre.   |



In summary, DPF 1.2 seeks to limit consulting rooms (as well as shops and office) within the Established Neighbourhood Zone to:

- small scale adjuncts to dwellings;
- re-use of historic small scale commercial buildings (eg. original corner shops);
- small scale uses located far enough away from zones dedicated to such uses that they do not compete with or erode the viability of those zones; and
- a small number of small scale uses at the edge of zones dedicated to such uses, so as not to compete with or erode the viability of those zones.

Notwithstanding that the proposal does not accord with the criteria in DPF 1.2, consideration needs to be given to whether the associated performance outcome is achieved another way. Specifically, whether the proposed reuse of the building as a consulting room improves community access to services and whether it is of a scale and type which would maintain residential amenity.

Consulting rooms, like shops, offer a service to the community. By comparison, the existing use of the building as an office is less 'service' based. As such, the proposal is considered to satisfy the first part of PO 1.2.

The scale of the proposed use is considered small, notwithstanding that the GLFA of 135m<sup>2</sup> exceeds the 100m<sup>2</sup> criteria in DPF 1.2. With three (3) consulting rooms proposed, one hour consultations and 15-minute breaks between clients, the level of activity resulting from clients arriving and departing would be less than some types of consulting rooms, such as General Practitioners and also less than some shops, such as a café.

Part of the consideration as to whether the proposed use is of a scale and type which would maintain residential amenity, is whether or not car parking is adequately catered for. This is addressed in detail in the proceeding section of this report. In summary however, car parking is mostly catered for on site, with only slight reliance on on-street parking and traffic movements are relatively low.

On balance, it is considered that the proposed use is consistent with PO 1.2, in that it will improve community access to services and is of a scale and type which would maintain residential amenity.

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

Following the public notification period and the concerns raised by representors regarding parking adequacy, the applicant sought advice from Ms Jayne Lovell of MFY Traffic Consultants.

Ms Lovell has noted that the Planning & Design Code specifies a rate of four (4) car parking spaces per consulting room, however considers this rate to be inapplicable to the proposal, due to the specific nature of the consulting rooms proposed. Ms Lovell has explained that the rate of 4 per 100 in the Code was derived on the basis that all consulting rooms are occupied simultaneously and that clients are seen 'back-to-back', resulting in an overlap between clients being seen and waiting to be seen.

A 15 minute gap between clients ensures no such overlap and therefore the amount of car parking required in practical terms equates to seven (7) spaces, comprising 4 staff (3 practitioners and 1 admin) and 3 clients.

With five (5) spaces available at the rear of the building and only four (4) staff spaces required, there is the potential for one client to park at the rear, another client to park in the off-street space at the front of the site and a third client to park in the street. In practice, clients may not be familiar with the availability of the rear car parking space, resulting in a potential demand for two on-street spaces.

MFY undertook a survey of on-street parking within what they consider to be reasonable walking distance of the property (300m) and identified 80 vacant spaces, out of a possible 265 suitable on-street spaces.

Performance Outcome 5.1 of the Transport, Access and Parking section of the General Development Policies does allow the availability of on-street parking to be taken into consideration when considering whether sufficient on-site vehicle parking is provided to meet the needs of a development. Specifically, it 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 car 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.”*

Given that the proposed use is in a zone which only contemplates small scale commercial uses which maintain residential amenity, it is considered that limited reliance should be placed on on-street parking (compared with a zone where commercial land uses are prevalent and on-street parking has less impacts).

That said, it is considered that the survey undertaken by MFY adequately demonstrates that the demand for one or two on-street spaces which would result from the proposal can adequately be catered for without having adverse amenity impacts within the locality.

On balance, the amount of on-site car parking is considered adequate. As the car parking adequacy is heavily reliant on the proposed 15 minute gap between appointments, it is recommended that a condition be imposed, requiring all bookings to be made with such a gap.

Ms Lovell has also considered the traffic impacts of the proposal. In relation to the rear lane, Ms Lovell has advised that the proposed change of use will result in a commensurate use of the rear parking area as would have occurred historically when the building was used as an office. As such, no change to the previous traffic conditions on Threlfall Avenue are forecast.

In relation to the surrounding road network, Ms Lovell has advised there will be a small number of additional traffic movements on the road network associated with the forecast client demand (up to six trips in a peak hour associated with three clients arriving at or leaving the site). Ms Lovell considers this traffic volume to be ‘very low’ with a negligible impact on the adjacent roads. While no comparison is given by Ms Lovell to the peak hour movements associated with the existing office use, it is likely that a similar number would apply. Regardless, it is agreed that the number of movements is minor and reasonable.

### **Waste and Other Management Considerations**

Given the small scale of the proposed use, the volume of waste produced would be small and able to be managed through the typical Council kerbside collection system.

The concerns raised by one of the representors regarding dust from the unsealed rear car parking area appear to be predicated on the parking area being used by clients. With the parking area being used mostly (potentially exclusively) by staff, this is less of a concern, as movements into and out of the car parking area would be relatively few.

It is recommended that a condition be imposed, requiring staff to park at the rear of the premises. This is likely to occur regardless of whether a condition is imposed, however would ensure this remains an ongoing practice regardless of any future changes in business or management.

With up to four (4) staff projected to be on site at any given time, there would be one spare parking space at the rear, which a client could use. If that did occur, the additional impact (in terms of noise, dust etc) would be minimal and as such, it is not recommended that a condition be imposed seeking to prevent clients from parking at the rear. Similarly, it is not considered necessary to attempt to promote the use of the spare parking space by clients, such as thorough signage.

### **CONCLUSION**

The proposal seeks to change the use of the property from a small scale office to small scale specialist consulting rooms. Small-scale consulting rooms are anticipated in the Established Neighbourhood Zone where they do not detract from residential amenity and DPF 1.2 sets out a range of quantitative criteria to assist in achieving that outcome. The proposal does not achieve those criteria.

However, the proposed consulting rooms would replace an existing commercial (office) use and is only slightly larger in floor area than the criteria in DPF 1.2. Some additional traffic would be generated by the proposal, however with appropriate scheduling of appointments with 15 minute gaps in between, the increase in traffic and on-street parking is not likely to impact on residential amenity in the locality.

## RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22040607, by TL Ritchie Properties Pty Ltd ATF The Ritchie Superfund is granted Planning Consent subject to the following conditions:

### CONDITIONS

#### Planning Consent

1. The development granted Planning Consent shall be undertaken and completed in accordance with the stamped plans and documentation, except where varied by conditions below.
2. There shall be at least a 15 minute gap between the end of one appointment and the commencement of the next appointment in each consulting room at all times.
3. Subject to any exceptional circumstances as determined by the Assessment Manager, all staff travelling to work via car shall park in the car parking area at the rear of the premises via Threlfall Avenue.

### ADVISORY NOTES

#### Planning Consent

##### Advisory Note 1

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

##### Advisory Note 2

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

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

#### Advisory Note 3

The Applicant is advised that construction noise is not allowed:

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

#### Advisory Note 4

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

#### Advisory Note 5

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

#### Advisory Note 6

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

#### Advisory Note 7

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

#### Advisory Note 8

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

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

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

**5.3 DEVELOPMENT NUMBER 22014281 – RICK D'ANDREA – 207 PAYNEHAM ROAD, ST PETERS**

|  |   |
|--|---|
| <b>DEVELOPMENT NO.:</b>                    | 22014281  |
| <b>APPLICANT:</b>                          | Rick D'Andrea   |
| <b>ADDRESS:</b>                            | 207 PAYNEHAM RD ST PETERS SA 5069   |
| <b>NATURE OF DEVELOPMENT:</b>              | Construction of a two level child care centre with associated signage, external play areas and car parking (with vehicular access and egress from Payneham Road only)   |
| <b>ZONING INFORMATION:</b>                 | <p><b>Zones:</b></p> <ul style="list-style-type: none"> <li>• Business Neighbourhood</li> </ul> <p><b>Overlays:</b></p> <ul style="list-style-type: none"> <li>• Airport Building Heights (Regulated)</li> <li>• Hazards (Flooding - General)</li> <li>• Prescribed Wells Area</li> <li>• Regulated and Significant Tree</li> <li>• Traffic Generating Development</li> <li>• Urban Transport Routes</li> </ul> <p><b>Technical Numeric Variations (TNVs):</b></p> <ul style="list-style-type: none"> <li>• Maximum Building Height (Levels) (Maximum building height is 2 levels)</li> </ul> |
| <b>LODGEMENT DATE:</b>                     | 3 May 2022  |
| <b>RELEVANT AUTHORITY:</b>                 | Assessment panel/Assessment manager at City of Norwood, Payneham and St. Peters   |
| <b>PLANNING &amp; DESIGN CODE VERSION:</b> |   |
| <b>CATEGORY OF DEVELOPMENT:</b>            | Code Assessed - Performance Assessed  |
| <b>NOTIFICATION:</b>                       | Yes   |
| <b>RECOMMENDING OFFICER:</b>               | Nenad Milasinovic<br>Senior Urban Planner   |
| <b>REFERRALS STATUTORY:</b>                | Commissioner of Highways  |
| <b>REFERRALS NON-STATUTORY:</b>            | Gayle Buckby<br>Matthew Cole  |
| <b>REPORTING OFFICER</b>                   | Nenad Milasinovic<br>Senior Urban Planner   |

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| <b>ATTACHMENT 1:</b> | <b>Application Documents</b>          | <b>ATTACHMENT 6:</b> | <b>Response to Representations</b> |
| <b>ATTACHMENT 2:</b> | <b>Subject Land Map</b>               | <b>ATTACHMENT 7:</b> | <b>Prescribed Body Responses</b>   |
| <b>ATTACHMENT 3:</b> | <b>Zoning Map</b>                     | <b>ATTACHMENT 8:</b> | <b>Internal Referral Advice</b>    |
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## DETAILED DESCRIPTION OF PROPOSAL:

The proposed development comprises the construction of a two level childcare centre building with outdoor play areas at both the ground and upper levels. The proposed childcare facility is intended to accommodate up to a maximum of 82 children.

A car parking area is proposed to the rear (west and northwest) of the proposed two level building. The car parking area comprises 33 spaces which are to be shared between the proposed childcare facility on the subject land and the proposed office building at 209 Payneham Road, which is subject to a separate Development Application (22017100) before the Panel currently. The car parking area is to be accessed and egressed from Payneham Road with no vehicular access/egress onto First Lane.

The proposed building is to be sited adjacent to Payneham Road and is to be setback 8.3 metres from the Payneham Road property boundary. The building comprises 254m<sup>2</sup> and 266m<sup>2</sup> of gross leasable floor area at ground level and upper level respectively, totalling 520m<sup>2</sup>. In terms of the outdoor play areas, the childcare centre is to comprise 215m<sup>2</sup> and 382m<sup>2</sup> at ground level and upper level respectively, totalling 597m<sup>2</sup>.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 207 PAYNEHAM RD ST PETERS SA 5069

**Title ref.:** CT  
5616/664

**Plan Parcel:** F135692  
AL41

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

The subject land is currently vacant. Historically, the land was originally occupied by a detached dwelling. According to the Council's records, in 1974 the former Town of St Peters approved a change of use to an office and dwelling on the land. In 2006, Development Approval was granted to demolish the building on the land.

The subject land is not serviced by a crossover to Payneham Road. Instead, the land is accessed and egressed via First Lane.

Two well-established street trees are located adjacent Payneham Road frontage of the subject land. The south-westernmost street tree is a regulated Ironbark. The north-easternmost street tree is a non-regulated Swamp Mallet.

### Locality

As detailed on the Zoning Map contained in **Attachment 3**, the subject land and the adjacent and neighbouring properties located both on the north-western and south-eastern sides of Payneham Road, are located within the Business Zone.

The character of the locality is heavily influenced by the nature and function of Payneham Road, with its high traffic volumes. Residential properties, fronting First Avenue, are situated to the northwest of the subject land (ie. on the other side of First Lane). To the northwest of the subject land at 209 Payneham Road is a vacant parcel of land. To the southwest at 205 Payneham Road is a single level building that was converted from a residential to an office land use in 1980.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Pre-school: Code Assessed - Performance Assessed  
Advertisement: Code Assessed - Performance Assessed
- **OVERALL APPLICATION CATEGORY:**  
Code Assessed - Performance Assessed
- **REASON**  
Planning and Design Code

## PUBLIC NOTIFICATION

- **REASON**  
Land Use not exempt from notification as per Zone Notification Table - Proposal not considered minor
- **LIST OF REPRESENTATIONS**

| Name                      | Address                    | Status                | Wishes to be Heard? |
|---------------------------|----------------------------|-----------------------|---------------------|
| Ann and Arthur Ward       | PO Box 380, Stepney        | Support with concerns | No                  |
| Saleme Facoory            | 87 First Avenue, St Peters | Support with concerns | Yes                 |
| John and Melissa Kavanagh | 89 First Avenue, St Peters | Opposed               | Yes                 |

- **SUMMARY**  
In summary, the concerns raised by representors relate to:
  - Inappropriate land use within the zone;
  - Noise impacts from children playing outdoors;
  - Overlooking potential/loss of privacy;
  - Car parking provision;
  - Traffic movements and potential for conflict along Payneham Road;
  - Car parking overspill into surrounding street network

Mr Jason Cattonar, of Future Urban planning consultants, has responded to the representations on behalf of the Applicant. A copy of Mr Cattonar's response is contained in **Attachment 6**.

## AGENCY REFERRALS

- Commissioner of Highways

The Commissioner of Highways is supportive of the application.

## INTERNAL REFERRALS

- Manager, Traffic & Integrated Transport
- City Arborist

## PLANNING ASSESSMENT

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

## Land Use/Interface Between Land Uses

Business Neighbourhood Zone Desired Outcome 01 states:

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

Performance Outcome 1.1 of the Business Neighbourhood Zone states:

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

Performance Outcome 1.2 states:

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

At this point, it is important to recognise the distinction being made between *commercial uses* (eg. offices, shops and consulting rooms) and opposed to community services, such as childcare facilities. In particular, the corresponding Designated Performance Feature 1.2 seeks to limit the scale of *commercial uses* to 205m<sup>2</sup> in floor area and that those commercial activities should be of a scale and type to maintain residential amenity.

On the other hand, Performance Outcomes 1.1 contain policy relevant to all non-residential uses (not just commercial uses) and are therefore relevant to childcare facilities that are both complementary and non-detrimental to the existing residential amenity of the neighbourhood.

Accordingly, it appears that the Business Neighbourhood Zone policies do not seek to curtail the scale or intensity of the establishment of community service uses in the same way that it does commercial uses such as offices, shops and consulting rooms. Instead, Performance Outcome 1.1 is concerned with built form compatibility outcomes, including the development pattern and siting and design characteristics.

The proposed childcare centre is intended to accommodate up to 82 children at any one time. Recently approved childcare centres within the Council area include those at:

- 395-399 Payneham Road, Marden – 110 children;
- 398A Payneham Road, Glynde – 90 children;
- 255 Magill Road, Maylands – 152 children;
- 59 Kensington Road, Norwood - 55 children;
- 191-193 Portrush Road, Maylands – 40 children;
- 95-99 Portrush Road, Evandale – 110 children; and
- 123 Kensington Road, Norwood – 90 children

Having regard to the above range of child care centre capacities, the proposed 82 child place facility is considered to be of a fairly average size/intensity.

General Development Policies, Interface between Land Uses, Desired Outcome 1 states:

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

In this regard, the following Assessment Provisions are applicable:



| Performance Outcome  | Deemed-to-Satisfy Criteria/Designated Performance Feature  |   |
|--|--|---|
| General Land Use Compatibility   |  |   |
| PO 1.1<br>Sensitive receivers are designed and sited to protect residents and occupants from adverse impacts generated by lawfully existing land uses (or lawfully approved land uses) and land uses desired in the zone.  | DTS/DPF 1.1<br>None are applicable.  |   |
| PO 1.2<br>Development adjacent to a site containing a sensitive receiver (or lawfully approved sensitive receiver) or zone primarily intended to accommodate sensitive receivers is designed to minimise adverse impacts.  | DTS/DPF 1.2<br>None are applicable.  |   |
| Hours of Operation   |  |   |
| PO 2.1<br>Non-residential development does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers) or an adjacent zone primarily for sensitive receivers through its hours of operation having regard to:<br><br>(a) the nature of the development<br>(b) measures to mitigate offsite impacts<br>(c) the extent to which the development is desired in the zone<br>(d) measures that might be taken in an adjacent zone primarily for sensitive receivers that mitigate adverse impacts without unreasonably compromising the intended use of that land.  | DTS/DPF 2.1<br>Development Operating within the following hours:   |   |
|  | Class of Development   | Hours of operation                                  |
|  | Consulting room  | 7am to 9pm, Monday to Friday<br>8am to 5pm Saturday |
|  | Office   | 7am to 9pm, Monday to Friday<br>8am to 5pm Saturday |
|  | Shop, other than any one or combination of the following:<br><br>(a) restaurant<br>(b) cellar door in the Productive Rural Landscape Zone, Rural Zone or Rural Horticulture Zone | 7am to 9pm, Monday to Friday<br>8am to 5pm Saturday |
| Activities Generating Noise or Vibration   |  |   |
| PO 4.1<br>Development that emits noise (other than music) does not unreasonably impact the amenity of sensitive receivers (or lawfully approved sensitive receivers).  | DTS/DPF 4.1<br>Noise that affects sensitive receivers achieves the relevant Environment Protection (Noise) Policy criteria.  |   |
| PO 4.2<br>Areas for the onsite manoeuvring of service and delivery vehicles, plant and equipment, outdoor work spaces (and the like) are designed and sited to not unreasonably impact the amenity of adjacent sensitive receivers (or lawfully approved sensitive receivers) and zones primarily intended to accommodate sensitive receivers due to noise and vibration by adopting techniques including:<br><br>(a) locating openings of buildings and associated services away from the interface with the adjacent sensitive receivers and zones primarily intended to accommodate sensitive receivers<br>(b) when sited outdoors, locating such areas as far as practicable from adjacent sensitive receivers and zones primarily intended to accommodate sensitive receivers | DTS/DPF 4.2<br>None are applicable.  |   |

| Performance Outcome  | Deemed-to-Satisfy Criteria/Designated Performance Feature |
|--|---|
| (c) housing plant and equipment within an enclosed structure or acoustic enclosure<br>(d) providing a suitable acoustic barrier between the plant and / or equipment and the adjacent sensitive receiver boundary or zone. |   |

The subject land is situated adjacent to nearby residential properties to the northwest (5 Winchester Street, 83 First Avenue and several units at 1-5, 85 First Avenue). A childcare facility has the potential to result in noise impacts on the occupants of neighbouring residential properties, primarily from when children are playing outside in the proposed outdoor play areas.

With this in mind, the Applicant has obtained an environmental noise assessment report from Mr Matthew Ward of Echo Acoustic Consulting to assess the acoustic impacts on adjacent and nearby residential occupiers. In his analysis, Mr Ward has assumed that the childcare facility is operating at capacity (ie. 82 children) and considered the sound of children’s voices, as well as noise associated with vehicle movements/activity within the car parking area (including waste collection) and mechanical plant equipment operating.

With respect to the outdoor play areas, Mr Ward had regard to *Guidelines for Community Noise* published by the World Health Organisation (as the *Environment Protection (Noise) Policy 2007* specifically excludes noise from children playing within this policy).

The relevant standards and policies set maximum noise levels that should be achieved at the boundary of residential properties, above and beyond existing background noise. After determining the existing background noise levels (which is high due to traffic on Payneham Road), Mr Ward has recommended that acoustic treatment measures be undertaken in the following manner, in order to ensure the proposal achieves those standards and policies:

- at the upper level and adjacent the south-western outdoor play area, construct a 1.8 metre high solid wall, returning in the order of 3 metres along the rear north-western boundary, and ensure that the junction of the fencing (including the floor slab) is sealed airtight;
- at the upper level adjacent the remaining portion of the rear north-western outdoor play area, the side north-eastern and front south-eastern boundaries adjacent the proposed outdoor play areas, construct 1.5 metre high glass balustrading and ensure that it is sealed airtight;
- incorporate a solid external door/gate, constructed of the same material and at the same height as the glass balustrade, at the top of the staircase leading to and from the upper level outdoor play area;
- the shade sail material over the upper level play area should be constructed from an acoustically transparent material (eg. ‘open weave’) as opposed to waterproof PVC; and
- develop and maintain an operational noise management plan for the childcare facility.

A copy of Mr Ward’s report is contained in **Attachment 1 (Pages 63 – 80)**.

Having regard to the advice of Mr Ward, the proposed childcare facility, is not considered to result in an unreasonable impact on adjoining residential properties, subject to the acoustic measures recommended. In particular, the proposal satisfies both Performance Outcome 4.1 and Designated Performance Feature 4.1, which state respectively:

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

And

*Noise that affects sensitive receivers achieves the relevant Environment Protection (Noise) Policy criteria.*

The proposed childcare facility is therefore considered to be a compatible land use amongst existing adjacent residential land uses, from the perspective of noise impacts.

Being located on an arterial road, the accessibility of the subject land to cars, public transport and local residents to walk to, make the subject land conducive to a childcare facility use. Furthermore, it is considered that as the subject land has a frontage to Payneham Road, makes it more conducive to the proposed use than a residential use.

Accordingly, the proposed land use is considered to be an acceptable within the zone.

### **Building Height**

Performance Outcome 3.1 of the Business Neighbourhood Zone states:

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

Designated Performance Feature 3.1 envisages a maximum of two (2) building levels within the Business Neighbourhood Zone.

The proposed two level building is consistent with the two level Designated Performance Feature.

The subject land is located marginally north-east of the centre of the Business Zone. In this context, the proposal is considered to be reasonably consistent with the performance outcome in that *"taller buildings positioned towards the centre of the zone and away from any adjoining neighbourhood type zone"*.

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

Performance Outcome 3.2 of the Business Neighbourhood Zone states:

*Buildings are set back from primary street boundaries consistent with the existing streetscape.*

Designated Performance Feature 3.2(b) states:

*The building line of a building set back from the primary street boundary:*

*(b) where there is only one existing building on adjoining sites which face the same primary street (including those that would adjoin if not separated by a public road or a vacant allotment), not less than the setback to the building line of that building*

The proposed new building is set back 8.3 metres from its Payneham Road property boundary. Directly to the southwest, the adjoining single-level building at 205 Payneham Road has a setback of approximately 10.5 metres from its Payneham Road boundary whereas directly to the northwest at 209 Payneham Road, is the previously identified vacant parcel of land.

The front setbacks of existing buildings within the wider locality of Payneham Road vary and includes buildings sited on the Payneham Road boundary at 199 – 201, 178, 180, 184, 188, 190 and 192 Payneham Road. Further to the southwest at 203 Payneham Road the building has a street setback of 7 metres whereas further to the northeast at 211, 213, 215 and 217 – 219, the buildings are setback 7.6, 8.5, 8.5 and 5 metres respectively.

In this context, whilst the proposed front setback is not consistent with Designated Performance Feature 3.2(b), the setback is considered to be relatively consistent with the existing streetscape and therefore satisfies Performance Outcome 3.2.

Performance Outcome 3.6 of the Business Neighbourhood Zone states:

Designated Performance Feature 3.7 states:

*Buildings walls are set back from the rear boundary at least:*

- (a) 3m for the first building level*
- (b) 5m for any second building level.*

The rear of the building is proposed to be set back approximately 29 metres from the rear north-western boundary at ground level and 7 metres at the upper level. The proposed rear setbacks are therefore consistent with Designated Performance Feature 3.7.

Performance Outcome 2.1 of the Business Neighbourhood Zone states:

*Buildings are of a scale and design that complements surrounding built form, streetscapes and local character.*

Aside from the relatively new office and consulting room buildings at 211 and 217 – 219 Payneham Road respectively, the nearby buildings at 172, 178, 180, 184, 188, 190, 192, 199 – 201, 203, 205, 213 and 215 Payneham Road are a combination of villas and/or bungalows and original shop buildings and have front verandahs situated over the footpath area.

In this context, the proposed development is of a contrasting style and bulk to the existing development within the immediate locality, displaying a distinctly contemporary commercial appearance. The wider locality contains a broad range of architectural styles and includes buildings of a similar scale and rectilinear style to that which is proposed.

Performance Outcome 2.1 seeks *compatibility* in the scale and design of new buildings, as opposed to consistency as is sought for some other zones. Given the range of buildings scale and style within the broader locality, the proposal is considered to achieve this performance outcome.

The solid external elements of the proposed building primarily comprise cementitious precast concrete panels, 'free-form' stone veneer cladding to the front/street-facing projecting elevation component, charcoal coloured face brickwork to the recessed front elevation element and black powder-coated aluminium commercial glazing. The combination of materials is considered appropriate in that it is compatible with the two contemporary commercial buildings at 211 and 217 – 219 Payneham Road.

With this in mind, it is considered that the streetscape appearance of the new building, is contextually compatible with the established built form character of adjacent and nearby buildings as called for by Performance 2.1.

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

The proposal was referred to the Commissioner of Highways in accordance with Schedule 9(3)(7) of the *Planning, Development and Infrastructure (General) Regulations 2017*, Future Road Widening Overlay.

The Commissioner of Highways advised the Council that they are supportive of the proposed development and directed the inclusion of four (4) conditions of consent. In summary, the conditions of consent relate to:

- vehicular access arrangements reflecting the proposed plans prepared by the applicant;
- all vehicles shall enter and exit the subject land in a forward direction;
- street trees shall not preclude sight distances of motorists; and
- stormwater run-off to be collected and discharged via appropriate stormwater drainage infrastructure.

A 33 vehicle car parking area is proposed to the rear of both the subject land and 209 Payneham Road. The car parking area is intended to service both the proposed child care facility on the subject land as well as the proposed office building at 209 Payneham Road, which is subject of a separate Development Application (22017100). A dual crossover (ie. left-in and left-out configuration) is proposed to be constructed at the junction of the internal property boundary and Payneham Road boundaries of both 207 and 209 Payneham Road.

In order to facilitate the construction of the left-out crossover component, removal of a non-regulated Swamp Mallet street tree is required. Authorisation for the removal of the Swamp Mallet is currently being sought from the Council's delegate for such matters, the Manager, Development Assessment. At the time of writing that process had not been completed, however as there is a reasonable likelihood that tree removal will be authorised, the Development Application is not hypothetical and the Panel may proceed to make a determination.

By way of background, the Council's Planning staff originally requested that the applicants for both 207 and 209 Payneham Road configure both the access and egress arrangements to the shared car parking area in such a way that does not require removal of any of the four (4) well-established street trees situated adjacent the verge areas of both properties. With this in mind, the applicants for both applications configured the access and egress arrangements that involved 'entry only' from Payneham Road and 'exit and entry' from First Lane.

However, during the assessment process it was determined by the Council's Manager, Traffic & Integrated Transport, that access to and from First Lane was considered to be unsafe and inconvenient given the narrowness of the laneway which effectively does not allow for sufficient simultaneous passing distances for vehicles travelling in either direction along the laneway, notwithstanding that a number of adjacent and neighbouring properties benefit from access and/or egress to First Lane. On this basis, the applicants subsequently amended both applications such that access and egress to both the proposed office building and childcare centre is from Payneham Road only.

On balance, the removal of the Swamp Mallet street tree is considered reasonable as there are no alternative design solutions that involve the retention of all the adjacent street trees. Should the Panel determine to approve both this Application as well as Development Application 22017100 for the construction of the two-level office building at 209 Payneham Road, it is recommended that a condition be imposed requiring the Applicant to pay the costs for the removal the street tree as part of Application 22017100.

Transport, Access and Parking, Table 2 - Off-Street Car Parking Requirements in Designated Areas, prescribes a rate of *3 spaces per 100m<sup>2</sup> of gross leasable floor area* for sites located within a Business Neighbourhood Zone.

Applying the rate of 3 spaces per 100m<sup>2</sup> of gross leasable floor area to the 520m<sup>2</sup> of floor area equates to a car parking demand of 16 spaces. The proposed development includes the provision of a total of 33 car parking spaces. Applying the same car parking rate to the proposed office land use at 209 Payneham Road, the office generates a car parking demand of 14 spaces. In combination, the proposed childcare facility and the proposed office generate a total demand of 31 spaces. As such, the provision of car parking is therefore consistent with the criteria detailed in Table 2.

The proposal also includes designated bicycle provision (ie. 6 parks) between the north-western rear ground elevation and the car parking area. In terms of bicycle parking rates, Table 3 Off-Street Bicycle Parking Requirements, prescribes a rate for an office land use of *1 space for every 200m<sup>2</sup> of gross leasable floor area plus 2 spaces plus 1 space per 1000m<sup>2</sup> of gross leasable floor area for visitors*. The proposed bicycle provision is consistent with these criteria.

With respect to the car parking layout and configuration, the Councils Manager, Traffic & Integrated Transport, has undertaken a review of the proposed development. In summary, the Manager, Traffic & Integrated Transport has advised that the proposal is a well-considered practical approach and that they raise no objections from a traffic and parking perspective.

## **Environmental Factors**

### Landscaping

General Development Policies, Design in Urban Areas Performance Outcome 3.1 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 Applicant has proposed landscaping beds adjacent to the Payneham Road frontage as part of the development proposal. In addition to this, landscaping is proposed between the south-western side of the car parking area and the south-western side property boundary. The landscaping includes a mixture of shrubs, small trees and ground covers which in overall terms, is considered to be generally consistent with Performance Outcome 3.1.

#### Stormwater Management

Design in Urban Areas Performance Outcome 42.3 states:

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

The proposed development will result in a relatively high percentage of land that will be covered with impervious surfaces compared with the existing completely pervious condition of the property. In this context, it is considered necessary that on-site detention be provided to ensure that stormwater leaving the site in a high rainfall event does not exceed current pre-development state of the subject land.

The Council's Urban Services Department, have advised that the Site Drainage Plan prepared by Ajax Engineering is considered to be acceptable in principle, but the Applicant should be required to prepare a Stormwater Management Plan to ensure that stormwater disposal is maintained at pre-development levels. Specifically, stormwater disposal should meet the Council's minimum storage requirements in order to detain the post development 1 in 100 year Average Return Interval (ARI) storm event, with discharge being at the pre-development 1 in 5 year ARI rate.

As such, if the Panel determines to approve the proposed development, it is recommended that a condition be imposed requiring a Stormwater Management Plan be submitted with the documentation for Building Consent, which confirms that stormwater disposal will be maintained at pre-development levels.

#### **CONCLUSION**

The proposed childcare facility is a reasonably anticipated and compatible land use within the Business Neighbourhood Zone and is considered to be an appropriate use for the subject land given its location adjacent an arterial road and relatively average scale. Its location within a neighbourhood type zone provides for convenient access for local residents, while the arterial road frontage means that impacts on surrounding residential amenity are less than would be the case for a site on a local street with less background noise and traffic.

The childcare facility is not considered to result in any unreasonable noise impacts on nearby residents, subject to the acoustic measures proposed by Echo Acoustic Consulting.

The proposal incorporates sufficient on-site car parking to cater for the anticipated demand of the childcare facility. In terms of access and egress from the proposed car parking areas, this is considered to be reasonably safe and convenient.

Accordingly, it is considered that the proposal sufficiently accords with the Desired Outcome of the Zone, General Development Policies of the Planning and Design Conde to warrant consent.

## RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22014281, by Rick D'Andrea is granted Planning Consent subject to the following conditions:

## CONDITIONS

### Planning Consent

#### Conditions Imposed by the Council

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).
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. The Stormwater Management Plan is to conform to the Council's Urban Services requirements, prior to the granting of Development Approval.
3. All stormwater from buildings and paved areas shall be disposed of in accordance with the Stormwater Management Plan approved as part of condition 2 and 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.
4. The upper floor windows to the rear elevation shall either have sill heights of 1500mm above floor level or be treated to a height of 1500mm above floor level, prior to occupation of the building, in a manner that restricts views being obtained by a person within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.
5. The carparking area(s) associated with this proposal shall be developed in accordance with the following requirements:
  - (i) All carparking spaces, driveways and associated manoeuvring areas shall be sealed in bitumen, concrete or brick pavers prior to occupation of the proposed development;
  - (ii) The proposed car parking layout and access areas are to conform with the Australian Standards 2890.1 for Off-Street Parking Facilities;
  - (iii) That all parking areas be marked, to delineate the parking spaces, prior to the occupation of the proposed development in accordance with the relevant Australian Standard AS 1742; and
  - (iv) Wheel stopping devices constructed as per Australian Standard AS 2890.1.
6. 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.
7. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers within the next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, shall be nurtured and maintained in good health and condition at all times, with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.

8. All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Assessment Manager.

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

1. Vehicular access via Payneham Road shall be limited to left in and left out and in accordance with the Site Plan by D'Andrea Architects, sheet number A-2201, date generated 17/01/2023. The access point to and from Payneham Road shall be used by passenger vehicles (including with trailer) only. The access points shall be suitably signed and line marked to reinforce the desired traffic flow. The final design for the Payneham Road access shall be undertaken to the satisfaction of DIT with all costs being borne by the applicant.

Note: Prior to undertaking detailed design, the applicant shall contact Mr Narendra Patel, Senior Network Integrity Engineer, Network Management Services on telephone (08) 8226 8244, mobile 0400 436 745 or via email: narendra.patel@sa.gov.au to progress this.

2. All vehicles shall enter and exit Payneham Road in a forward direction. All on-site vehicle manoeuvring areas shall remain clear of any impediments.
3. The street trees along the frontage of the site on Payneham Road shall be managed in such a way that sight distances in accordance with the Urban Transport Routes Overlay DTS/DPF 5.1. are achieved.
4. Stormwater run-off shall be collected on-site and discharged without impacting 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 access, internal manoeuvring and carparking areas serving 207 and 209 Payneham Road, St Peters function on a shared basis. These areas cannot operate in isolation without shared use rights first being established (via a free and unrestricted right of way or common property arrangements etc.) or a variation being sought to the Planning Consent / Development Approval for alternate arrangements.

###### Advisory Note 2

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 3

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 4

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 5

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

#### Advisory Note 6

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 7

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 8

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 9

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

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

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

#### Advisory Note 10

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

#### Advisory Note 1

The shared access, internal manoeuvring area and carparking will need to be suitably delineated as rights of way or common property to ensure their ongoing shared operation.

**5.4 DEVELOPMENT NUMBER 22017100 – RICK D'ANDREA – 209 PAYNEHAM ROAD, ST PETERS**

|                                 |   |
|---------------------------------|---|
| <b>DEVELOPMENT NO.:</b>         | 22017100  |
| <b>APPLICANT:</b>               | Rick D'Andrea   |
| <b>ADDRESS:</b>                 | 209 PAYNEHAM RD ST PETERS SA 5069   |
| <b>NATURE OF DEVELOPMENT:</b>   | Construction of a two-level office building with associated car parking (with vehicular access and egress from Payneham Road only)  |
| <b>ZONING INFORMATION:</b>      | <b>Zones:</b><br>• Business Neighbourhood<br><b>Overlays:</b><br>• Airport Building Heights (Regulated)<br>• Hazards (Flooding - General)<br>• Prescribed Wells Area<br>• Regulated and Significant Tree<br>• Traffic Generating Development<br>• Urban Transport Routes<br><b>Technical Numeric Variations (TNVs):</b><br>• Maximum Building Height (Levels) (Maximum building height is 2 levels) |
| <b>LODGEMENT DATE:</b>          | 14 Jun 2022   |
| <b>RELEVANT AUTHORITY:</b>      | Assessment panel at City of Norwood, Payneham and St. Peters  |
| <b>CATEGORY OF DEVELOPMENT:</b> | Code Assessed - Performance Assessed  |
| <b>NOTIFICATION:</b>            | Yes   |
| <b>REFERRALS STATUTORY:</b>     | Commissioner of Highways  |
| <b>REFERRALS NON-STATUTORY:</b> | Manager, Traffic & Integrated Transport   |
| <b>REPORTING OFFICER</b>        | Nenad Milasinovic<br>Senior Urban Planner   |

**CONTENTS:**

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

## DETAILED DESCRIPTION OF PROPOSAL:

The proposed development comprises the construction of a two level office building that comprises four tenancies, two of which are located at ground level and two located at upper level.

A car parking area is proposed to the rear (west and northwest) of the proposed two level building. The car parking area comprises 33 spaces which are to be shared between the proposed office building on the subject land (ie. 209 Payneham Road) and the proposed childcare centre at 207 Payneham Road, which is subject to a separate Development Application (22014281) before the Panel currently. The car parking area is to be accessed and egressed from Payneham Road.

The proposed building is to be sited adjacent to Payneham Road, setback 5.2 metres from the Payneham Road property boundary. The building comprises 165m<sup>2</sup> and 303m<sup>2</sup> of gross leasable floor area at ground level and upper level respectively, totalling 468m<sup>2</sup>.

## SUBJECT LAND & LOCALITY:

### Site Description:

**Location reference:** 209 PAYNEHAM RD ST PETERS SA 5069

**Title ref.:** CT  
5786/269

**Plan Parcel:** F135691  
AL40

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

The subject land is currently vacant. Historically, the land was originally occupied by a detached dwelling. According to the Council's records, in 1974 the former Town of St Peters approved a change of use to an office and dwelling on the land. In 2006, Development Approval was granted to demolish the building on the land.

The subject land is not serviced by a crossover to Payneham Road. Instead, the land is accessed and egressed via First Lane.

Two well-established street trees are located adjacent the Payneham Road frontage of the subject land. The south-westernmost street tree is a non-regulated Swamp Mallet. The north-easternmost street tree is a regulated Wallangarra White Gum. A stobie pole is located directly to the southwest of the Swamp Mallet.

## Locality

As detailed on the Zoning Map contained in **Attachment 3**, the subject land and the adjacent and neighbouring properties located both on the north-western and south-eastern sides of Payneham Road, are located within the Business Zone.

The character of the locality is heavily influenced by the nature and function of Payneham Road, with its high traffic volumes. Residential properties, fronting First Avenue, are situated to the northwest of the subject land (ie. on the other side of First Lane). To the southwest of the subject land at 207 Payneham Road is a vacant parcel of land. To the northeast at 211 Payneham Road is a two level office building that was granted Development Approval in 2014.

## CONSENT TYPE REQUIRED:

Planning Consent

## CATEGORY OF DEVELOPMENT:

- **PER ELEMENT:**  
Office: Code Assessed - Performance Assessed

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

## PUBLIC NOTIFICATION

- **REASON**  
The office exceeds 250m<sup>2</sup> Gross Leasable Floor Area (GLFA).
- **LIST OF REPRESENTATIONS**

| Name                      | Address                    | Status                | Wishes to be Heard? |
|---------------------------|----------------------------|-----------------------|---------------------|
| Ann and Arthur Ward       | PO Box 380, Stepney        | Support with concerns | No                  |
| Saleme Facoory            | 87 First Avenue, St Peters | Support with concerns | Yes                 |
| John and Melissa Kavanagh | 89 First Avenue, St Peters | Opposed               | Yes                 |

- **SUMMARY**  
In summary, the concerns raised by representors relate to:
  - Car parking provision;
  - Traffic movements and potential for conflict along Payneham Road; and
  - Car parking overspill into surrounding street network

## AGENCY REFERRALS

- Commissioner of Highways

The Commissioner of Highways is supportive of the application. Refer to **Attachment 7** for a copy of the Referral Snapshot.

## INTERNAL REFERRALS

- Manager, Traffic & Integrated Transport

## PLANNING ASSESSMENT

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

### Land Use/Interface Between Land Uses

Business Neighbourhood Zone Desired Outcome 01 states:

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

Performance Outcome 1.1 of the Business Neighbourhood Zone states:

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

Designated Performance Feature 1.1(d) lists both offices and dwellings as envisaged land uses. Performance Outcome 1.2 states:

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

Designated Performance Feature 1.2 seeks a maximum gross leasable floor area of 250m<sup>2</sup> for shops, offices and consulting rooms (or any combination thereof). The proposed two-level building has a gross leasable floor area of 468m<sup>2</sup>.

An office land use is considered to provide for a reasonable transition between residential land uses and more intense land uses. In particular, offices are generally less intensive in terms of traffic generation than other commercial land uses such as shops and consulting rooms.

An office is considered to be an acceptable land use for the subject land, provided that Performance Outcome 1.2 is achieved, insofar as it complements and enhances the prevailing neighbourhood character. According to the rules of interpretation of the Planning & Design Code, the 250m<sup>2</sup> floor area limit in DPF 1.2 provides a guide as to what is generally considered to satisfy Performance Outcome 1.2, but does not need to necessarily be satisfied to meet the performance outcome, and does not derogate from the discretion to determine that the outcome is met in another way, or from the need to assess development on its merits against all relevant policies.

Despite having a gross leasable floor area which is 87% greater than DPF 1.2, in this instance it is considered that Performance Outcome 1.2 is achieved. The site is relatively large and the ground level footprint of the building is relatively small, allowing for a reasonable landscaped front setback and the creation of a car parking area located wholly to the rear of the subject land.

The directly adjacent two-level building at 211 Payneham Road was approved as part of Development Approval (Application Number 155/186/2014) on 9 October 2014 and comprised the construction of a two-level office building with 23 car parking spaces. This neighbouring two-level building comprises a gross leasable floor area in the order of 738m<sup>2</sup>, some 137m<sup>2</sup> (or 23%) greater than that being proposed on the subject land.

With a gross leasable floor area of 468m<sup>2</sup> the proposed office use generates a demand for 14 car spaces, compared to 8 spaces for a 250m<sup>2</sup> office achieving the DPF. The difference in associated impacts for a relatively low intensity land use as an office, is considered to be minimal. The proposed office use is therefore considered to complement and enhance the prevailing neighbourhood character.

### **Building Height**

Performance Outcome 3.1 of the Business Neighbourhood Zone states:

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

Designated Performance Feature 3.1 envisages a maximum of two (2) building levels within the Business Neighbourhood Zone.

The proposed two level building is consistent with the two level Designated Performance Feature.

The subject land is located marginally north-east of the centre of the Business Zone. In this context, the proposal is considered to be reasonably consistent with the performance outcome in that *“taller buildings positioned towards the centre of the zone and away from any adjoining neighbourhood type zone”*.

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

Performance Outcome 3.2 of the Business Neighbourhood Zone states:

*Buildings are set back from primary street boundaries consistent with the existing streetscape.*

Designated Performance Feature 3.2(b) states:

*The building line of a building set back from the primary street boundary:*

*(b) where there is only one existing building on adjoining sites which face the same primary street (including those that would adjoin if not separated by a public road or a vacant allotment), not less than the setback to the building line of that building*

The proposed new building is set back between 5.2 metres from its Payneham Road property boundary. Directly to the northeast, the adjoining two-level building at 211 Payneham Road has a setback of approximately 7.6 metres from its Payneham Road boundary whereas to the southwest at 207 Payneham Road, is the previously identified vacant parcel of land.

It is worth noting that the Payneham Road property boundary of the subject land is set back approximately 2.1 metres further than the front boundaries of 207 and 211 Payneham Road. In a practical sense, when measured to its building line the proposed building is to be set forward of the existing building at 211 Payneham Road by approximately 600mm.

The front setbacks of existing buildings within the wider locality of Payneham Road vary and includes buildings sited on the Payneham Road boundary at 199 – 201, 178, 180, 184, 188, 190 and 192 Payneham Road. Further to the southwest, the buildings at 203 and 205 Payneham Road have front setbacks ranging between 7 and 10.5 metres respectively whereas further to the northeast at 213, 215 and 217 – 219, the buildings are setback 8.5, 8.5 and 5 metres.

In this context, whilst the proposed front setback is not consistent with Designated Performance Feature 3.2(b), the setback is considered to be relatively consistent with the existing streetscape and therefore satisfies Performance Outcome 3.2.

Performance Outcome 3.6 of the Business Neighbourhood Zone states:

*Buildings are set back from side boundaries to provide:*

- (a) separation between dwellings in a way that complements the established character of the locality*
- (b) access to natural light and ventilation for neighbours.*

The proposed office building is to abut the north-eastern side boundary both at ground and upper level. The existing directly neighbouring two-level building at 211 Payneham is built to its south-western side/subject land's north-eastern side boundary.

The proposed side setbacks are similar to development on adjacent and nearby land (ie. 196, 198, 211 and 213 Payneham Road), which typically incorporate buildings that are abutting one side boundary, with a generous side setback on the other side of the building, generally to accommodate a driveway. In this context, the proposal is consistent with part (a) of Designated Performance Feature 3.6 in that the proposed boundary development complements the established character of the locality.

Designated Performance Feature 3.7 states:

*Buildings walls are set back from the rear boundary at least:*

- (a) 3m for the first building level*
- (b) 5m for any second building level.*

The rear of the building is proposed to be set back approximately 31 metres from the rear north-western boundary at ground level and 17 metres at the upper level. The proposed rear setbacks are therefore consistent with Designated Performance Feature 3.7.

Performance Outcome 2.1 of the Business Neighbourhood Zone states:

*Buildings are of a scale and design that complements surrounding built form, streetscapes and local character.*

Aside from the relatively new office and consulting room buildings at 211 and 217 – 219 Payneham Road respectively, the nearby buildings at 172, 178, 180, 184, 188, 190, 192, 199 – 201, 203, 205, 213 and 215 Payneham Road are a combination of villas and/or bungalows and original shop buildings and have front verandahs situated over the footpath area.

In this context, the proposed development is of a contrasting style and bulk to the existing development within the immediate locality, displaying a distinctly contemporary commercial appearance. The wider locality contains a broad range of architectural styles and includes buildings of a similar scale and rectilinear style to that which is proposed.

Performance Outcome 2.1 seeks *compatibility* in the scale and design of new buildings, as opposed to consistency as is sought for some other zones. Given the range of buildings scale and style within the broader locality, the proposal is considered to achieve this performance outcome.

The solid external elements of the proposed building primarily comprise cementitious precast concrete panels, painted 'Monument' projecting blade wall elements and black powder-coated aluminium commercial glazing. The combination of materials is considered appropriate in that it is compatible with the two contemporary commercial buildings at 211 and 217 – 219 Payneham Road.

With this in mind, it is considered that the streetscape appearance of the new building, is contextually compatible with the established built form character of adjacent and nearby buildings as called for by Performance 2.1.

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

The proposal was referred to the Commissioner of Highways in accordance with Schedule 9(3)(7) of the *Planning, Development and Infrastructure (General) Regulations 2017*, Future Road Widening Overlay.

The Commissioner of Highways advised the Council that they are supportive of the proposed development and directed the inclusion of four (4) conditions of consent. In summary, the conditions of consent relate to:

- vehicular access arrangements reflecting the proposed plans prepared by the applicant;
- all vehicles shall enter and exit the subject land in a forward direction;
- street trees shall not preclude sight distances of motorists; and
- stormwater run-off to be collected and discharged via appropriate stormwater drainage infrastructure.

A 33 vehicle car parking area is proposed to the rear of both the subject land and 207 Payneham Road. The car parking area is intended to service both the proposed office building on the subject land as well as the proposed childcare centre at 207 Payneham Road, which is subject of a separate Development Application (22014281). A dual crossover (ie. left-in and left-out configuration) is proposed to be constructed at the junction of the internal property boundary and Payneham Road boundaries of both 207 and 209 Payneham Road.

In order to facilitate the construction of the left-out crossover component, removal of the non-regulated Swamp Mallet street tree is required. Authorisation for the removal of the Swamp Mallet is currently being sought from the Council's delegate for such matters, the Manager, Development Assessment. At the time of writing that process had not been completed, however as there is a reasonable likelihood that tree removal will be authorised, the Development Application is not hypothetical and the Panel may proceed to make a determination.

By way of background, the Council's Planning staff originally requested that the applicants for both 207 and 209 Payneham Road configure both the access and egress arrangements to the shared car parking area in such a way that does not require removal of any of the four (4) well-established street trees situated adjacent the verge areas of both properties. With this in mind, the applicants for both applications configured the access and egress arrangements that involved 'entry only' from Payneham Road and 'exit and entry' from First Lane.

However, during the assessment process it was determined by the Council's Manager, Traffic & Integrated Transport, that access to and from First Lane was considered to be unsafe and inconvenient given the narrowness of the laneway which effectively does not allow for sufficient simultaneous passing distances for vehicles travelling in either direction along the laneway, notwithstanding that a number of adjacent and neighbouring properties benefit from access and/or egress to First Lane. On this basis, the applicants subsequently amended both applications such that access and egress to both the proposed office building and childcare centre is from Payneham Road only.

On balance, the removal of the Swamp Mallet street tree is considered reasonable as there are no alternative design solutions that involve the retention of all the adjacent street trees. Should the Panel determine to approve the Application, it is recommended that a condition be imposed requiring the Applicant to pay the costs for the removal the street tree.

Transport, Access and Parking, Table 2 - Off-Street Car Parking Requirements in Designated Areas, prescribes a rate of *3 spaces per 100m<sup>2</sup> of gross leasable floor area* for sites located within a Business Neighbourhood Zone.

Applying the rate of 3 spaces per 100m<sup>2</sup> of gross leasable floor area to the 468m<sup>2</sup> of floor area equates to a car parking demand of 14 spaces. The proposed development includes the provision of a total of 33 car parking spaces and as such, the provision of car parking is therefore consistent with the criteria detailed in Table 2.

The proposal also includes designated bicycle provision (ie. 6 parks) between the north-western rear ground elevation and the car parking area. In terms of bicycle parking rates, Table 3 Off-Street Bicycle Parking Requirements, prescribes a rate for an office land use of *1 space for every 200m<sup>2</sup> of gross leasable floor area plus 2 spaces plus 1 space per 1000m<sup>2</sup> of gross leasable floor area for visitors*. The proposed bicycle provision is consistent with these criteria.

With respect to the car parking layout and configuration, the Councils Manager, Traffic & Integrated Transport, has undertaken a review of the proposed development. In summary, the Manager, Traffic & Integrated Transport has advised that the proposal is a well-considered practical approach and that they raise no objections from a traffic and parking perspective.

## **Environmental Factors**

### Landscaping

General Development Policies, Design in Urban Areas Performance Outcome 3.1 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 Applicant has proposed landscaping beds adjacent to the Payneham Road frontage as part of the development proposal. In addition to this, landscaping is proposed between the south-western side of the office building and the internal driveway. The landscaping includes a mixture of shrubs, small trees and ground covers which in overall terms, is considered to be generally consistent with Performance Outcome 3.1.

### Stormwater Management

Design in Urban Areas Performance Outcome 42.3 states:

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



The proposed development will result in a relatively high percentage of land that will be covered with impervious surfaces compared with the existing completely pervious condition of the property. In this context, it is considered necessary that on-site detention be provided to ensure that stormwater leaving the site in a high rainfall event does not exceed current pre-development state of the subject land.

The Council's Urban Services Department, have advised that the Site Drainage Plan prepared by Ajax Engineering is considered to be acceptable in principle, but the Applicant should be required to prepare a Stormwater Management Plan to ensure that stormwater disposal is maintained at pre-development levels. Specifically, stormwater disposal should meet the Council's minimum storage requirements in order to detain the post development 1 in 100 year Average Return Interval (ARI) storm event, with discharge being at the pre-development 1 in 5 year ARI rate.

As such, if the Panel determines to approve the proposed development, it is recommended that a condition be imposed requiring a Stormwater Management Plan be submitted with the documentation for Building Consent, which confirms that stormwater disposal will be maintained at pre-development levels.

## CONCLUSION

Desired Outcome 1 of the Business Neighbourhood Zone states:

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

The proposed two-level office building is considered to be acceptable from a land use perspective, insofar as offices are envisaged in the Business Neighbourhood Zone.

The proposed setbacks are compatible with other development within the locality. No unreasonable overlooking will result from the upper level areas of the development into neighbouring residential properties fronting both First Avenue and First Lane. The proposed car parking provision satisfies the relevant quantitative on-site parking criteria. The proposed car parking configuration and the proposed vehicular access and egress arrangements are considered to be safe and convenient.

The scale of the proposed office building is greater than the relevant Designated Performance Feature for office uses anticipated within the Business Neighbourhood Zone. That said, the scale of the office use is considered to be compatible with the built form character of the locality.

It is considered that the proposal sufficiently accords with the Planning and Design Code to merit consent.

## RECOMMENDATION

It is recommended that the Council Assessment Panel resolve that:

1. Pursuant to Section 107(2)(c) of the Planning, Development and Infrastructure Act 2016, and having undertaken an assessment of the application against the Planning and Design Code, the application is NOT seriously at variance with the provisions of the Planning and Design Code; and
2. Development Application Number 22017100, by Rick D'Andrea is granted Planning Consent subject to the following conditions:

## CONDITIONS

Planning Consent

Conditions Imposed by the Council

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).

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. The Stormwater Management Plan is to conform to the Council's Urban Services requirements, prior to the granting of Development Approval.
3. All stormwater from buildings and paved areas shall be disposed of in accordance with the approved Stormwater Management Plan (in accordance with Condition 2) and 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.
4. The upper floor windows to the rear elevation shall either have sill heights of 1500mm above floor level or be treated to a height of 1500mm above floor level, prior to occupation of the building, in a manner that restricts views being obtained by a person within the room to the reasonable satisfaction of the Assessment Manager and such treatment shall be maintained at all times.
5. The carparking area(s) associated with this proposal shall be developed in accordance with the following requirements:
  - (i) All carparking spaces, driveways and associated manoeuvring areas shall be sealed in bitumen, concrete or brick pavers prior to occupation of the proposed development;
  - (ii) The proposed car parking layout and access areas are to conform with the Australian Standards 2890.1 for Off-Street Parking Facilities;
  - (iii) That all parking areas be marked, to delineate the parking spaces, prior to the occupation of the proposed development in accordance with the relevant Australian Standard AS 1742; and
  - (iv) Wheel stopping devices constructed as per Australian Standard AS 2890.1.
6. 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.
7. All areas nominated as landscaping or garden areas on the approved plans shall be planted with a suitable mix and density of trees, shrubs and groundcovers within the next available planting season after the occupation of the premises to the reasonable satisfaction of the Assessment Manager and such plants, as well as any existing plants which are shown to be retained, shall be nurtured and maintained in good health and condition at all times, with any diseased or dying plants being replaced, to the reasonable satisfaction of the Council or its delegate.
8. The proposed development, herein approved, may only commence following the payment of all costs associated with the removal of the Swamp Mallet street tree and the planting of a new street tree in a suitable location. The Council will undertake the work with all costs to be borne by the Applicant. Specific costings will be provided to the Applicant by the Assessment Manager as soon as practicable. Payment must be made prior to the issuing of full Development Approval and prior to construction work commencing. Please contact the Council's Urban Planning & Environment Department to arrange payment of the associated costs.
9. All external lighting of the site, including car parking areas and buildings, shall be located, directed and shielded and of such limited intensity that no nuisance or loss of amenity is caused to any person beyond the site to the reasonable satisfaction of the Assessment Manager.

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

1. Vehicular access via Payneham Road shall be limited to left in and left out and in accordance with the Site Plan by D'Andrea Architects, sheet number A-2201, date generated 17/01/2023. The access point to and from Payneham Road shall be used by passenger vehicles (including with trailer) only. The access points shall be suitably signed and line marked to reinforce the desired traffic flow. The final design for the Payneham Road access shall be undertaken to the satisfaction of DIT with all costs being borne by the applicant.

Note: Prior to undertaking detailed design, the applicant shall contact Mr Narendra Patel, Senior Network Integrity Engineer, Network Management Services on telephone (08) 8226 8244, mobile 0400 436 745 or via email: narendra.patel@sa.gov.au to progress this.

2. All vehicles shall enter and exit Payneham Road in a forward direction. All on-site vehicle manoeuvring areas shall remain clear of any impediments.
3. The street trees along the frontage of the site on Payneham Road shall be managed in such a way that sight distances in accordance with the Urban Transport Routes Overlay DTS/DPF 5.1. are achieved.
4. Stormwater run-off shall be collected on-site and discharged without impacting 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 access, internal manoeuvring and carparking areas serving 207 and 209 Payneham Road, St Peters function on a shared basis. These areas cannot operate in isolation without shared use rights first being established (via a free and unrestricted right of way or common property arrangements etc.) or a variation being sought to the Planning Consent / Development Approval for alternate arrangements.

###### Advisory Note 2

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 3

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 4

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 5

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

#### Advisory Note 6

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 7

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 8

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 9

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

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

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

#### Advisory Note 10

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

#### Advisory Note 1

The shared access, internal manoeuvring area and carparking will need to be suitably delineated as rights of way or common property to ensure their ongoing shared operation.

6. **DEVELOPMENT APPLICATIONS – DEVELOPMENT ACT**
7. **REVIEW OF ASSESSMENT MANAGER DECISIONS**
8. **ERD COURT APPEALS**
9. **OTHER BUSINESS**  
(Of an urgent nature only)
  - Assessment Manager to provide an update on the Bunnings Appeal.
10. **CONFIDENTIAL REPORTS**
11. **CLOSURE**